

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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S.C. 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 III of IV

ALAN WILSON
Attorney General

DANIELLE DIXON
Assistant Attorney General
S.C. Bar No. 73999

Office of the Attorney General
Post Office Box 11549
Columbia, South Carolina 29211
(803) 734-3737

ATTORNEYS FOR PETITIONER

JOANNA KATHERINE DELANY
S.C. Commission on Indigent Defense
Office of Appellate Defense
Post Office Box 11433
Columbia, South Carolina 29211
(803) 734-1343

ATTORNEY FOR RESPONDENT

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1 arranged plan or common scheme is necessary for the
2 finding of guilt as a principal.

3 The State must prove beyond a reasonable doubt
4 by competent evidence the theory of the hand of one
5 is the hand of all. So a principal in a crime is
6 one who either actually commits the crime or who is
7 present, aiding, abetting, or assisting in the
8 commission of a crime.

9 When a person does an act in the presence of
10 and with the assistance of another, the act is done
11 by both. Where two or more, acting with a common
12 plan or intent, are present at the commission of a
13 crime, it does not matter who actually commits the
14 crime, all are guilty. The hand of one is the hand
15 of all.

16 Presence at the commission of a crime means to
17 be sufficiently near to aid and abet and assist in
18 the commission of the crime. However, mere
19 presence at the scene of a crime is not sufficient
20 to convict one as a principal on the theory of
21 aiding and abetting.

22 A Defendant's presence where a crime is being
23 committed or a mere association with a person who
24 commits a crime does not make a Defendant an
25 accomplice or an aider or abettor of the person

1 committing the crime. Intent is also a necessary
2 element, for there must have been a common design
3 or intent to commit the crime, and the crime must
4 have been committed pursuant to that common plan or
5 design with the person aiding and abetting by some
6 overt act.

7 Intent means intending the result which
8 actually occurs, not accidentally, not
9 involuntarily. Intent may be shown by acts and
10 conduct of the Defendant and other circumstances
11 from which you may naturally and reasonably infer
12 intent.

13 The State must prove these elements to you
14 beyond a reasonable doubt.

15 Ladies and gentlemen, if you will please
16 continue to give me your complete and undivided
17 attention, I assure you the end is in sight.

18 Intent. In order to establish criminal
19 liability, criminal intent is required. For
20 example, the mental state required to be proven by
21 the State for a particular crime might be:
22 Purpose, intent, knowledge, recklessness, or
23 criminal negligence.

24 Criminal intent must be proven by the State
25 beyond a reasonable doubt. Criminal intent is

1 always a matter that must be determined by the jury
2 from the circumstances surrounding the situation.

3 There is no way to prove intent to a
4 mathematical certainty. There is no way medical
5 science can dissect a person's brain and determine
6 what the person had in mind. So our law, the law
7 says that criminal intent may be inferred by the
8 circumstances shown to have existed. This is how
9 you make a determination of whether or not the
10 element requiring intent is present.

11 It is not necessary to establish intent by
12 direct and positive evidence, but intent may be
13 established by inference in the same way as any
14 other fact, by taking into consideration the act of
15 the parties and all the facts and circumstances of
16 the case.

17 Criminal intent, ladies and gentlemen, is a
18 mental state, a conscious wrongdoing. It is up to
19 you to determine what the Defendant intended to do
20 based on the circumstances shown to have existed.

21 That, ladies and gentlemen, is the general
22 criminal law that applies to all criminal cases in
23 South Carolina. I am now going to cover the
24 charges in the indictment.

25 Burglary in the first degree. The Defendant

1 is charged with burglary in the first degree. The
2 State must first prove beyond a reasonable doubt
3 that the Defendant entered a dwelling without
4 consent.

5 A dwelling is defined as any building or a
6 portion of a building in which a person ordinarily
7 sleeps. A building constructed as a dwelling that
8 has never been occupied cannot be considered a
9 dwelling for purposes of burglary, but a building
10 is a dwelling even if the residents are temporarily
11 absent from the building.

12 In order to prove that the Defendant entered
13 the dwelling, the State does not have to show that
14 the Defendant's entire body entered the dwelling,
15 the smallest entry is sufficient. It may be any
16 part of the body, such as a hand or foot, or even
17 an instrument, such as a hook, or other instrument.

18 In addition, the State does not have to prove
19 that force was used to gain entry. If a person
20 enters a building by using deception, artifice,
21 trick, or misrepresentation to get consent to
22 enter, this is an entry without consent.

23 Next, the State must prove beyond a reasonable
24 doubt that the Defendant intended to commit a
25 crime, either a felony or a misdemeanor, at the

1 time of the entry.

2 The mere entry into a dwelling without consent
3 is not burglary. If the intent to commit a crime
4 is formed after the entry, it is not burglary.

5 On the other hand, if the Defendant intended
6 to commit a crime at the time of the entry, it is a
7 burglary, even if the intent is abandoned after the
8 entry. It does not matter that the intended crime
9 was not committed.

10 Intent may be shown by acts and conduct of the
11 Defendant and other circumstances from which you
12 may naturally and reasonably infer intent.

13 Finally, the State must prove beyond a
14 reasonable doubt that when entering or while in the
15 dwelling or when fleeing, the Defendant or an
16 accomplice was armed with a deadly weapon or
17 explosive.

18 A deadly weapon is defined as any article,
19 instrument, or substance which is likely to cause
20 death or great bodily harm. Whether an instrument
21 has been used as a deadly weapon depends on the
22 facts and circumstances of each case.

23 The following are examples of instruments
24 which may be deadly weapons: Pistol, shotgun,
25 rifle, dirk, dagger, knife, metal knuckles, razors,

1 and the like. A gun is a deadly weapon even -- a
2 gun may be a deadly weapon even if it is not
3 operating.

4 The next charge in the indictment that I will
5 cover is armed robbery. The Defendant is charged
6 with armed robbery. In order to prove this
7 offense, the State must first prove beyond a
8 reasonable doubt that the Defendant took personal
9 property from the person or presence of another
10 person.

11 Property is in the presence of the person if
12 it is within the person's reach, inspection,
13 observation, or control, so that the person could,
14 if not overcome with violence or prevented by fear,
15 keep possession of the property.

16 The State must also prove beyond a reasonable
17 doubt that the Defendant carried the property away,
18 intending to permanently deprive the owner of the
19 property and to keep the property for the
20 Defendant's own use.

21 The slightest removal of the property or the
22 complete possession of the property, even for an
23 instant, by the Defendant is sufficient to show a
24 taking and carrying away of the property. The
25 taking and carrying away of the property must have

1 been done with violence or putting the owner of the
2 property in fear of violence.

3 Finally, the State must prove beyond a
4 reasonable doubt that the Defendant was armed with
5 a deadly weapon during the robbery.

6 A deadly weapon is any article, instrument, or
7 substance which is likely to cause death or great
8 bodily harm. Whether an instrument has been used
9 as a deadly weapon depends on the facts and
10 circumstances of each case. Examples of deadly
11 weapon are the same as I just covered on the
12 burglary first degree charge.

13 And, finally, kidnapping. The Defendant is
14 charged with two counts of kidnapping. The State
15 must prove beyond a reasonable doubt that the
16 Defendant knowingly and unlawfully seized,
17 confined, inveigled, decoyed, kidnapped, abducted,
18 or carried away another person without the
19 authority of law.

20 To do a thing unlawfully is to do it willfully
21 against the law.

22 Knowingly means with knowledge, consciously,
23 not accidentally.

24 Seize means to take hold of or suddenly or
25 forcibly.

1 Confine means to limit, restrict, or enclose
2 within bounds, imprison, or shut or keep in.

3 Inveigle means to lure, entice, or lead astray
4 by false representations, promises, or other
5 deceitful means.

6 Decoy means to lure by or as if by decoy.

7 A decoy is something to entice a person into a
8 trap.

9 Kidnap is to remove a person against his or
10 her will by unlawful force or by fraud.

11 Abduct means to carry off secretly or by force
12 for an illegal purpose.

13 Carry away means to remove.

14 The State does not have to prove that the
15 Defendant did all of these things. Instead, if you
16 find beyond a reasonable doubt that the Defendant
17 did any of these things, you may find the Defendant
18 guilty of kidnapping.

19 Something done without authority of law is
20 something which the law does not sanction, permit,
21 allow, condone, or provide justification for.

22 The kidnapping does not have to be for any
23 personal or monetary gain or any illegal purpose
24 but may be for any reason whatsoever.

25 Kidnapping, ladies and gentlemen, is a

1 continuing offense, which commences when one is
2 wrongfully deprived of his freedom or her freedom
3 and continues until that freedom is restored.

4 Alibi. The Defendant has raised a defense of
5 alibi. In order to establish an alibi, it must be
6 shown that the Defendant was at another specified
7 place at the time the crime was committed and that
8 it was therefore impossible for the Defendant to
9 have been at the scene of the crime. Mere denial
10 of presence at the scene of a crime does not
11 constitute alibi.

12 There is no burden on the Defendant to prove
13 an alibi. The burden is on the State to prove
14 beyond a reasonable doubt that the Defendant was
15 actually present at the scene of the crime,
16 actually participated in it, and was not somewhere
17 else. In other words, the State has the burden of
18 disproving the Defendant's alibi defense.

19 That concludes the charge to you. Finally,
20 the form of the verdict.

21 Mr. Foreman, you will have this verdict form
22 in there with you. It is two pages. I have listed
23 the charges in the manner I just explained them to
24 you: Burglary first degree, armed robbery,
25 kidnapping. I separated the kidnappings out. The

1 Number Three I have kidnapping as to **S.N.**
2 am Number Four I have the kidnapping as to Rabia
3 Nathani. The reason I did that, if you recall, I
4 told you the indictments, you consider them
5 separate and distinct. You can find him guilty on
6 all, not guilty on all, or any combination. So I
7 would have to know as far as the kidnappings are
8 concerned.

9 Your deliberations, the verdicts in this case.
10 After you have determined the facts, as you find
11 the facts to be, apply them to the law as I told
12 you the law is. If the State has met its burden of
13 proof beyond a reasonable doubt as to burglary in
14 the first degree, you will see Number One is
15 burglary in the first degree. And you have two
16 options, one or two options as to that charge.
17 Guilty of burglary in the first degree, or not
18 guilty.

19 If you find that the State has failed to meet
20 its burden, I would ask you to check to the left of
21 the two words "not guilty" on that line and circle
22 both that check mark and the two words "not
23 guilty."

24 If you find the State has met its burden of
25 proving its case beyond a reasonable doubt as to

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

SUSAN B. HACKETT
Appellate Defender

ALAN WILSON
Attorney General

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

J. BENJAMIN APLIN
Interim Senior Assistant Deputy Attorney
General
Office of the Attorney General
PO Box 11549
Columbia, SC 29211

Attorney for Appellant

Attorneys for Respondent

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

1 burglary in the first degree, I would ask you to
2 check to the left of the words "guilty of burglary
3 in the first degree" and circle the check mark and
4 those words, "guilty of burglary in the first
5 degree."

6 And it carries throughout: Armed robbery,
7 kidnapping, and kidnapping.

8 Ladies and gentlemen, the order in which I
9 have listed the potential verdicts as to each
10 charge has no significance whatsoever. One must be
11 listed first. I must explain that in some manner.

12 Your verdicts must be unanimous. All 12 of
13 you must agree. Your verdicts may not be based on
14 passion, prejudice, emotion, or any other
15 consideration not in evidence in this case.

16 Once you have reached unanimous verdicts as to
17 all four of the charges in the indictment, Mr.
18 Foreman, if you would sign as the presiding juror
19 and date it today's date, knock on the jury room
20 door, and we will then receive you back into the
21 courtroom for your verdict.

22 I am going to ask you momentarily to return to
23 your jury room. Do not begin your deliberations
24 until you are instructed to do so. The law
25 requires I meet with the attorneys one final time

1 outside of your presence in case I have to bring
2 you back out for any further instructions. If I do
3 not have to bring you back out for any further
4 instructions -- everybody looks great -- what will
5 happen is our alternates would come out of the jury
6 room, you would then be delivered all the items of
7 evidence that have been introduced, along with the
8 verdict form, then instructed to begin your
9 deliberations with your fellow jurors.

10 If at any time you have any questions during
11 the course of your deliberations, you or any member
12 of the jury panel, Mr. Foreman, if you would please
13 write me a note. I know you know how to write me a
14 note. So if you would just write me a note, knock
15 on the jury room door, inform the bailiff, give him
16 the note, and I will certainly respond in a timely
17 manner.

18 Thank you very much. You may now retire to
19 your jury room. And, again, do not begin your
20 deliberations until you are instructed to do so.

21 (WHEREUPON, the jury retires to the jury
22 room at 3:37 p.m.)

23 THE COURT: Any exceptions, Ms. Walker or Mr.
24 Bank?

25 MS. A. WALKER: No, Your Honor.

1 THE COURT: Ms. Campbell or Ms. Walker?

2 MS. CAMPBELL: Your Honor, we don't ask for
3 anything. The only thing is if they were to ask to
4 be recharged on the armed robbery, just the
5 language about representation, I don't think it
6 really applies in this case, but if it was to be
7 recharged on that, we would like to request that at
8 that time, the representation of deadly weapon in
9 the armed robbery statute.

10 THE COURT: All right. You don't need
11 anything now, is what you are saying?

12 MS. CAMPBELL: Not at this time.

13 THE COURT: If you want to see the form of the
14 verdict and if you will get the evidence and make
15 sure it is all straight.

16 (Pause.)

17 MS. M. WALKER: The computer, are we in
18 agreement this one can go back?

19 THE COURT: Is there any objection to this
20 computer, Ms. Walker?

21 MS. A. WALKER: I think Mr. Bank looked over
22 it to make sure.

23 MR. BANK: I don't know -- I don't know if
24 they need an instruction for them not to go on the
25 computer for anything else.

1 MS. M. WALKER: They can't.

2 MR. BANK: That's fine.

3 THE COURT: All right. Have you checked the
4 evidence and you are good with that?

5 MS. M. WALKER: Yes, Your Honor.

6 MS. A. WALKER: Yes, Your Honor.

7 THE COURT: We will wait on the verdict.

8 (WHEREUPON, the jury was instructed to
9 begin deliberations at 3:42 p.m.)

10 (WHEREUPON, at 4:45 p.m., the jury sent
11 a note.)

12 (WHEREUPON, Court's Exhibit No. 2 was
13 marked for identification only.)

14 (WHEREUPON, at 4:49 p.m., the jury sent
15 another note.)

16 (WHEREUPON, Court's Exhibit No. 3 was
17 marked for identification only.)

18 THE COURT: I got a second note, Court Exhibit
19 Number 3.

20 Yes, the jury would like to hear the testimony
21 of Rabia Nathani.

22 So key it up.

23 (WHEREUPON, the jury came into open
24 court at 4:57 p.m.)

25 THE BAILIFF: The jury is seated, Your Honor.

1 THE COURT: All right. Ms. Court Reporter,
2 the testimony is keyed up. If -- of course, I'll
3 play both the testimony in its entirety, both
4 direct and cross-examination. If at any time, if
5 you have got a specific question in your mind that
6 is answered during the course of playing the
7 testimony and you don't want to hear more of it,
8 just please let me know how far. Unless I am
9 notified to otherwise, we will play it all.

10 (Testimony replayed to the jury.)

11 THE COURT: Thank you.

12 Mr. Foreman, and ladies and gentlemen, you may
13 return to your jury room and resume your
14 deliberations. Thank you very much.

15 (WHEREUPON, the jury returns to the jury
16 room to continue deliberations at
17 5:33 p.m.)

18 THE COURT: We'll be awaiting the jury
19 verdict. Thank you very much.

20 (WHEREUPON, a break was taken at 5:33
21 p.m.)

22 (WHEREUPON, at 6:31 p.m., the jury sent
23 a note.)

24 (WHEREUPON, Court's Exhibit No. 4 was
25 marked for identification only.)

1 THE COURT: One of the lady jurors wanted to
2 use the phone to call home to check on her child.
3 The other: Please, jury requesting a copy of
4 reasonable doubt.

5 THE COURT: Do you have any position on that?

6 MS. M. WALKER: The State doesn't have a
7 problem of giving them a copy of that charge.

8 MS. A. WALKER: Your Honor, we just request
9 Your Honor recharge.

10 THE COURT: Just recharge reasonable doubt?

11 MS. A. WALKER: Yes, Your Honor.

12 THE COURT: All right. Any objection to that,
13 Solicitor?

14 MS. CAMPBELL: No, Your Honor.

15 THE COURT: All right, bring us our jury,
16 please.

17 (WHEREUPON, the jury came into open
18 court at 6:40 p.m.)

19 THE COURT: Mr. Foreman, and ladies and
20 gentlemen of the jury, I received a note. Please,
21 the jury is requesting a copy of reasonable doubt.

22 I can recharge you the definition of
23 reasonable doubt, which would be the same as I read
24 to you before. It is only one page and two lines
25 on a second page. All right.

1 What is a reasonable doubt in the law? A
2 reasonable doubt is the kind of doubt that would
3 cause a reasonable person to hesitate to act. The
4 State has the burden of proving the Defendant
5 guilty beyond a reasonable doubt.

6 Some of you may have served as jurors in civil
7 cases in the past where you were told that it is
8 only necessary to prove that a fact is more likely
9 true than not true, such as by the greater weight
10 or the preponderance of the evidence. In criminal
11 cases the State's proof must be more powerful than
12 that. It must be beyond a reasonable doubt.

13 Proof beyond a reasonable doubt is proof that
14 leaves you firmly convinced of the Defendant's
15 guilt. There are very few things in this world we
16 know with absolute certainty, and in criminal cases
17 the law does not require proof that overcomes every
18 possible doubt.

19 If, based on your consideration of the
20 evidence, you are firmly convinced that the
21 Defendant is guilty of the crime or crimes charged,
22 you must find the Defendant guilty.

23 If, on the other hand, you think there is a
24 real possibility that the Defendant is not guilty,
25 you must give the Defendant the benefit of the

1 doubt and find him not guilty.

2 That is the full and complete charge on the
3 defense of reasonable doubt in the law.

4 I would further advise you, Mr. Foreman and
5 ladies and gentlemen of the jury, you have to take
6 that charge encapsulated within the entire charge
7 that I gave you as to the various subject matters
8 that I addressed.

9 If you have any other any further questions,
10 Mr. Foreman, please write me a note and I will try
11 to respond in a timely manner.

12 With that being said, if you will return to
13 your jury room and resume your deliberations.

14 Thank you. Thank you very much.

15 (WHEREUPON, the jury returns to the jury
16 room to continue deliberations at 6:42
17 p.m.)

18 THE COURT: Any objection to anything I told
19 the jury? From the Defense?

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

21 THE COURT: State?

22 MS. CAMPBELL: No.

23 MS. M. WALKER: No, Your Honor.

24 THE COURT: Thank you. Thank you very much.

25 (WHEREUPON, a break was taken at 6:43

1 p.m.)

2 (WHEREUPON, at 7:27 p.m. the jury
3 indicated they had reached a verdict.)

4 THE COURT: Madam Clerk, I understand we have
5 a verdict.

6 THE CLERK: Yes, Your Honor.

7 THE COURT: Thank you. Thank you very much.

8 To those in the courtroom, the observers, I
9 would advise you that the taking of a verdict can
10 be a very emotional time for one side or the other,
11 perhaps both sides. I do not allow any show of
12 emotion in the courtroom one way or the other. The
13 jury has had a very long week and a very difficult
14 task to perform, and they have reached a verdict
15 and they should not be criticized or commended by
16 any outburst or any show of emotion whatsoever.

17 If you feel like you cannot contain your
18 emotions, I would ask you to please leave the
19 courtroom at this time. If you choose not to leave
20 and you make the decision to remain, I would take
21 that that you are indicating to me, to the Court,
22 that you can contain your emotions. If you do not
23 contain your emotions, I would consider that a
24 contempt of court and ask the sheriffs to take
25 anyone in custody that fails to act with the

1 appropriate demeanor and decorum in this court of
2 law.

3 With that being said, Mr. Bailiff, will you
4 bring us our jury, please?

5 (WHEREUPON, the jury came into open
6 court at 7:29 p.m.)

7 THE BAILIFF: The jury is seated, Your Honor.

8 THE COURT: Madam Clerk? Thank you, Mr.
9 Bailiff.

10 THE CLERK: Mr. Foreman, have you reached a
11 verdict?

12 THE FOREPERSON: Yes, we have.

13 THE CLERK: Would you hand it to the bailiff?
14 (Complies.)

15 THE COURT: All right. The verdict form
16 appears to be in the proper form and it is signed
17 by our presiding juror, dated today's date.

18 Madam Clerk, would you publish the verdicts,
19 please?

20 VERDICT

21 THE CLERK: Indictment Numbers 2012-GS-40-
22 5294, 5295, 5296, 5297, the State of South Carolina
23 versus Anthony Porterfield.

24 We -- Number One, Indictment Number
25 2012-GS-40-5295, as to the charge of burglary in

1 the first degree: We, the jury, unanimously find
2 the Defendant guilty of burglary in the first
3 degree.

4 Indictment Number 2012-GS-40-5296, as to the
5 charge of armed robbery: We, the jury, unanimously
6 find the Defendant guilty of armed robbery.

7 Indictment Number 2012-GS-40-5294, as to the
8 charge of kidnapping as to S.N. We, the
9 jury, unanimously find the Defendant guilty of
10 kidnapping.

11 Indictment Number 2012-GS-40-5297, as to the
12 charge of kidnapping as to Rabia Nathani: We, the
13 jury, unanimously find the Defendant guilty of
14 kidnapping.

15 This is signed by: Presiding Juror, Juror
16 Number 304, February 27th, 2015.

17 Mr. Foreman, are these your verdicts, and the
18 verdicts of the entire jury?

19 MR. FOREMAN: Yes, it is.

20 THE COURT: Thank you. You may be seated.
21 Thank you, Mr. Foreman.

22 (Foreperson seated.)

23 THE COURT: Anything further for the jury from
24 the State?

25 MS. M. WALKER: Nothing from the State, Your

1 Honor.

2 THE COURT: Defense?

3 MS. A. WALKER: Your Honor, we request to poll
4 the jury, please.

5 THE COURT: You may be seated,
6 Mr. Porterfield, and members of the Defense team.

7 (Complies.)

8 THE COURT: Madam Clerk, would you explain the
9 polling procedures to the jury, ma'am, and conduct
10 that, please?

11 THE CLERK: I'm going to ask you two questions
12 regarding your verdict. If you will answer yes or
13 no to both questions. And I will just call out
14 your juror number.

15 Would you raise your hand for me when your
16 name is called so I will know who you are.

17 Juror 304, were these your verdicts?

18 THE FOREPERSON: Yes.

19 THE CLERK: Are they still your verdicts?

20 THE JUROR: Yes.

21 THE CLERK: Juror 288, were these your
22 verdicts?

23 THE JUROR: Yes.

24 THE CLERK: Are they still your verdicts?

25 THE JUROR: Yes.

1 THE CLERK: Juror 201, were these your
2 verdicts?

3 THE JUROR: Yes.

4 THE CLERK: Are they still your verdicts?

5 THE JUROR: Yes.

6 THE CLERK: Juror 33, were these your
7 verdicts?

8 THE JUROR: Yes.

9 THE CLERK: Are they still your verdicts?

10 THE JUROR: Yes.

11 THE CLERK: Juror 141, were these your
12 verdicts?

13 THE JUROR: Yes.

14 THE CLERK: Are they still your verdicts?

15 THE JUROR: Yes.

16 THE CLERK: Juror Number 143, were these your
17 verdicts?

18 THE JUROR: Yes.

19 THE CLERK: Are they still your verdicts?

20 THE JUROR: Yes.

21 THE CLERK: Juror 47, were these your
22 verdicts?

23 THE JUROR: Yes.

24 THE CLERK: Are they still your verdicts?

25 THE JUROR: Yes.

1 THE CLERK: Juror 181, were these your
2 verdicts?

3 THE JUROR: Yes.

4 THE CLERK: Are they still your verdicts?

5 THE JUROR: Yes.

6 THE CLERK: Juror 241, were these your
7 verdicts?

8 THE JUROR: Yes.

9 THE CLERK: Are they still your verdicts?

10 THE JUROR: Yes.

11 THE CLERK: Juror Number 43, were these your
12 verdicts?

13 THE JUROR: Yes.

14 THE CLERK: Are they still your verdicts?

15 THE JUROR: Yes.

16 THE CLERK: Juror Number 173, were these your
17 verdicts?

18 THE JUROR: Yes.

19 THE CLERK: Are they still your verdicts?

20 THE JUROR: Yes.

21 THE CLERK: Juror 101, were these your
22 verdicts?

23 THE JUROR: Yes.

24 THE CLERK: Are they still your verdicts?

25 THE JUROR: Yes.

1 THE CLERK: The jury has been polled, Your
2 Honor.

3 THE COURT: Thank you. Thank you very much,
4 Madam Clerk.

5 Anything further from the jury from the
6 Defense? Ms. Walker? Mr. Bank?

7 MS. A. WALKER: No, Your Honor.

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

10 Momentarily, Mr. Foreman, and ladies and
11 gentlemen, ladies and gentlemen of the jury, I'm
12 going to release you from your jury service for the
13 remainder of the week. I want to thank you for
14 your service this week.

15 I read something -- well, I never commend or
16 criticize a jury for its verdict. However, I will
17 commend you for the focus and the attention and the
18 work ethic that you have shown to all the parties
19 throughout the trial of this case, throughout this
20 week.

21 I realize it has been a very long week for
22 you. I realize these are difficult decisions to
23 make. And I know you have worked very hard and
24 very diligently to resolve this matter between the
25 State and Mr. Porterfield. And I thank you for

1 that work ethic.

2 Everyone in this courtroom is a volunteer
3 except you. You have been drafted. The last great
4 American draft, of course, was during the previous
5 war. I commend you for your civic duty and civic
6 pride. Of all of us that are in here, you are the
7 ones that most belong here, the American people.

8 With that, you are released from your jury
9 service. I understand Sergeant -- Lieutenant --
10 Sergeant, he is going to escort y'all down to get
11 you through the garage back to the jury parking
12 places.

13 Again, thank you very much for your service.
14 It has been my pleasure and privilege to be with
15 you this week. Thank you very much.

16 (WHEREUPON, the jury was excused at 7:35 p.m.)

17 THE COURT: Ms. Walker, Mr. Bank, Solicitor, I
18 would prefer not to hear motions tonight, not to
19 impose sentence tonight. It has been my experience
20 that I do not like to do that at the end of a long
21 week, at the end of a long day.

22 I am going to allow you of course to prepare
23 your motions in that regard and motions for new
24 trial, what have you. I will have my law clerk
25 stay in touch with y'all by email and probably try

1 to get a date, next Friday, perhaps, because I'm in
2 another county next week, to Richland County and
3 hear your motions at that time. If anyone has any
4 objection to that, Mr. Bank, Ms. Walker, Solicitor?

5 MS. A. WALKER: No, Your Honor.

6 THE COURT: Solicitor?

7 MS. M. WALKER: Nothing from the State, Your
8 Honor.

9 THE COURT: All right. Then what I will do is
10 I will have my clerk keep y'all in email stream in
11 that regard. If there is anything not anticipated
12 how I might rule on any motions, if there is
13 anything you want me to look at in preparation of
14 your motions, if you email it to my law clerk, if
15 there is anything you want me to review in
16 preparation of mitigation, anything of that nature,
17 you may send it to my law clerk also. You send it
18 to the Solicitor and, Solicitor, same thing. If
19 y'all have anything that y'all want me to look at
20 at the time of the motions or sentencing, if y'all
21 will email it to my law clerk.

22 All right. Thank you. Thank the audience
23 very much for your demeanor which you have -- and
24 decorum you have displayed in court this week.

25 Mr. Porterfield is to remain in Alvin S. Glenn

1 Detention Center until further order of this Court.

2 Thank you. Thank you very much.

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

4 MS. CAMPBELL: Thank you, Your Honor.

5 (WHEREUPON, the proceedings concluded
6 at 7:37 p.m.)

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(END OF TRANSCRIPT)

CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

I, Deborah M. McCurdy, Official Court Reporter for the Fifth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and partial Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for Richland County, South Carolina, on the 23rd, 24th, 25th, 26th, 27th days of February, 2015.

I do further certify that I am neither of kin, counsel nor interest to any party hereto.

October 1, 2015

s/Deborah M. McCurdy, RPR

Deborah M. McCurdy, RPR
Fifth Circuit Court Reporter



**Richland County Sheriff's Department
DNA Analysis Section
Forensic Examination Report**



J. Clarke
Richland County Sheriff's Department

July 3, 2014
Case No: 1206 0351 27
Incident Date: 06/27/2012
Analysis Initiated: 08/28/2013

INITIAL REPORT

*This is an official report of the Richland County Sheriff's Department Forensic Sciences Laboratory. Additional information not included in this report may be found in the case record. Unless otherwise noted, all examinations are conducted at this location. The contents of this report are confidential and may not be reproduced, except in full, without approval of the laboratory. Sheriff Leon L. Lott, Richland County Sheriff's Department, 5623 Two Notch Road, Columbia, SC 29223
An ASCLD/LAB-International ACCREDITED LABORATORY (Since September 30, 2006)*

Items Received:

1. Swab - table
2. Swab - TV stand
3. Swab - A/V cable
4. Buccal swabs from Anthony Porterfield(S)

DNA Examinations:

The extracted DNA from items 1-4 was amplified and typing attempted at genetic loci Amelogenin, D3S1358, D1S1656, D2S441, D10S1248, D13S317, Penta E, D16S539, D18S51, D2S1338, CSF1PO, Penta D, TH01, vWA, D21S11, D7S820, D5S818, TPOX, DYS391, D8S1179, D12S391, D19S433, FGA, and D22S1045 using the Powerplex® Fusion System (Promega Corporation).

Conclusions:

PCR DNA typing using STR loci and Amelogenin determined the following:

1. The DNA results from items 1-3 are mixtures. Anthony Porterfield is excluded from these DNA results. Please submit any additional standards for comparison purposes.

Disposition of Evidence

Items received will be returned to the Evidence and Property Section. The case will be considered closed with these results until additional evidence is submitted and/or requests for analysis are made.

Footnotes:

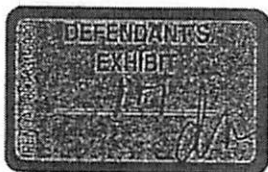
Statistical calculations are performed according to National Research Council's Recommendation 4.1 in "The Evaluation of Forensic DNA Evidence" (1996). Allele frequencies are provided in Hill et al., "U.S. population data for 20 autosomal STR loci", Forensic Science International: Genetics. 2013; 7(3): 83-83.

Y-STR calculations are performed according to www.usystrdatabase.org.

A true paternity trio result may include up to 2 inconsistencies.

Source attribution reference provided by Budowle et al., "Source Attribution of a Forensic DNA Profile", Forensic Sci Com 2000; 2(3).

*Non-probative evidence, no statistical analysis performed.



John C. Barron

Digitally signed by John C Barron
DN: cn=John C Barron,
o=RCSD, ou=DNA,
email=jbarron@rcsd.net,
c=US
Date: 2014.07.07 10:10:21
-04'00'

John C. Barron
DNA Analyst

1206 0351 27
Page 1 of 1

No. 6 25 / 6-29

MON.	A	M	8:00
	P	M	12:29
TUE.	A	M	8:00
	P	M	12:04
WED.	A	M	8:00
	P	M	12:07
THU.	A	M	8:01
	P	M	12:01
FRI.	A	M	8:58
	P	M	12:01
SAT.	A	M	
	P	M	
SUN.	A	M	
	P	M	

SIGNATURE



YOUNG CO. DEPT.
OD-11

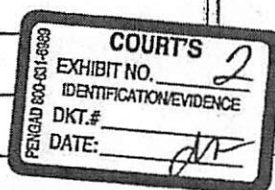
YOUNG CO. DEPT.
T-104 735-104

Aaron Griffin

Aaron Griffin

813 - 952-8251

We would like to request a transcript of Rabia Nathani's testimony.

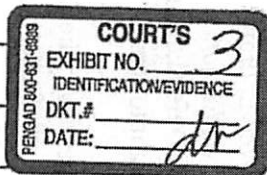


Page 394
 [Signature]

There is no transcript available.
 You may re-hear the testimony if you like. Please let me know so that I can notify the Court Reporter.
 [Signature]
 Circuit Judge
 27 Feb 15

Yes the jury would like
to hear the testimony of
Rasia Nathan.

Taver 304
[Signature]



STATE OF SOUTH CAROLINA	)	IN THE COURT OF GENERAL SESSIONS
COUNTY OF RICHLAND	)	Indictment Nos.: 2012GS4005294
	)	2012GS4005295
The State of South Carolina,	)	2012GS4005296
	)	2012GS4005297
	)	
vs.	)	MOTION FOR NEW TRIAL
	)	
Anthony M. Porterfield,	)	
<u>Defendant.</u>	)	

RICHLAND COUNTY
 FILED
 2015 MAR -6 AM 9:48
 JENNIFER M. MCENRIE
 C.C.P. & G.S.

On February 27th, 2015, Defendant was convicted of Burglary – First Degree, Armed Robbery, and two counts of kidnapping. At this time, Defendant moves for a new trial, as well as renews all previous objections and motions, including, but not limited to, the various motions and objections denies and the following grounds:

- (1) Defense counsel moved in limine to exclude all jail calls, based on the inability to apply South Carolina Rule of Evidence 106 in order to put all calls in proper context;
- (2) Defense counsel moved in limine to exclude Defendant's statement to Investigator Clarke on the phone, based on *Edmond v. South Carolina* (341 S.C. 340) and the inability of the State to comment on Defendant assertion of a constitutional right, namely a defendant's Fifth Amendment right to remain silent;
- ~~(3) Defense counsel objected to the State providing evidence of alibi prior to the Defendant's introduction to such a defense, based on burden shifting;~~
- (4) Defense moved to exclude use to Defendant's criminal record for impeachment under South Carolina Rule of Evidence Rule 609, based on *State v. Broadnax* (401 S.C. 238) and *State v. Bryant* (369 S.C. 511);
- (5) Defense objected to State introducing testimony that Investigator Clarke attempted to search the location where Defendant was arrested and that Investigator Clarke discovered the type of car an alibi witness was driving at the time of the incident, based on violations of South Carolina Criminal Rule of Procedure Rule 5, *Brady v. Maryland* (373 U.S. 83), and *Riddle v. State* (369 S.C. 39);
- (6) Defense moves for a new trial due to the unusually short deliberation time of the jury considering the seriousness of the offense and the large amount of evidence presented by both the State and the Defense;
- (7) Defense further moves for a new trial asking the Court to consider that no reasonable jury could have arrived at the verdict of guilty considering the evidence presented and the burden of proof held by the State, particularly its burden to disprove alibi. Defense presented the testimony of four witnesses, other than the Defendant, indicating that Defendant was not at the incident location at the time the crime occurred. Furthermore,

Defense entered a time card into evidence indicating the same. This testimony and evidence was uncontested by the State in that they failed to even suggest that any witness lied under oath or that the time card was forged. In its failure to address those concerns, the State failed to meet their burden disproving alibi, and therefore, no reasonable jury could arrive at a finding of guilt.



Anastasia L. Walker
Attorney for Defendant

Richland County Public Defender's Office
P.O. Box 192
Columbia, South Carolina 29202
(803) 765-2592

Columbia, South Carolina

This 5th day of March, 2015.

1 STATE OF SOUTH CAROLINA)
 2 COUNTY OF RICHLAND) COURT OF GENERAL SESSIONS
 3) 2012-GS-40-5294--5297

4 State of South Carolina,)
 5 Plaintiff,)
 6 vs.) TRANSCRIPT OF RECORD
 7 Anthony Markale Porterfield,)
 8 Defendant.)

9 March 6, 2015
 10 Columbia, South Carolina

11
 12
 13 B E F O R E:

14 THE HONORABLE R. KNOX MCMAHON, JUDGE.
 15
 16

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

18 K. LUCK CAMPBELL, ASSISTANT DEPUTY SOLICITOR
 19 MEGHAN L. WALKER, ASSISTANT SOLICITOR
 Attorneys for the Plaintiff

20 ANASTASIA L. WALKER, ASSISTANT PUBLIC DEFENDER
 21 ROBERT L. BANK, JR., ASSISTANT PUBLIC DEFENDER
 22 JOHN W. TATE, ASSISTANT PUBLIC DEFENDER
 Attorneys for the Defendant

23
 24
 25 DEBORAH M. McCURDY, RPR
 Official Court Reporter

I N D E X O F W I T N E S S E S

(WHEREUPON, no witnesses were called
during these proceedings.)

E X H I B I T S

(WHEREUPON, no exhibits were introduced
during these proceedings.)

1 MARCH 6, 2015

2 (WHEREUPON, the proceedings commenced at
3 9:59 a.m.)

4 THE COURT: This is 2012-GS-40-5297, 5296,
5 5295, 5294, The State v. Anthony Porterfield for
6 the purposes of sentencing based on the return of
7 jury verdicts of guilty for burglary first degree,
8 armed robbery, and kidnapping, two counts.

9 Ms. Walker, Mr. Bank, do you all have
10 post-trial motions?

11 MS. A. WALKER: Yes, Your Honor.

12 THE COURT: All right.

13 MS. A. WALKER: If you will allow me to
14 approach?

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

16 (Complies.)

17 MS. A. WALKER: We did a written motion. Your
18 Honor allowed us some additional time. We would
19 move for a new trial, Your Honor.

20 This motion, Your Honor, simply outlines a
21 couple of the major motions in limine, as well as
22 objections that we made throughout the trial that
23 were denied or overruled by Your Honor.

24 We would renew all previous objections and
25 motions, including our directed verdict motion.

1 Your Honor, we would also move for a new trial
2 based on the initial short deliberation time of the
3 jury. I believe it was about four and a half
4 hours, if I remember correctly, considering the
5 length of trial, the wealth of the evidence
6 provided by both the State and the Defense for the
7 jury to consider.

8 Your Honor, lastly, we would also move for a
9 new trial considering -- we would ask Your Honor to
10 consider that no reasonable jury could have arrived
11 at a verdict of guilty considering the evidence
12 presented.

13 We do not believe that the State met their
14 burden of disproving alibi considering the evidence
15 that we presented, Your Honor.

16 There was no proof that the witnesses lied or
17 were fabricating their testimony or that the time
18 card was forged, or anything of that nature.

19 And for that reason, Your Honor, we believe
20 that the State failed to meet their burden of proof
21 to disprove alibi beyond a reasonable doubt.

22 THE COURT: Thank you. Thank you very much.

23 Solicitor?

24 MS. M. WALKER: Your Honor, the State would
25 ask that you stand by your previous rulings.

1 Regarding the length of time that the jury
2 deliberated, Your Honor, I think four and a half
3 hours was a long time. They came back with
4 questions. It was clear that they were taking
5 their task seriously. And we ask that the Court
6 respect the verdict returned by the jurors.

7 In terms of his alibi defense, Your Honor, I
8 think that there were some inconsistencies with the
9 Defendant's testimony, as well as that of the
10 witnesses who were offering to give him an alibi.

11 Regarding the time card, I think there was
12 some testimony that the time card machine that
13 would have been used to create that time card
14 wasn't available to that company for several months
15 after this incident.

16 I think, Your Honor, the State met its burden
17 in disproving the credibility of the alibi.

18 We would just ask that you stand by your
19 previous rulings and that the verdict of the jury
20 stands.

21 THE COURT: All right. Thank you. Thank you,
22 Solicitor.

23 MS. A. WALKER: Your Honor, may I respond?

24 THE COURT: Oh, yes, ma'am. Certainly. Of
25 course.

1 MS. A. WALKER: I apologize. Just on one
2 minor issue.

3 Regarding the machine with the time clock, I
4 believe it is a misstatement of fact, Your Honor.
5 I believe Mr. Griffin indicated that that was the
6 machine used at this time that these events are
7 alleged to have occurred -- or did occur, Your
8 Honor.

9 With that being said, I believe he said that
10 they didn't get the machine until September or
11 October, but I believe Mr. Bank cleared that up on
12 redirect in that it was a previous that they got
13 the time machine or clock machine.

14 That would be my only thing to respond to,
15 Your Honor.

16 THE COURT: All right. Thank you.

17 In reviewing the written motion for a new
18 trial submitted by Ms. Walker and Mr. Bank on
19 behalf of their client, Mr. Porterfield, as far as
20 Numeral No. 1, I would affirm my previous trial
21 rulings as far as that is concerned.

22 At one point I did say -- and I never
23 rescinded this statement -- that y'all could play
24 all 247 phone calls if you chose to do so. I
25 believe it actually came down out of the three

1 phone calls that only one you wanted to put into
2 proper context. I allowed you to do that on the
3 last half of the redacted -- approximately a minute
4 and a half.

5 Be that as it may, I believe the phone calls
6 are admissible. I do not believe there was any
7 violation of Rule 106 or State v. Jackson.

8 As to Defense counsel's motion in limine to
9 exclude the Defendant's statement to Clarke on the
10 phone, I would find that that was not not subject
11 to Edmond v. South Carolina in that regard. That
12 he has said he understood -- and the record will
13 reflect precisely what the statement was, what
14 statement was made -- he understood what probable
15 cause was and did not want to talk and did not meet
16 with the officer.

17 As to No. 3, the State had the burden of
18 disproving alibi. I have charged -- at the very
19 beginning of a criminal trial I inform the jury
20 that the State has the burden of proof beyond a
21 reasonable doubt. The Defendant never has to prove
22 himself or herself innocent. The burden never
23 shifts. And I instruct the jury time and time and
24 time again based on that.

25 With that being said, I think the charge as to

1 the alibi was sufficient, and the State would be
2 allowed to begin disproving that, that being their
3 burden of proof in their case in chief.

4 I would stand by my ruling on the evidence as
5 to Rule 609. I believe that was his 2004 attempted
6 burglary second where he got a YOA, perhaps a YOA
7 suspended, I'm not sure which. I will reaffirm
8 that ruling.

9 As far as Investigator Clarke attempting to
10 search the location where Mr. Porterfield was
11 arrested at up under the house, I do not see
12 that -- never saw that as a Rule 5 issue or a Brady
13 or a Riddle issue. It went to the quality of the
14 investigation in that regard.

15 I believe the alibi witness -- I recall her
16 name, I apologize, her nickname as NaNa or Little
17 Mama -- she also testified that she had a gold- or
18 champagne-type vehicle.

19 I do not find the time the jury deliberated to
20 be short. They asked questions. They asked to be
21 recharged on specific issues. And it appeared they
22 did a very diligent job in fulfilling their oath
23 and sworn responsibilities.

24 Clearly, I think the State met its burden of
25 proof.

1 As far as the Defense testimony presented, as
2 far as the alibis, there was inconsistencies as to
3 days, dates, times, locations, parties, who did
4 what, when, where, how, who picked him up, what
5 vehicle picked him up. It was just totally
6 internally inconsistent as far as the alibi
7 testimony. Clearly, the jury had sufficient
8 evidence to find guilt. They had the testimony,
9 the direct testimony of the two victims of the
10 kidnappings and armed robbery, who both knew him by
11 name, knew him by face, they saw him multiple
12 times, was in his presence on that day 10 to 15,
13 perhaps 20 minutes.

14 Additionally, the officer went a step beyond
15 by showing them photographic lineups. They both
16 picked out the Defendant. They picked -- they did
17 that selection independent of each other, with no
18 coercion, no undue suggestion of any kind
19 whatsoever.

20 Additionally, there were the phone calls.
21 There was testimony that he had access to a
22 champagne- or gold-colored four-door sedan vehicle
23 that they also described.

24 There were the phone calls indicating that he
25 was attempting to manufacture a defense in the

1 case, particularly in his comments that he wanted
2 to be directed to TK in this case.

3 Further, there is evidence of flight. That at
4 the time the officers arrived, he chose to exit a
5 bathroom window and crawl under the crawl space of
6 the house and had to be apprehended by officers
7 with the use of a K-9 unit, or a K-9 officer.

8 So I would respectfully deny the motion for a
9 new trial.

10 Any reason sentence cannot be imposed at this
11 time, Ms. Walker?

12 MS. A. WALKER: No, Your Honor.

13 THE COURT: All right. If you would have your
14 client, Mr. Porterfield, come around, please.

15 (The Defendant approaches.)

16 THE COURT: Anything additional from the
17 State, Solicitor?

18 MS. M. WALKER: Yes, Your Honor. At the
19 appropriate time, the victims in the case would
20 like to speak.

21 And I can go ahead and give you his prior
22 record, Your Honor.

23 THE COURT: All right.

24 MS. M. WALKER: Your Honor, in 2004 he was
25 sentenced to a Youthful Offender Act, suspended

1 sentence for burglary in the second degree. That
2 was -- the sentence was imposed in 2005, excuse me.
3 That was revoked in 2007, it looks like for a
4 failure to stop for a blue light. Your Honor,
5 there is a possession of marijuana charge from that
6 time as well.

7 In 2009, the only arrest I see, Your Honor,
8 driving under suspension and an assault on a police
9 officer while resisting arrest. I don't have the
10 disposition of that one.

11 Your Honor, he was then violated of probation
12 in 2011.

13 In 2012 he picked up the charges that we tried
14 him on last week, Your Honor.

15 And while out on bond for those charges, he
16 was convicted of DUI first, driving under
17 suspension, second offense, possession of
18 marijuana, and transporting alcohol in a motor
19 vehicle with a broken seal.

20 That is the extent of his record, Your Honor.

21 Would you like to hear from the victims now?

22 THE COURT: Yes, ma'am.

23 MS. M. WALKER: Your Honor, the first victim,
24 Mr. Gulzar Nathani.

25 THE COURT: All right. Yes, sir, I will be

1 glad to hear from you.

2 MR. NATHANI: My name is Gulzar Nathani. I'm
3 the victims' father.

4 Six years ago I moved to United States. Not
5 to have a luxurious life, just for better
6 education, a good life for my kids.

7 I'm a really hard working guy. He knows very
8 well the way I work. Most of time I work 18 hours
9 just to look out for my family. And it is me only
10 to look after them.

11 It is not a matter of only a robbery or to
12 abduct them, it is a matter of betrayal. Me and my
13 family have been betrayed from him. I trust him.
14 That is why I let him come to my house for my
15 business part.

16 After this incident, me and my family were
17 scared and terrified. I stopped doing business
18 with anybody. And that affect my monthly -- my
19 welfare.

20 In my life, if I make one mistake, I learn my
21 lesson with this mistake. As you heard, multiple
22 times he was involved in different things. Did he
23 learn his lesson? No. Did he wish to learn his
24 lesson? I don't think so.

25 Because I believe one thing, if I plead guilt

1 I have to say sorry. In my culture, or my beliefs,
2 forgiveness is bigger than punishment. He never
3 come to me to say, Sorry, I break in your place, I
4 was not supposed to do this. But he didn't. And
5 he never plead his guilt. And still he is trying
6 to hide that other guy who is hiding and which
7 stole business from me and my family.

8 I just need peace of mind so I can work to
9 look after my family. I work at flea market. That
10 is an open place. I don't hide anything. Nothing
11 is hidden from him. My life. I'm very open with
12 everybody.

13 These kids, why they didn't, like -- why did
14 they open the door? Why did he go inside? Because
15 they trust him, that he is not going to harm them.
16 But he did.

17 Now, obviously may come more worse decisions
18 from him after reviewing his past record. On that
19 incident he didn't shoot them, but I'll admit it
20 will probably be worse decision if next time he
21 become murderer. I think he has to do his time, a
22 long time, so he can isolate himself and that he
23 can realize what he did, not for us, at least he
24 can think about his family, his kids.

25 We will never be happy if he is like gone for

1 a long time, but we will be more happy if he can
2 change his life, make change in hisself.

3 The jury, they made a unanimous decision. And
4 that makes me feel belief in law and justice.

5 That's all I can say.

6 THE COURT: Thank you. Thank you very much.

7 Anything else?

8 MS. M. WALKER: Yes, Your Honor.

9 S.N. [REDACTED], the younger daughter, is in
10 school right now, so that is why she is not here.

11 THE COURT: All right.

12 MS. M. WALKER: So Rabia Nathani would like to
13 address the Court.

14 THE COURT: All right. Yes, ma'am, I will be
15 glad to hear from you.

16 MS. RABIA NATHANI: I don't have much to say
17 about it. This is the first time this happened.
18 Like, this never happened to us before. Like, we
19 never thought about this happening here. People
20 say that we trusted him. As my dad said, we
21 trusted him, that is why we opened the door for
22 him. It is just that we don't -- we are not
23 like -- we just do what our dad says. We go to
24 school, get good grades, study. That's it. And we
25 didn't know he was going to do that. That's why we

1 opened the door that day.

2 THE COURT REPORTER: I'm sorry, I didn't hear
3 that?

4 MS. RABIA NATHANI: We didn't know that he was
5 going to do that. That is why we opened the door
6 that day.

7 And then he still not -- like my dad says, he
8 is not pleading guilty or something, that he did
9 it.

10 That's all I want to say.

11 THE COURT: Thank you.

12 Anything further, Solicitor?

13 MS. M. WALKER: No, Your Honor.

14 THE COURT: Thank you.

15 Ms. Walker? Mr. Bank?

16 MS. A. WALKER: Thank you, Your Honor. May it
17 please the Court?

18 Your Honor, just to tell you a little bit
19 about Anthony's background. He is 28 years old.
20 For the past, I believe, year he's been working for
21 Angelica Corporation. It is a linen company.

22 THE COURT REPORTER: I'm sorry, where?

23 MS. A. WALKER: Angelica Corporation. I'm
24 sorry, I'll speak up. He was very thankful to be
25 able to get that job, Your Honor, considering the

1 charges that were pending against him. They gave
2 him a chance. And he was a great employee. And
3 they were very understanding about everything. And
4 he worked very hard.

5 Your Honor, I have had the pleasure to get to
6 know his fiancée. Mr. Bank and I went over to his
7 house a couple of times in order -- they had
8 transportation issues, so in order to prepare for
9 this case we were able to get to know his fiancée,
10 who is a wonderful person, Ms. Diana Addison. She
11 sat here through every day of the trial and was of
12 the utmost support for Mr. Porterfield.

13 She -- if you ask either one of them, they'll
14 tell you that they have five children. Anthony has
15 two from a prior relationship and Diana has three,
16 but they will tell you that they have five. All
17 girls. All daughters. And they all consider
18 themselves a family. So this has been indeed a
19 troubling experience for everybody involved. I
20 understand that.

21 Your Honor, we certainly, with the utmost
22 respect, understand the jury's decision and what it
23 is, but my client does maintain his innocence.

24 We have no doubt that the Nathani girls went
25 through an absolutely harrowing experience that

1 day. I have absolutely no doubt. And for that we
2 extend our deepest sympathies, condolences,
3 whatever would be appropriate. We certainly,
4 without a doubt, believe that that happened to
5 them. But my client does maintain his innocence.
6 That he was at work that day and that he was not
7 responsible for those events.

8 Your Honor, that being said, you heard a
9 little bit about Anthony's prior record. When he
10 was -- he was able to get a Youthful Offender
11 sentence for a burglary that happened about ten
12 years ago. Apparently, he said he got kicked out
13 of his brother's house and he and a friend went to
14 a random house and he said he all but touched the
15 window and attempted to open it before a marked
16 vehicle drove by and he took off running, and the
17 cops stopped him. And that was about the extent of
18 that burglary, Your Honor.

19 And he has had some rough spots along the way,
20 but, Your Honor, for the most part it was driving
21 offenses, DUI. But other than that, no serious
22 offenses. There is no disposition on anything, the
23 assault with police officer, or anything of that
24 nature, Your Honor. But other than that, the
25 attempted burglary from ten years ago would be the

1 most serious offense he has on his record.

2 Since meeting Diana I think that he has done
3 the best to be a family man. They have had --
4 every time we were over there, Diana slaved over
5 the stove. She was an amazing cook. And Anthony
6 took care of the house. And they were a great team
7 together. And still are. They are -- they took
8 walks every Wednesday. They had a routine. And
9 that is what they did. And they were a great
10 couple. They are a great couple. And a great
11 support system.

12 That being said, Your Honor, he does have a
13 couple of family members that have been here in and
14 out throughout the trial that I would ask Your
15 Honor, if you would indulge us, to hear from them,
16 just a little bit about Anthony's character.

17 And before I forget, I do have an order
18 regarding the kidnapping offenses. I believe all
19 the testimony indicated that these had nothing to
20 do -- sexual in nature whatsoever, just so that
21 there is no ifs, ands, or buts about that.

22 THE COURT: Yes, ma'am.

23 MS. A. WALKER: If you allow me to approach,
24 Your Honor?

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

1 (Complies.)

2 THE COURT: Thank you.

3 MS. A. WALKER: Thank you, Judge.

4 THE COURT: All right. And I'll be glad to
5 hear from anyone you would like me to hear from,
6 Ms. Walker.

7 MS. A. WALKER: Mr. Porterfield would like to
8 address you first, Your Honor.

9 THE COURT: Before his family members?

10 MS. A. WALKER: Yes.

11 THE COURT: All right. Certainly. I will be
12 glad to hear from you, Mr. Porterfield.

13 THE DEFENDANT: How you doing, Your Honor?

14 THE COURT: I'm good.

15 THE DEFENDANT: I agree with Mr. Nathani on a
16 lot of errors. I have done a lot of things in my
17 past. And I did make a lot of mistakes. Some was
18 harder to learn from. Some I have. I have no
19 excuses for some of the errors I have made in my
20 past.

21 I'm not a violent individual. I love very
22 hard. My father passed when I was 16. He was my
23 greatest hope. He taught me everything. And he
24 taught me how to respect, he taught me how to love,
25 especially to be a family man.

1 He said I have no remorse, but I do. I feel
2 bad for his family. And I have two girls. And at
3 the time of that incident, I haven't seen my
4 daughter for a whole year. That is why I got up
5 off my mother couch and I got me a job. I worked
6 hard. And I got my own apartment. And,
7 unfortunately, I wasn't able to remember my
8 address, that's how long I stayed there.

9 And I didn't do this to Mr. Nathani. And I
10 wouldn't do that to his children. I'm not sure who
11 it was, but I'm definitely sorry for anything that
12 had happened to them. And I don't know how I even
13 end up in a position as this.

14 The job that I had obtained at that time was
15 the greatest job I ever had in my life. It paid
16 \$10 an hour and it paid weekly. And I worked hard.
17 I worked very hard.

18 And I can't say I don't believe in
19 coincidence. Look at the situation I'm in.
20 Something happened. And it happened to me. Two
21 guys right now are free and I'm chained to my
22 waist.

23 The same three girls I have at the house along
24 with Diana, when I came into that household, I
25 thought about it deeply, I have nothing but girls,

1 I love my girls. So I respect everything
2 Mr. Nathani said. And if I was in his position I
3 would want the man to rest under the jail. I
4 respectfully do. I would say that.

5 But -- and that burglary that they mentioned
6 back in 2004, I was kicked out by my brother. And
7 that wasn't a random house. I knew the guy. It
8 was a friend of mine. And it was an attempt. At
9 that very time I never stole anything. I wasn't
10 planning on stealing anything. I didn't even -- I
11 didn't have a home. And I made a bad decision.

12 Your Honor, I respectfully ask to maintain my
13 innocence, because I am innocent. And just as well
14 as the Nathani family and his daughters, I feel
15 like I'm a victim also. A lot of things were
16 innocent. I can't remember a lot of things then.
17 Through the whole time of being home from 2012, I
18 not only worked -- it was just that job that is on
19 the record, but I went from temp agencies. I did
20 landscaping. I know how to build houses from the
21 ground up. I concrete work. I know how to do
22 ducting work. Shingles. I did every little thing
23 I could do around South Carolina working under
24 every man who made a dollar. I know guys who --
25 you know, I did hard work. Unfortunately, I

1 couldn't get all my employers in here. I couldn't
2 contact everybody.

3 And I never even knew who wrote statements in
4 my behalf. I never knew. I didn't even know the
5 guy's real names. Never knew. Until January of
6 2015.

7 I didn't create this alibi. TK didn't even
8 get on the stand. He was a friend of mine. I
9 remember when I figured out when I was locked up.
10 And I apologize for rambling, but it is my life.
11 And, unfortunately, this is how things end up for
12 me. And I know this is something I'm going to
13 definitely fight. And I pray for the best for the
14 Nathani family. I don't know if he know it or not,
15 but I do. And he helped me out a great deal. I
16 never came against him. He always gave me the
17 benefit of the doubt when we did business, whether
18 it was -- whether everything was legitimate or not,
19 everything was okay. And he always, you know, gave
20 me a piece of advice, and I always did the same for
21 him.

22 I don't know why things end up the way it did,
23 but it did. And I'm here. And it is sad to see
24 myself in this situation. This is not the way I
25 was raised. This is not the way I raise my

1 children. And I believe they are scared. And
2 jail, prison, or any kind of confinement for any
3 man who have any type of daughters on the outside,
4 it is scary. I feel bad for the Nathani family and
5 my family. It is not just him who is mourning. I
6 have my daughters mourning also.

7 And I cry on the inside every night and every
8 day since then. And when I read the Bible, I felt
9 bad every night because I prayed that whoever it
10 was I can find out who it was myself and I can put
11 -- personally put this man on the stand.

12 Your Honor, I ask to maintain my innocence,
13 and -- I don't know what else to ask for. I'm
14 definitely trying. And I have done my best when I
15 was on the outside. And I always been a family
16 man. I had a couple of DUS, and I had a couple of
17 things that was against me in my past. I never
18 hurt an officer. I'm not sure how that went.

19 Maybe I'm rambling now. But, Your Honor, I
20 just want to say to the Nathani family, I pray for
21 the best for them. And I pray for the best for my
22 family also. They have got to go without me. And
23 I mean a lot to my family. I mean a lot to my
24 nephews. I mean a lot to my daughters. I mean a
25 lot to Diana. When I met her, I never left her

1 side. There was plenty of times that I could have
2 honestly done anything, you know, left or anything.
3 I love her to death. I love my family to death.
4 And I always been there for them. And I will
5 always be there for them.

6 And I just thank the Court for listening I
7 guess today and take into consideration that I'm an
8 honest man. I am a man of a lot of words, but
9 unfortunately I am running low, and I don't know
10 what else to say, Your Honor.

11 I made a lot of mistakes. And I can't say
12 that meeting Mr. Nathani was one. But I can say
13 that I pray that things can change and that the
14 truth will come to light. I pray that the truth
15 will come to light.

16 That's it. Thank you.

17 THE COURT: Thank you. Thank you very much,
18 Mr. Porterfield.

19 Anyone else you would like me to hear from, I
20 will be glad to, Ms. Walker.

21 MS. A. WALKER: Your Honor, his fiancée, Diana
22 Addison.

23 THE COURT: All right. I will be glad to hear
24 from you, Ms. Addison.

25 MS. A. WALKER: If you just want to stand

1 right there, just speak up.

2 THE COURT: Just speak up where I can hear
3 you, please.

4 MS. ADDISON: Good morning, Your Honor.

5 THE COURT: Good morning.

6 MS. ADDISON: My name is Diana Addison. That
7 is my fiancée, Anthony Porterfield. And the man
8 that I have known for over three years now is a
9 caring family man. I was raised to not judge
10 anybody by their past, because people do change.
11 And God makes sure of that. The man that I know
12 that has been described in this court last week
13 does not fit the description of what has been said
14 at all. I know a man who takes care of his kids to
15 the utmost ability. A soft-spoken man. A man that
16 did nothing but went to work and take care of his
17 family, in and out the house.

18 If somebody is calling him, he is trying his
19 best to be there to help them, whether it is
20 monetary-wise or it is supporting somebody
21 emotionally, physically.

22 There is not many good fathers on the street.
23 And I know this from experience. My father raised
24 me since I was five. And Anthony, one thing about
25 him is he has a lot of characteristics of a great

1 man. And I know by good example, like I said, my
2 father. I don't know many men who have teachers
3 from the school and the principal from the school
4 and the doctors that their kids need that would
5 rather speak with the father than the mother. I
6 find that very rare.

7 I have spoke with this man every night for
8 over the past three years. I have seen him cry
9 over this situation because he is not understanding
10 why he is in this situation. I have seen him want
11 to get this situation past him. And I see
12 nothing -- and I know nothing but a family man.
13 And nothing has changed since Day 1. And I have
14 seen him grow to be a better man. And at the age
15 of 28, I think if you ask most people on the
16 street, 28-year-old men are worried about being in
17 the clubs or hanging out with their friends all the
18 time. He was worried about going to work and
19 coming home and making sure dinner is cooked for
20 the kids. He was that traditional family man.

21 And I know firsthand from seeing this and from
22 hearing this, that he -- it is sad about this
23 happening to the victims, in which I am too, being
24 a mother of five girls -- and I count his two, so I
25 have five girls. And I would hate for anything to

1 happen to any of my kids, let alone somebody else,
2 because, for one, I'm a human being, I have a
3 heart, and so does Anthony. So I do know firsthand
4 that he hates that this situation happened. He
5 hates that he is in this situation. And I have
6 seen him cry over this situation.

7 And there is no need for me to stand up here
8 and lie for anybody, just as I maintained from Day
9 1.

10 And I thank you for your time.

11 THE COURT: Thank you. Thank you,
12 Ms. Addison.

13 MS. A. WALKER: Your Honor, his sister,
14 Rebecca Thomas.

15 MS. THOMAS: Good morning.

16 THE COURT: Good morning, Ms. Thomas.

17 MS. THOMAS: This is Diana's day, and she has
18 spoken. I sat here in court last week and I
19 listened to the Solicitor describe a absolutely
20 horrendous person. And a lot of times I sat here
21 and I questioned who were they speaking of, because
22 that is absolutely not my brother. That is my
23 youngest brother. I'm the oldest of five kids. He
24 is the baby boy. But baby boy doesn't absolute --
25 does not describe what he has been, because he

1 stepped up in the years to become a strong man, a
2 strong representative of our family. And in times
3 when our family would look like we were going
4 astray, everybody wanted to go in their own
5 direction, a lot of times it was Markale that was
6 pulling us back together, who would reach out, who
7 would call and say, Hey; Hey, baby; Hey, baby girl.
8 I'm the oldest sister. And he would address me,
9 Hey, baby girl. How are you? Come on, let's all
10 get together. I'm going to call mommy. We will
11 all come over. We will get together. His kids, my
12 kids. My daughter that he grew up with. Grew up
13 in the church. He was one of Christ Resurrection's
14 singing angels. Grew up in the church. Sang in
15 church.

16 Somewhere along the way he did go astray, as
17 we all did. And sometimes it comes out with
18 different endings. But in his mistakes in his
19 life, he saw his wrongs. He did. And he was on
20 the path to making corrections. He becomes a
21 completely different person. And the person that
22 they are describing is not Markale at all. He is a
23 brilliant, loving man who cares about his family,
24 who cares about his extended family. His friends
25 that he take in, they don't even begin to recognize

1 themselves as family -- as friends anymore, they
2 become family.

3 Just as everyone else, I feel terrible,
4 horrible. It was a horrible aching in my heart for
5 the Nathani family that they had to suffer through
6 that. I have a daughter of my own, I have a
7 granddaughter who I would hate to fall victim to
8 any heinous crime. And so we absolutely feel the
9 sorrow for them. However, the acts that are
10 described here does not represent Markale at all.

11 And I guess today we just come before you --
12 myself, my family -- for you to hope that you can
13 understand that -- and understand where we are
14 coming from, and we are begging leniency for the
15 person that we know, who is not the person that is
16 described here today.

17 Thank you, Your Honor.

18 THE COURT: Thank you. Thank you very much,
19 Ms. Thomas.

20 MS. A. WALKER: And, Your Honor, thank you so
21 much for being patient with us.

22 Finally, Your Honor, his sister, Katrell
23 Porterfield.

24 THE COURT: All right. Yes, I will be glad to
25 hear from you.

1 MS. PORTERFIELD: Good morning.

2 THE COURT: Good morning.

3 MS. PORTERFIELD: I am Anthony's baby sister.
4 He has been more than a brother to me. That is my
5 best friend. After my dad died, you know, he's
6 been my protector also, someone I can call on and
7 go talk to. You know, if it is the middle of the
8 night and just don't feel well, he is the one I
9 call on to help me get through what I'm going
10 through.

11 We grew up really, really close, so it is hard
12 on me because my life would not be the same. He
13 helps my little boy, my son. He looks up to him.
14 His father is not here, but my brother has stepped
15 in to help him grow up and to teach him the right
16 way.

17 But he has always been the person, like, when
18 it comes to the females in the family, we all go to
19 him because he has been that brother to his
20 cousins, he has been that to me. You know, he is
21 only a couple of years older than me, but he has
22 been like that role model, that leader that we all
23 just kick off on.

24 And I'm so sad right now, because this is
25 just -- I can't even imagine explaining to my son,

1 you know, why he can't talk to Uncle Kale, why he
2 can't go to the park with Uncle Kale, why he can't
3 see him.

4 And I'm having another boy. And it is just
5 very hurtful that this is somebody who is important
6 to me, somebody who I love dearly, and just -- I
7 just want him to know, you know, we always -- just
8 like he has always been there for us, we will
9 always be there for him. Always. No matter what,
10 I will still be here to support you.

11 And I'm just -- there is so much that I can go
12 on and talk about, but, you know, I just -- like my
13 sister and I have said, you know, we have seen him
14 go through so many changes, but he has always
15 remained that family person. He has always been
16 the one that we can talk to, the one that keeps us
17 together, because we don't have too many men in our
18 family that keeps us together, especially the women
19 in our family. We have got more women in our
20 family than men, and he has been that man to all of
21 us, even my cousins that, you know, we all, get all
22 us together, take us out to eat. You know, we just
23 talk to him about certain things that is going on
24 in our relationships, or anything. He has always
25 been supportive of us. Always been that person

1 that -- he will get all the kids for us to get a
2 little break, you know. And he'll get -- and his
3 girls love him to death, oh my God.

4 And I just can't imagine the same way I feel
5 about him, they love him ten times harder, because
6 he has been there. And he is a better father to
7 them than their own mothers are to them. It is
8 hurtful to say that, but I'm not sure how their
9 lives are going to be without him. And that is the
10 God's honest truth.

11 And I just feel sorry for the Nathani family.
12 You know, I feel sorry for me and my sister. We
13 have already lost a brother who died. I lost my
14 father at a young age. I lost another brother not
15 too long ago. And this is all that we have, you
16 know? It is just hurtful to even be standing here.

17 The last couple of days of court I couldn't
18 even be here because I can't -- I couldn't stand to
19 stand here and see this or even be here. But I'm
20 here, because I want him to know that I'm going to
21 always support him and I want him to know that I
22 love him dearly. And I will always love him,
23 regardless of any situation. I will be there for
24 him like he has always been there for me. And like
25 our father told us, to watch out. He has -- we

1 have always watched out for each other. And he
2 lives by what my dad taught him. When I'm going
3 through things, he is there for me. He has never,
4 ever let me hurt or never let me fall down.

5 And I just thank him. And I love him. That's
6 all I can say.

7 MS. A. WALKER: Your Honor, his cousin, Alexis
8 Green.

9 THE COURT: All right. Yes, ma'am, I will be
10 glad to hear from you.

11 MS. GREEN: Good morning.

12 THE COURT: Good morning.

13 MS. GREEN: I just want to take a few minutes
14 of you guys's time. My name is Alexis Green.
15 Anthony, better known as Markale, is my cousin. We
16 are like third or fourth cousins distant down the
17 line, but we were raised as if our parents were
18 sisters and brothers, we were raised as if we were
19 first and second cousins.

20 And growing up my greatest memories were with
21 Markale and Katrell. Their father, my uncle, he
22 was my favorite uncle until he passed when we were
23 younger. Excuse me. But to say that my uncle used
24 to pick us up, he had this van, and he would pick
25 us all up and he would take us to his house. And

1 my aunt would get off work fussing like, What are
2 you doing with all these kids here? I just got off
3 work from doing a 12-hour shift.

4 And also growing up, my two favorite cousins,
5 I thought they were twins for the longest time, my
6 favorite cousins with the pretty eyes. I used to
7 love to see them coming. I used to love to hear
8 that there was a family function going on and they
9 were going to be there.

10 We grew up so close to where that they lived
11 on one side of town, the North Main side of town,
12 and I lived on Two Notch Road area. I graduated
13 from W.A. Perry. I'm a 2007 graduate of C.A.
14 Johnson High School. I have been on my job at
15 Presidio Medical Care for seven years at Palmetto
16 Health Richland Hospital. And believe it or not,
17 it has really been hard growing up where I grew up.
18 I have lived in the Colony Apartments. I have
19 lived in Palmetto Terrace. My cousins graduated
20 from Alcorn. They went to Eau Claire. They went
21 to C.A. Johnson. And they went to W.J. Keenan.
22 Some of the most high-rated reckless schools in
23 Richland County School District 1, but we made it.
24 We might not have graduated on time, but we made it
25 out, you know, out of the situation that we grew up

1 in. We didn't always have the best, but our
2 parents gave us what we needed. And we grew up to
3 know that you always get what you need and your
4 wants will fall into place.

5 And when my uncle died years ago, our lives
6 changed forever, because he was that man. He would
7 make anybody's worst day their best.

8 And, Your Honor, I'm just here to say that
9 whatever had went on in court, I don't believe that
10 is my cousin. I would ask you all to just look at
11 who he is as a person. And it is not our fault
12 that we grew up in a society where we were directed
13 towards negative things. And we all strayed away.
14 But I believe that all of us here that grew up
15 together, grew up to know that the life that we
16 were a part of is not the life we want to live.

17 And my cousin Markale, when I was pregnant, we
18 would take walks in the park. He would take me
19 downtown just to get ice cream. He would pick me
20 up on my worst day when I felt like I couldn't
21 stand on my feet and say, Baby girl, come on, let
22 me feed you with that baby boy.

23 He always, always, always took care of me and
24 my little sister. He has always been there for us,
25 through thick and thin. And when his sisters and

1 everybody said he gets all of our kids, he keeps
2 them together.

3 And just as his dad was a shining star in our
4 life when we were younger, he is that shining star
5 in our life right now. The sun is coming up. And
6 we always have cookouts and birthdays and family
7 functions. It is times where we make up holidays
8 just to spend time together. And he is that man.
9 That is my cousin, and I love him. And he has
10 always been there. Always.

11 And his father always raised us, if you did
12 anything wrong, apologize. He would cut our
13 behinds and take us to wherever we did wrong. Or
14 if we pushed a little girl down or if we were too
15 aggressive towards somebody, And you are going to
16 apologize. And he made us apologize.

17 My cousin called me on numerous occasions
18 because he thought that he said something offensive
19 that might have hurt my feelings and it has been
20 bothering him. And I stayed up last night, and I
21 just wanted to call you, baby girl, and tell you
22 I'm sorry if I offended you. And I love you.

23 And I think I speak for everyone when I say
24 that, please let him continue to be that shining
25 star. Please one day let him come home.

1 I completely apologize to this family and
2 whatever happened to them, I'm sorry to them.
3 Forgive whoever. Find whoever. Anthony didn't do
4 it.

5 I just want him to come home one day. I want
6 him to be able to be a part of his children's
7 lives. He -- I just want him to be there. Because
8 without him I think we will just really be lost.
9 We'll make it, because we have each other. But he
10 is that star, Your Honor.

11 And I want to say thank you for letting me and
12 my family speak on Anthony's behalf this morning.

13 And you all have a good afternoon.

14 THE COURT: Thank you. Thank you very much.

15 MS. A. WALKER: Thank you so much, Your Honor.

16 THE COURT: Anything further, Ms. Walker or
17 Mr. Bank?

18 MS. A. WALKER: Your Honor, just very briefly.
19 Thank you so much for the Court's patience this
20 morning. This is Anthony's day in court. And they
21 are a family of many words, and certainly I
22 understand. They are a caring family and a
23 close-knit family, Judge.

24 I just ask you to consider what we have
25 presented to Your Honor. We are respectfully

1 asking for the minimum in this case. We're asking
2 for a 15-year sentence, all to run concurrent,
3 respectfully, Your Honor. He has got a very short
4 amount of credit, 94 days total, to go towards his
5 sentence.

6 THE COURT: Thank you, Ms. Walker and Mr.
7 Bank.

8 Let me make sure I'm correct. Burglary first
9 degree carries not less than 15 years nor more than
10 a life sentence?

11 MS. M. WALKER: Yes, Your Honor.

12 THE COURT: Armed robbery carries 10 years to
13 30 years?

14 MS. M. WALKER: Yes, Your Honor.

15 THE COURT: Kidnapping carries up to 30 years?

16 MS. M. WALKER: Yes, Your Honor.

17 THE COURT: And the other kidnapping?

18 MS. M. WALKER: Yes, Your Honor.

19 THE COURT: Thank you.

20 All right. I take into account the totality
21 of the facts and circumstances in the case, the
22 statements from the victims that were presented
23 today.

24 I take his prior criminal history into
25 account, with the exclusion of assaulting a police

1 officer while resisting arrest. It had no
2 disposition. I do note that many of his offenses
3 are traffic offenses; however, he did have one of
4 those offenses while he was out on bond for this
5 charges, being DUI, DUS, possession of marijuana,
6 and illegal possession of alcohol. I take into
7 account that he had a probation violation. And the
8 burglary second. And the facts that were presented
9 concerning the burglary second and the fact that it
10 was 2004.

11 I take into account the statement that he has
12 presented to the Court. As I said during the
13 course of the trial, my observations of
14 Mr. Porterfield is that he is a very intelligent
15 and well-spoken young man who can present himself
16 very well and presented himself very well as far as
17 being before the Court. I do not comment on how he
18 may have presented himself as far as the jury is
19 concerned, because I have no knowledge of that.
20 But he has always been respectful to the Court,
21 well-spoken, and seems to be very intelligent.

22 I further take into account the statement of
23 Ms. Addison, who appeared to be very heartfelt, as
24 the statements of both his sisters and his cousin
25 during the course of this presentation concerning

1 sentencing.

2 Recalling back on the trial testimony and the
3 totality of the facts and circumstances, I take
4 into account that, although he maintains his
5 innocence -- which he has an absolute right to do
6 so, and I do not hold that against him in any
7 manner -- I do take into account the fact that he
8 attempted to blame: (a), the investigator; (b),
9 the police officers that arrested him; (c), EMS
10 that attempted to treat him; (d), the nurses at
11 Palmetto Richland Hospital and other medical
12 personnel.

13 I'm very impressed with his family support.
14 I'm familiar with W.A. Perry, C.A. Johnson, Alcorn
15 Middle, the Keenan Raiders. I remember when that
16 school was built, as a matter of fact. I certainly
17 am very impressed with his family and the family
18 support that he has. He is going to need it.

19 Going into someone's residence, whether it is
20 a part-time business or not, is one of the most
21 dangerous crimes that can be committed in our
22 society, short of a crime of a high degree of
23 physical violence or a homicide.

24 Mr. Nathani and his family trusted
25 Mr. Porterfield. And, given his demeanor, it is

1 probably easy to trust him. It is probably easy to
2 do that. Sometimes trust can be misplaced. These
3 are young victims. There are two victims. They
4 are children. Some people say, Well, they are
5 young ladies. They were children. And in my book
6 and within the safety of their home, where we
7 should all be able to be safe, guns were placed in
8 their face. That is so much more than items being
9 stolen. That steals your safety and security in
10 one place you think you will always be safe and
11 secure.

12 And I will not give him the minimum sentence.
13 I will not give him a life sentence. But it is a
14 significant sentence. And it is my responsibility
15 to impose it. And behavior has consequences.

16 Indictment 2012-GS-40-5295, Anthony M.
17 Porterfield, burglary first degree, the Defendant
18 is committed to the State Department of Corrections
19 for a determinate term of 30 years.

20 Armed robbery, 2012-GS-40-5296, the Defendant
21 is committed to the State Department of Corrections
22 for a determinate term of 30 years.

23 2012-GS-40-5294, kidnapping, the Defendant is
24 committed to the State Department of Corrections
25 for a determinate term of 30 years.

1 2012-GS-40-5297, kidnapping, the Defendant is
2 committed to the State Department of Corrections
3 for a determinate term of 30 years.

4 Those are concurrent, one with the other. He
5 is to be given credit for all time served.

6 Further, I have signed the document alleging
7 and indicating that the offenses of kidnapping did
8 not include a criminal sexual offense or any
9 attempted criminal sexual offense. Therefore, he
10 does not have to register as a sex offender.

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

12 THE COURT: Good luck to you, Mr. Porterfield.

13 THE DEFENDANT: Thank you.

14 THE COURT: Good luck to you, Ms. Addison, and
15 members of the Porterfield family.

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

17 THE COURT: Thank you, Solicitor.

18 Anything further for the Court?

19 MS. M. WALKER: Nothing, Your Honor.

20 THE COURT: Thank you. Thank you very much.

21 (WHEREUPON, the proceedings were
22 concluded at 11:38 a.m.)

23
24
25 (END OF TRANSCRIPT)

CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA)

COUNTY OF RICHLAND)

I, Deborah M. McCurdy, Official Court Reporter for the Fifth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and partial Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for Richland County, South Carolina, on the 6th day of March, 2015.

I do further certify that I am neither of kin, counsel nor interest to any party hereto.

October 4, 2015

s/Deborah M. McCurdy, RPR

Deborah M. McCurdy, RPR
Fifth Circuit Court Reporter

1069

WITNESSES

(S) Joseph Clarke – Richland County
Sheriff

ARREST WARRANT NUMBER

2012A4010600031

ACTION OF GRAND JURY

TRUE BILL

Jill R. Koenigs

Foreperson of Grand Jury
Date:

OCT 10 2012

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2012GS4005294

The State of South Carolina

County of

Richland

COURT OF GENERAL SESSIONS

OCTOBER TERM 2012

42

**THE STATE
vs.**

Anthony M Porterfield

**Indictment for
KIDNAPPING**

SC Code: 16-03-0910
CDR Code: 0095

After being fully advised as to my
legal rights, I hereby waive presentment
to the Grand Jury.

Defendant

I
hereby appear in my own proper person and plead
guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

CERTIFIED TRUE COPY
OF ORIGINAL FILED,
Jeannette W. McBride
C.C.C.P.&G.S.
RICHLAND COUNTY
SOUTH CAROLINA

1084

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

INDICTMENT

At a Court of General Sessions, convened on OCTOBER 10, 2012,
the Grand Jurors of Richland County present upon their oath:

KIDNAPPING

That Anthony M Porterfield and/or another co-defendant did in Richland
County on or about June 27, 2012, unlawfully seize and/or confine and/or
inveigle and/or decoy and/or kidnap and/or abduct and/or carry away one

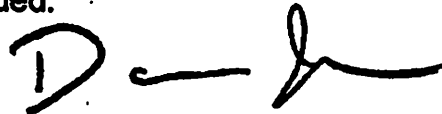
S. N. [REDACTED]

, without authority of law, in violation of Section 16-03-0910,

✓

S. C. Code of Laws, 1976, as amended.

Against the peace and dignity of the State, and contrary to the
statute in such case made and provided.



DAN JOHNSON, SOLICITOR

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF
STATE

VS.

AKA:

Race: Black Sex: Male Age: 28DOB: [REDACTED] SS#: [REDACTED]Address: [REDACTED]City, State, Zip: Columbia, SC 29223DL# [REDACTED] SID# [REDACTED]*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

☒ CONVICTED OF or ☐ PLEADSTO: Adm. P. 16-03-0910In violation of § 16-03-0910 of the S.C. Code of Laws, bearing CDR Code # 0095☐ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS☐ Mandatory GPS ☐ §17-25-45The charge is: ☒ As indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury.

(defendant's initials)

The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Michelle 78494 [Signature] Walker 74925

Solicitor SC Bar # Defendant Attorney for Defendant SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Center;for a determinate term of 30 days/months/years or ☐ under the Youthful Offender Act not to exceed yearsand/or to pay a fine of \$; provided that upon the service of days/months/years and or paymentof \$; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are

incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: with all current active orders☐ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department

of Corrections.

☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-55 (Granny

Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ OrderedTotal: \$ plus 20% fee: \$ Payment Terms: ☐ Set by SCDPPPS Recipient:

*Fine:

\$14-1-206 (Assessments 107.5%) \$ \$14-1-211 (A)(1)(Conv. Surcharge) \$100 \$ \$14-1-211 (A)(2)(DUI Surcharge) \$100 \$ \$56-5-2995 (DUI Assessment) \$12 \$ \$56-1-286 (DUI Breath Test) \$25 \$ \$47.12 (Public Def/Prob) \$500 \$ \$14-1-212 (Law Enforce. Funding) \$25 \$ \$14-1-213 (Drug Court Surcharge) \$100 \$ \$50-21-114 (BUI Breath Test Fee) \$50 \$ \$56-5-2942(J) (Vehicle Assessment) \$40/ea \$ \$90.7(SCCJA Surcharge) \$5 \$ 3% to County (if paid in installments) \$ TOTAL \$ Clerk of Court/Deputy Clerk Court Reporter: INDICTMENT/CASE#: 2012 -GS- 40 - 5294AW#: 2012A4010600031Date of Offense: 6-27-12S.C. Code §: 16-03-0910CDR Code #: 0095

SENTENCE SHEET

PTUP

days/months/years of Public Service Employment

Obtain GED Attend Voc. Rehab. Or Job Corp. May serve W/E beginning Substance Abuse Counseling ☐Random Drug/Alcohol Testing ☐

Fine may be pd. in equal, consecutive weekly/monthly

pmts. of \$ Beginning \$ Paid to Public Defender FundOther: ☐ Appointed PD or appointed other counsel,

\$47.12 requires \$500 to be paid to Clerk

during probation.

Presiding Judge Judge Code: 2145Sentence Date 6 March 15

WITNESSES

(S) Joseph Clarke – Richland County
Sheriff

ARREST WARRANT NUMBER

2012A4010600029

ACTION OF GRAND JURY

TRUE BILL

Julie R. Koenigs
Foreperson of Grand Jury
Date: **OCT 10 2012**

VERDICT

DOCKET NO. 2012GS4005295

The State of South Carolina

County of

Richland

COURT OF GENERAL SESSIONS

OCTOBER TERM 2012

42

**THE STATE
vs.**

Anthony M Porterfield

**Indictment for
BURGLARY 1ST DEGREE**

**SC Code: 16-11-0311
CDR Code: 0079**

After being fully advised as to my
legal rights, I hereby waive presentment
to the Grand Jury.

Defendant

I
hereby appear in my own proper person and plead
guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

**CERTIFIED TRUE COPY
OF ORIGINAL FILED,
J. Garrett Williams
C.C.C.P.&G.S.
RICHLAND COUNTY
SOUTH CAROLINA**

1087

1072

Foreperson of Petit Jury
Date:

STATE OF SOUTH CAROLINA)
)
 COUNTY OF RICHLAND)

INDICTMENT

At a Court of General Sessions, convened on OCTOBER 10, 2012,
 the Grand Jurors of Richland County present upon their oath:

BURGLARY, 1ST DEGREE

That Anthony M. Porterfield and/or another co-defendant did in Richland
 County on or about June 27, 2012, enter the dwelling of RABIA G
 NATHANI located at without consent and with the
 intent to commit a crime therein and when, in effecting entry or while in the
 dwelling or in immediate flight therefrom, the defendant displayed what was
 or appeared to be a firearm, in violation of Section 16-11-0311(A), Code of
Laws of South Carolina, 1976, as amended.

Against the peace and dignity of the State, and contrary to the
 statute in such case made and provided.



DAN JOHNSON, SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF
STATE*Richland*

VS.

Anthony M. Porterfield

AKA: _____
 Race: *Black* Sex: *Male* Age: *28*
 DOB: _____ SS#: _____
 Address: _____
 City, State, Zip: *Columbia, SC 29223*
 DL# _____ SID# _____
 *CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was
TO: *Burglary - 1st*In violation of § *16-11-0311* of the S.C. Code of Laws, bearing CDR Code # *0079*
☐ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ \$17-25-45
 (CSC w/minor 1st or Lewd Act)

The charge is: ☒ As indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)
 The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

M. J. Wall 78494 *Anthony M. Porterfield* *A. Walker* 79925
 Solicitor SC Bar # Defendant Attorney for Defendant SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Center,
 for a determinate term of *30* days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
 and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and or payment
 of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for
 months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are
 incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: *with all current active sentences*
☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department
 of Corrections.

☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal
Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

*Fine: \$ _____
 \$14-1-206 (Assessments 107.5%) \$ _____
 \$14-1-211 (A)(1)(Conv. Surcharge) \$100 \$ _____
 \$14-1-211 (A)(2)(DUI Surcharge) \$100 \$ _____
 \$56-5-2995 (DUI Assessment) \$12 \$ _____
 \$56-1-286 (DUI Breath Test) \$25 \$ _____
 \$47.12 (Public Def/Prob) \$500 \$ _____
 \$14-1-212 (Law Enforce. Funding) \$25 \$ _____
 \$14-1-213 (Drug Court Surcharge) \$100 \$ _____
 \$50-21-114 (BUI Breath Test Fee) \$50 \$ _____
 \$56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____
 \$90.7(SCCJA Surcharge) \$5 \$ _____
 3% to County (if paid in installments) \$ _____
 TOTAL \$ _____

Clerk of Court/Deputy Clerk: *Jeannette McBride*
 Court Reporter: *McCurdy*

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#:

2012

-GS-

*40**5295*

AW#:

2012 A4010600029

Date of Offense:

6-17-12

S.C. Code §:

16-11-0311

CDR Code #:

0079

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

CERTIFIED TRUE COPY
 OF ORIGINAL FILED
Jeannette McBride
 C.C.C.P.&G.S.
 RICHLAND COUNTY
 SOUTH CAROLINA

PTUP

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. Or Job Corp.

May serve W/E beginning

Substance Abuse Counseling ☐Random Drug/Alcohol Testing ☐Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ _____ Beginning _____

\$ _____ Paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel,
 \$47.12 requires \$500 be paid to Clerk
 during probation.

Presiding Judge

Judge Code:

Sentence Date

Tom Zuh
2145
6 March 15

ORIGINAL

1075

WITNESSES

(S) Joseph Clarke – Richland County
Sheriff

ARREST WARRANT NUMBER

2012A4010600030

ACTION OF GRAND JURY

TRUE BILL

Jill R. Koenigs
Foreperson of Grand Jury

Date:

OCT 10 2012

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2012GS4005296

The State of South Carolina

County of

Richland

COURT OF GENERAL SESSIONS

OCTOBER TERM 2012

42

THE STATE

vs.

Anthony M Porterfield

**Indictment for
ARMED ROBBERY**

SC Code: 16-11-0330(A)

CDR Code: 0139

After being fully advised as to my
legal rights, I hereby waive presentment
to the Grand Jury.

Defendant

I
hereby appear in my own proper person and plead
guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

CERTIFIED TRUE COPY
OF ORIGINAL FILED,
Jeannette W. M. B. B. B.
C.C.C. P. & G.S.
RICHLAND COUNTY
SOUTH CAROLINA

1090

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

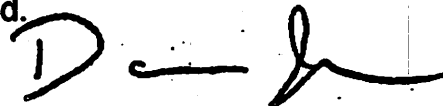
INDICTMENT

At a Court of General Sessions, convened on OCTOBER 10, 2012,
the Grand Jurors of Richland County present upon their oath:

ARMED ROBBERY

That Anthony M Porterfield and/or another co-defendant did in Richland County
on or about June 27, 2012, commit robbery by feloniously taking from the person
or presence of Rabia G Nathani, by means of force or intimidation, goods and/or
monies of Rabia G Nathani, such goods and/or monies being described as
Electronics and/or TV and/or TVs and/or Computer and/or Computers, with the
intent to deprive the owner permanently of such property, while armed with a
deadly weapon, or while alleging, either by actions or words, that he or she was
armed while using a representation of a deadly weapon or any object which a
person present during the commission of the robbery reasonably believed to be a
deadly weapon. All in violation of §16-11-330(A), SC Code of Laws (1976, as
amended)

Against the peace and dignity of the State, and contrary to the
statute in such case made and provided.



DAN JOHNSON, SOLICITOR

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF
STATE

INDICTMENT/CASE#:

2012

-GS-

40

5296

A/W#:

2012A4010600030

Date of Offense:

6-27-12

S.C. Code §:

16-11-0330(A)

CDR Code #:

0139

AKA:

Race:

Black

Sex: Male

Age: 26

DOB:

SS#:

Address:

City, State, Zip:

Columbia, SC 29223

DL#

SID#

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the paid indictment, I am now the Defendant who was
TO:

Armed Robbery

☒ CONVICTED OF or ☐ PLEADS

In violation of §

16-11-0330(A)

of the S.C. Code of Laws, bearing CDR Code #

0139

☐ NON-VIOLENT☐ VIOLENT☐ SERIOUS☐ MOST SERIOUS☐ Mandatory GPS☐ §17-25-45(CSC w/minor 1st or Lewd Act)

The charge is:

☒ As Indicted,☐ Lesser Included Offense,☐ Defendant Waives Presentment to Grand Jury.

(defendant's initials)

The plea is:

☐ Without Negotiations or Recommendation,☐ Negotiated Sentence,☐ Recommendation by the State.

ATTEST:

M. Waller
Solicitor78494
SC Bar #Anthony M. Porterfield
DefendantA. Walker
Attorney for Defendant74925
SC Bar #

WHEREFORE, the Defendant is committed to the

☐ State Department of Corrections☐ County Detention Center,

for a determinate term of

30

days/months/years or

☐ under the Youthful Offender Act not to exceed

years

and/or to pay a fine of \$

;

provided that upon the service of

days/months/years and or payment

of \$; plus costs and assessments as applicable; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:

with all current active sentences

☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

PTUP

Total: \$ plus 20% fee: \$

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:

§14-1-206 (Assessments 107.5%)

§14-1-211 (A)(1)(Conv. Surcharge)

§14-1-211 (A)(2)(DUI Surcharge)

§56-5-2995 (DUI Assessment)

§56-1-286 (DUI Breath Test)

§47.12 (Public Def/Prob)

§14-1-212 (Law Enforce. Funding)

§14-1-213 (Drug Court Surcharge)

§50-21-114 (BUI Breath Test Fee)

§56-5-2942(J) (Vehicle Assessment)

§90.7(SCJA Surcharge)

3% to County (if paid in installments)

TOTAL

\$100

\$100

\$12

\$25

\$500

\$25

\$100

\$50

\$40/ea

\$5

Clerk of Court/Deputy Clerk

Court Reporter:

Melinda Jeannette McBride

CERTIFIED TRUE COPY

Obtain GED OF ORIGINAL FILED,

Jeannette W. McBride

Attend Vop. Rehab. Or Job Prog. S.

C.C.C.P.P.S.

MAY SERVE WITH BEGINNING

Substance Abuse Treatment

RICHLAND COUNTY

SOUTH CAROLINA

Random Drug/Alcohol Testing ☐

Fine may be pd. in equal, consecutive weekly/monthly

pmts. of \$ Beginning

\$ Paid to Public Defender Fund

Other:

☐ Appointed PD or appointed other counsel,
§47.12 requires \$500 be paid to Clerk
during probation.

Presiding Judge

Judge Code:

Sentence Date

J. M. Walker
2145
6 March 15

WITNESSES

(S) Joseph Clarke – Richland County
Sheriff

ARREST WARRANT NUMBER

2012A4010600033

ACTION OF GRAND JURY

TRUE BILL

Jill R. Koenigs
For person of Grand Jury
Date: **OCT 10 2012**

VERDICT

DOCKET NO. 2012GS4005297

The State of South Carolina

County of

Richland

COURT OF GENERAL SESSIONS

OCTOBER TERM 2012

42

**THE STATE
vs.**

Anthony M Porterfield

**Indictment for
KIDNAPPING**

SC Code: 16-03-0910
CDR Code: 0095

After being fully advised as to my
legal rights, I hereby waive presentment
to the Grand Jury.

Defendant

I
hereby appear in my own proper person and plead
guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

**CERTIFIED TRUE COPY
OF ORIGINAL FILED,
Jeannette W McBride
C.C.C.P.&G.S.
RICHLAND COUNTY
SOUTH CAROLINA**

10
11
Foreperson of Petit Jury
Date:

1093

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

INDICTMENT

At a Court of General Sessions, convened on OCTOBER 10, 2012,
the Grand Jurors of Richland County present upon their oath:

KIDNAPPING

That Anthony M Porterfield and/or another co-defendant did in Richland County on or about June 27, 2012, unlawfully seize and/or confine and/or inveigle and/or decoy and/or kidnap and/or abduct and/or carry away one RABIA NATHANI, without authority of law, in violation of Section 16-03-0910, S. C. Code of Laws, 1976, as amended

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



DAN JOHNSON, SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF
STATERichland

VS.

Anthony M. PorterfieldAKA: _____
Race: Black Sex: Male Age: 28
DOB: _____ SS#: _____Address: _____
City, State, Zip: Columbia, SC 29223

DL# _____ SID# _____

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was
TO: KidnapingIn violation of § 16-23-6910 of the S.C. Code of Laws, bearing CDR Code # 0095
☐ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45The charge is: ☒ As indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)
The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.ATTEST: M. Waller 78494 Anthony M. Porterfield Arvalma 74925
Solicitor SC Bar # Defendant Attorney for Defendant SC Bar #WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Center,
for a determinate term of 30 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____
months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are
incorporated by reference.☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: with all current active sentences
☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department
of Corrections.☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal
Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

*Fine:	\$	_____
\$14-1-206 (Assessments 107.5%)	\$	_____
\$14-1-211 (A)(1)(Conv. Surcharge)	\$100	\$
\$14-1-211 (A)(2)(DUI Surcharge)	\$100	\$
\$56-5-2995 (DUI Assessment)	\$12	\$
\$56-1-286 (DUI Breath Test)	\$25	\$
\$47.12 (Public Def/Prob)	\$500	\$
\$14-1-212 (Law Enforce. Funding)	\$25	\$
\$14-1-213 (Drug Court Surcharge)	\$100	\$
\$50-21-114 (BUI Breath Test Fee)	\$50	\$
\$56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
\$90.7(SCCJA Surcharge)	\$5	\$
3% to County (if paid in installments)	\$	\$
TOTAL	\$	\$

Clerk of Court/Deputy Clerk: Jeannette McBride
Court Reporter: Maury

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2012 -GS- 40 - 5297A/W#: 2012 A4010600033Date of Offense: 6-27-12S.C. Code §: 16-23-6910CDR Code #: 0095

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS(CSC w/minor 1st or Lewd Act)

(defendant's initials)

Negotiated Sentence, Recommendation by the State.

Attorney for Defendant

SC Bar #

County Detention Center,

years

days/months/years and or payment

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are

incorporated by reference.

with all current active sentences

The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department

of Corrections.

The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal

Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered

Total: \$ plus 20% fee: \$

Payment Terms:

Set by SCDPPPS

Recipient:

Obtain GED

Attend Voc. Rehab or Job Center

May serve W/E beginning

Substance Abuse Counseling

Random Drug/Alcohol Testing

Fine may be pd. in equal, consecutive weekly/monthly

pmts. of \$ Beginning

\$ Paid to Public Defender Fund

Other:

Appointed PD or appointed other counsel,

\$47.12 requires \$500 be paid to Clerk

during probation.

Presiding Judge

Judge Code:

Sentence Date

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

This 13th day of April, 2016.


Susan B. Hackett
Appellate Defender

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

ATTORNEY FOR APPELLANT

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

ANDERS BRIEF OF APPELLANT

SUSAN B. HACKETT
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1343

ATTORNEY FOR APPELLANT

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STATEMENT OF ISSUE ON APPEAL

Did the trial judge err in permitting the solicitor to question witnesses regarding Appellant not calling an alibi witness during his case-in-chief and to argue during closing about the alibi witness's absence where the solicitor failed to show the witness was available or under Appellant's control, which unconstitutionally shifted the burden to Appellant in violation of the state and federal constitutions?

STATEMENT OF THE CASE

In October of 2012, a Richland County grand jury indicted Appellant for two counts of kidnapping (2012-GS-40-5294; - 5297), burglary in the first degree (2012-GS-40-5295), and armed robbery (2012-GS-40-5296). R. 1069 – 1070; R. 1072 – 1073; R. 1075 – 1076; R. 1078 - 1079. The state, represented by K. Luck Campbell and Meghan L. Walker, called the case for trial before the Honorable R. Knox McMahon and a jury on February 23, 2015. R. 1. Anastasia L. Walker, Robert L. Bank, Jr., and John W. Tate, represented Appellant. R. 1. On February 27, 2015, the jury found Appellant guilty as charged. R. 1010, line 21 – R. 1011, line 16. On March 6, 2015, Judge McMahon sentenced Appellant to thirty years' imprisonment for each offense and ordered the sentences to be served concurrently. R. 1066, line 16 – R. 1067, line 5; R. 1071; R. 1074; R. 1077; R. 1080.

Appellant filed a motion for new trial. R. 1024 - 1025. Judge McMahon heard the motion on March 6, 2015. R. 1026. Campbell and M. Walker represented the state, and A. Walker, Bank, and Tate represented Appellant. R. 1026. Judge McMahon denied the motion on the record. R. 1031, line 16 – R. 1035, line 9.

Appellant filed a timely notice of appeal. This brief follows.

ARGUMENT

The trial judge erred in permitting the solicitor to question witnesses regarding Appellant not calling an alibi witness during his case-in-chief and argue during closing argument about the alibi witness's absence where the solicitor failed to show the witness was available or under Appellant's control, which unconstitutionally shifted the burden to Appellant in violation of the state and federal constitutions.

Relevant facts

Gulzar Nathani was in the business of repairing, buying, and selling electronics and operated his business from his home and at the flea market. R. 188, line 20 – R. 189, line 7; R. 206, lines 3-15; R. 257, lines 2-4. Appellant met Nathani at a local flea market because Appellant had a computer that required repair. R. 257, lines 13-18; R. 701, lines 5-21. Over the course of several months, Appellant and Nathani continued their business relationship. R. 258, lines 5-19; R. 701, line 22 – R. 702, line 14; R. 703, lines 21-25.

On June 27, 2012, Rabia and **S. N.**, the daughters of Gulzar, were at home alone while Gulzar, his wife, and his son were at the flea market. R. 190, line 15 – R. 191, line 15; R. 226, lines 15-25; R. 260, lines 17-21. Rabia told the jury that she was familiar with some of her father's business associates, including Appellant. R. 189, lines 16-25. Rabia knew Appellant by his nickname, "Amp." R. 190, lines 1-4; R. 207, lines 6-13. During the afternoon of June 27, Rabia and **S. N.** went to Chick-fil-A to get some food. R. 191, lines 16-20; R. 227, lines 6-10. When they returned, they noticed a gold or champagne colored sedan parked in their driveway, and two black men were in the car. R. 191, lines 21-24; R. 198, line 22 – R. 199, line 2; R. 207, lines 21-23; R. 228, lines 9-20; R. 229, lines 9-19. Rabia and **S. N.** claimed the two men in the car entered their

home and robbed them at gunpoint. R. 195, line 22 – R. 198, line 21; R. 199, lines 10-15; R. 202, lines 20-24; R. 235, line 22; R. 236, line 1 – R. 237, line 19; R. 242, lines 13-15. Further, the two claimed one of the men was Appellant. R. 194, line 19 – R. 195, line 1; R. 232, line 5-12; R. 235, lines 10-18.

Rabia did not identify Appellant as one of the robbers when she called 911. R. 200, lines 10-11. However, days later, Rabia and [S. N.] identified Appellant's photograph from a line-up conducted by the police. R. 200, line 20 – R. 202, line 11; R. 240, line 9 – R. 241, line 25; R. 457, line 17 – R. 466, line 14. Additionally, both identified Appellant during the course of the trial. R. 203, line 17 – R. 204, line 4; R. 243, line 4 – R. 244, line 2.

According to the evidence presented by the state, the robbery occurred at approximately 2 p.m. R. 70, lines 1-2; R. 272, lines 2-11.

Appellant presented an alibi defense. On June 27, 2012, Appellant went to work at 8 a.m. R. 690, lines 6-14. Appellant's roommate, TK, was moving out and had requested access to the apartment on that day to retrieve some furniture. Appellant wanted to be present while TK gathered his belongings, and asked his boss for permission to go home during the work day. R. 690, line 21 – R. 691, line 21. Appellant remembered TK picking him up from work shortly before 12:00 p.m. for the two to go to the apartment together. R. 692, lines 3-27. While at the apartment, the two moved some of TK's belongings. R. 696, lines 12-25.

During this time, Appellant contacted Nazirah Gale to pick him up from the apartment and take him to work. R. 697, lines 1-25. Gale did as Appellant asked. R. 698, lines 5-13. Appellant estimated he returned to work around 12:45. R. 699, lines 3-

5. Although Appellant used the company's old machine for clocking in and out that day, he gave his time card to his boss when he returned from meeting with TK because he was a few minutes late. R. 694, lines 5-23; R. 699, lines 6-13.

Nazirah "NaNa" Gale told the jury that she picked Appellant up from work on June 27, 2012, between 12:00 and 12:20. R. 580, lines 7-19; R. 582, lines 6-9; R. 583, lines 21-24. She took Appellant to his apartment. R. 581, lines 15-16. After dropping off Appellant, she went to a gas station to "grab something to drink and something to snack on." R. 581, lines 18-20. When she returned, Appellant's friend and roommate, TK, was there. R. 581, line 21. TK "was packing his stuff up" and putting it in his mother's car. R. 581, lines 23-25. Appellant got into the car with Gale and the two returned to Appellant's worksite between 1:00 and 1:30 p.m. R. 581, line 25 – R. 582, line 5; R. 583, lines 6-15. She estimated the two were gone for approximately thirty to forty-five minutes. R. 593, lines 22-23; R. 595, lines 15-16; R. 597, lines 4-6.

Appellant's co-worker, Adrian Deberry, recalled Appellant leaving work around lunchtime to deal with TK moving out of the house. R. 650, lines 18-22; R. 651, lines 12-14; R. 653, lines 1-3; R. 655, lines 4-14. According to Deberry, a young woman called "Little Mama" picked Appellant up from work during lunch. R. 668, lines 13-19. He was unaware of her real name. R. 668, lines 20-24. During cross-examination of Deberry, the solicitor asked if TK were present in the courtroom, and Deberry noted he was not there. R. 662, line 24 – R. 663, line 1.

After Deberry testified, defense counsel noted that the solicitor had asked about TK's presence in the courtroom during the cross-examination of two witnesses.¹ R. 676, lines 14-17. Defense counsel objected to this questioning as "burden shifting." R. 676, lines 19-20. Further, defense counsel moved to bar the state from arguing this point to the jury during closing. As explained by defense counsel, the state was asking the jury to draw an adverse inference from the defense's failure to call TK as a witness. R. 676, line 20 – R. 677, line 4. The solicitor responded "there is case law on point," which she stated she would retrieve later. R. 677, lines 6-7. She argued that once the defendant put up a case, she could "question it the same way - - anything." R. 677, lines 8-10. According to her, she could comment in closing "if the witness is available." R. 677, lines 12-14. The judge agreed the burden could not be shifted, but he thought the solicitor could "ask that question as far as TK [being] present." R. 677, lines 15-21. Thereafter, defense counsel referred the judge to a recent decision of the Supreme Court concerning the issue in a sexually violent predator trial. R. 677, lines 22-25.

Another of Appellant's co-workers, Hakeem Coffeil, recalled Appellant asking for a longer lunch break toward the end of June 2012. R. 793, lines 19-22; R. 794, lines 17-20; R. 795, lines 13-16. He remembered Appellant made the request to deal with his roommate, TK, moving out. R. 795, line 19 – R. 796, line 6. He remembered Appellant returning to work between 1 and 1:30. R. 798, lines 17-25. According to Coffeil, a female picked Appellant up from work. R. 802, lines 5-17.

¹ The solicitor also asked Appellant's fiancée, Diana Addison, if Appellant were present in court that day. R. 646, lines 11-14.

Finally, Appellant's boss, Aaron Griffin, also recalled Appellant taking an extended lunch on June 27, 2012, to handle his roommate moving out. R. 817, lines 19-20; R. 818, lines 11-16; R. 819, lines 12-14; R. 822, lines 17-18; R. 825, lines 23-24; R. 826, lines 5-14. He remembered Appellant left around 11:30 a.m. and was gone for approximately thirty-five or forty-five minutes. R. 826, lines 7-21; R. 834, lines 19-24. According to Griffin, a female picked Appellant up from work. R. 837, lines 13-21. Griffin also presented Appellant's time card showing the hours he worked that day. R. 827, line 18 – R. 828, line 22; R. 1021. The time card showed three entries on Wednesday: 8:07, 11:12, and 4:32. R. 1021. Griffin explained this often happened when someone forgot to clock in or out for lunch. R. 830, lines 4-10. He would indicate the number of hours worked in handwritten form and sign the time card. R. 830, lines 10-14.

After both sides had rested, the solicitor told the court she had "look[ed] at the case that we referred to the other day about the missing witness rule." R. 912, lines 22-24. She claimed "it was a 2014 case that refer[ed] to State v. Charping." R. 912, lines 24-25. The solicitor told the judge the case held "that with fact witnesses that still can be appropriate." R. 912, line 25 – R. 913, line 2. However, the solicitor told the judge "that out of an abundance of caution," the state would "not be mentioning anything in closing about that." R. 913, lines 2-4. She did "think [the case] did support the questions that were asked during cross-examination," however. R. 913, lines 4-6. Despite the solicitor's assurance that nothing would be mentioned in closing about TK's absence, the solicitor wasted little time in pointing out the defense's failure to present TK as a witness to the jury.

During her closing argument, the solicitor told the jury Appellant had presented “the spaghetti defense, where you throw everything against the wall and see what sticks.” R. 956, lines 23-25. The solicitor then commented on Appellant’s alibi defense characterizing it as “multiple alibi witnesses who say multiple things.” R. 957, line 24 – R. 958, line 1. She further juxtaposed the defense against what she termed “relevant, credible evidence in the case.” R. 957, line 24 – R. 958, line 2. The solicitor described the trial as getting “really interesting” when the defense presented “alibi witnesses.” R. 966, lines 16-18. Further disparaging the defense, the solicitor told the jury she was using the term alibi “very loosely” “[b]ecause 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.” R. 966, lines 18-23.

The solicitor falsely claimed there were “at least two different alibis.” R. 966, lines 24-25. Thereafter, the solicitor commented on the absence of TK from the trial. Specifically, the solicitor said, “He was either with TK - - who still hasn’t made it - - or he was with NaNa Gale.” R. 966, line 24 – R. 967, line 1. Thereafter, the solicitor argued Appellant contradicted his own alibi witnesses because Appellant told the jurors that TK picked him up from work whereas other witnesses said Gale picked Appellant up from work. R. 967, lines 2-7; R. 970, lines 5-6. Thereafter, the solicitor claimed that Appellant testified he was “back to work no later than 1:00 o’clock,” but Appellant “also said that while he was still at home with TK, that is when he called NaNa and told her to come get him.” R. 970, lines 6-10. However, according to the solicitor, “[t]hat call didn’t happen until 1:38.” R. 970, lines 10-11. Therefore, the solicitor characterized Appellant’s defense as inconsistent. R. 970, line 11.

Discussion

It is elementary that the state must prove each element of an offense beyond a reasonable doubt. In re Winship, 397 U.S. 358, 364 (1970); see also Sandstrom v. Montana, 442 U.S. 510, 522 (1979); Estelle v. McGuire, 502 U.S. 62, 72 (1991). However, by permitting the solicitor to question the witnesses regarding the absence of an alibi witness from the trial and to argue to the jury concerning the witness's absence where the solicitor failed to show the witness was available or under Appellant's control, the trial judge diluted the state's burden of proof and impermissibly shifted the burden of proof to Appellant in violation of Appellant's right to due process of law pursuant to the Fifth and Fourteenth Amendments to the United States Constitution.

Missing Person Rule

Recently, the South Carolina Supreme Court provided a historical overview of the "missing witness rule." In re Gonzalez, 409 S.C. 621, 629, 763 S.E.2d 210, 214 (2014).

According to the Supreme Court,

[I]t has long been the general rule in South Carolina that if a party fails, without satisfactory explanation, to produce the testimony of an available witness on a material issue in the case and the evidence is within his knowledge, is within his power to produce, is not equally accessible to his opponent, and is such as he would naturally produce if it were favorable to him, it may be inferred that such testimony, if presented, would be adverse to the party who fails to call the witness.

Id.; see also State v. Bamberg, 270 S.C. 77, 81, 240 S.E.2d 639, 640 (1977)(finding no error in the trial judge's decision to permit the solicitor to comment in argument on the fact the defendants did not present "many" witnesses to support their alibi); State v. Shackelford, 228 S.C. 9, 11, 88 S.E.2d 778, 779(1955)(finding prosecutor's closing argument

commenting on the defendant's failure to call an alibi witness was not improper because the evidence indicated the witness was "seemingly accessible to the accused, or under his control, who are or should be cognizant of material and relevant facts and competent to testify thereto, and whose testimony would presumably aid him or substantiate his story if it were true"); contra State v. Posey, 269 S.C. 500, 503, 238 S.E.2d 176, 177 (1977)(holding the rule which permits an adverse inference comment upon the failure of a party to produce a witness exclusively in his control does not apply to a criminal defendant who introduces no evidence at all). The "missing person rule" is based upon the idea "that a party's failure to rebut evidence that the party naturally would be able to refute, through testimony or physical evidence, may warrant an inference that such evidence either does not exist or would be unfavorable." Gonzalez, 409 S.C. at 630, 763 S.E.2d at 214 (internal citation omitted).

Foundational Requirements

Despite what appears to be a fairly straightforward rule, over the ensuing years, the Court has emphasized the necessary foundational requirements to be met in order for a party to invoke the "missing witness rule" and several exceptions to the application of the rule. In State v. Charping, 333 S.C. 124, 128, 508 S.E.2d 851, 853 (1998), the South Carolina Supreme Court reiterated the long-standing rule that "it is always proper for an attorney in argument to the jury to point out the failure of a party to call a witness." (internal citation omitted). However, the Court explained Charping's counsel was not permitted to argue this point to the jury in closing regarding the state's failure to call Charping's alleged co-conspirator because "a party is not to be prejudiced by his failure to call a witness who is equally available to the other party" and the witness was "clearly accessible to both the state

and the defense.” Id. at 128, 508 S.E.2d at 853-854 (internal citation omitted). Additionally, the Court explained “an adverse inference from the unexplained failure of a party to call an available witness is generally held not warranted where the material facts assumed to be within the knowledge of the absent witness have been testified to by other qualified witnesses” and two other witnesses had testified to the material facts in Charping’s trial. Id. at 129, 508 S.E.2d at 854.

Proof of the availability of the “missing” witness is of utmost importance. In State v. Simmons, 267 S.C. 479, 482, 229 S.E.2d 597, 598 (1976), the Court held the trial judge erred in permitting an adverse inference comment during closing where the prosecutor failed to demonstrate the so-called missing witness was “available” or “accessible for compulsory service of process.” According to the record, the witness was not present at the trial and it appeared the witness was out of state, and therefore, not subject to a subpoena. Id. In reversing the case, the Court instructed trial courts to exercise “[e]ven greater caution” “in permitting an adverse inference comment in criminal proceedings than in civil proceedings.” Id.

Additionally, the Court has explained “a necessary predicate to allowing an adverse inference argument” is evidence the party tried to suppress or conceal the testimony of the witness. Gonzalez, 409 S.C. at 633, 763 S.E.2d at 216. Further, the Court stated the simple “failure to call a witness does not justify an arbitrary presumption of suppression of evidence.” Id. at 634, 763 S.E.2d at 216 (internal citation omitted).

Exceptions

Recognizing the “risk of unfairness” that an adverse inference could impose based on a litigant not calling an expert witness, the Supreme Court held “a party’s invocation of

the missing witness rule should be limited to *fact* witnesses, and it should not be applied to *opinion* witnesses, particularly psychiatric experts.” Gonzalez, 409 S.C. at 635, 763 S.E.2d at 217 (emphasis in original); see also Way v. State, 410 S.C. 377, 383-384, 764 S.E.2d 701, 705 (2014). In the trial pursuant to the Sexually Violent Predator Act, the defendant had retained an independent expert, but had not called the expert to testify. Gonzalez, 409 S.C. at 627, 763 S.E.2d at 213. In closing argument, the state argued the jury could infer the absence of the expert indicated the expert’s testimony would have been unfavorable to Gonzalez. Id.

Noting the complexities of a psychiatric evaluation, the Court held it was not proper to assume the doctor’s diagnosis would have been one of two results. Id. The Court held it was “inherently difficult to assume that [an expert]’s opinion must have been one of only two options.” Id. at 635, 763 S.E.2d at 217. Additionally, Gonzalez “had no obligation to produce medical evidence at trial, and the fact that he exercised his right to obtain an independent examination should not confer such an obligation upon him at trial.” Id. at 634, 763 S.E.2d at 217. Applying the adverse inference to “these types of experts allows a jury to simply *speculate* as to what the expert might have said.” Id. at 635, 763 S.E.2d at 217 (emphasis in original). In explaining that the missing witness rule was limited to *fact* witnesses, the Court reiterated that “the fact witness must be under the control of the party failing to call him” and “expressly defined” control to mean “the uncalled witness is an agent, employee, relation, or associate of the party failing to call him.” Id.; see also, Davis v. Sparks, 235 S.C. 326, 333, 111 S.E.2d 545, 549 (1959)(holding the drawing of an adverse inference for failure to call a witness over which the party lacks control is improper).

The Court explained the ability of the prosecutor to argue an adverse inference based upon a missing witness was not permissible in a case involving a criminal defendant who introduced no evidence at all. Posey, 269 S.C. at 503, 238 S.E.2d at 177. According to the Court, the “sound basis” for such a rule was that “an accused is presumed innocent until proven guilty and that the burden is upon the state to prove that the accused committed the crime charged.” Id. Thus, “[a]n accused has the right to rely entirely upon this presumption of innocence and the weakness in the state’s case against him.” Id. If the solicitor could argue the adverse inference, and the jury could so infer, then the defendant “would clearly be deprived” of his right to the presumption of innocence. Id.

Jury Instruction

In State v. Hammond, 270 S.C. 347, 357, 242 S.E.2d 411, 416 (1978), the Supreme Court recognized charging the jury on an adverse presumption would “bring[] about more problems than solutions.” Citing State v. Batson, 261 S.C. 128, 198 S.E.2d 517 (1973), the Court renewed its “grave doubt as to the propriety, in a criminal case, of the rule of an adverse inference from the failure to produce a material witness.” Hammond, 270 S.C. at 356, 242 S.E.2d 415. A charge on this proposition to the jury was unwarranted “except under most unusual circumstances.” Id. More recently, the Court held that “because a jury instruction carries with it the imprimatur of a judge learned in the law, and therefore, usually has more impact on a jury than the arguments of counsel,” “the better practice is that use of the missing witness rule should be limited to counsel’s argument, and the jury instruction on the matter should not be given.” Gonzalez, 409 S.C. at 635, 763 S.E.2d at 217 (internal citation omitted).

Thus, the missing witness rule is *inapplicable* where (1) the witness was equally available to both parties, Charping, supra; (2) other witnesses have testified to the material facts to which the absent witness would have testified, Charping, supra; (3) the witness is an opinion witness, Gonzalez, supra; (4) the witness is not under the control of the party failing to call him, Gonzalez, supra; (5) the evidence does not indicate the witness was not called in an effort to suppress or conceal the testimony of the witness, Gonzalez, supra; and (6) the defendant in a criminal case presents no evidence, Posey, supra. Further, it is clear that South Carolina no longer permits a charge to the jury that adverse inference may be drawn from the failure of a party to call a witness. Gonzalez, supra.

Applying the rule, including its foundational requirements, to the instant matter reveals the trial judge's error. The record is clear the missing witness – TK – was not present in the courtroom during the trial. Thus, it appears the witness was unavailable to Appellant. In any event, the prosecutor did not show – and probably could not show – the witness was available to Appellant, and only to Appellant.

Additionally, other witnesses testified to the material facts to which TK would have testified. Not only did Appellant testify to the circumstances surrounding his encounter with TK on June 27, but Nazirah Gale testified to her observations of the encounter between TK and Appellant on that date. Thus, other witnesses testified to the material facts. On this point, the solicitor misconstrued Appellant's alibi defense. The solicitor claimed Appellant's alibi was that he was either with TK or with Gale at the time of the robbery; however, the record is clear that Appellant was at work at the time of the robbery. The witnesses all testified that Appellant had returned to work prior to 2 p.m. and did not leave work until 4 p.m. The solicitor intentionally misled the jurors to believe that TK was a

necessary alibi witness for Appellant, when TK was simply a witness who would have corroborated Appellant's testimony that prior to 2 p.m., he and Appellant were together at the apartment. If the robbery were to have occurred at 2 p.m. as alleged by the state and the Nathanis, then Appellant's alibi was his presence at work, not in the company of TK.

The prosecutor failed to show – and would have been unable to show – the witness was under the control of Appellant. The evidence in the record showed the two were friends and had been roommates. There was no evidence that TK was Appellant's "agent, employee, relation, or associate." Appellant simply exercised no control over TK. Perhaps most importantly was the lack of evidence that TK's failure to appear was the result of Appellant attempt to suppress or conceal his testimony. In fact, the record contained only evidence to the contrary. Appellant had gone to great lengths in an effort to find TK and subpoena him for trial as evidenced by his testimony, Addison's testimony, and the substance of the telephone conversations between Appellant and TK. Thus, the solicitor failed to satisfy the foundational requirements in order to argue for an adverse inference based on a missing witness.

Although the law is clear that South Carolina does not permit an adverse inference comment when the defendant presents *no* evidence, the law is less clear concerning an absolute bar to such a comment when the defendant presents evidence, particularly, evidence of an alibi. This Court should take this opportunity to clarify for the Bench and Bar that an adverse inference comment is impermissible in all criminal prosecutions. Without doubt, a criminal defendant bears no burden during trial. Further, "[a]n alibi places no burden on a criminal defendant but emphasizes that it is the state's burden to prove the defendant was present and participated in the crime." Roseboro v. State, 317 S.C. 292, 294,

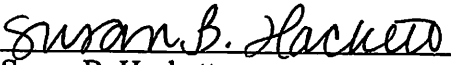
454 S.E.2d 312, 313 (1995). An alibi is “merely a means of disproving the charge – not an affirmative defense, but a negation of the state’s case.” State v. Bealin, 201 S.C. 490, 507, 23 S.E.2d 746, 754 (1943)(internal citation omitted). The same reasoning for not allowing a jury charge on this issue applies. Charging a jury concerning an adverse inference from a missing witness, even a permissible inference, runs the significant risk of diluting the burden on the state and impermissibly shifting that burden to the defendant. Allowing the solicitor to argue an adverse inference in light of a missing witness poses the same risk. While the solicitor’s argument does not carry with it the “imprimatur of a judge learned in the law,” the solicitor’s words to the jury carry the full force and weight of the sovereign.

By permitting the solicitor to question the witnesses regarding the absence of an alibi witness from the trial and to argue to the jury concerning the witness’s absence, the trial judge diluted the state’s burden of proof and impermissibly shifted the burden of proof to Appellant in violation of Appellant’s right to due process of law pursuant to the Fifth and Fourteenth Amendments to the United States Constitution.

CONCLUSION

Appellant respectfully requests this Court reverse his convictions and remand for a new trial.

Respectfully submitted,


Susan B. Hackett
Appellate Defender

ATTORNEY FOR APPELLANT

This 13th day of April, 2016.

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

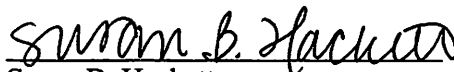
PETITION TO BE RELIEVED AS COUNSEL

Counsel for Anthony Markale Porterfield states:

1. She is Appellate Defender for the South Carolina Office of Appellate Defense, and was appointed to represent appellant.
2. She has reviewed the record of appellant's trial before Judge R. Knox McMahon, which was held on February 23-27, 2015, and, in her opinion, the appeal is without legal merit sufficient to warrant a new trial.
3. She has, pursuant to Anders v. California, 386 U.S. 738, 87 S.Ct. 1396 (1967), briefed an arguable legal issue which arose during the course of the trial.

WHEREFORE, she asks the Court to relieve her as counsel for Anthony Markale Porterfield.

Respectfully submitted,



Susan B. Hackett
Appellate Defender

ATTORNEY FOR APPELLANT

This 13th day of April, 2016.

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

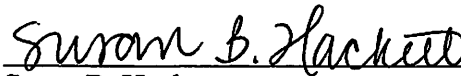
**DESIGNATION OF MATTER TO BE
INCLUDED IN RECORD ON APPEAL**

Appellant proposes the following be included in the Record on Appeal:

- (1) Entire trial transcript dated Feb. 23-27, 2015 pages 1-1019;
- (2) State's Exhibit #23 (jail calls);
- (3) Defendant's #17 (DNA report);
- (4) Defendant's #18 (time card);
- (5) Court's #2 (jury note);
- (6) Court's #3 (jury note);
- (7) Motion for New Trial;
- (8) Entire sentencing transcript dated March 6, 2015 pages 1-43;
- (9) True-billed indictments (2012-GS-40-5294; -5295; -5296; & -5297);
- (10) Sentence sheets.

I certify that this designation contains no matter which is irrelevant to this appeal.

April 13th, 2016



Susan B. Hackett
Appellate Defender

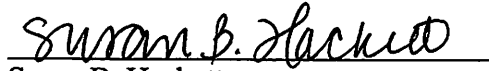
South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1343

Attorney for Appellant

CERTIFICATE OF COUNSEL

The undersigned certifies that to the best of my ability this Anders Brief of Appellant complies with Rule 211(b), SCACR, and the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

April 13, 2016

A handwritten signature in cursive script, reading "Susan B. Hackett", is written over a horizontal line.

Susan B. Hackett
Appellate Defender

S.C. Commission on Indigent Defense
Division of Appellate Defense
1330 Lady Street, Suite 401
Post Office Box 11589
Columbia, South Carolina 29211-1589

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

CERTIFICATE OF SERVICE

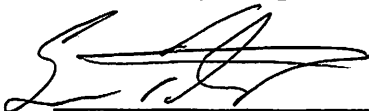
The undersigned attorney hereby certifies that a true copy of the Anders Brief of Appellant and Designation of Matter and Record on Appeal in the above referenced case has been served upon J. Benjamin Aplin, Esquire, at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201; and a copy of the Anders Brief of Appellant and Designation of Matter and Record on Appeal have been served on Anthony Markale Porterfield, #310529, at Broad River Correctional Institution, 4460 Broad River Road, Columbia, SC 29210, this 13th day of April, 2016.



Susan B. Hackett
Appellate Defender

ATTORNEY FOR APPELLANT

SUBSCRIBED AND SWORN TO before me
this 13th day of April, 2016.



(L.S.)

Notary Public for South Carolina
My Commission Expires: October 30, 2022.

**THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE
CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.**

**THE STATE OF SOUTH CAROLINA
In The Court of Appeals**

The State, Respondent,

v.

Anthony M. Porterfield, Appellant.

Appellate Case No. 2015-000631

Appeal From Richland County
R. Knox McMahon, Circuit Court Judge

Unpublished Opinion No. 2017-UP-141
Submitted January 1, 2017 – Filed April 5, 2017

APPEAL DISMISSED

Appellate Defender Susan Barber Hackett, of Columbia,
and Anthony M. Porterfield, pro se, for Appellant.

Attorney General Alan McCrory Wilson and Senior
Assistant Deputy Attorney General John Benjamin Aplin,
both of Columbia, for Respondent.

PER CURIAM: Dismissed after consideration of Appellant's pro se brief and review pursuant to *Anders v. California*, 386 U.S. 738 (1967). Counsel's motion to be relieved is granted.

APPEAL DISMISSED.¹

LOCKEMY, C.J., and KONDUROS and MCDONALD, JJ., concur.

¹ We decide this case without oral argument pursuant to Rule 215, SCACR.



RECEIVED

APR 24 2017

ATTORNEY GENERAL'S OFFICE

The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1220 SENATE STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

April 21, 2017

The Honorable Jeanette W. McBride
PO Box 2766
Columbia SC 29202-2766

REMITTITUR

Re: The State v. Anthony M. Porterfield
Lower Court Case No. 2012GS4005294, 2012GS4005295,
2012GS4005296, 2012GS4005297
Appellate Case No. 2015-000631

Dear Clerk of Court:

The above referenced matter is hereby remitted to the lower court or tribunal. A copy of the judgment of this Court is enclosed.

Very truly yours,

V. Claire Allen, Deputy

CLERK

Enclosure

cc: Anthony M. Porterfield, 310529
Alan McCrory Wilson, Esquire
Susan Barber Hackett, Esquire
John Benjamin Aplin, Esquire

STATE OF SOUTH CAROLINA

COUNTY OF
STATE

VS.

AKA: Black Sex: Male Age: 28
 DOB: [REDACTED] SS#: [REDACTED]
 Address: 1021 Rabon Pond Rd.
 City, State, Zip: Columbia, SC 29223
 DL# [REDACTED] SID# [REDACTED]

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was
 TO: Shipping

In violation of § 16-03-0910 of the S.C. Code of Laws, bearing CDR Code # 0095
☐ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45
 (CSC w/minor 1st or Lewd Act)

The charge is: ☒ As indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)
 The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST: Marcel 78494 Anthony M. Peterfield Walker 74925
 Solicitor SC Bar # Defendant Attorney for Defendant SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Center,
 for a determinate term of 30 days/months/years or ☐ under the Youthful Offender Act not to exceed years
 and/or to pay a fine of \$; provided that upon the service of days/months/years and or payment
 of \$; plus costs and assessments as applicable*; the balance is suspended with probation for
 months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are
 incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: with all current active orders
☐ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department
 of Corrections.

☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal
 Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ plus 20% fee: \$

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine: \$
 §14-1-206 (Assessments 107.5%) \$
 §14-1-211 (A)(1)(Conv. Surcharge) \$100 \$
 §14-1-211 (A)(2)(DUI Surcharge) \$100 \$
 §56-5-2995 (DUI Assessment) \$12 \$
 §56-1-286 (DUI Breath Test) \$25 \$
 §47.12 (Public Def/Prob) \$500 \$
 §14-1-212 (Law Enforce. Funding) \$25 \$
 §14-1-213 (Drug Court Surcharge) \$100 \$
 §50-21-114 (BUI Breath Test Fee) \$50 \$
 §56-5-2942(J) (Vehicle Assessment) \$40/ea \$
 §90.7(SCCJA Surcharge) \$5 \$
 3% to County (if paid in installments) \$
 TOTAL \$

Clerk of Court/Deputy Clerk Janette Mc Bride
 Court Reporter:

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2012 -GS- 40 5294

A/W#: 201244010600031

Date of Offense: 6-27-12

S.C. Code §: 16-03-0910

CDR Code #: 0095

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

PTUP

 days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. Or Job Corp.

May serve W/E beginning

Substance Abuse Counseling ☐

Random Drug/Alcohol Testing ☐

Fine may be pd. in equal, consecutive weekly/monthly
 pmts. of \$ Beginning

\$ Paid to Public Defender Fund

Other:

☐ Appointed PD or appointed other counsel,
 §47.12 requires \$500 be paid to Clerk
 during probation.

Presiding Judge

Judge Code:

Sentence Date

CERTIFIED TRUE COPY
 OF ORIGINAL FILED
 C.C.C.P.&G.S.
 RICHLAND COUNTY
 SOUTH CAROLINA

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

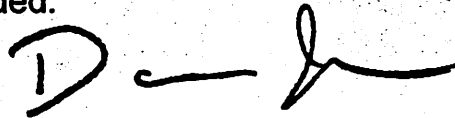
INDICTMENT

At a Court of General Sessions, convened on OCTOBER 10, 2012,
the Grand Jurors of Richland County present upon their oath:

KIDNAPPING

That Anthony M Porterfield and/or another co-defendant did in Richland
County on or about June 27, 2012, unlawfully seize and/or confine and/or
inveigle and/or decoy and/or kidnap and/or abduct and/or carry away one
 ~~Sabia~~ Nathani, without authority of law, in violation of Section 16-03-0910,
S. C. Code of Laws, 1976, as amended.

Against the peace and dignity of the State, and contrary to the
statute in such case made and provided.



DAN JOHNSON, SOLICITOR

WITNESSES

(S) Joseph Clarke – Richland County
Sheriff

ARREST WARRANT NUMBER

2012A4010600031

ACTION OF GRAND JURY

TRUE BILL

Gill R. Koenigs
Foreperson of Grand Jury

Date: OCT 10 2012

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2012GS4005294

The State of South Carolina

County of

Richland

COURT OF GENERAL SESSIONS

OCTOBER TERM 2012

42

**THE STATE
vs.**

Anthony M Porterfield

**Indictment for
KIDNAPPING**

SC Code: 16-03-0910

CDR Code: 0095

After being fully advised as to my
legal rights, I hereby waive presentment
to the Grand Jury.

Defendant

I
hereby appear in my own proper person and plead
guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

CERTIFIED TRUE COPY
OF ORIGINAL FILE
J. Koenigs
C.C.C. P&G.S.
RICHLAND COUNTY
SOUTH CAROLINA

Judge Manning
on 7-24-12
Type and Amount: _____
Name of Surety: _____

PRELIMINARY HEARING held by

Judge _____
on _____
Defendant Attorney: _____

Decision: _____

DISPOSITION before

Judge _____
on _____
by _____
(indicate jury trial, bench trial, plea, nol. pros., etc.)

Disposition: _____

Sentence: _____

JURORS

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____

Telephone: _____

Name: _____
Address: _____

Telephone: _____

Name: _____
Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

CODEFENDANTS



STATE OF SOUTH CAROLINA

COUNTY OF
STATE

VS.

AKA: Richland
 Race: Black Sex: Male Age: 28
 DOB: [REDACTED] SS#: [REDACTED]
 Address: 1027 Rabon Pond Rd.
 City, State, Zip: Columbia, SC 29223
 DL# [REDACTED] SID# [REDACTED]

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO:

In violation of § 16-11-0311 of the S.C. Code of Laws, bearing CDR Code # 0079

☐ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45

The charge is: ☒ As indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)

The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

[Signature] 78494 [Signature] 77925
 Solicitor SC Bar # Defendant Attorney for Defendant SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Center,
 for a determinate term of 30 days/months/years or ☐ under the Youthful Offender Act not to exceed years
 and/or to pay a fine of \$; provided that upon the service of days/months/years and or payment
 of \$; plus costs and assessments as applicable*; the balance is suspended with probation for
 months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are
 incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: with all current active sentences
☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department
 of Corrections.

☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal
 Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ plus 20% fee: \$

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:

\$14-1-206 (Assessments 107.5%)	\$	<u> </u>
\$14-1-211 (A)(1)(Conv. Surcharge)	\$100	\$ <u> </u>
\$14-1-211 (A)(2)(DUI Surcharge)	\$100	\$ <u> </u>
\$56-5-2995 (DUI Assessment)	\$12	\$ <u> </u>
\$56-1-286 (DUI Breath Test)	\$25	\$ <u> </u>
\$47.12 (Public Def/Prob)	\$500	\$ <u> </u>
\$14-1-212 (Law Enforce. Funding)	\$25	\$ <u> </u>
\$14-1-213 (Drug Court Surcharge)	\$100	\$ <u> </u>
\$50-21-114 (BUI Breath Test Fee)	\$50	\$ <u> </u>
\$56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$ <u> </u>
\$90.7(SCCJA Surcharge)	\$5	\$ <u> </u>
3% to County (if paid in installments)		\$ <u> </u>
TOTAL		\$ <u> </u>

Clerk of Court/Deputy Clerk
 Court Reporter: [Signature]

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#:

A/W#:

Date of Offense:

S.C. Code §:

CDR Code #:

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

(CSC w/minor 1st or Lewd Act)

Attorney for Defendant

County Detention Center,

County Detention Center, years

days/months/years and or payment

plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are

incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on: with all current active sentences

The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department

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The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal

Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered

Total: \$ plus 20% fee: \$

Payment Terms:

Set by SCDPPPS

Recipient:

*Fine:

\$14-1-206 (Assessments 107.5%)

\$14-1-211 (A)(1)(Conv. Surcharge)

\$14-1-211 (A)(2)(DUI Surcharge)

\$56-5-2995 (DUI Assessment)

\$56-1-286 (DUI Breath Test)

\$47.12 (Public Def/Prob)

\$14-1-212 (Law Enforce. Funding)

\$14-1-213 (Drug Court Surcharge)

\$50-21-114 (BUI Breath Test Fee)

\$56-5-2942(J) (Vehicle Assessment)

\$90.7(SCCJA Surcharge)

3% to County (if paid in installments)

TOTAL

Clerk of Court/Deputy Clerk

Court Reporter: [Signature]

INDICTMENT/CASE#:

A/W#:

Date of Offense:

S.C. Code §:

CDR Code #:

SENTENCE SHEET

CONVICTED OF or PLEADS

(CSC w/minor 1st or Lewd Act)

Attorney for Defendant

County Detention Center,

County Detention Center, years

days/months/years and or payment

plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are

incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on: with all current active sentences

The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department

of Corrections.

The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal

Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered

Total: \$ plus 20% fee: \$

Payment Terms:

Set by SCDPPPS

Recipient:

*Fine:

\$14-1-206 (Assessments 107.5%)

\$14-1-211 (A)(1)(Conv. Surcharge)

\$14-1-211 (A)(2)(DUI Surcharge)

\$56-5-2995 (DUI Assessment)

\$56-1-286 (DUI Breath Test)

\$47.12 (Public Def/Prob)

\$14-1-212 (Law Enforce. Funding)

\$14-1-213 (Drug Court Surcharge)

\$50-21-114 (BUI Breath Test Fee)

\$56-5-2942(J) (Vehicle Assessment)

\$90.7(SCCJA Surcharge)

3% to County (if paid in installments)

TOTAL

Clerk of Court/Deputy Clerk

Court Reporter: [Signature]

INDICTMENT/CASE#:

A/W#:

Date of Offense:

S.C. Code §:

CDR Code #:

SENTENCE SHEET

CONVICTED OF or PLEADS

(CSC w/minor 1st or Lewd Act)

Attorney for Defendant

County Detention Center,

County Detention Center, years

days/months/years and or payment

plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are

incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on: with all current active sentences

The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department

of Corrections.

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Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered

Total: \$ plus 20% fee: \$

Payment Terms:

Set by SCDPPPS

Recipient:

*Fine:

\$14-1-206 (Assessments 107.5%)

\$14-1-211 (A)(1)(Conv. Surcharge)

\$14-1-211 (A)(2)(DUI Surcharge)

\$56-5-2995 (DUI Assessment)

\$56-1-286 (DUI Breath Test)

\$47.12 (Public Def/Prob)

\$14-1-212 (Law Enforce. Funding)

\$14-1-213 (Drug Court Surcharge)

\$50-21-114 (BUI Breath Test Fee)

\$56-5-2942(J) (Vehicle Assessment)

\$90.7(SCCJA Surcharge)

3% to County (if paid in installments)

TOTAL

Clerk of Court/Deputy Clerk

Court Reporter: [Signature]

INDICTMENT/CASE#:

A/W#:

Date of Offense:

S.C. Code §:

CDR Code #:

SENTENCE SHEET

CONVICTED OF or PLEADS

(CSC w/minor 1st or Lewd Act)

Attorney for Defendant

County Detention Center,

County Detention Center, years

days/months/years and or payment

plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are

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Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered

Total: \$ plus 20% fee: \$

Payment Terms:

Set by SCDPPPS

Recipient:

*Fine:

\$14-1-206 (Assessments 107.5%)

\$14-1-211 (A)(1)(Conv. Surcharge)

\$14-1-211 (A)(2)(DUI Surcharge)

\$56-5-2995 (DUI Assessment)

\$56-1-286 (DUI Breath Test)

\$47.12 (Public Def/Prob)

\$14-1-212 (Law Enforce. Funding)

\$14-1-213 (Drug Court Surcharge)

\$50-21-114 (BUI Breath Test Fee)

\$56-5-2942(J) (Vehicle Assessment)

\$90.7(SCCJA Surcharge)

3% to County (if paid in installments)

TOTAL

Clerk of Court/Deputy Clerk

Court Reporter: [Signature]

INDICTMENT/CASE#:

A/W#:

Date of Offense:

S.C. Code §:

CDR Code #:

SENTENCE SHEET

CONVICTED OF or PLEADS

(CSC w/minor 1st or Lewd Act)

Attorney for Defendant

County Detention Center,

County Detention Center, years

days/months/years and or payment

plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are

incorporated by reference.

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The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department

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The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal

Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered

Total: \$ plus 20% fee: \$

Payment Terms:

Set by SCDPPPS

Recipient:

*Fine:

\$14-1-206 (Assessments 107.5%)

\$14-1-211 (A)(1)(Conv. Surcharge)

\$14-1-211 (A)(2)(DUI Surcharge)

\$56-5-2995 (DUI Assessment)

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\$47.12 (Public Def/Prob)

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\$50-21-114 (BUI Breath Test Fee)

\$56-5-2942(J) (Vehicle Assessment)

\$90.7(SCCJA Surcharge)

3% to County (if paid in installments)

TOTAL

Clerk of Court/Deputy Clerk

Court Reporter: [Signature]

INDICTMENT/CASE#:

A/W#:

Date of Offense:

S.C. Code §:

CDR Code #:

SENTENCE SHEET

CONVICTED OF or PLEADS

(CSC w/minor 1st or Lewd Act)

Attorney for Defendant

County Detention Center,

County Detention Center, years

days/months/years and or payment

plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are

incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on: with all current active sentences

The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department

of Corrections.

The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

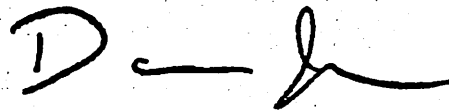
INDICTMENT

At a Court of General Sessions, convened on OCTOBER 10, 2012,
the Grand Jurors of Richland County present upon their oath:

BURGLARY, 1ST DEGREE

That Anthony M Porterfield and/or another co-defendant did in Richland County on or about June 27, 2012, enter the dwelling of RABIA G NATHANI located at [REDACTED] Road, without consent and with the intent to commit a crime therein and when, in effecting entry or while in the dwelling or in immediate flight therefrom, the defendant displayed what was or appeared to be a firearm, in violation of Section 16-11-0311(A), Code of Laws of South Carolina, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



DAN JOHNSON, SOLICITOR

WITNESSES

(S) Joseph Clarke – Richland County
Sheriff

ARREST WARRANT NUMBER

2012A4010600029

ACTION OF GRAND JURY

TRUE BILL

Joe R. Koenig
Foreperson of Grand Jury

Date:

OCT 10 2012

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2012GS4005295

The State of South Carolina

County of

Richland

COURT OF GENERAL SESSIONS

OCTOBER TERM 2012

42

THE STATE

vs.

Anthony M Porterfield

**Indictment for
BURGLARY 1ST DEGREE**

SC Code: 16-11-0311

CDR Code: 0079

After being fully advised as to my
legal rights, I hereby waive my rights
to the Grand Jury.

Defendant

I
hereby appear in my own proper person and plead
guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

CERTIFIED TRUE COPY
OF ORIGINAL FILED,
Joseph R. Koenig
C.C.C. P&G.S.
RICHLAND COUNTY
SOUTH CAROLINA

1131

Judge Manning
on 7-24-12
Type and Amount: _____
Name of Surety: _____

PRELIMINARY HEARING held by

Judge _____
on _____
Defendant Attorney: _____
Decision: _____

DISPOSITION before

Judge _____
on _____
by _____
(indicate jury trial, bench trial, plea, nol. pros., etc.)

Disposition: _____
Sentence: _____

JURORS

Name: _____
Address: _____
Telephone: _____
Name: _____
Address: _____
Telephone: _____
Name: _____
Address: _____
Telephone: _____
Name: _____
Address: _____
Telephone: _____
Name: _____
Address: _____
Telephone: _____
Name: _____
Address: _____
Telephone: _____
Name: _____
Address: _____
Telephone: _____

CODEFENDANTS



STATE OF SOUTH CAROLINA

COUNTY OF
STATE

IN THE COURT OF GENERAL SESSIONS

VS. Richland
Anthony M. Porterfield
 AKA: _____
 Race: Black Sex: Male Age: 28
 DOB: _____ SS#: _____
 Address: 1027 Rabon Pond Ra.
 City, State, Zip: Columbia, SC 29223
 DL# _____ SID# _____
 *CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

INDICTMENT/CASE#: 2012 -GS- 40 - 5296
 A/W#: 2012A4010600030
 Date of Offense: 6-27-12
 S.C. Code §: 16-11-0330(A)
 CDR Code #: 0139

SENTENCE SHEET

In disposition of the said indictment, I name now the Defendant who was
 TO: Armed Robbery

☒ CONVICTED OF or ☐ PLEADS

In violation of § 16-11-0330(A) of the S.C. Code of Laws, bearing CDR Code # 0139
☐ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45
 (CSC w/minor 1st or Lewd Act)

The charge is: ☒ As indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)
 The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST: M. Waller 78494 Anthony M. Porterfield Walker 74925
 Solicitor SC Bar # Defendant Attorney for Defendant SC Bar #

WHEREFORE, the Defendant is committed to the ☐ State Department of Corrections ☐ County Detention Center,
 for a determinate term of 30 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
 and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and or payment
 of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____
 months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are
 incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: with all current active sentence
☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department
 of Corrections.

☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal
 Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP _____

Total: \$ _____ plus 20% fee: \$ _____ days/hours Public Service Employment

Payment Terms: _____

Obtain GED ☐

☐ Set by SCDPPPS _____

Attend Voc. Rehab. Or Job Corp. _____

Recipient: _____

May serve W/E beginning _____
 Substance Abuse Counseling ☐

*Fine: _____
 \$14-1-206 (Assessments 107.5%) _____
 \$14-1-211 (A)(1)(Conv. Surcharge) \$100 _____
 \$14-1-211 (A)(2)(DUI Surcharge) \$100 _____
 \$56-5-2995 (DUI Assessment) \$12 _____
 \$56-1-286 (DUI Breath Test) \$25 _____
 \$47.12 (Public Def/Prob) \$500 _____
 \$14-1-212 (Law Enforce. Funding) \$25 _____
 \$14-1-213 (Drug Court Surcharge) \$100 _____
 \$50-21-114 (BUI Breath Test Fee) \$50 _____
 \$56-5-2942(J) (Vehicle Assessment) \$40/ea _____
 \$90.7(SCCJA Surcharge) \$5 _____
 3% to County (if paid in installments) _____
 TOTAL _____

Random Drug/Alcohol Testing ☐
 Fine may be pd. in equal, consecutive weekly/monthly
 pmts. of \$ _____ Beginning _____
 \$ _____ Paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel,
 \$47.12 requires \$500 to be paid to Clerk
 during probation.

Clerk of Court/Deputy Clerk: Jeannette McBride
 Court Reporter: McLindy

Presiding Judge _____
 Judge Code: _____
 Sentence Date: 6-27-12

**CERTIFIED TRUE COPY
 OF ORIGINAL FILED
 RICHLAND COUNTY
 SOUTH CAROLINA**

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

INDICTMENT

At a Court of General Sessions, convened on OCTOBER 10, 2012,
the Grand Jurors of Richland County present upon their oath:

ARMED ROBBERY

That Anthony M Porterfield and/or another co-defendant did in Richland County
on or about June 27, 2012, commit robbery by feloniously taking from the person
or presence of Rabia G Nathani, by means of force or intimidation, goods and/or
monies of Rabia G Nathani, such goods and/or monies being described as
Electronics and/or TV and/or TVs and/or Computer and/or Computers, with the
intent to deprive the owner permanently of such property, while armed with a
deadly weapon, or while alleging, either by actions or words, that he or she was
armed while using a representation of a deadly weapon or any object which a
person present during the commission of the robbery reasonably believed to be a
deadly weapon. All in violation of §16-11-330(A), SC Code of Laws (1976, as
amended)

Against the peace and dignity of the State, and contrary to the
statute in such case made and provided.

DAN JOHNSON, SOLICITOR

CERTIFIED TRUE COPY
OF ORIGINAL FILED,
C.C.C.P.&G.S.,
RICHLAND COUNTY
SOUTH CAROLINA

WITNESSES

(S) Joseph Clarke – Richland County
Sheriff

ARREST WARRANT NUMBER

2012A4010600030

ACTION OF GRAND JURY

TRUE BILL

Jill R. Koenig
Foreperson of Grand Jury

Date:

OCT 10 2012

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2012GS4005296

The State of South Carolina

County of

Richland

COURT OF GENERAL SESSIONS

OCTOBER TERM 2012

42

THE STATE
vs.

Anthony M Porterfield

Indictment for
ARMED ROBBERY

SC Code: 16-11-0330(A)
CDR Code: 0139

After being fully advised as to my
legal rights, I hereby waive presentment
to the Grand Jury.

Defendant

I
hereby appear in my own proper person and plead
guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

1136

ARREST WARRANT

2012A4010600030

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Richland / Lykesland Magistrate

THE STATE

#1206035127

against

Anthony M Porterfield

Address: 4814 Norman St

Columbia, SC 29203-6628

Phone: [REDACTED] SSN: [REDACTED]
Sex: M Race: B Height: 6 Weight: 160

DL State: SC DL #: [REDACTED]

DOB: [REDACTED] 04000

Prosecuting Agency: Richland County Sheriff Department

Prosecuting Officer: Joseph Clarke - 1241

Offense: Robbery / Armed Robbery, robbery while armed or allegedly armed with a deadly weapon

Offense Code: 0139

Code/Ordinance Sec: 16-11-0330(A)

This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☐ Municipality of

The accused is to be arrested and brought before me to be dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to defendant on

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

Richland County General Sessions
1701 Main Street
P O Box 192
Columbia, SC 29202

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Richland / Lykesland Magistrate

Personally appeared before me the affiant Joseph Clarke

being duly sworn deposes and says that defendant Anthony M Porterfield

did within this county and state on or about 6/27/2012

State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of

Richland / Lykesland Magistrate

DESCRIPTION OF OFFENSE: Robbery / Armed Robbery, robbery while armed or allegedly armed with a deadly weapon

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

That on or about JUNE 27, 2012 while at 1224 BROAD RIVER ROAD in the DUTCH FORK Magisterial District of Richland County, it is believed that ANTHONY M PORTERFIELD did commit the crime of ARMED ROBBERY because he did force entry into the victim's home, while armed with a handgun. The defendant ordered the victim, along with her sister to lay down in another room, preventing them from leaving. The defendant along with a co-defendant, located and removed more than \$10,000. worth of electronics. The victim has identified the defendant by name and face and has picked him from a photo line-up. His co-defendant has yes to be identified.

RCSD Case#1206035127

Affiant and others are witness to prove same.

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Richland / Lykesland Magistrate

Affiant's Address 5623 Two Notch Road

Columbia, SC 29223-

Affiant's Telephone (803)576-3000

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 6/27/2012

defendant Anthony M Porterfield

did violate the criminal laws of the State of South Carolina (or ordinance of

☒ County/ ☐ Municipality of

Richland / Lykesland Magistrate

) as set forth below.

DESCRIPTION OF OFFENSE: Robbery / Armed Robbery, robbery while armed or allegedly armed with a deadly weapon

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable

Sworn to and subscribed before me

on 7/10/2012

Signature of Issuing Judge

Michael R Davis

Judge Code: 5458

(L.S.)

Judge's Address 1403 Caroline Road

Columbia, SC 29209-2609

Judge's Telephone (803)576-2500

Issuing Court: ☒ Magistrate☐ Municipal☐ Circuit

ORIGINAL

ORIGINAL

ORIGINAL

AFFIDAVIT

ORIGINAL

ENTERED

Form Approved by
S.C. Attorney General
April 24, 2003
SCC-1518RECEIVED
2012 JUL 17 PM 2:58
RICHLAND COUNTY
CLERK OF COURT
J. M. McBRIDE
C.C.P. & G.S.

111

Judge Manning
on 7-24-12
Type and Amount: _____
Name of Surety: _____

PRELIMINARY HEARING held by

Judge _____
on _____
Defendant Attorney: _____
Decision: _____

DISPOSITION before

Judge _____
on _____
by _____
(indicate jury trial, bench trial, plea, nol. pros., etc.)

Disposition: _____
Sentence: _____

JURORS

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

CODEFENDANTS



STATE OF SOUTH CAROLINA

COUNTY OF
STATE

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2012 -GS- 40 - 5297

A/W#:

2012A4010600033

Date of Offense:

6-27-12

S.C. Code §:

16-03-0910

CDR Code #:

0095

AKA: Black Sex: Male Age: 28
 DOB: [REDACTED] SS#: [REDACTED]
 Address: 1027 Raven Pond Rd.
 City, State, Zip: Columbia, SC 29223
 DL# [REDACTED] SID# [REDACTED]

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

☒ CONVICTED OF or ☐ PLEADS

TO:

In violation of § 16-03-0910of the S.C. Code of Laws, bearing CDR Code # 0095

☐ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45

(CSC w/minor 1st or Lewd Act)The charge is: ☒ As indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

M. Walker
Solicitor78494
SC Bar #Anthony M. Porterfield
DefendantArnold
Attorney for Defendant74925
SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Center,
 for a determinate term of 30 days/months/years or ☐ under the Youthful Offender Act not to exceed years
 and/or to pay a fine of \$; provided that upon the service of days/months/years and or payment
 of \$; plus costs and assessments as applicable*; the balance is suspended with probation for
 months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are
 incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: with all current active sentences
☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department
 of Corrections.

☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal
 Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

PTUP

Total: \$ plus 20% fee: \$ days/hours Public Service Employment

Payment Terms:

Obtain GED ☐☐ Set by SCDPPPSAttend Voc. Rehab. Or Job Corp.

Recipient:

May serve W/E beginning Substance Abuse Counseling ☐

*Fine:

§14-1-206 (Assessments 107.5%)	\$	<u> </u>
§14-1-211 (A)(1)(Conv. Surcharge)	\$100	\$ <u> </u>
§14-1-211 (A)(2)(DUI Surcharge)	\$100	\$ <u> </u>
§56-5-2995 (DUI Assessment)	\$12	\$ <u> </u>
§56-1-286 (DUI Breath Test)	\$25	\$ <u> </u>
§47.12 (Public Def/Prob)	\$500	\$ <u> </u>
§14-1-212 (Law Enforce. Funding)	\$25	\$ <u> </u>
§14-1-213 (Drug Court Surcharge)	\$100	\$ <u> </u>
§50-21-114 (BUI Breath Test Fee)	\$50	\$ <u> </u>
§56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$ <u> </u>
§90.7(SCCJA Surcharge)	\$5	\$ <u> </u>
3% to County (if paid in installments)	\$	\$ <u> </u>
TOTAL	\$	\$ <u> </u>

Random Drug/Alcohol Testing ☐Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ Beginning \$ Paid to Public Defender FundOther:

☐ Appointed PD or appointed other counsel,
 \$47.12 requires \$500 be paid to Clerk
 during probation.

Clerk of Court/Deputy Clerk
 Court Reporter: McBride

Presiding Judge

Judge Code:

Sentence Date

CERTIFIED TRUE COPY

OF ORIGINAL FILED

Seannette McBride

C.C.C.P.&G.S.

RICHLAND COUNTY
 SOUTH CAROLINA

SCCA/217 (11/2009)

ORIGINAL

1139

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

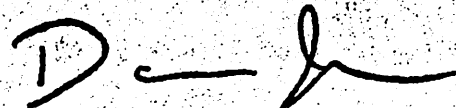
INDICTMENT

At a Court of General Sessions, convened on OCTOBER 10, 2012,
the Grand Jurors of Richland County present upon their oath:

KIDNAPPING

That Anthony M Porterfield and/or another co-defendant did in Richland County on or about June 27, 2012, unlawfully seize and/or confine and/or inveigle and/or decoy and/or kidnap and/or abduct and/or carry away one RABIA NATHANI, without authority of law, in violation of Section 16-03-0910, S. C. Code of Laws, 1976, as amended

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



DAN JOHNSON, SOLICITOR

WITNESSES

(S) Joseph Clarke - Richland County
Sheriff

ARREST WARRANT NUMBER

2012A4010600033

ACTION OF GRAND JURY

TRUE BILL

Jill R. Koenig
Foreperson of Grand Jury
Date: **OCT 10 2012**

VERDICT

**CERTIFIED TRUE COPY
OF ORIGINAL FILE**

C.C.P. & G.S.

RICHLAND COUNTY

SOUTH CAROLINA

Foreperson of
Date:

DOCKET NO. 2012GS4005297

The State of South Carolina

County of

Richland

COURT OF GENERAL SESSIONS

OCTOBER TERM 2012

42

**THE STATE
vs.**

Anthony M Porterfield

**Indictment for
KIDNAPPING**

**SC Code: 16-03-0910
CDR Code: 0095**

After being fully advised as to my
legal rights, I hereby waive presentment
to the Grand Jury.

Defendant

I
hereby appear in my own proper person and plead
guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

1141

ARREST WARRANT

2012A4010600033

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Richland / Lykesland Magistrate

THE STATE

#1206035127

against

Anthony M Porterfield

Address: 4814 Norman St

Columbia, SC 29203-6628

Phone: [REDACTED] SSN [REDACTED]
Sex: M Race: B Height: 6 Weight: 160

DL State: SC DL #: [REDACTED]

DOB: [REDACTED] Agency ORI #: 04000

Prosecuting Agency: Richland County Sheriff Department

Prosecuting Officer: Joseph Clarke - 1241

Offense: Kidnapping / Kidnapping

Offense Code: 0095

Code/Ordinance Sec: 16-03-0910

This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☐ Municipality ofThe accused
is to be arrested and brought before me to be
dealt with according to the law.

(L.S.)

Signature of Judge

Date: _____

RETURN

A copy of this arrest warrant was delivered to
defendant
on _____

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

Richland County General Sessions
1701 Main Street
P O Box 192
Columbia, SC 29202

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Richland / Lykesland Magistrate

Personally appeared before me the affiant Joseph Clarke

being duly sworn deposes and says that defendant Anthony M Porterfield

did within this county and state on or about 6/27/2012

State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of

Richland / Lykesland Magistrate

in the following particulars:

DESCRIPTION OF OFFENSE: Kidnapping / Kidnapping

I further state that there is probable cause to believe that the defendant named above committed the crime set forth and that probable cause is based on the following facts:

That on or about JUNE 27, 2012 while at 1224 BROAD RIVER ROAD in the DUTCH FORK Magistrate District of Richland County, it is believed that ANTHONY M PORTERFIELD did commit the crime of KIDNAPPING because he used force entry into the victim's home, while armed with a handgun. The defendant ordered the victim, Rabia Nathani, along with her sister to lay down in another room, preventing them from leaving. The defendant along with a co-defendant, located and removed more than \$10,000. worth of electronics. The victim has identified the defendant by name and face and has picked him from a photo line-up. His co-defendant has yes to be identified.

RCS D Case# 1206035127

Affiant and others are witness to prove same.

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Richland / Lykesland Magistrate

Affiant's Address 5623 Two Notch Road

Columbia, SC 29223-

Affiant's Telephone (803)576-3000

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 6/27/2012 defendant Anthony M Porterfield

did violate the criminal laws of the State of South Carolina (or ordinance of

☒ County/ ☐ Municipality of Richland / Lykesland Magistrate) as set forth below:

DESCRIPTION OF OFFENSE: Kidnapping / Kidnapping

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable

Sworn to and subscribed before me

on 7/10/2012

Signature of Issuing Judge (L.S.)
Michael R Davis

Judge Code: 5458

Judge's Address 1403 Caroline Road
Columbia, SC 29209-2609

Judge's Telephone (803)576-2500

Issuing Court: ☒ Magistrate ☐ Municipal ☐ Circuit

ORIGINAL

ORIGINAL

ORIGINAL

AFFIDAVIT

ENTERED

Form Approved by
S.C. Attorney General
April 2003
SCC 1-28ORIGINAL
FILED
JUL 17 2012
C.C.P. & G.S.
JANET W. BRIDGE
2012 JUL 17 PM 2:58
RCS D
RECEIVED

who

of the

)

112

Judge Manning
on 7-24-12
Type and Amount: _____
Name of Surety: _____

PRELIMINARY HEARING held by

Judge _____
on _____
Defendant Attorney: _____
Decision: _____

DISPOSITION before

Judge _____
on _____
by _____
(indicate jury trial, bench trial, plea, nol. pros., etc.)

Disposition: _____
Sentence: _____

JURORS

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

CODEFENDANTS



CMTI330D SCDC OFFENDER MANAGEMENT SYSTEM 01/03/18
OMCOMITA RELEASE DATE SCREEN C056427
SCDC# > 310529 LOC: BROAD RIVER
PORTERFIELD, ANTHONY M SCDC CLASSIFICATION...: VIOLENT
OFFENDER TYPE...: ADULT-STRAIGHT SENTENCE SEXUAL REGISTRY...: Y
SEXUAL PREDATOR...: NOT APP
DNA STATUS.....: COMPLETED
GPS REQUIREMENT...: N
PREA DECISION....: PREA PERP...:
PREA VICTIM.....:
CURRENT SENTENCE: 030-00-000 CONSECUTIVE SENTENCE ...: N
030-00-000 CURRENT SENT START DATE: 12/03/2014
PROJECTED COMPLETION DATES
MAXOUT DATE: 12/03/2041 CURRENT EWC ..: NOT CURRENTLY EARNING EWC
YOA SIX YEAR DATE: / / CURRENT EEC ..: NOT CURRENTLY EARNING EEC
INITIAL PAROLE DATE: 00/00/0000 NEXT PAROLE HEARING DATE: 00/00/0000

TOTAL GT DAYS EARNED: 000090 LABOR CREW/WORK PROG DATE: 99/99/9999
TOTAL EARNED WORK CREDITS ..: 000138 LABOR CREW DISQ REASON:
TOTAL EDUCATION CREDITS: 000000 CURRENT OR PRIOR SEX CONDUCT CONVICT
TOTAL EXTRA EARNED CREDITS ..: 000 SUPERVISED REENTRY DATE...: 00/00/00
TOTAL SERVICE TIME EARNED ...: 001122 ISS.....:

PFKEYS: 5:HISTORY OF DATE CHANGES

South Carolina Department of Corrections

Classification Summary Reports

Date: Wednesday, January 3, 2018

Classification Summary Reports				
	SCDC ID	Name	Sex/Race	Status
Inmate Number 310529	00310529	PORTERFIELD, ANTHONY M	M B	INCARCERATED
Submit	Y 00310529	PORTERFIELD, ANTHONY	M B	YOA PAROLE - CONDITIONAL

Classification Summary Report for PORTERFIELD, ANTHONY M :

CLASSIFICATION SUMMARY REPORT DATED 01/03/2018

SCDC# 00310529

PORTERFIELD, ANTHONY M

FBI# 719140DC6

OFFENDER ADULT-STRAIGHT
TYPE: SENTENCE

INSTITUTION: BROAD RIVER

SECURITY/CUST: 3 MINIMUM IN

CURR INCARC 30 YRS 0 MOS 0
SENT: DAYS

VICTIM
WITNESS: SEPREQ:N

MED
CLASS:

INST
RESTRICT: NO RESTRICTION

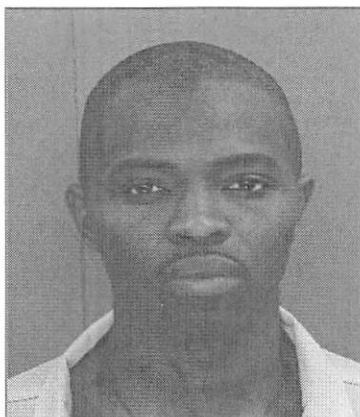
MENTAL
CLASS:

CURRENT NO CURRENT
PROGRAM: PROGRAM

SEX REGISTRY: Y

DNA: C

AGE: 31



RESIDENT
STABILITY: NA

DORMROOMBUNK_CODE: WA 0175 A

PROJ MAXOUT
DATE: 12/03/2041

PROJ PAROLE
DATE: -

EWC
JOB: NO CURRENT JOB

ASSIGNMENT: GENERAL DETAIL UNEMP

EWC
LEVEL: 0 EEC LEVEL:

EDUC
PGM: NO CURR EDUC PROGRAM

PREVIOUS NUMBERS:

NO PREVIOUS NUMBERS

CURRENT OFFENSES	SENTENCE				SENTENCE			
	YRS	MOS	DYS	COUNTY	START	V/NV	CAT	INDICT
ARMED ROBBERY	30	0	0	RICHLAND	12/03/2014	V	4	12GS405296
BURGLARY-1ST DEGREE	30	0	0	RICHLAND	12/03/2014	V	4	12GS405295
KIDNAPPING	30	0	0	RICHLAND	12/03/2014	V	5	12GS405294
KIDNAPPING	30	0	0	RICHLAND	12/03/2014	V	5	12GS405297

1145

COMPLETED OFFENSES

NO COMPLETED OFFENSES

PRIOR COMMITMENTS OVER 90 DAYS:

INMATE HAS NO PRIORS

OFFENSES UNDER PREVIOUS NUMBER:

NO PREVIOUS OFFENSES

DETAINEES (HOLD,WANTED,NOTIFY):

FAIL TO STOP FOR OFFICER	HOLD	PRESIDING JUDGE	CATEG:2

ESCAPES:

NO ESCAPE HISTORY

CRIMINAL CHARGES:

NO CRIMINAL CHARGES HISTORY

ASSAULTIVE DISCIPLINARIES:

NO ASSAULTIVE DISCIPLINARY HISTORY

PREVIOUS ASSAULTIVE DISCIPLINARIES:

NO PREVIOUS ASSAULTIVE DISCIPLINARY HISTORY

NON-ASSAULTIVE DISCIPLINARIES:

05/03/2016	POSS. OR/ATTEMPT TO POSSESS CELL PHONE	CONVICTED	MAJOR DISC. HEARING
02/19/2016	POSS. OR/ATTEMPT TO POSSESS CELL PHONE	CONVICTED	MAJOR DISC. HEARING
01/27/2016	POSS. OR/ATTEMPT TO POSSESS CELL PHONE	CONVICTED	MAJOR DISC. HEARING
11/25/2015	POSS. OR/ATTEMPT TO POSSESS CELL PHONE	CONVICTED	MAJOR DISC. HEARING
07/10/2008	REFUSING TO ATTEND COMPULSORY PROGRAM	CLOSED	OTHER ACTION TAKEN/INFORM
05/23/2008	REFUSING TO ATTEND COMPULSORY PROGRAM	CLOSED	OTHER ACTION TAKEN/INFORM
05/20/2008	REFUSING TO ATTEND COMPULSORY PROGRAM	CLOSED	OTHER ACTION TAKEN/INFORM
04/22/2008	OUT OF PLACE	CLOSED	OTHER ACTION TAKEN/INFORM
04/08/2008	REFUSING OR FAILING OBEY ORDERS	CLOSED	OTHER ACTION TAKEN/INFORM
04/06/2008	REFUSING OR FAILING OBEY ORDERS	CLOSED	OTHER ACTION TAKEN/INFORM
03/30/2008	REFUSING TO ATTEND COMPULSORY PROGRAM	CLOSED	OTHER ACTION TAKEN/INFORM
03/29/2008	REFUSING TO ATTEND COMPULSORY PROGRAM	CLOSED	OTHER ACTION TAKEN/INFORM
03/22/2008	INTERFERING WITH COUNT	CLOSED	OTHER ACTION TAKEN/INFORM
03/18/2008	REFUSING TO ATTEND COMPULSORY PROGRAM	CLOSED	OTHER ACTION TAKEN/INFORM
03/11/2008	OUT OF PLACE	CLOSED	OTHER ACTION TAKEN/INFORM
02/25/2008	OUT OF PLACE	CLOSED	OTHER ACTION TAKEN/INFORM
01/30/2008	OUT OF PLACE	CLOSED	OTHER ACTION TAKEN/INFORM
01/29/2008	REFUSING OR FAILING OBEY ORDERS	CLOSED	OTHER ACTION TAKEN/INFORM
01/29/2008	REFUSING TO ATTEND COMPULSORY PROGRAM	CLOSED	OTHER ACTION TAKEN/INFORM
12/30/2007	INTERFERING WITH COUNT	CLOSED	OTHER ACTION TAKEN/INFORM

PREVIOUS NON-ASSAULTIVE DISCIPLINARIES:

NO PREVIOUS NON-ASSAULTIVE DISCIPLINARIES HISTORY

HISTORY OF MOVEMENTS:

05/18/2015	BROAD RIVER	INCARCERATED	ADMINISTRATIVE
03/10/2015	KIRKLAND	INCARCERATED	NEW ADMISSION

HISTORY OF EARNED WORK CREDIT ASSIGNMENTS:

JOB DESCRIPTION	START DATE	END DATE	TERMINATION REASON	JOB LVL

CUSTODIAL WORKER	06/11/2015	04/19/2017	PLACED IN ST/SP CUSTODY	3F5
WARDKEEPER ASSISTANT	05/27/2015	06/10/2015	INMATE REQUEST	3F5
FARM WORKER	10/04/2007	11/13/2007	INSTIT TRANSFER	2F5

HISTORY OF EARNED EDUCATION CREDITS:

EEC DESCRIPTION	START DATE	END DATE	TERMINATION REASON
LVL 2 - FULL TIME(NO EWC)	11/30/2007	07/15/2008	RELEASED/PAROLED
LVL 2 - FULL TIME(NO EWC)	11/16/2007	11/29/2007	MI ELIGIBLE FOR LEVEL 2

***** END OF REPORT *****

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[Version: 1.4.12 Built: 02/03/2015 11:57:23 AM Time: 10:40:28 AM]

South Carolina Department of Corrections

Classification Summary Reports

Date: Wednesday, January 3, 2018

Classification Summary Reports				
Inmate Number	SCDC ID	Name	Sex/Race	Status
310529	00310529	PORTERFIELD, ANTHONY M	M B	INCARCERATED
Submit	Y 00310529	PORTERFIELD, ANTHONY	M B	YOA PAROLE - CONDITIONAL

Classification Summary Report for PORTERFIELD, ANTHONY :

[Create PDF](#)

CLASSIFICATION SUMMARY REPORT DATED 01/03/2018

SCDC# Y00310529

PORTERFIELD, ANTHONY

FBI# 719140DC6

OFFENDER YOA5C-
TYPE: INDETERMINATE SENTENCE

INSTITUTION: RICHLAND CO

SECURITY/CUST: 2 MINIMUM IN

CURR INCARC 4 YRS 0 MOS 0
SENT: DAYS

VICTIM
WITNESS: SEPREQ:N

MED
CLASS:

INST DAILY NURSING
RESTRICT: COVERAGE

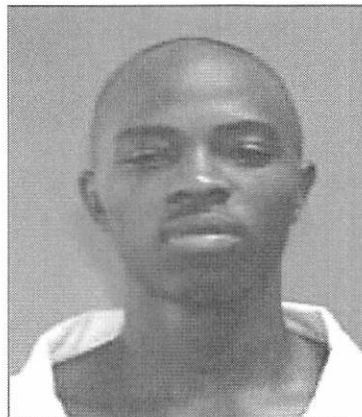
MENTAL
CLASS:

CURRENT NO CURRENT
PROGRAM: PROGRAM

SEX REGISTRY: N

DNA: C

AGE: 31



RESIDENT
STABILITY: NA

DORMROOMBUNK_CODE: 0000

PROJ MAXOUT
DATE: 08/19/2011

PROJ PAROLE
DATE: 08/19/2011

EWC
JOB: NO CURRENT JOB

ASSIGNMENT: EDUC DEPT. ACADEMIC

EWC
LEVEL: 0 EEC LEVEL:

EDUC
PGM: NO CURR EDUC PROGRAM

PREVIOUS NUMBERS:

NO PREVIOUS NUMBERS

CURRENT OFFENSES	YRS	MOS	DYS	COUNTY	START	SENTENCE	V/NV	CAT	INDICT
BURGLARY-2ND DEG/NON-VIO	4	0	0	RICHLAND	07/07/2005	N	3	04GS40446	

COMPLETED OFFENSES

NO COMPLETED OFFENSES

PRIOR COMMITMENTS OVER 90 DAYS:

INMATE HAS NO PRIORS

OFFENSES UNDER PREVIOUS NUMBER:

NO PREVIOUS OFFENSES

DETAINERS (HOLD,WANTED,NOTIFY):

FAIL TO STOP FOR OFFICER	HOLD	PRESIDING JUDGE	CATEG:2

ESCAPES:

NO ESCAPE HISTORY

CRIMINAL CHARGES:

NO CRIMINAL CHARGES HISTORY

ASSAULTIVE DISCIPLINARIES:

NO ASSAULTIVE DISCIPLINARY HISTORY

PREVIOUS ASSAULTIVE DISCIPLINARIES:

NO PREVIOUS ASSAULTIVE DISCIPLINARY HISTORY

NON-ASSAULTIVE DISCIPLINARIES:

07/10/2008	REFUSING TO ATTEND COMPULSORY PROGRAM	CLOSED	OTHER ACTION TAKEN/INFORM
05/23/2008	REFUSING TO ATTEND COMPULSORY PROGRAM	CLOSED	OTHER ACTION TAKEN/INFORM
05/20/2008	REFUSING TO ATTEND COMPULSORY PROGRAM	CLOSED	OTHER ACTION TAKEN/INFORM
04/22/2008	OUT OF PLACE	CLOSED	OTHER ACTION TAKEN/INFORM
04/08/2008	REFUSING OR FAILING OBEY ORDERS	CLOSED	OTHER ACTION TAKEN/INFORM
04/06/2008	REFUSING OR FAILING OBEY ORDERS	CLOSED	OTHER ACTION TAKEN/INFORM
03/30/2008	REFUSING TO ATTEND COMPULSORY PROGRAM	CLOSED	OTHER ACTION TAKEN/INFORM
03/29/2008	REFUSING TO ATTEND COMPULSORY PROGRAM	CLOSED	OTHER ACTION TAKEN/INFORM
03/22/2008	INTERFERING WITH COUNT	CLOSED	OTHER ACTION TAKEN/INFORM
03/18/2008	REFUSING TO ATTEND COMPULSORY PROGRAM	CLOSED	OTHER ACTION TAKEN/INFORM
03/11/2008	OUT OF PLACE	CLOSED	OTHER ACTION TAKEN/INFORM
02/25/2008	OUT OF PLACE	CLOSED	OTHER ACTION TAKEN/INFORM
01/30/2008	OUT OF PLACE	CLOSED	OTHER ACTION TAKEN/INFORM
01/29/2008	REFUSING OR FAILING OBEY ORDERS	CLOSED	OTHER ACTION TAKEN/INFORM
01/29/2008	REFUSING TO ATTEND COMPULSORY PROGRAM	CLOSED	OTHER ACTION TAKEN/INFORM
12/30/2007	INTERFERING WITH COUNT	CLOSED	OTHER ACTION TAKEN/INFORM

PREVIOUS NON-ASSAULTIVE DISCIPLINARIES:

NO PREVIOUS NON-ASSAULTIVE DISCIPLINARIES HISTORY

HISTORY OF MOVEMENTS:

07/15/2008	RICHLAND CO	YOA PAROLE - CONDITIONAL	PAROLE BOARD ACTION
11/13/2007	TURBEVILLE	INCARCERATED	ADMINISTRATIVE
09/27/2007	WATEREE RIVER	INCARCERATED	ADMINISTRATIVE
08/21/2007	KIRKLAND	INCARCERATED	YOA PAROLE VIOLATOR
03/12/2007	RICHLAND CO	AUTH ABSENCE (AWL)	LOCKUP-FRM EPA,SF,PAR,PRB
01/31/2007	UNK	DEAD TIME	WARRANT ISSUED
01/04/2006	RICHLAND CO	YOA PAROLE - CONDITIONAL	SHOCK INCAR-PROB COMPLETE
10/06/2005	STEVENSON	INCARCERATED	SHOCK INCARC/YOA BOOT
08/02/2005	KIRKLAND	INCARCERATED	NEW ADMISSION

HISTORY OF EARNED WORK CREDIT ASSIGNMENTS:

JOB DESCRIPTION	START DATE	END DATE	TERMINATION REASON	JOB LVL

FARM WORKER	10/04/2007	11/13/2007	INSTIT TRANSFER	2F5

HISTORY OF EARNED EDUCATION CREDITS:

EEC DESCRIPTION	START DATE	END DATE	TERMINATION REASON
LVL 2 - FULL TIME(NO EWC)	11/30/2007	07/15/2008	RELEASED/PAROLED
LVL 3 - FULL TIME(NO EWC)	11/16/2007	11/29/2007	MI ELIGIBLE FOR LEVEL 2

***** END OF REPORT *****

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Source : SummaryReport.jsp

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 [Version: 1.4.12 Built: 02/03/2015 11:57:23 AM Time: 10:40:41 AM]

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF
STATE

VS.

INDICTMENT/CASE#:

A/W#:

Date of Offense:

S.C. Code §:

CDR Code #:

AKA:

Race:

Sex:

Age:

DOB:

SS#:

Address:

City, State, Zip:

DL#

SID#

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO:

In violation of §

of the S.C. Code of Laws, bearing CDR Code #

☐ NON-VIOLENT☐ VIOLENT☐ SERIOUS☐ MOST SERIOUS☐ Mandatory GPS☐ §17-25-45(CSC w/minor 1st or Lewd Act)

The charge is:

☒ As indicated,☐ Lesser Included Offense,☐ Defendant Waives Presentment to Grand Jury,

(defendant's initials)

The plea is:

☐ Without Negotiations or Recommendation,☐ Negotiated Sentence,☐ Recommendation by the State.

ATTEST:

M. Waller
Solicitor78494
SC Bar #

Defendant

Attorney for Defendant

74925
SC Bar #

WHEREFORE, the Defendant is committed to the

☒ State Department of Corrections☐ County Detention Center,

for a determinate term of

30

days/months/years or

☐ under the Youthful Offender Act not to exceed

years

and/or to pay a fine of \$

;

provided that upon the service of

days/months/years and or payment

of \$

;

plus costs and assessments as applicable; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:

with all current active sentences

☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

PTUP

Total: \$ plus 20% fee: \$

days/hours Public Service Employment

Payment Terms:

Obtain GED ☐☐ Set by SCDPPPS

Attend Voc. Rehab. Or Job Corp.

Recipient:

May serve W/E beginning

Substance Abuse Counseling ☐Random Drug/Alcohol Testing ☐

Fine may be pd. in equal, consecutive weekly/monthly

pmts. of \$ Beginning

\$ Paid to Public Defender Fund

Other:

☐ Appointed PD or appointed other counsel, \$47.12 requires \$500 be paid to Clerk during probation.

Presiding Judge

Judge Code:

Sentence Date

*Fine:

§14-1-206 (Assessments 107.5%)

§14-1-211 (A)(1)(Conv. Surcharge)

§14-1-211 (A)(2)(DUI Surcharge)

§56-5-2995 (DUI Assessment)

§56-1-286 (DUI Breath Test)

§47.12 (Public Def/Prob)

§14-1-212 (Law Enforce. Funding)

§14-1-213 (Drug Court Surcharge)

§50-21-114 (BUI Breath Test Fee)

§56-5-2942(J) (Vehicle Assessment)

§90.7(SCJA Surcharge)

3% to County (if paid in installments)

TOTAL

Clerk of Court/Deputy Clerk

Court Reporter:

SCCA/217 (11/2009)

ORIGINAL

STATE OF SOUTH CAROLINA

COUNTY OF
STATE

VS.

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#:

AW#:

Date of Offense:

S.C. Code §:

CDR Code #:

SENTENCE SHEET

AKA: Black Sex: Male Age: 28DOB: [REDACTED] SS#: [REDACTED]Address: 1027 Raven Pond Rd.City, State, Zip: Columbia, SC 29223DL# [REDACTED] SID# [REDACTED]*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was
TO: AdjudicatedIn violation of § 16-25-6910 of the S.C. Code of Laws, bearing CDR Code # 0095
☐ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ \$17-25-45
(CSC w/minor 1st or Lewd Act)The charge is: ☒ As indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury, (defendant's initials)
The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.ATTEST: Marcell 78494 Anthony M. Pittsfield Walker 74925
Solicitor SC Bar # Defendant Attorney for Defendant SC Bar #WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Center,
for a determinate term of 30 days/months/years or ☐ under the Youthful Offender Act not to exceed years
and/or to pay a fine of \$; provided that upon the service of days/months/years and or payment
of \$; plus costs and assessments as applicable; the balance is suspended with probation for years
months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are
incorporated by reference.☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: with all current active orders
☐ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department
of Corrections.☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.
Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal
Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ OrderedTotal: \$ plus 20% fee: \$ Payment Terms: ☐ Set by SCDPPPS Recipient:

*Fine:

\$14-1-206 (Assessments 107.5%)	\$	<u> </u>
\$14-1-211 (A)(1)(Conv. Surcharge)	\$100	\$ <u> </u>
\$14-1-211 (A)(2)(DUI Surcharge)	\$100	\$ <u> </u>
\$56-5-2995 (DUI Assessment)	\$12	\$ <u> </u>
\$56-1-286 (DUI Breath Test)	\$25	\$ <u> </u>
\$47.12 (Public Def/Prob)	\$500	\$ <u> </u>
\$14-1-212 (Law Enforce. Funding)	\$25	\$ <u> </u>
\$14-1-213 (Drug Court Surcharge)	\$100	\$ <u> </u>
\$50-21-114 (BUI Breath Test Fee)	\$50	\$ <u> </u>
\$56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$ <u> </u>
\$90.7(SCCJA Surcharge)	\$5	\$ <u> </u>
3% to County (if paid in installments)		\$ <u> </u>
TOTAL		\$ <u> </u>

Clerk of Court/Deputy Clerk: Marcell
Court Reporter: Janette Mc Bride☒ CONVICTED OF or ☐ PLEADSPTUP days/hours Public Service EmploymentObtain GED ☐Attend Voc. Rehab. Or Job Corp. May serve W/E beginning
Substance Abuse Counseling ☐Random Drug/Alcohol Testing ☐
Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ Beginning
\$ Paid to Public Defender FundOther: ☐ Appointed PD or appointed other counsel,
\$47.12 requires \$500 be paid to Clerk
during probation.Presiding Judge: Walker
Judge Code: 245
Sentence Date: 6 March 15

ORIGINAL

STATE OF SOUTH CAROLINA

COUNTY OF
STATE

VS.

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2012 -GS- 40 - 5296AW#: 2012A4010600030Date of Offense: 6-27-12S.C. Code §: 16-11-0330(A)CDR Code #: 0139AKA: Black Sex: Male Age: 28
DOB: [REDACTED] SS#: [REDACTED]
Address: 1627 Rabon Pond Rd.
City, State, Zip: Columbia, SC 29223
DL#: [REDACTED] SID#: [REDACTED]

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐☒ CONVICTED OF or ☐ PLEADSIn disposition of the said indictment, I name now the Defendant who was
TO: Armed RobberyIn violation of § 16-11-0330(A) of the S.C. Code of Laws, bearing CDR Code # 0139
☐ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45
(CSC w/minor 1st or Lewd Act)The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury, ☐ Recommendation by the State.
The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.ATTEST: M. Waller 78494 Anthony M. Porterfield Walker 74925
Solicitor SC Bar # Defendant Attorney for Defendant SC Bar #WHEREFORE, the Defendant is committed to the ☐ State Department of Corrections ☐ County Detention Center,
for a determinate term of 30 days/months/years or ☐ under the Youthful Offender Act not to exceed years
and/or to pay a fine of \$; provided that upon the service of days/months/years and or payment
of \$; plus costs and assessments as applicable; the balance is suspended with probation for
months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are
incorporated by reference.☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: with all current active sentences
☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department
of Corrections.☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.
Pursuant to 18 U.S.C. Section 922, It is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal
Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ OrderedPTUP Total: \$ plus 20% fee: \$ days/hours Public Service EmploymentPayment Terms: Obtain GED ☐☐ Set by SCDPPPS Attend Voc. Rehab. Or Job Corp. Recipient: May serve W/E beginning Substance Abuse Counseling ☐Random Drug/Alcohol Testing ☐Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ Beginning \$ Paid to Public Defender FundOther: ☐ Appointed PD or appointed other counsel,
\$47.12 requires \$500 be paid to Clerk
during probation.Presiding Judge Judge Code: 245Sentence Date 6 March 15*Fine:
\$14-1-206 (Assessments 107.5%)
\$14-1-211 (A)(1)(Conv. Surcharge) \$100
\$14-1-211 (A)(2)(DUI Surcharge) \$100
\$56-5-2995 (DUI Assessment) \$12
\$56-1-286 (DUI Breath Test) \$25
\$47.12 (Public Def/Prob) \$500
\$14-1-212 (Law Enforce. Funding) \$25
\$14-1-213 (Drug Court Surcharge) \$100
\$50-21-114 (BUI Breath Test Fee) \$50
\$56-5-2942(J) (Vehicle Assessment) \$40/ea
\$90.7(SCCJA Surcharge) \$5
3% to County (if paid in installments)
TOTALClerk of Court/Deputy Clerk
Court Reporter:

SCCA/217 (11/2009)

ORIGINAL

STATE OF SOUTH CAROLINA

COUNTY OF
STATE

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2012 -GS- 40 - 5295A/W#: 2012 A4010 600029Date of Offense: 6-27-12S.C. Code §: 16-11-0311CDR Code #: 0079

SENTENCE SHEET

AKA: Black Sex: Male Age: 28DOB: [REDACTED] SS#: [REDACTED]Address: 1027 Raven Pond Rd.City, State, Zip: Columbia, SC 29223DL# [REDACTED] SID# [REDACTED]*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was
TO: Prison - 1stIn violation of § 16-11-0311 of the S.C. Code of Laws, bearing CDR Code # 0079☐ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ \$17-25-45(CSC w/minor 1st or Lewd Act) (defendant's initials)The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury, ☐ Recommendation by the State.The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.ATTEST: [Signature] 78494 [Signature] 74925

Solicitor SC Bar # Defendant Attorney for Defendant SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Center,for a determinate term of 30 days/months/years or ☐ under the Youthful Offender Act not to exceed yearsand/or to pay a fine of \$; provided that upon the service of days/months/years and or paymentof \$; plus costs and assessments as applicable; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are

incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: with all current active sentences☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department

of Corrections.

☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal

Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ OrderedPTUP Total: \$ plus 20% fee: \$ days/hours Public Service EmploymentPayment Terms: Obtain GED ☐Attend Voc. Rehab. Or Job Corp. ☐ Set by SCDPPPS May serve W/E beginning Substance Abuse Counseling ☐Random Drug/Alcohol Testing ☐

Fine may be pd. in equal, consecutive weekly/monthly

pmts. of \$ Beginning \$ Paid to Public Defender FundOther: ☐ Appointed PD or appointed other counsel,

\$47.12 requires \$500 be paid to Clerk

during probation.

Presiding Judge [Signature]Judge Code: 2145Sentence Date: 6 March 15Clerk of Court/Deputy Clerk: [Signature]Court Reporter: [Signature]TOTAL \$

3% to County (if paid in installments)

TOTAL \$ Clerk of Court/Deputy Clerk: [Signature]Court Reporter: [Signature]

SCCA/217 (11/2009)

ORIGINAL

FORM 5

STATE OF SOUTH CAROLINA)

County of Richland)

IN THE COURT OF COMMON PLEAS

Anthony Porterfield)

Full name and prison number (if any) of Applicant)

v.)

State of South Carolina)

2017C P4007564

APPLICATION FOR
POST-CONVICTION RELIEF

SEARCHED
SERIALIZED
INDEXED
FILED
JAN 11 2018
CLERK OF COURT
RICHLAND COUNTY
S.C.

2017 DEC 14 PM 2:33

INSTRUCTIONS B READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention Broad River Correctional INstitution, 4460 Broad River Road, Columbia, S.C. 29210
2. Name and location of Court which imposed sentence General Sessions Court
Richland County, South Carolina
3. Name(s) of co-defendant(s) (if any) N/A
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
(a) 2012-GS-4005294; 5295; 5296 and 5297

(b) _____

(c) _____

5. The date upon which sentence was imposed and the terms of the sentence:

(a) March 6, 2015 (30 Years)

(b) _____

(c) _____

6. Check whether a finding of guilty was made:

(a) after a plea of guilty _____

(b) after a plea of not guilty xx

(c) after a plea of nolo contendere _____

7. Did you appeal from the judgment of conviction or the imposition of sentence?

YES!

8. If you answered Ayes@ to (7), list:

(a) the name of each Court to which you appealed:

i. S.C. Court of Appeals

ii. _____

iii. _____

(b) the result in each such Court to which you appealed:

i. Dismissed

ii. _____

iii. _____

(c) the date of each such result:

i. April 15, 2017

ii. _____

iii. _____

(d) if known, citations of any written opinion or orders entered pursuant to such results:

i. Ruling due to appeal submitted under Anders v. California.

ii. _____

iii. _____

9. If you answered Ano@ to (7), state your reasons for not so appealing:

(a) N/A

(b) N/A

(c) N/A

10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

(a) Ineffective Assistance of Counsel, in violation of Applicant's Sixth Amendment rights, Under the U.S. Constitution.

(b) _____

(c) See Attached Sheets

11. State concisely and in the same order the facts which support each of the grounds set out in (10):

(a) See Attached Sheets.

(b) _____

(c) _____

12. Prior to this application have you filed with respect to this conviction:

(a) any petition in a State Court under South Carolina Law? N/A

(b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? No [Only the Direct Appeal]

(c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? No

(d) any other petitions, motions or applications in this or any other Court?

13. If you answered Ayes@ to any part of (12), list with respect to each petition, motion or application:

(a) the specific nature thereof:

i. N/A

ii. _____

iii. _____

iv. _____

(b) the name and location of the Court in which each was filed:

i. N/A

ii. _____

iii. _____

iv. N/A

(c) the disposition thereof:

i.

ii.

iii.

iv.

(d) the date of each such disposition:

i. N/A

ii.

iii.

iv.

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition:

i. N/A

ii.

iii.

iv.

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

See Attached Sheets

15. If you answered "yes" to (14) identify:

(a) which grounds have been presented:

i. N/A

ii.

iii.

(b) the proceedings in which each ground was raised:

i. N/A

ii.

iii.

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:

(a) See Attached Sheets

(b) _____

(c) _____

17. Were you represented by an attorney at any time during the course of:

(a) your arraignment and plea? _____

(b) your trial, if any? xx

(c) your sentencing? xx

(d) your appeal, if any, from the judgment of conviction or the imposition of sentence? xx

(e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? Pro-se

18. If you answered Ayes@ to one or more parts of (17), list:

(a) the name and address of each attorney who represented you:

i. Anastasia Walker, Robert Banks

ii. Susan B. Hackett

iii. _____

(b) the proceedings at which each such attorney represented you:

i. Trial + Sentencing

ii. Appellate Defense

iii. _____

19. State clearly the relief you seek in filing this application:

Vacate the Conviction and Sentence for a New Trial.

20. Are you now under sentence from any other court that you have not challenged?

No!

Revised 3/2003

STATE OF SOUTH CAROLINA)

County of Richland)

VERIFICATION

I, Anthony Porterfield, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

SWORN to and subscribed before me this 21st
day of November, 2017.

Janelle T. Spearman
Notary Public

(L.S.)

My Commission Expires:

JANELLE T. SPEARMAN
Notary Public-State of South Carolina
My Commission Expires
August 26, 2025

2017 DEC 14 PM 2:34
FILED
CLERK OF COURT
C.C.P. & G.S.

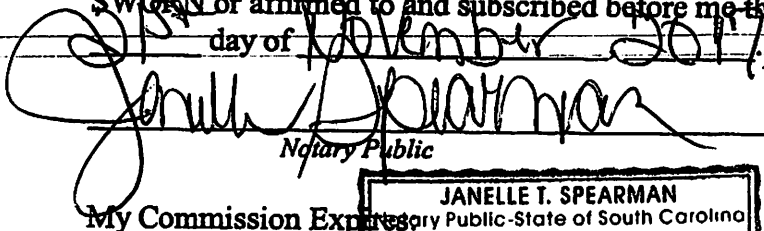
**APPLICATION TO PROCEED WITHOUT PAYMENT
OF COSTS AND AFFIDAVIT
IN SUPPORT THEREOF**

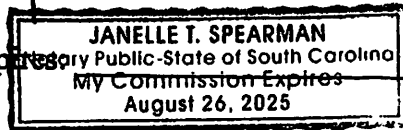
I, Anthony Porterfield, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.


Applicant

SWORN or affirmed to and subscribed before me this
day of November 2017


Notary Public
My Commission Expires



JEANETTE W. MCBRIDE
C.C.P. & G.S.

2017 DEC 14 PM 2:34

ORLAND COUNTY
FILED

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

COURT OF COMMON PLEAS
Fifth Judicial Circuit

2017 DEC 14 PM 2:33
JANET L. W. McBRIDE
C.C.P. & G.S.

FILED

Anthony Porterfield,
Applicant,

Vs.

Case No.: _____

State of South Carolina,

Respondent. /

ATTACHED SHEETS SUPPORTING PCR APPLICATION.

This matter is being brought to the attention of this Honorable Court, by way of a pro-se Applicant pursuant to §17-27-20, who claims that his conviction or the sentence was in violation of the Constitution of the United States, or the Constitution or Laws of this state.

(a) In support of this application so submitted (to be accompanied by any and/all amendments subsequent to counsel's appointment), does the Applicant forward the following:

1. That during all times leading up to Applicant's trial in the criminal matter. Counsel provided "Ineffective Assistance of Counsel in violation of Applicant's Sixth Amendment rights", where he "failed to obtain expert testimony", to rebut the State's witness

testimony in regards to "Prison telephone calls". See S.C. Rules of Evidence, Rule 901.

Here, the testimony given by Sgt. Robert Waters, in regards to a alleged telephone conversation from jail, "did not conform with the Rules as established under state law" and therefore was inadmissible. Had counsel been readily prepared and cloaked with controlling authority at a critical stage during the criminal proceedings. See Strickland v. Washington, 466 U.S. 668 (1984).

Second, this deficient performance prejudiced the Applicant from receiving a 'fair trial' where the jury could have believed the calls were made by the Applicant without the benefit of proving such beyond a reasonable doubt. Based on the testimony of Sgt. Robert Waters. See also Cronic v. United States, 466 U.S. ____ (1984).

Authentication Under Rule 901.

2. Trial counsel proved ineffective when counsel "failed to have jail phone calls authenticated as required by S.C. Rules of Evidence 901. At part (a); "To satisfy the requirement of identification or authenticity of an item of evidence, the proponent must produce evidence sufficient to support a finding that the item is what the proponent claim it is.

At part (b)(5), "Opinion about a voice". AN opinion identifying a person's voice, whether first hand or through mechanical or electronic transmission or recording based on hearing the voice at any time under circumstances that connect it with the alleged speaker.

At part (b)(6); "Evidence about Telephone Conversation. For a telephone conversation, evidence that a call was made to the number assigned at the time to";

3. For argument sake, Sgt Waters that testified for the State in regards to the jail calls; "did not know the Applicant, had never spoken with Applicant or ever heard his voice prior to testifying that the calls were made in fact, by Applicant".

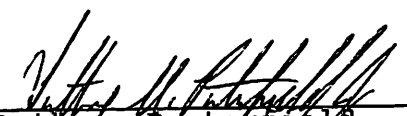
Under State v. Steadman, and 901 Rules of Evidence, "the individual who authenticated the calls had a prior relationship with the person whom she was identifying. She testified she talked with the individual numerous times and had prior knowledge and a relationship with him, as well as spoke with him numerous times and admittedly had trouble recognizing that man's voice".

In State v. Vice, the State served notice upon the appellant and counsel that required appellant to make another recording for the jury to determine whether or not the voice on the recorded call to the police department could be compared to the appellant. It also states that under 901 (b), the jury could potentially "authenticate the voice of defendant itself". However, "due to trial counsel's failure to make such a challenge in this instant case, (i.e. to have Applicant's voice authenticated), the admissibility of the jail calls, 'knowing Sgt. Waters possessed no special relationship or knowledge' of Applicant's voice. The Sgt's testimony becomes highly prejudicial to Applicant's defense of said charges.

Although Sgt. Waters worked in Professional Standards, for the Alvin S. Glenn Jail, and was only called to trial to identify that calls were made from the use of the jail phone to Applicant's girlfriends number at the time. Sgt. Waters was "not the proper party to identify for authentication purposes", under Rule 901. See also State v. Avagon, 354 S.C. 334 (Audio tape of victim's telephone conversation with defendant was authenticated, victim knew defendant over 10 years, had relationship with him, and called from recorded line in SHERiff's Office.

Wherefore, based on the reasons given above, and other amendments which relate back to ineffective assistance of counsel. Does the Applicant submit this application for review and a evidentiary hearing, after the appointment of counsel.

Respectfully Submitted,

S/ 
Anthony Porterfield
BRCI-Wateree Unit
4460 Broad River Rd.
Columbia, S.C. 29210

cc: filed

(4 of 4)

STATE OF SOUTH CAROLINA

COUNTY OF Richland

IN THE COURT OF COMMON PLEAS

CIVIL ACTION COVERSHEET

Anthony Porterfield

Plaintiff(s)

vs.

State of South Carolina

Defendant(s)

(Please Print)

Submitted By: Anthony Porterfield

SC Bar #:

Telephone #:

Fax #:

Other:

E-mail:

NOTE: The cover sheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for the use of the Clerk of Court for the purpose of docketing. It must be filled out completely, signed, and dated. A copy of this cover sheet must be served on the defendant(s) along with the Summons and Complaint.

DOCKETING INFORMATION (Check all that apply)

*If Action is Judgment/Settlement do not complete

- ☐ JURY TRIAL demanded in complaint ☐ NON-JURY TRIAL demanded in complaint
- ☐ This case is subject to ARBITRATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
- ☐ This case is subject to MEDIATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
- ☐ This case is exempt from ADR. (Proof of ADR/Exemption Attached)

NATURE OF ACTION (Check One Box Below)

Contracts

- ☐ Constructions (100)
- ☐ Debt Collection (110)
- ☐ Employment (120)
- ☐ General (130)
- ☐ Breach of Contract (140)
- ☐ Other (199)

Torts - Professional Malpractice

- ☐ Dental Malpractice (200)
- ☐ Legal Malpractice (210)
- ☐ Medical Malpractice (220)
- Previous Notice of Intent Case #
20__-CP-____
- ☐ Notice/ File Med Mal (230)
- ☐ Other (299)

Torts - Personal Injury

- ☐ Assault/Slander/Libel (300)
- ☐ Conversion (310)
- ☐ Motor Vehicle Accident (320)
- ☐ Premises Liability (330)
- ☐ Products Liability (340)
- ☐ Personal Injury (350)
- ☐ Wrongful Death (360)
- ☐ Other (399)

Real Property

- ☐ Claim & Delivery (400)
- ☐ Condemnation (410)
- ☐ Foreclosure (420)
- ☐ Mechanic's Lien (430)
- ☐ Partition (440)
- ☐ Possession (450)
- ☐ Building Code Violation (460)
- ☐ Other (499)

Inmate Petitions

- ☒ PCR (500)
- ☐ Mandamus (520)
- ☐ Habeas Corpus (530)
- ☐ Other (599)

Judgments/Settlements

- ☐ Death Settlement (700)
- ☐ Foreign Judgment (710)
- ☐ Magistrate's Judgment (720)
- ☐ Minor Settlement (730)
- ☐ Transcript Judgment (740)
- ☐ Lis Pendens (750)
- ☐ Transfer of Structured Settlement Payment Rights Application (760)
- ☐ Other (799)

Administrative Law/Relief

- ☐ Reinstate Driver's License (800)
- ☐ Judicial Review (810)
- ☐ Relief (820)
- ☐ Permanent Injunction (830)
- ☐ Forfeiture-Petition (840)
- ☐ Forfeiture-Consent Order (850)
- ☐ Other (899)

Appeals

- ☐ Arbitration (900)
- ☐ Magistrate-Civil (910)
- ☐ Magistrate-Criminal (920)
- ☐ Municipal (930)
- ☐ Probate Court (940)
- ☐ SCDOT (950)
- ☐ Worker's Comp (960)
- ☐ Zoning Board (970)
- ☐ Administrative Law Judge (980)
- ☐ Public Service Commission (990)
- ☐ Employment Security Comm (991)
- ☐ Other (999)

Special/Complex /Other

- ☐ Environmental (600)
- ☐ Automobile Arb. (610)
- ☐ Medical (620)
- ☐ Other (699)
- ☐ Pharmaceuticals (630)
- ☐ Unfair Trade Practices (640)
- ☐ Out-of State Depositions (650)
- ☐ Sexual Predator (510)

Submitting Party Signature:

Anthony M. Porterfield

1166

Date:

11/21/17

2017-CP-400 7564

CLERK OF COURT
C.C.P. & G.S.

2017 DEC 14 PM 2:33

FILED

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF RICHLAND	)	FOR THE FIFTH JUDICIAL CIRCUIT
	)	
Anthony M. Porterfield, #310529,	)	Case No.: 2017-CP-40-7564
	)	
Applicant,	)	
	)	RETURN
v.	)	
	)	
State of South Carolina,	)	
	)	
Respondent.	)	
_____	)	

The State (Respondent), making its Return to the application for Post-Conviction Relief filed on December 14, 2017, would respectfully show this Court:

I. Procedural History

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Richland County Clerk of Court. In October 2012, the Richland County Grand Jury indicted Applicant for two counts of kidnapping (2012-GS-40-5294; 2012-GS-40-5297), first-degree burglary (2012-GS-40-5295), and armed robbery (2012-GS-40-5296). Assistant Public Defenders Robert Louis Bank, Jr. and Anastasia Walker represented Applicant. Assistant Solicitor K. Luck Campbell, Esquire and Meghan L. Walker of the Fifth Circuit Solicitor's Office of the Richland County Public Defender's Office prosecuted the case. Applicant proceeded to trial before the Honorable R. Knox McMahon. The jury found Applicant guilty as indicted. On March 6, 2015, Judge McMahon sentenced Applicant to imprisonment for concurrent terms of thirty years for each offense.

Applicant filed a timely notice of appeal. Susan B. Hackett, Esquire, of the Office of Appellate Defense perfected the appeal pursuant to Anders v. California, 386 U.S. 738 (1967). The South Carolina Court of Appeals dismissed Applicant's appeal and granted counsel's motion

to be relieved on April 5, 2017. State v. Porterfield, Op. No. 2017-UP-141 (S.C. Ct. App. filed April 5, 2017). The remittitur was returned to the circuit court on April 21, 2017.

II. Allegations Raised and Relief Sought In Application

In his application for post-conviction relief, Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. “Ineffective Assistance of Counsel in violation of Applicant’s Sixth Amendment rights, under the U.S. Constitution”
 - a. “Counsel provided ineffective assistance of counsel in violation of Applicant’s Sixth Amendment rights, where he failed to obtain expert testimony, to rebut the state’s witness testimony in regards to prison telephone calls. See S.C. Rules of Evidence, Rule 901.”
 - b. “Trial counsel proved ineffective when counsel failed to have jail phone calls authenticated as required by S.C. Rules of Evidence 901”.
 - c. “For argument sake, Sgt Waters that testified for the State in regards to the jail calls; ‘did not know the Applicant, had never spoken with Applicant or ever heard his voice prior to testifying that the calls were made in fact, by Applicant’.”
 - a. “State v. Steadman”
 - b. “State v Vice”
 - c. “State v. Avagon”

As requested relief, Applicant seeks for his sentence to be vacated and a new trial.

Attached to this Return and incorporated by reference are the records of the Richland County Clerk of Court regarding the subject convictions, Applicant's records from the South Carolina Department of Corrections, the trial transcript, Applicant's appellate records, and the application. Respondent reserves the right to amend this Return upon receipt of any relevant materials.

III. Response to Allegations of Ineffective Assistance of Counsel

Applicant alleges ineffective assistance of counsel, but has wholly failed to set forth any facts to support this allegation. Respondent submits Applicant’s allegations of ineffective assistance of counsel are without merit.

The Sixth Amendment to the United States Constitution guarantees a defendant the right to effective assistance of counsel. U.S. Const. amend. VI; Strickland v. Washington, 466 U.S. 668 (1984); Lomax v. State, 379 S.C. 93, 665 S.E.2d 164 (2008).

In a post-conviction relief action, an applicant bears the burden of proving the allegations in his or her application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, the applicant must prove that “counsel’s conduct so undermined the proper functioning of the adversarial process that [it] cannot be relied upon as having produced a just result.” Strickland, 466 U.S. 668. Butler, 286 S.C. at 442, 334 S.E.2d at 814.

In evaluating allegations of ineffective assistance of counsel, the reviewing court applies the two-pronged test outlined in Strickland, 466 U.S. 668. First, an applicant must prove that counsel’s performance was deficient. Id.; Cherry v. State, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). Under this prong, the court measures an attorney’s performance by its “reasonableness under prevailing professional norms.” Cherry, 300 S.C. at 117, 386 S.E.2d at 625 (quoting Strickland, 466 U.S. at 690). The proper measure of performance is whether an attorney provided representation within the range of competence required in criminal cases. Butler, 286 S.C. at 442, 334 S.E.2d at 814. “Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment.” Id. (citing Strickland, 466 U.S. at 690). The applicant must overcome this presumption to receive relief. Cherry, 300 S.C. at 118, 386 S.E.2d at 625. Second, counsel’s deficient performance must have prejudiced the applicant such that “there is a reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have been different.” Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625.

Respondent submits Applicant can satisfy neither requirement of the Strickland test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that the record does not conclusively refute. Accordingly, Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

IV. Any Future Amendments

Applicant must specify any claims he intends to raise at the PCR evidentiary hearing. Any claims not specifically laid out in this PCR application or in amendments will be opposed by the State at an evidentiary hearing pursuant to §§ 17-27-10 to -160 of the South Carolina Code of Laws and Rule 71.1 of the South Carolina Rules of Civil Procedure. See also Rules 15(a)-(b), SCRPC. All claims should be made well in advance of the evidentiary hearing. Because Applicant has been appointed an attorney, the attorney, and not Applicant, is the only individual authorized to file amendments to this application. See Rule 11, SCRPC. Pro se filings will not be considered at the PCR hearing. Respondent reserves the right to request that any amendments withheld until the last minute be stricken because of undue prejudice to Respondent. See Rule 15(a), SCRPC.

V. Response to Any and All Other Allegations

Each and every allegation contained within the application not expressly admitted, qualified, or explained in this Return is hereby denied.

VI. Request for an Evidentiary Hearing

WHEREFORE, Respondent requests that an evidentiary hearing be held on the claims of ineffective assistance of trial counsel.

Respectfully submitted,

ALAN WILSON
Attorney General

W. JEFFREY YOUNG
Chief Deputy Attorney General

MEGAN HARRIGAN JAMESON
Senior Assistant Deputy Attorney General

By: 
ATTORNEYS FOR RESPONDENT

Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211
Telephone: (803) 734-3737

5/31, 2018

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF RICHLAND	)	
	)	
	)	2017-CP-40-7564
	)	
ANTHONY M. PORTERFIELD, #310529,	)	
	)	
Applicant,	)	
	)	
vs	)	AFFIDAVIT OF SERVICE BY MAIL
	)	
STATE OF SOUTH CAROLINA,	)	
	)	
Respondent.	)	
_____	)	

1. I am an employee of the Respondent in the above-captioned action.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a copy of the **Return** in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

Leah B. Moody, Esquire
Law Office of Leah B. Moody, LLC
Post Office Box 1015
Rock Hill, South Carolina 29730

DATED this the 31st day of May, 2018.



Caroline Collins, Administrative Coordinator
For Respondent

January 5, 2018

RICHLAND COUNTY
FILED
2018 JAN 12 AM 10:53
JEANNETTE W. MCGRIDE
C.C.P. & S.S.

To whom this may concern,

To the extent it would not be out of order ~~in a court of law~~
with any rule of law or court, please permit me to amend
my original PCR application by adding the following pleading
inadvertently omitted from the initial filing.

In the event this amendment is not prepared or presented
in a manner that conform to standards of good practice
as outlined in South Carolina Jurisprudence, please inform me
as to the correct manner in which to add this amendment
to my original application.

Thanking you in advance for your time, attention,
and anticipated response.

[2017-CP-400-7564]

Sincerely,

Anthony M. Ruffolo

A hearing would help clarify the issues as well

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

IN THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT

Anthony Porterfield,)

Case No.: 2017-CP-40-7564

vs.)

ATTACHMENT TO APPLICATION
FOR POST-CONVICTION RELIEF

The State of South Carolina,)
Defendant.)

Applicant Anthony Porterfield specifically alleges the following ineffective assistance of counsel in this matter:

1. Failure to adequately cross victims and their father regarding prior inconsistent statements / not calling witnesses regarding prior inconsistent statements.
2. Failure to object to Burg 1st indictment.
3. Failure to object to the foundation for jail calls.
4. How State obtained Diana Addison's number.
5. Laptop bag issue.
6. Failure to address 4th Amend violations regarding Defendant's capture.
7. Missing witness rule.
8. Failure to object to Defendant having to wear shackles and restraints.
9. Accomplice Liability.
10. Failure to review discovery with defendant before trial.
11. Failure to prepare defendant for testimony.
12. Refusing to ask victims' father and Defendant about their prior relationship.
13. Failure to properly investigate.
14. No objection to use of victims' or Defendant's cell phone records due to lack of foundation.

RICHLAND COUNTY
FILED
2022 MAY 24 AM 9:32
JENNIFER W. McBRIDE
Clerk, C.P., G.S., & F.C.

15. Failure to adequately prepare Defendant's witnesses.

16. Failure to call expert witness to explain cell tower logs of Defendant's phone / no objection to State's witnesses interpreting those same records without being qualified to do so.

Applicant reserves the right to amend his allegations prior to any hearing in this matter.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'L. P. Derieg', with a large, stylized loop at the end.

Lir Patrick Derieg (76135)
DERIEG LAW FIRM, LLC
PO Box 475
Graniteville, SC 29829
(803) 206-3140
Derieglaw@gmail.com

May 23, 2022
Columbia, South Carolina

1 State of South Carolina) Court of Common Pleas
 2 County of Richland)
 3
 4 Anthony Porterfield,) Transcript of Record
)
 5 Plaintiff/Applicant,) 2017-CP-40-07564
)
 6 vs.)
)
 7 State of South Carolina,)
)
 8 Defendant.)

9
 10 May 24, 2022
 May 25, 2022
 May 26, 2022
 11
 12 Columbia, South Carolina

13 B E F O R E:

14 The Honorable George M. McFaddin, Jr., Judge

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

17 Lir P. Derieg, Esquire
 On behalf of the Plaintiff/Applicant

18 J. Scott Matthews, Assistant Attorney General
 19 D. Russell Barlow II, Assistant Attorney General
 On behalf of the State

21
 22 Stacy S. Johnson, RPR
 Circuit Court Reporter

23

24

25

I N D E X

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1 (The following proceedings were held May 24, 2022,
2 beginning at 9:37 PM.)

3 THE COURT: All right, folks. Whenever you're ready.

4 MR. MATTHEWS: Your Honor, may it please the Court?

5 THE COURT: Yes, sir.

6 MR. MATTHEWS: The first matter we're here on this
7 morning -- Scott Matthews appearing on behalf of the
8 State of South Carolina, along with Nathaniel Dickson
9 and Russ Barlow.

10 It's 2017-CP-40-7564, which is Anthony Porterfield
11 versus the State of South Carolina, a post-conviction
12 relief action.

13 By way of background, the underlying allegation
14 or the underlying offense he's here for occurred on
15 June 27, 2012. Mr. Porterfield was tried for the
16 offense -- two counts of kidnapping, one count of armed
17 robbery and one count of burglary in the first degree
18 for a robbery that was committed at a residence off of
19 [REDACTED] Road. Mr. Porterfield was indicted by the
20 Richland County Grand Jury in October of 2012. His case
21 went to trial in front of the Honorable R. Knox McMahon
22 in February of 2015.

23 Your Honor, he was convicted at that trial and
24 sentenced to thirty years imprisonment in the South
25 Carolina Department of Corrections on March 6, 2015.

1 Thereafter, he did appeal through the Office of
2 Indigent Defense. Ms. Susan Hackett represented him on
3 appeal. She filed a brief pursuant to Anders versus
4 California and she was relieved of counsel and his
5 direct appeal was dismissed in 2016.

6 Mr. Porterfield filed this PCR in 2017 and he
7 originally had two -- it was a pro se application. He
8 alleged two grounds for relief. One, that counsel
9 should have objected to the admission of jail phone
10 calls under authentication grounds under Rule 901
11 South Carolina Rules of Evidence and counsel should
12 have called an expert witness to dispute whether
13 Mr. Porterfield's voice was on the other end of the
14 phone.

15 He's now here represented by counsel, Mr. Lir
16 Derieg. Mr. Derieg has served me with a copy of an
17 amended application. I believe that he -- he just
18 clocked it just now and I think he may have handed it
19 up to Your Honor and, if not, he's doing that now and,
20 Your Honor, I am waiving issues regarding notice for
21 these allegations. Mr. Derieg and I go way back to our
22 days in Sumter and he spoke to me about this on Friday
23 and let me know most, if not all, of these allegations.

24 Your Honor, I'll let -- defer to Mr. Derieg and
25 let him detail the remainder of his allegations in the

1 amended complaint.

2 THE COURT: Mr. Derieg.

3 MR. DERIEG: Thank you, Your Honor.

4 As -- as I've handed up to the Court, I added an
5 attachment to the application for -- for my client's
6 pro se application, and I have sixteen -- sixteen points
7 of potential issues that we're gonna talk about today.
8 I can read them into the record if Your Honor wants me
9 to or they're -- those sixteen issues that I plan to get
10 into are -- are there in front of you.

11 THE COURT: They're already here.

12 MR. DERIEG: Okay. Good.

13 THE COURT: Okay.

14 MR. DERIEG: Your Honor, I'll also hand up to you
15 the proposed order. It's sort of a memo in support of
16 in the form of a proposed order and it's got some case
17 law that I'll refer to.

18 THE COURT: Let me ask you-all, just curiosity here,
19 I've got a 1:30 today. Will we able to get -- handle
20 this by then?

21 MR. DERIEG: I have two witnesses. I need to see
22 if my -- my other witness is here, but I have my client
23 and a lady named Diana Addison and her -- at least my
24 direct on her will be very short.

25 THE COURT: Okay. That's fine.

1 MR. DERIEG: I think we'll certainly have enough
2 time.

3 MR. MATTHEWS: Your Honor, may it please the Court?
4 The State intends to call Anastasia Walker, Esquire,
5 and Mr. Bobby Bank, Esquire, who were Mr. Porterfield's
6 attorneys at trial. My direct I don't think will take
7 too long with them.

8 THE COURT: Whatever time it takes is fine. I'm
9 just trying to get an idea of where we're going.

10 MR. DERIEG: Yeah, I think we'll certainly make a
11 1:30 barrier, but I think we'll be done much sooner than
12 that.

13 THE COURT: All right. Whenever you-all are ready.

14 MR. DERIEG: Well, Your Honor, I'd begin by
15 calling my client, the Applicant in this case, Anthony
16 Porterfield, to the stand.

17 THE COURT: Mr. Porterfield.

18 THE CLERK: I need you to take the stand right here,
19 sir. Just put your paperwork down and then raise your
20 right hand as best as you can.

21 (Whereupon, Anthony Markell Porterfield was duly
22 sworn by the Clerk of Court.)

23 THE CLERK: Please have a seat there, sir.

24 State your full name for the record.

25 THE WITNESS: Anthony Markell Porterfield.

1 MR. DERIEG: Thank you, Your Honor.

2 Do you mind if I sit down to ask some of these
3 questions?

4 THE COURT: Please do.

5 MR. DERIEG: Okay. Thank you.

6 ANTHONY MARKELL PORTERFIELD,
7 having been duly sworn, testified as follows:

8 DIRECT EXAMINATION

9 BY MR. DERIEG:

10 Q. Good morning, Mr. Porterfield.

11 A. Good morning.

12 Q. I guess just by start introducing yourself to -- to
13 the judge. Let him know, you know, how old you are, where
14 you grew up, what kind of family you've got, what sort of
15 work you do.

16 A. Well, I'm Anthony Markell Porterfield, Junior.
17 Originally from Columbia, South Carolina. I was born in
18 1986, thirty-five years of age. I haven't been working for
19 seven years now, but have been studying the law since I've
20 been in prison. Actually got my paralegal certification in
21 the CBU and just strive to be, you know, an upright man
22 since then.

23 MR. MATTHEWS: Your Honor, I apologize. I was
24 remiss in not handing Your Honor up our packet for your
25 benefit earlier.

1 May I approach?

2 THE COURT: Yes, sir.

3 MR. DERIEG: Are you good?

4 THE COURT: Yes, sir.

5 BY MR. DERIEG:

6 Q. Now, Mr. Porterfield, you've had -- had a lot of time
7 to go through your case and the transcript of your case and
8 your recollection of the case, correct?

9 A. I have.

10 Q. So I think we'll just dive right into the -- the
11 different -- different areas pertaining to ineffective
12 assistance of counsel that we've been talking about we plan
13 to -- plan to get into. So I guess we'll start with do you
14 recall any inconsistent statements during your trial?

15 A. Yes. Well, not necessarily during the trial. More so
16 once I got to prison I realized that there were some prior
17 inconsistent statements that was made by the victims that I
18 didn't know about.

19 Q. And how did you discover that there were some prior
20 inconsistent statements that were made by victims?

21 A. Well, once I got my Rule 5, I looked at the original
22 statements and the statements of the victims. There was
23 multiple statements made by the victims that I didn't
24 receive them until I got to prison and, if I may, both of
25 the statements wasn't like the others.

1 One, the day of the crime allegedly the victims
2 stated that they were home; however, in -- in one of the
3 statements and -- I'm sorry. I'm trying to get my
4 paperwork here.

5 Q. Here. While you're trying to get it organized, let
6 me -- let me show you something and see if you recognize --

7 MR. MATTHEWS: Your Honor, may I ask that
8 Mr. Derieg mark that for identification.

9 MR. DERIEG: Oh, yeah. Sure.

10 THE COURT: Yes, sir.

11 (Plaintiff's Exhibit number 1 was marked for
12 identification.)

13 BY MR. DERIEG:

14 Q. Take a look at a -- a group of -- of papers that
15 collectively have been at this point marked as Plaintiff's
16 Exhibit 1 for identification purposes and tell me if you
17 recognize that.

18 A. Yes. I recognize this as the incident report that was
19 taken on June 27, 2012, which is the day of the crime. In
20 this statement that was taken by Officer James Stone, the
21 victims claim they were at home, heard something outside
22 and said that victim -- or a suspect ordered them to a back
23 room and there was about \$2,000 worth of merchandise that
24 allegedly had been stolen from a home-based business. The
25 very next day --

1 Q. And you're referring to now the second page of
2 Exhibit 1?

3 A. Yes. Which is a follow-up by Investigator Joe Clarke.
4 The victims stated that they were coming home from a
5 restaurant, which is significantly different from the day
6 of the crime, and they said they -- I believe the
7 inconsistencies that was in this is they noticed that two
8 men were located sitting inside of a gold colored Hyundai,
9 which is significantly different from the day of when
10 they said they noticed Amp outside the door, and that's a
11 big difference from on the day of the crime saying that
12 they looked out the window and seen somebody and said the
13 next say returning from a restaurant and noticed two men --
14 two black men sitting in a gold colored Sonata.

15 Q. And during your trial, do you recall what the -- what
16 the victims testified to? Whether it was the -- more like
17 the first statement or the second statement?

18 A. Well, they didn't testify at all to the first
19 statement. We -- I never even knew that they -- the day
20 of the crime that they actually said they were at home. We
21 heard -- to be honest, out of four statements it seemed as
22 if they told a little bit of all of the statements and that
23 was a story.

24 Q. And that's -- that's what they testified to at trial?

25 A. Yes, they testified that -- that they seen me. Of

1 course, that's the only thing that stuck from the day of.
2 The second was that two black men was at their location;
3 however, it -- it changes throughout the months of them
4 giving multiple statements.

5 Q. Now do you -- do you remember the cross-examination
6 of the -- the victims in the case during your trial --

7 A. I do.

8 Q. -- by your -- by your trial counsel?

9 A. Right. I do.

10 Q. Were there -- were there many questions regarding the
11 prior inconsistent statements?

12 A. There was no -- there was no questions about their
13 prior inconsistent statements. I didn't even know they
14 made multiple statements. And just for the --

15 Q. Well, specifically your trial counsel during
16 cross-examination of the -- the victims or alleged victims
17 in this case, do you recall -- do you recall any -- any
18 questions regarding their prior inconsistent statement?

19 A. No, there was none.

20 Q. Okay. I guess to some -- some degree I can kind of
21 jump ahead a bit. Do you recall in this investigation a
22 Deputy Stone and -- do you recall a Deputy Stone in your
23 case?

24 A. Yes, he was the one -- the officer -- responding
25 officer at the scene of the crime on the date of June 27,

1 2012.

2 Q. And did -- did he get a -- did he get a statement from
3 the victims?

4 A. Yes, that was the statement that was taken on the day
5 of the crime -- the day of the incident allegedly.

6 Q. Did -- and when did this other -- other statement --
7 I guess the next inconsistent statement that you had found
8 out about, when did that occur?

9 A. It was the day after.

10 Q. And who was that given to?

11 A. Investigator Clarke when he did a follow-up of
12 Investigator Bass, who was the investigator on the day of
13 crime as well.

14 Q. So Investigator Joe Clarke. He was -- he was
15 definitely called to the stand during your -- your trial,
16 right?

17 A. That's correct.

18 Q. Was Deputy Stone ever -- ever called by the State?

19 A. No, he wasn't.

20 Q. Was he called by -- was he called by your defense?

21 A. No, he wasn't.

22 Q. And, again, he's the first -- he gets the very first
23 story from these victims; is that correct?

24 A. That's correct.

25 Q. And yet he -- he played no -- no role in your trial

1 whatsoever?

2 A. No.

3 Q. Okay. Then let's move to the -- the statement given
4 to Joe Clarke the next day. What -- what do you find to
5 be significantly different between those two statements?

6 A. Well, like I said, on the day of the crime they
7 alleged that they were in the house and that they looked
8 out the window allegedly and seen a man and that somehow
9 there was some type of forced entry, but there was no
10 forced entry on the house -- on the home, the residence.

11 The day after they said they were coming to the
12 residence and seen two black males sitting in a car and the
13 other man they did not recognize and claims came to the
14 door and asked -- asked to come inside, but on that day
15 also it states that the differences from the case is that
16 the girls actually said that they testified that they seen
17 me. They told the cops that they knew it was me, but on
18 this statement right here Investigator Clarke got from
19 Investigator Bass that the girls told their father, you
20 know, that they knew these guys and it was regular
21 customers and that Nathani, Gulzar Nathani, who was the
22 victims' father, told the cops that he believed it was Amp,
23 so it was never -- it showed that the girls never actually
24 said that it was him. The father actually told the -- you
25 know, the investigator that it was.

1 Q. Was there any cross-examining -- do you recall any
2 cross-examination by your trial counsel into any of those
3 areas?

4 A. No, just because -- just one area. The father said
5 he believed it was me because I called him multiple times.
6 That's also in the same statement, but then when he got in
7 the trial Anastasia asked him did Anthony call you multiple
8 times and he denied it, and that happened to be the only
9 thing that gave them probable cause in this case, that he
10 said I called him multiple times.

11 Q. And was -- when he said that you didn't call him
12 multiple times, were there any follow-up questions to that
13 to -- to explore that inconsistent statement any further --

14 A. No.

15 Q. -- to try and impeach -- impeach that witness?

16 A. No.

17 MR. DERIEG: And if you don't mind, I have
18 difficulty pronouncing their names. I just call them
19 the father. Your Honor, there's two young females
20 that are the victims and then the father's heavily
21 involved in the case.

22 THE COURT: Yes, sir.

23 BY MR. DERIEG:

24 Q. In speaking of the father, particularly in regards to
25 the value of the things that he claims that were stolen,

1 once you got your discovery -- all your discovery, did --
2 did you find that that had changed?

3 A. Yes, significantly. On the day of the crime, it was
4 alleged that, I think, four pieces of merchandise that had
5 been stolen from the residence; two valued at 500, one at
6 1,000, totaling \$2,000 worth of merchandise. Once we -- I
7 think it was August -- well, I don't want to say the date
8 -- well, there is no date on it, but somewhere down the
9 line after the investigation the father alleged that
10 \$10,000 -- a little over \$10,000 worth of merchandise had
11 been stolen from his home-based business.

12 Q. So was it -- was it him valuing the -- the different
13 pieces of equipment that were stolen differently or was he
14 adding on things to the list of things that were stolen?

15 A. Well, it seems as if he -- everything was handwritten
16 on a piece of paper. They also have cell phone numbers
17 and stuff that he said -- that everything was pretty much
18 priced at 400, 450, 500, 600, 1,400. It's like he kind of
19 totalled everything up to add over ten grand and, you
20 known, that's just how it was summed up, and it was just
21 written on a paper, there's not no receipts of anything,
22 not looking like a business form.

23 Q. And during the -- during the father's testimony in the
24 trial, was he -- was he ever cross-examined on his changing
25 of the value of the things that were stolen from him?

1 A. No.

2 Q. Okay. Is there anything else regarding the prior
3 inconsistent statements that you want the judge to know
4 that I've forgotten to ask you?

5 A. Yes, there -- there are two more statements the
6 victims had made. She also made -- well, Rabia Nathani,
7 she also made another statement on July 2nd, 2012, where
8 now she remembers exactly what restaurant -- from a month
9 ago exactly what restaurant she came from. She stated that
10 she came from Chick-fil-A. Two black males were sitting
11 inside a car, one got out of the car and had a laptop bag
12 in hand, and this is where allegedly this laptop bag came
13 in.

14 And the differences -- the differences with the
15 stories -- with the four stories that she told, first, I'm
16 at the house; secondly, the guys -- two black males were
17 sitting in the car, and on the last statement which was
18 taken on August -- which is by Detective -- Detective
19 Watkins, and he got a statement from her, too, and she said
20 -- that's the same story that was told at trial. That she
21 noticed one guy standing by the door and one guy in the
22 car, she didn't know which one, and this was the story told
23 -- kind of told -- like I said, all of them have kind of
24 been told together, like all the stories meshed together to
25 come up with the testimony, and in this one she said that

1 she noticed defendant was standing outside the car and
2 another black male was seated in the car and, you know, he
3 said he was there to see her daddy, so it changed from him
4 saying he wanted to come in to he wanted to see her daddy.

5 Defendant gave the gun to another. There was
6 different things that was mentioned. One of the biggest
7 inconsistent thing was the victims' father. The victims'
8 father stated during trial when Solicitor Luck Campbell
9 asked did -- did Anthony call you back and he said no, then
10 he said yes, and then he said that yeah, he called a couple
11 of days later saying that he didn't -- he wasn't involved
12 with anything, and which was really July 17th when I called
13 him back, which was the day Investigator Clarke called me.
14 I called the victims' father back and I left a voice
15 message. I left a voice messaged, asked him what was going
16 on, I heard about the crime, and during the trial when Luck
17 Campbell asked him do he have his phone, he said that he
18 lost his phone a couple of days later. After the incident
19 he lost his phone, so he don't have the -- the voicemail
20 anymore, but Detective Watkins came to see him on August
21 16th --

22 Q. And who is Detective Watkins?

23 A. Detective Watkins was the private investigator that
24 Luke Shealey, who was my private -- my public defender at
25 the time that they hired to go and get some statements, so.

1 Q. And that's -- that's the fourth statement that you're
2 talking about, the one that was given to Detective Watkins,
3 right?

4 A. Right. And -- well, Detective Watkins sat there and
5 Detective Watkins, and I quote, stated Mr. Nathani also
6 allowed a private investigator to listen to a voice
7 recording that Mr. Nathani said he received from the man
8 he called Amp on July 17, 2012, and the length of the
9 recording is three minutes and forty-five seconds. PI
10 listened to the conver --

11 MR. MATTHEWS: Your Honor, I'm gonna object to this
12 question. I'm not sure what he's reading from. I would
13 just ask for clarification. Is he reading from these
14 statements or is this from something he has up there with
15 him?

16 THE WITNESS: I'm reading form the investigative
17 statement from --

18 THE COURT: Hold on. Hold on. Hold on. Hold on.
19 Wait. Wait, sir.

20 THE WITNESS: Oh, sorry.

21 THE COURT: Please stop. We can't talk over each
22 other.

23 Yes, sir. Do you want to respond to that, sir?

24 MR. DERIEG: Your Honor, he's referring, I believe,
25 to the investigative statement that was obtained by

1 Detective Watkins that he's referring to as the -- as
2 the fourth statement of one of the victims.

3 MR. MATTHEWS: Your Honor, the documents that
4 I've been handed by Mr. Derieg are statements taken by
5 Richland County Sheriff's Department and I believe he
6 said Detective Watkins was the public defender's
7 investigator, so I don't know if that's a separate
8 document, but I -- I do not have it here.

9 MR. DERIEG: It's right there in your left hand.

10 MR. MATTHEWS: Which one?

11 MR. DERIEG: In your left hand.

12 MR. MATTHEWS: This one?

13 MR. DERIEG: Yeah, that's where the statement starts.

14 MR. MATTHEWS: This? I apologize, Your Honor.
15 I just needed clarification.

16 THE COURT: Okay. All right. I didn't mean to cut
17 you off, sir, but I had to kind of calm it down.

18 Proceed.

19 BY MR. DERIEG:

20 Q. And if you look at the -- the second page of that
21 statement, do you see where it says end of statement?

22 A. Yes.

23 Q. Can you -- can you read for the record what it says
24 directly below end of statement?

25 A. Well, it says this statement was made in the presence

1 of private detective B.G. Watkins of Watkins Detective and
2 Security Agency.

3 Q. Okay. So that's Detective Watkins's statement that
4 you were -- you were testifying about, right?

5 A. Right.

6 Q. All right. Please continue.

7 A. All right. I was -- I was just stating that it was a
8 prior inconsistency of the victims' father to say that just
9 -- I don't know another way to say it, but lie and say that
10 he didn't have the voicemail and, in fact, he did have it
11 all the way up until August 16th when he told Luck Campbell
12 on the stand that he had his phone stolen or lost, so in
13 totality of -- of all the statements that was made, it
14 seemed like that's just all of them was conjured together
15 and I didn't know none of this until I got to prison, that
16 they made all these multiple statements.

17 Q. Now so there would have been three statements that
18 were made to -- to law enforcement, right?

19 A. Four. The day of, the day after --

20 Q. And then?

21 A. July 2nd.

22 Q. Yeah.

23 A. August 16th, and I'm not sure if they made any more
24 statements after that.

25 Q. Okay. Well, do you recall any -- any of your trial

1 counsel cross-examining those -- those victims on -- on all
2 the different statements that they had made?

3 A. No.

4 Q. To your recollection, did the statement -- did
5 anything about the statement obtained by Detective Watkins
6 ever -- ever come into play at all in -- in your trial?

7 A. No.

8 Q. So the jury never heard about this -- this other --
9 this other statement that they made?

10 A. Not at all.

11 Q. And if you'll tell the -- the Court what happened to
12 Detective Watkins.

13 A. I don't know when he passed, but I was told prior to
14 trial that Detective Watkins had passed prior to me going
15 to trial.

16 Q. And at that point do you know what -- what, if
17 anything, your trial counsel would have done to follow up
18 on the things that Detective Watkins had been doing and,
19 you know, get -- get another detective to get on the case?

20 A. Well, there was someone from the Watkins firm that
21 came, I think, on my first day or second day of trial.
22 They said he was -- that he was from the Watkins agency
23 and --

24 Q. Right.

25 A. -- but he was never called to, you know, verify

1 anything or, you know, certify any notes or authenticate
2 any records, so I didn't -- I didn't hear anything.

3 Q. All right. So which -- which of these four different
4 statements that you're referring to -- or potentially five
5 were what was testified to in your trial?

6 A. Well, the girls testified that they came from
7 Chick-fil-A, which was coming from the third statement,
8 and that they came into the driveway and they seen someone
9 -- a black male standing by the door and one by the car,
10 which that's kind of inconsistent with all of the
11 statements because they actually said that somebody Amp was
12 standing by a car and a black man was in the car, but then
13 they stated that when they got out of the car both the
14 males approached them and Amp asked them where the father
15 was, but they said they seen both -- fixed on both, you
16 know, suspects and that -- and that both of them was
17 regular customers. Getting to the door somehow, that's
18 when the laptop bag came in, which comes also from the
19 third statement, and then said it was forced entry, which
20 is from day one. And then the -- you know, the -- you
21 know, I guess the incident took place, the robbery took
22 place in the house or however the case may be, but the
23 -- it's not really a house, it's a business they went
24 through, so -- and then -- and that's pretty much all I
25 know. Somebody put the gun on them or some -- and then

1 somehow the gun went to one hand to another hand and --
2 and laid them down or something like that and -- and they
3 left and pretty much took some stuff and they'd been there
4 for like ten or fifteen minutes. And what this -- what
5 kind of -- just kind of throwed me off is from being a
6 Hyundai Sonata or any kind of model of car and \$10,000
7 worth of merchandise, especially when you're talking about
8 over ten, forty-seven, fifty inch flat screens, I don't
9 see how that was even logical with all that to fit into a
10 vehicle, so it's a lot of just -- it's just a lot of --
11 it's inconsistent and I just don't see how it wasn't
12 challenged.

13 Q. Would it be -- would it be fair to say that the --
14 the victims' statements or the victims' testimony at trial
15 kind of pulled from different pieces of all these different
16 statements and -- and combined them together into their --
17 their story at trial?

18 MR. MATTHEWS: Objection to leading.

19 THE COURT: Sustained.

20 BY MR. DERIEG:

21 Q. How -- how would you view what the -- what the two
22 girls testified to? Is -- is it consistent with any --
23 any of these different statements that you've been talking
24 about?

25 A. I just -- I feel like all the statements -- if you

1 take all the statements and you looked at all the
2 statements, the story of all the statements together has
3 been told at trial, that they pulled from each statement
4 and that was the story that was told at trial.

5 Q. Okay. And just for clarification just so I'm -- I'm
6 clear on what you're saying, are you saying that they
7 pulled bits and pieces of each to kind of form their --
8 their testimony?

9 MR. MATTHEWS: Objection to leading again.

10 THE COURT: Sustained.

11 BY MR. DERIEG:

12 Q. Was any of that ever brought up during the trial in
13 the form of cross-examination by your trial counsel?

14 A. No, it wasn't.

15 Q. Any of that used by your trial counsel to impeach the
16 credibility of -- of the witnesses?

17 A. No, it wasn't.

18 Q. Do you know if after Detective Watkins passed away if
19 anybody -- anybody from the public defender's office or
20 your -- your trial counsel or anybody that they hired ever
21 went and took any other statements?

22 A. Not that I know of.

23 Q. So did -- what, if anything, happened in terms of
24 investigation after Detective Watkins died?

25 A. As far as -- as far as the records were concerned,

1 there was no other investigation. It seemed at if Watkins
2 was the only one who talked to alibi witness. Watkins was
3 the only one who went by the job, Watkins was the only one
4 who pretty much single-handedly did a full investigation of
5 everything that I thought law enforcement was supposed to
6 do. So even when I looked in the records and combed
7 through everything, it seemed as if Detective Watkins was
8 what I needed at trial in order to prove a lot of this
9 stuff.

10 Q. And unfortunately he had passed away?

11 A. Yeah.

12 Q. Okay. Is there anything else regarding these prior
13 inconsistent statements you want to tell the judge before
14 I move on?

15 A. That's it.

16 Q. Okay. Our next point that -- that you would have
17 raised is that trial counsel had failed to object to the
18 burglary first indictment as being deficient and/or
19 defective. Can you tell the judge why you feel that way?

20 A. Well, prior to trial I spoke with Anastasia Walker and
21 she let me know about the charges that I was facing. I
22 remember specifically talking about first degree burglary.
23 I remember speaking about the statute into a dwelling and
24 stuff like that, which I didn't know much about, you know,
25 dwellings, and we spoke on that and we spoke about how

1 asking for what I now know as a lesser included offense,
2 which is like burglary second, burglary third, which
3 carries -- potentially carries the least amount of time,
4 which I found out with aggravating circumstances, of
5 course, burglary second can still carry up to fifteen and
6 zero to ten for, you know, nonviolent without aggravating
7 circumstances.

8 I know that in trial we -- we discussed this and
9 before -- prior to trial we discussed the burglary first,
10 you know, elements and stuff of that nature, and -- and I
11 think we just -- we basically just stuck to the fact that
12 the residence that was claimed to have been -- that was
13 allegedly robbed was a business. It was, in fact, a
14 business, it had a business sign on it, and these were the
15 same points that she made during the direct -- motion for
16 directed verdict; that the place was a place of business,
17 it was in a commercial area, it had parking, it had signs.
18 It pretty much looked like a business. It was a home-based
19 business.

20 Q. You said this was addressed in a directed motion?

21 A. Yes, directed verdict.

22 Q. Directed verdict. Excuse me. Was it -- was it
23 introduced or was it talked about prior to trial or at the
24 -- at the beginning of trial?

25 A. Yes, it was talked before trial. Prior to trial.

1 Q. Was it -- was it argued in court?

2 A. No, it wasn't until directed verdict, and that's the
3 reason why I felt that that was something to discuss prior
4 to, and according to -- not to quote the statute, but
5 17-19-90, I felt that it should have been discussed or
6 brought up before the jury was sworn.

7 Q. I want to show you --

8 MR. DERIEG: Let me first get this marked as
9 Plaintiff's Number 2.

10 (Plaintiff's Exhibit Number 2 was marked for
11 identification.)

12 BY MR. DERIEG:

13 Q. I'm gonna show you what's been cumulatively marked as
14 Plaintiff's Exhibit 2 for identification and ask you if --
15 if you recognize what's contained on those pages?

16 A. Yes.

17 Q. Well, what is contained on those pages?

18 A. Well, we did some further research into --

19 Q. You did?

20 A. Yes.

21 Q. This is research that you've done on your own?

22 A. This is some independent research right here me and my
23 family have done, but it's also consistent with everything
24 that's already in the record, and what this is right here
25 is the realtor, Coldwell Banker, we went and got their

1 information, and on that -- that specific real estate,
2 that specific property, which is [REDACTED] Road,
3 Columbia, South Carolina, and --

4 Q. How is it -- how is it marketed as?

5 A. It marketed as commercial property.

6 Q. Is there any -- in the marketing, is there any -- any
7 mention of the dwelling?

8 A. Well, on the -- on the head cover sheet it actually
9 says that it's a great opportunity to live upstairs from
10 your office in an apartment on the second floor, but it's
11 actually labeled as general commercial property.

12 Q. So -- and they're marketing it as a commercial
13 property that's got an apartment upstairs that you could
14 live in?

15 A. Yes, you possibly could, but they got it -- they got
16 it as commercial real estate.

17 Q. First, during your trial was there any mention or, I
18 guess, cross-examination of the -- of the people that
19 allegedly lived and worked there, was there any testimony
20 that either one of the two people the girls say committed
21 those terrible acts against them ever went upstairs?

22 A. No.

23 Q. So according to the way that Coldwell Banker markets
24 this product or this house, it's a business downstairs and
25 a dwelling upstairs?

1 A. Right.

2 Q. And, again, was there any -- any testimony that
3 anybody ever went upstairs during the -- the incident?

4 A. No, not at all.

5 Q. Was there any -- any questions posed by your trial
6 counsel to the people that lived in that house as to what
7 was the business and -- and what was the dwelling?

8 A. Well, throughout the entire case the officers,
9 everybody -- everybody referred to this specific residence
10 as a home-based business. I think the only thing that --
11 Luck Campbell, she stated clearly that this was a home
12 first that has been converted into a business, but that's
13 inaccurate. This was -- even the victim's daughter stated
14 -- Rabia Nathani, her testimony, that her father was
15 looking for a commercial property and -- and I submit to
16 you that nobody -- from every entrance from the first and
17 the second, from the first front door to the side door, all
18 enters into the -- the business, so. And like I said --

19 Q. And you spent -- well, how much -- how much time, if
20 any, did you spend at that location prior to the incident?

21 A. I've been there a few times. We've done business, so.

22 Q. So you were there for business purposes?

23 A. Business purposes only. And only been in the business
24 area. I never knew it was all that extra stuff. I only
25 been in that one area that's only for business, yes.

1 Q. Did you -- did you ever see anything that resembled a
2 dwelling to you when you were inside that property?

3 A. No. I've gone there on multiple occasions. I always
4 seen other people that be in there for business purposes.
5 We always knew it as a business. It's right between State
6 Farm and a car lot, across the street from a plaza, and
7 there's no other homes really around that other than the
8 back streets, so it's completely around commercial property
9 and businesses.

10 Q. And if you look on the fifth page of Plaintiff's
11 Exhibit 2, what does that show?

12 A. It shows the business. It shows CompMart, buy, sell,
13 trade, fix, along with what he does, and his telephone
14 number.

15 Q. And that -- that's a pretty big sign on the middle of
16 the front of his house, isn't it?

17 A. Right.

18 Q. So he's marketing that -- that place as a business,
19 right?

20 A. Right.

21 Q. Do you recall any -- any questions or arguments or
22 objections made by your trial counsel about the burglary
23 first indictment and/or questions to -- to any of the
24 victims or the victims' father regarding whether or not
25 this place was actually a business on the bottom and a

1 dwelling on top?

2 A. I -- I remember one mention that Robert Bank tried to
3 say something about whether or not it was a legitimate
4 business or something of that nature between -- in the
5 midst of trial, but, you know, I think it got thrown out by
6 Knox McMahon, that people have satellite locations and, in
7 fact, it was a legitimate business. Other than that, I
8 didn't hear nothing about it until directed verdict -- the
9 directed verdict motion and that's when -- and that's what
10 kind of led me to see that this may have been a real issue
11 because Anastasia on the motion -- the directed verdict
12 motion, she argued in-depth that this was more than a
13 dwelling and that this was, in fact, a business also, and,
14 you know, there's a lot of case law on home-based
15 businesses, you know, and that's pretty much what we're
16 looking at right now, just the statute of burglary first
17 versus burglary second and I'm just saying that burglary
18 second just states that, you know, not just a dwelling but
19 also enters into a building without consent, you know, and
20 when she explained it to me and when I seen the difference
21 between just coming into a home where everybody knows is
22 just a home that this was a business and a home, so I feel
23 like that was some kind of difference in that and it had
24 somewhat of an argument to it.

25 Q. Well, when you walked -- when you walked into the --

1 into this building, did it appear to be a residence when
2 you first walked in?

3 A. Not at all. I mean, nothing really identified this as
4 a -- as a home. And I've been there on multiple occasions
5 and it's always been a business. It's a pretty big room in
6 the front that can fit a lot of stuff, obviously over ten
7 grand worth of stuff. It's a pretty big business.

8 Q. What kind of business was it?

9 A. He had an electronic total care; fix, buy, sell,
10 trade. Anything with computers, cell phones. Anything
11 electronic he can pretty much work on. Him and his son.

12 Q. Did you ever see anything in that building to indicate
13 to you that it was a dwelling?

14 A. No.

15 Q. And prior to the directed verdict, did you ever hear
16 trial counsel make any objections or make any arguments
17 regarding this being a business rather than a dwelling?

18 A. No.

19 Q. Were there any questions on cross-examination of the
20 people that allegedly lived at that place about the -- the
21 way that it was set up?

22 A. There was some. Like I said, Rabia -- I think all
23 of them testified that this was a home-based business.
24 Nobody can really -- nobody really argued the fact that
25 this was a business. Everybody that got up there pretty

1 much testified that this was, in fact, a business, but they
2 added that it was also their home in which, you know --

3 Q. Was there -- were there any -- do you recall any
4 questions during your trial that would have, I guess,
5 helped to flesh out which -- which part of the building
6 was a business and which part was a residence?

7 A. Can you repeat that question?

8 Q. During your trial, do you recall any -- any questions
9 to the people that lived -- lived at the home, specifically
10 on cross-examination, that would have helped explain what
11 part of the building they considered a business and what
12 part of the building they considered a home?

13 A. I'm not sure, but I do remember -- I do think I
14 remember Luck Campbell speaking briefly on, you know, when
15 they crossed a certain corridor or hallway that that went
16 into the alleged home. Before that -- and I think that's
17 what went into whether or not they was trying to say that
18 that was the dwelling they had went into when the victims
19 claimed that they were laid down in a corridor or a hallway
20 and I think that took it into the dwelling. Before that
21 everything prior to that is -- is all business.

22 Q. Okay. And what -- were there any questions as to
23 exactly what delineated the part of the building that was
24 the business and what part was -- was the residence? Like
25 when they said they go into the dwelling or into the

1 residence, like what -- were there any hallmarks of change
2 from business to home?

3 A. No, it was just -- it kept being argued that this was
4 a dwelling.

5 Q. Okay. Is there anything about the -- the burglary
6 first indictment that I have forgotten to ask you that you
7 want to make sure the judge knows about?

8 A. No, just to make sure that -- I just want to put on
9 the record that, you know, not only did the commercial
10 property still states to this date, I believe, that it's
11 still commercial property, that it was leased as commercial
12 property, that it was, in fact, a business first and that
13 the -- the only thing -- and that also -- I also have
14 pre-trial documents from Anastasia as well, pre-trial
15 papers where she had burglary third --

16 Q. And when you say pre-trial papers, what are you --
17 what are referring to?

18 A. I'm referring to the -- if you look into that packet
19 that we have as far as evidence, the last two sheets -- the
20 second to the last.

21 Q. Are we talking about handwritten notes?

22 A. Yeah, her handwritten notes, pre-trial papers or
23 pre-trial notes, that also have burglary third, if needed,
24 and the last one, which I actually remember seeing this
25 over her shoulder, she was just like burglary second,

1 stating that, you know, we're gonna try to go for burglary
2 second, not that it probably would have helped, you know,
3 with the other indictments, but she was talking about
4 burglary second because it seemed like the evidence just
5 didn't add up and I think this was more so right before the
6 end of the State's case, so I think this was going right
7 into when she was about to argue, you know, dwelling and
8 she was just --

9 Q. Well, prior to her argument during -- during the
10 directed verdict motion, did she ask any -- ask any
11 questions on cross-examination of anybody regarding whether
12 or not this was a business or a -- or a residence?

13 A. No.

14 Q. Okay. Anything else?

15 A. That's it.

16 Q. All right. The next -- next you stated that trial
17 counsel has failed to object to the introduction of jail
18 phone calls due to a lack of foundation, including, but not
19 limited to, failure to object to Robert Waters being the --
20 not being able to authenticate the identity of any party on
21 the jail calls and for failure to object to the use of your
22 jail calls without first obtaining a search warrant.

23 First, let's get into Robert Waters. What -- what do
24 you recall of his testimony?

25 A. His testimony was very brief. Robert Waters actually

1 came in. He didn't have to speak much. I think he just
2 came in just to lay some foundation of who he was, what he
3 do and his job, and right after that the jail phone calls
4 came in.

5 Q. And what did -- what did he say that he did?

6 A. Well, he said that he was -- I don't have if he said
7 he was a commander or something else. I guess he's the
8 one who governs the jail phone calls over at Alvin S. Glenn
9 Detention Center.

10 Q. So could he testify as to the identity of anybody on
11 either end of any of those phone calls?

12 A. I believe he was the proper party to authenticate
13 the records. As far as identifying, I believe he could
14 definitely identify the records if he had the cell phone
15 numbers and being that's his job he can identify whether or
16 not a call was made, but who made the call --

17 Q. Did he -- did he have any ability to identify who was
18 on those calls? I get that he -- he clearly came in and --
19 and testified to the -- that these calls were made, but was
20 he ever able to identify who was -- the voices that were on
21 those jail calls?

22 A. No, I don't think -- I don't even think they
23 questioned him on that. I think that their sole purpose
24 of calling Robert Waters was just so he could get him in.
25 They never asked him did he know me or was he familiar.

1 They just asked him if that's his job, recording phone
2 calls, and the phone calls just came in. I don't know
3 Robert Waters and he didn't know me and I think that his
4 only job or sole purpose was to come in and to be somebody
5 who they can just bring the phone calls in through.

6 Q. Was there any objection by your trial counsel to the
7 -- the records being admitted -- or the phone calls being
8 admitted into evidence through Robert Waters solely?

9 A. Not Robert Waters solely, but I do remember them
10 making some type of motion to suppress the jail phone
11 calls and somewhere down the line they had -- they had
12 agreed to some Rule 106 to kind of bring other calls in
13 due to problems pretty much like trying to figure out how
14 to get the calls in or suppress them.

15 Q. But did the -- did the motion to suppress the jail
16 phone calls have anything to do with Robert Waters?

17 A. No.

18 Q. And I guess my -- my primary question here is when
19 the jail phone calls were moved into evidence after the
20 testimony of Robert Waters, was there any objection from
21 your trial counsel?

22 A. No, there wasn't.

23 Q. In fact, they -- they said that they could come in
24 without objection, didn't they?

25 A. They came in without objection, yes.

1 Q. Okay. Now are you -- are you aware of any search
2 warrants being -- being sought by the investigators to be
3 able to listen to your jail phone calls?

4 A. No. In fact, I actually wrote a letter and, of
5 course, I didn't know who to write when I got to prison,
6 so I wrote I think it was the clerk of court and I got it
7 dated May 24, 2016, when I asked, and I quote, I'm
8 basically asking for the name of the officer or authority
9 to who served the warrant or subpoena on Mr. Waters to
10 retrieve those phone calls and I'm also looking for the
11 date and time --

12 MR. MATTHEWS: Your Honor, I'm gonna object to
13 him reading from a document. I don't think that's been
14 marked for ID or entered into evidence?

15 THE COURT: What is the exhibit?

16 MR. DERIEG: I'm not sure.

17 THE COURT: Okay.

18 MR. DERIEG: What are you reading from?

19 THE COURT: Sustained then.

20 THE DEFENDANT: I apologize. This was a letter
21 and everything I put into the jail phone calls.

22 BY MR. DERIEG:

23 Q. I got you. Are those -- are those documents that
24 could help you refresh your recollection as to what you
25 wrote?

1 A. Yes. It was also documents that I had sent to the
2 clerk of court and sent -- sent back to me.

3 Q. All right. Well, without reading it verbatim --

4 MR. MATTHEWS: Your Honor, I still ask that it be
5 marked for ID if they're gonna refer to a document.

6 THE COURT: Yes, sir. That's fine.

7 (Plaintiff's Exhibit number 3 was marked for
8 identification.)

9 MR. DERIEG: It's marked as Plaintiff's 3 for
10 identification purposes.

11 BY MR. DERIEG:

12 Q. And were you using this document to help you refresh
13 your recollection?

14 A. Yes.

15 Q. What is this document?

16 A. This document is a letter I wrote to the clerk of
17 court when I couldn't figure out where the jail phone calls
18 came from or who subpoenaed or got, like you said, search
19 warrants for the jail phone calls.

20 Q. Are you aware of anybody trying to obtain a search
21 warrant to listen to your jail calls?

22 A. No, I'm not.

23 Q. Were there -- were there any objections by your trial
24 counsel in an effort to suppress the -- the jail phone
25 calls? Were there any questions about not having a search

1 warrant before they listened to your calls?

2 A. No, there wasn't. I asked -- I asked for that chain
3 of custody. I was trying to figure out how they even
4 obtained, you know, the number.

5 Q. Was the argument ever made by your trial counsel
6 that there should have been search warrants prior to them
7 listening to your jail calls?

8 A. No, there wasn't.

9 Q. Okay. And when you were sitting in jail, did you have
10 the ability to bond out?

11 A. In Alvin S. Glenn Detention Center? Yes, I was able
12 to.

13 Q. But during the -- the period of time of these jail
14 phone calls that got introduced at trial, you were -- were
15 you sitting in jail unable to make your bail?

16 A. I apologize. Say that again.

17 Q. When did these jail phone calls happen?

18 A. Oh. Well, they came into existence in 2015.

19 Q. When were they made?

20 A. They was made in 2012.

21 Q. Okay. And why were you making -- in 2012, why were
22 you having to make phone calls from the jail?

23 A. I was -- I was calling, you know, in reference to the
24 case, things about the case. I was calling --

25 Q. Well, why -- I guess what I'm asking at that time when

1 these phone calls were made, did you have the ability to
2 get out of jail?

3 A. No, at that point I didn't. I didn't have the bond.
4 I was denied first bond based on the fact that I didn't
5 commit this crime, I didn't want no bond, so I sat in there
6 and during the time I'd constantly be calling to try and
7 figure out my case, trying to figure out where was I --
8 what was going on, things of that nature.

9 Q. And being -- being stuck in that jail without being
10 able to get out, what was your primary -- or what were the
11 primary things that allowed you to communicate with the
12 outside world?

13 A. The jail -- the jail phone calls. The jail phone.

14 Q. And you say you wrote a few letters. Did you write
15 any -- any letters to your people or were they all to the
16 clerk of court's office?

17 A. Well, these letters right here, of course, were after
18 I got convicted and sent to prison.

19 Q. Were you writing any letters while you were in
20 pre-trial incarceration?

21 A. I -- I don't think I did.

22 Q. So your primary -- did you say your primary way to
23 communicate with the outside world was to call through the
24 jail phone?

25 A. Yeah.

1 Q. And what does it say when you use the jail phone call
2 about -- what does it say, if anything, about the calls
3 being recorded?

4 A. I can't remember word for word verbatim. I do know
5 that it does state that this is recorded, things of that
6 nature. It was a -- it was a fairly -- it was an older
7 system in 2012 and I believe it changed over -- switched
8 over approximately around 2013, '14, so.

9 Q. But every time -- every time you used the phone, were
10 you given this, I guess, caution or warning that these
11 calls may be recorded?

12 A. I was, yes.

13 Q. And had you -- had you not given your consent for
14 these -- these calls to be recorded, could you have made
15 any phone calls?

16 A. No.

17 Q. So essentially you were forced to give up your privacy
18 rights in order to use the phone?

19 A. Right.

20 Q. Did you have any -- any other choice but to accept
21 that those calls would be -- be recorded?

22 A. No.

23 Q. Okay. Is there anything else you want to tell the
24 judge regarding the introduction of the jail calls due
25 to a lack of foundation through Robert Waters or search

1 warrants not being used to obtain -- listening to your
2 jail phone calls?

3 A. Right. I just -- I just feel like it was ineffective
4 failing to object to the introduction of phone calls being
5 brought in through statements of Robert Waters based on his
6 inability to authenticate the records. There were from
7 what I've researched other ways that they could have
8 authenticated the records. I feel like that since then
9 when he -- when the phone calls came in, it compelled me to
10 either testify or put up a defense about what I have to do
11 next because the phone calls spoke so much about -- it said
12 a lot. It had derogatory statements, a lot of hearsay. I
13 was making a lot of comments. I was real emotional. It
14 was kind of personal and at times, you know, my mom was
15 telling me not to say certain things. Bad anxiety. I was
16 just saying a lot of stuff I shouldn't have said, but when
17 the phone calls came in, it kind of just -- it put a heavy
18 burden on me. I felt like it prejudiced me before I even
19 could, you know, put up a defense. I felt like --

20 Q. Were these -- were these phone calls introduced into
21 evidence prior to you testifying?

22 A. Say that one more time.

23 Q. Were these phone calls introduced into evidence
24 through Robert Waters prior to you testifying?

25 A. Yes.

1 Q. Prior to the defense putting up any witnesses, was
2 there ever any -- any State's witness that was able to
3 identify the voices of the -- the people that were on the
4 phone?

5 A. Not that I know of.

6 Q. Was there any testimony to -- to that effect that
7 there was somebody that -- that could positively identify
8 who was on the other end of each call?

9 A. I don't believe so.

10 Q. Did your trial counsel make any objections or ask any
11 questions on -- on cross-examination regarding that fact?

12 A. No.

13 Q. Okay. We'll move onto your -- your fourth point.

14 Applicant believes that trial counsel disclosed the
15 number of Diana Addison to the State which fell outside
16 of trial counsel's duty to disclose under a reciprocal
17 Rule 5 thereby allowing the State to identify specific
18 jail calls between Applicant and Addison that can be
19 viewed as inculpatory evidence. What do you want to --
20 what do you want to tell the judge about that.

21 A. Like I said, the phone calls didn't come in until
22 2015. In 2015, before trial I was called to come up to --
23 to her office -- to the office.

24 Q. To whose office?

25 A. Anastasia Walker's -- Anastasia's office.

1 Q. Was that in this building?

2 A. Yes. And in that meeting she let me know everything
3 -- all the evidence they had against me and things they
4 didn't have and she said well, these jail phone calls
5 they're not gonna do and she say they've got four jail
6 phone calls -- three or four jail phone calls they had at
7 that time and she said, you know, we've got these phone
8 calls, these calls that came to your mother's number, and
9 in these phone calls there was -- I believe my mother -- my
10 mother's boyfriend at that time brother's phone calls to
11 him and like one or two of me talking about bond and I was
12 -- at the time I told her -- I disclosed to her that, you
13 know -- I didn't contact my mother pretty much, I was
14 talking to Diana Addison at the time, and they asked me
15 well, what's her number and we gave Diana's number to her
16 and a couple of days later 200 -- about 247 phone calls
17 pulled up and at that time I asked --

18 Q. Of those 247, do you recall how many were related to
19 Diana Addison's cell number that you had just given to
20 Ms. Walker?

21 A. Yeah, all of them. And they didn't come up until we
22 disclosed her number and we instantly knew that the number
23 had been given to -- you know, to the solicitor because
24 Diana Addison we wasn't -- at that time in 2012 we was
25 dating, but it wasn't as official as we were, you know, two

1 years after. She wasn't implicated in this case at all,
2 she -- she had no dog in the fight at all, and we knew that
3 once we gave her the number that it was -- instantly that
4 somehow the number got leaked or however the case you want
5 to say, given to the solicitor's office.

6 Q. About how long after you gave Ms. Walker Ms. Addison's
7 cell phone number did those extra 247 phone calls between
8 you and Ms. Addison show up?

9 A. Well, just days after. And I believe I got a -- well,
10 Diana got a call, you know, from somebody in Anastasia's
11 office and then we got word that the State got 250 phone
12 calls and my first thing was well, why did you give them
13 the number. Like I thought it was something they wasn't
14 supposed to do and then it was -- at that time they was
15 denying that they gave the number and that's why it kind
16 of stuck in my head because other than the alleged direct
17 testimony from the victims, the jail phone calls was like
18 -- I think that was just like the top tier of everything
19 that was recorded, it was like lot of prejudice, so I just
20 can't forget it, and I just constantly kept asking why did
21 you give it -- in all my letters to her, I constantly asked
22 how did the State get Diana's number, how did they get
23 Diana's number, so my letter to the solicitor's office was
24 to get that because I know, in fact, that whoever got
25 Diana's cell phone number had to subpoena at that time to

1 get the cell phone calls, so it's an -- it's more than
2 likely that in 2015 prior to trial that the chain of
3 custody would show that Diana Addison's cell phone records
4 had been pulled in 2015.

5 Q. Okay. Is there anything about that -- that issue
6 regarding the -- regarding trial counsel giving over the
7 number to the State that -- anything else that you want to
8 talk to the judge about?

9 A. Well, no. I just -- I feel like that -- that was --
10 that if she wouldn't have everything else that happened
11 about the jail phone calls, about Robert Waters and
12 everything else, wouldn't have took place.

13 Q. Were there -- were there -- out of that 247 phone
14 calls all between you and Ms. Addison that showed up after
15 you gave Ms. Walker Ms. Addison's phone number, were any of
16 those 247 phone calls played to the jury?

17 A. Yes.

18 Q. Do you recall how many?

19 A. I believe two or three from the State -- three from
20 the State and two that was redacted from the defense.

21 Q. Okay. So the State was able to -- after obtaining
22 Ms. Addison's number, obtain 247 more calls, three of which
23 they felt appropriate to play for the jury?

24 A. Yes. I --

25 Q. Can you tell the judge what was -- and it certainly

1 doesn't have to be word for word. Just kind of give the
2 judge a summary of what those jail phone calls were that
3 were played to the jury.

4 A. It was incriminating. It was -- at the time I was --
5 I was regularly just telling her to contact T.K.

6 Q. And who is T.K.?

7 A. T.K. was a roommate slash friend of mine. We was
8 going through a rough patch, would kind of fall out a
9 little bit, but he was still an ex-roommate, and for him
10 to come and talk to the investigator to kind of give him a
11 story of where he was and pretty much, you know, because
12 after the conversations of figuring out where I was and
13 the day that happened to be the same day, I believe it was
14 the same day and I knew it was the same day, in fact, and
15 all the evidence lined up along with my time card and
16 everything else that that was, in fact, the day that he
17 actually came to town, so I knew T.K. was a person of
18 interest. However, I knew where me and T.K. left off at
19 he wasn't gonna just come off of just the fact that I'm
20 locked up and just come, so I said some things that -- to
21 try to convince him to come in which I had, you know, told
22 her to tell him to do it for me and talk to him.

23 Q. So from those phone calls that -- out of the 247 that
24 showed up after the State got Ms. Addison's number, did you
25 say that they were incriminating?

1 A. The phone calls?

2 Q. Yes.

3 A. Some. Yeah, some was.

4 Q. And -- well, were they outright incriminating or did
5 they take some sort of, I don't know, assumption to make
6 them incriminating?

7 A. It was a -- it was a spin off of what I could have
8 meant off my ebonics, the words I used, to try to, you
9 know --

10 Q. Were you accused of speaking in code?

11 A. Yeah, and manufacturing alibi witnesses and stuff of
12 that nature.

13 Q. And -- and this was said in open court, correct?

14 A. Right.

15 Q. And who was the one that said that?

16 A. Luck Campbell. Luck Campbell. I think she was the
17 one in cross at the time, so she pretty much made a big
18 spin off of everything that I said and what it could have
19 meant, what it did mean, this thing that I'm talking about
20 doing a crime or something like that, and that's --

21 Q. So did Ms. Campbell essentially say that you were
22 confessing on the phone through code?

23 A. In a sense that's what she was alleging. She was
24 alleging that I was talking about the -- the incident.
25 She was saying that I was trying to, you know, cover up

1 talking about saying I did these robberies, kidnapped a
2 person. She was -- she was implying that I was talking
3 about the crime.

4 Q. And based on -- on those phone calls, did she ever
5 accuse you of trying to make up or manufacture an alibi?

6 A. Yes, that's exactly what she accused me of.

7 Q. And, again, these were phone calls that came after the
8 State got Ms. Addison's number?

9 A. Yes.

10 Q. And in those first three -- first three calls that
11 they got -- that you guys had, were any of those first
12 three calls related to Ms. Addison?

13 A. What do you mean related to?

14 Q. Prior to -- the three phone calls that were -- that
15 were gathered prior to the cell phone number being given to
16 the State, did any of those three calls have anything to do
17 with Ms. Addison?

18 A. Yeah, they was -- that was me and her on the phone,
19 so, yeah.

20 Q. Is there anything else on -- on this issue that you
21 want the judge to know?

22 A. I just -- I think it's all in the record. I just want
23 the record to show that I've actually been looking for the
24 chain of custody of the jail phone call records. I still
25 have no way of getting that. I haven't got no answer from

1 the sheriff's department or Alvin S. Glenn. Like I said,
2 I didn't know who to write or contact for information to
3 try to get that record so I could have that here today.
4 I've been doing that -- I've been trying to find that for
5 seven years, including writing letters to Anastasia Walker
6 and the prosecutor's office, and so that's the only thing
7 at this point.

8 Q. And just to be clear on this fourth point, do you
9 believe that your trial counsel gave the -- the State
10 Ms. Addison's phone number?

11 A. Yes.

12 Q. And what happened almost immediately afterwards, after
13 the State got that number?

14 A. Meghan Walker called Diana Addison and what happened
15 is 200 -- almost 250 phone calls come in and we had to have
16 a -- set up another appointment for another trial based on
17 the fact that they wanted to go through those phone calls
18 that they just recently received.

19 Q. And some of those 247 were -- were played to the jury,
20 right?

21 A. (Nods head.)

22 Q. Okay. We'll move onto the fifth point.

23 Trial counsel failed to object to the State's use
24 of Applicant's laptop bag during direct examination of
25 Investigator Joseph Clarke. Why is it -- just to give

1 the judge sort of some background on the case, why --
2 why is a laptop bag important in this case?

3 A. Well, like I spoke of at the beginning, I -- I didn't
4 know this until I got to prison or until -- during trial
5 the fact that a laptop bag was used to -- in the commission
6 of the crime. I didn't know that a laptop bag was used to
7 produce a weapon.

8 Q. Where did that information come from?

9 A. In trial. During trial.

10 Q. From which witnesses?

11 A. What was considered a prior inconsistent statement in
12 the third statement that the victim made that say that one
13 of the suspects, allegedly me, had produced a weapon out of
14 a laptop bag.

15 Q. And that was -- you said that was in her third
16 statement, but was that also her testimony at trial?

17 A. That was the testimony at trial, yes.

18 Q. Okay. And now that the judge knows why the laptop bag
19 is significant, can you first explain why you had a laptop
20 bag in court with you?

21 A. Well, Anastasia and Robert Bank came to the house,
22 came to where I was living at the time, and --

23 Q. Came to your house?

24 A. Yes.

25 Q. Okay.

- 1 A. And we spoke -- we spoke about everything about
2 getting the case together. I don't know the case, I didn't
3 commit the crime, I don't have the facts, so everything I
4 knew that would come in trial I was gonna have to take
5 notes and bring stuff with me, so I was -- I was -- I won't
6 say coached, but I will say I was, you know, told you can
7 bring paper, pencils and things of that nature to trial.
8 At that time Diana had owned a black laptop bag in which I
9 was using, you know, and it was kind of crazy, and I think
10 that's why I used it, and at that time Anastasia knew I
11 was gonna be bringing this laptop bag with me at trial and
12 knowing -- I'm assuming she knew knowing that a laptop bag
13 was used in the crime.
- 14 Q. At that point did you know that a laptop bag had been
15 used in the crime?
- 16 A. I did not until I got to trial.
- 17 Q. Okay. So did you get essentially the -- the blessing
18 of your trial counsel to use a laptop bag to carry your
19 papers back and forth to court?
- 20 A. Yes. In fact, I -- in fact, when I was coming to
21 trial I was having -- you know, asked like days after they
22 had put me in cuffs and, you know, locked me up.
- 23 Q. And what color was the laptop bag?
- 24 A. It was a black laptop bag. Like vinyl.
- 25 Q. Okay. And where did you keep that -- that bag while

1 you were in trial?

2 A. Pretty much right where your laptop bag is at. It was
3 directly to my left when we were in trial.

4 Q. So to the side of the desk?

5 A. Yes.

6 Q. Okay. At some point during -- during the trial, I
7 guess, did something significant happen with your black
8 laptop bag?

9 A. Yes.

10 Q. Tell the judge about that.

11 A. Well, during the trial Luck Campbell in her closing,
12 I guess that's what it's called, when she's coming to the
13 end of her case, she -- she started -- she had Investigator
14 Clarke as a witness. Investigator Clarke, she asked him --

15 Q. Well, let me stop you there. You started talking
16 about closing and then you started talking about testimony
17 from a witness.

18 A. Yeah, not closing. Coming to the end of the State's
19 case. When the State rests its case. I apologize.

20 Q. So before the State rested its case?

21 A. Yeah, that's what it's called. When she's resting
22 her case. The last -- before that, her last witness was
23 Investigator Clarke, and --

24 Q. And how did that testimony end?

25 A. Well, she was asking Investigator Clarke about -- she

1 ended up asking him about a laptop bag and she asked him
2 was he aware that the victim said something to the nature
3 of a laptop bag during trial -- I mean, in the case, and
4 he -- you know, he said yes, and then she started asking
5 him well, was you aware of the black laptop bag that the
6 defendant had in his possession and he was like yes, I made
7 mention to it during court that he was having it passed
8 back and forth to him while he was in here, and she said he
9 was bringing to court a laptop bag, and he said yes. She
10 said does it look like this and at this time she was
11 walking to where I was at. She walked to where I was at,
12 she picked up the black -- she picked up the bag and walked
13 to the center of the court and she held it up and said is
14 this the bag that you said the defendant had been bringing
15 back and forth to trial and he said yes. She said is this
16 the bag that looked like the victim has been alleging that
17 the suspect had produced a weapon out of and he was like
18 yes. And, you know, she kept questioning him as if that
19 was actually the bag in fact and she said is this the bag
20 that the victims was talking about and he said yes. She
21 walked around -- and how this is so memorable is she looked
22 in my eyes and she put it right back beside me and then
23 they carried on, and it went without objection.

24 Q. That was my next question. Was there -- was there any
25 objection to either Ms. Campbell taking your black laptop

1 bag or the -- the line of questioning about the bag with
2 Investigator Clarke?

3 A. No, it wasn't. There was no objection.

4 Q. Did you feel like that testimony was trying to
5 essentially intimate that that laptop bag was the one that
6 was used during the commission of the crime?

7 A. Yes. I feel like that's exactly what it was for.

8 Q. And you said there was no objection by your counsel?

9 A. No, there was no objection by my counsel.

10 Q. And I guess it would follow that no curative
11 instruction to the jury was asked for?

12 A. No.

13 Q. Okay. Is there anything about the black laptop bag at
14 this point that you think the judge needs to know about?

15 A. I don't have the -- the documents that I gave you of
16 the letters that I had written and that I got a response
17 from Anastasia. I don't have them available. Do you?
18 That's what I'm referring to. I'm gonna refer to them and
19 put them on the record as well.

20 Q. Well, just tell the judge about those -- about those
21 letters that you sent to Ms. Walker. Anastasia Walker.

22 A. I'd like to also put it on the record, if possible.

23 Q. Right. We'll talk about them first.

24 A. All right. I'd written a detailed letter to the clerk
25 of court. Of course, I didn't get a response. I think it

1 just stayed there. And I asked them -- our court reporter,
2 in my transcripts, this whole -- this whole incident that
3 happened in trial that -- Luck Campbell walking up to where
4 I was at, is completely redacted out of my transcripts.

5 Q. Well, when you say that --

6 A. Well --

7 Q. -- do you mean there's just no -- there's nothing
8 in the transcript regarding her physical motions in the
9 trial?

10 A. Her physical motions and a lot of the questions that
11 she asked of Investigator Clarke.

12 Q. So you believe there's portions of your -- of your
13 transcript that -- that aren't complete regarding the --
14 the questions that Ms. Campbell asked to Investigator
15 Clarke regarding the bag?

16 A. Right. There was -- there was some more questions
17 that she asked that was a lot more prejudicial being --
18 than what had -- almost symbolic of what she had actually
19 done. She was asking questions that was direct -- that's
20 pretty much direct. She was asking is this, in fact, the
21 bag and things of that nature, so it doesn't show her
22 physical actions and a couple of questions that she asked,
23 and she didn't ask -- in my transcripts they only have two
24 questions that she asked. Was you aware of the -- you
25 know, of the defendant having a black laptop bag, and I

1 think only had about two questions and then that's it,
2 but, in fact, Luck Campbell made a -- a big thing about
3 the black laptop bag and she picked it up and she walked to
4 the middle of the court, she asked a few questions, and so
5 the transcript is missing all of those questions and her
6 physical actions.

7 And I wrote the clerk of court, I wrote Anastasia
8 Walker as well and, of course, she wrote back and said
9 that it shouldn't be redacted out of the transcript and
10 then she wrote me another letter saying that it is in the
11 transcripts, check page 501, and then she wrote back and
12 say I see where it's missing out of the transcripts and
13 that she admits it's missing the physical actions.

14 Q. So in your -- in your correspondence back and forth
15 with Ms. Walker, you-all came -- did you come to a
16 consensus as to what was -- what was missing from the --
17 from the record?

18 A. Right. And she agreed that it was and she stated in
19 a letter that it was, in fact, missing from the record and
20 she does, in fact, remember it happened, and --

21 Q. And, again, was there any -- any objection to any of
22 the line of questioning or the -- well, I'll just stop
23 there. Was there any objection to any of the line of
24 questioning regarding that black laptop bag to Investigator
25 Clarke?

1 A. There was no objections.

2 Q. Was there any objection to Ms. Campbell coming and
3 taking your laptop bag?

4 A. There was no objections, no.

5 Q. Was there any objection to Ms. Campbell asking
6 Investigator Clarke if -- if that laptop case that you had
7 been bringing to court every day could, in fact, be the
8 same laptop from the alleged incident?

9 A. There was no objection.

10 Q. Is there anything else about the laptop bag you want
11 to talk about?

12 A. The last thing I just want to -- I want to say about
13 the laptop incident is that Anastasia -- at that time I
14 had an uncle that was sitting behind me that was kind of
15 getting erratic and saying objection, objection, I think
16 he got kicked out of court, but her reason at the time was
17 saying I'm -- you know, just I've got something for that,
18 you know. You know, I've got something for that. Like
19 this is something -- I can't remember word for word
20 verbatim what she was saying, but I know she was just like
21 listen, I've got something for that, you know, we don't
22 have to object, your uncle's making a big scene about it,
23 and --

24 Q. And what ultimately did you come to find out she meant
25 by I've got something for that?

1 A. In closing. Anastasia went upstairs. I think I've
2 got a paper -- also a pre-trial paper where she stated
3 I was gonna go to the fourth floor and collect laptop
4 bags, so during closing she brought a black bag that had,
5 I guess, random laptop bags in it, so she was trying to
6 demonstrate that these black laptop bags, you can get
7 them anywhere, and, you know -- and that that was her
8 rebuttal for what the State -- what Luck Campbell had
9 did earlier.

10 Q. And what -- what happened while she was attempting
11 to use those -- those laptop bags as demonstrative -- for
12 demonstrative purposes?

13 A. Well, as soon as she got them out, an objection came
14 from both Luck Campbell and Judge McMahon. They quickly
15 objected and said inadmissible and that she -- that the
16 judge said the jury should not consider none of that as
17 evidence and that what she was doing was inadmissible
18 evidence, that she shouldn't have brought it in, and --

19 Q. They really -- Judge McMahon really went after Ms. --
20 Ms. Walker, didn't he?

21 A. Yeah, that he -- he beat the gavel. I thought it
22 almost broke they way -- he slammed it hard. He was like
23 that's inadmissible. He told the jury to pretty much
24 strike that from their recollection and that they should
25 not consider anything that she just put on the table as

1 evidence.

2 Q. And -- and this was at his own initiative, correct?

3 A. Yes, this was his own initiative.

4 Q. Did he have anything to say to Ms. Campbell when
5 she picked up your laptop bag and paraded it around the
6 courtroom and asked if it was -- if it could have been the
7 bag that was used in the -- used in the actual crime?

8 A. No, he didn't. In fact, that's what I asked -- that
9 was in the letter I wrote Anastasia that I'd also like to
10 put in the record, that I actually said even Judge McMahon
11 didn't say anything to Luck Campbell when she did that
12 during trial, but he went off when you did that, and she
13 was just like, you know, I think he just -- he just looked
14 at what I was doing as demonstrative and he felt like I was
15 just trying to bring in evidence, but I felt like that's
16 exactly what Luck Campbell did and I felt like it was more
17 prejudice. She was implying that I pretty much came to
18 trial with the laptop bag I used in the commission of a
19 crime allegedly.

20 Q. So are you saying Ms. Campbell went -- went further
21 towards calling the -- calling the laptop bag evidence than
22 -- than Ms. Anastasia Walker did with the laptop bags in
23 closing?

24 MR. MATTHEWS: Objection to leading.

25 THE COURT: Sustained.

1 BY MR. DERIEG:

2 Q. So it was on his own initiative that the judge kind
3 of tore Anastasia a new one in the middle of her closing,
4 right?

5 MR. MATTHEWS: Objection. Asked and answered.

6 THE COURT: Sustained.

7 MR. DERIEG: Okay.

8 BY MR. DERIEG:

9 Q. Did -- did that disrupt her closing argument?

10 A. Did what object to her closing argument?

11 Q. The -- the objection to the -- to those bags and
12 Judge McMahon's statements afterwards, did that interrupt
13 her closing argument?

14 A. Yes.

15 Q. About how long do you think all that -- all that
16 took?

17 A. The -- the objection and everything, the whole
18 demonstration, it took a few minutes. It was definitely
19 more than, you know, five or so minutes because it took
20 a minute to kind of get everything cleared and pick up
21 the laptop bags and, you know, like I say, it took a --
22 it took a little second.

23 Q. And was this all in front of the jury?

24 A. This was in front of the jury, yes.

25 Q. So the jury would have seen anything that -- that

1 was said by Judge McMahon to -- to her regarding that
2 laptop bag?

3 A. Right.

4 Q. Anything else you want to talk about with the laptop
5 bag or are you ready to move on?

6 A. No.

7 THE COURT: All right. Before we move to the next
8 topic then, let us please take about a 15-minute break.
9 By my watch we've been in here almost an hour and a half,
10 so roughly fifteen minutes.

11 Now, Mr. Porterfield, you're a live witness, and
12 I'm gonna admonish you, which means to ask you not to
13 discuss anything with anybody to avoid any issues about
14 your talking to anybody, okay?

15 THE WITNESS: Yes, sir.

16 THE COURT: Okay. You can come you off the stand,
17 you're in custody, but do not discuss anything with
18 anyone to include, of course, your lawyer, okay, sir?

19 THE WITNESS: Yes, sir.

20 THE COURT: Thank you very much.

21 (Recess taken at 11:04 AM.)

22 (Back on the record at 11:22 AM.)

23 BAILIFF: Remain seated.

24 THE COURT: All right. Proceed, sir.

25 MR. DERIEG: Thank you, Your Honor.

1 May it please the Court?

2 CONTINUED DIRECT EXAMINATION

3 BY MR. DERIEG:

4 Q. Mr. Porterfield, I think we'd just gotten done
5 exhausting just about everything we could from that black
6 laptop bag, so let's move onto your next contention. It
7 would be number six. Trial counsel failed to address the
8 Fourth Amendment violations regarding your capture.

9 Can you -- can you explain to the judge, I guess, the
10 circumstances surrounding you being arrested and, you know,
11 things that happened before, things that happened during,
12 things that happened afterwards, just to give the judge a
13 background before we get into any like specific Fourth
14 Amendment violations.

15 A. Okay. All right. What I'm alleging is -- I'm just
16 saying that counsel was ineffective by failing to object to
17 -- or investigate the potential Fourth Amendment violation
18 where just looking at the facts of the case where I was
19 located on July 18, 2012, which is at [REDACTED] Street, in
20 which I was located when they came to find me at that
21 residence.

22 Q. Was that -- was that a location that you regularly
23 frequented and that you were, you know, a known person to
24 visit?

25 A. No, I don't, but that was an associate of mine. That

1 was -- was a friend, you know what I mean, at the time. Of
2 course, our relationship deteriorated a little bit because
3 of that situation and --

4 Q. We'll, let's not -- let's not get into that.

5 A. Okay.

6 Q. Did that -- let's go back to the day before. Is there
7 a phone call between you and Investigator Clarke?

8 A. Yes.

9 Q. And tell the judge what happened with that phone call.

10 A. Well, in that phone call Investigator Clarke called me
11 and he was just telling me about the case, telling me about
12 everything, talking about the time, date, things of that
13 nature of the crime, and that he wanted to meet with me.

14 Q. Where did he want to meet with you?

15 A. He wanted to meet me on -- off of Shakespeare Road by
16 -- by the Shamrock store. And I -- I find this is ironic
17 because I work right around the corner from there and for
18 him to tell me on my lunch break let's meet at Shamrock,
19 not knowing where I worked at, that kind of just raised
20 suspicion. I was like yeah, okay.

21 Q. He didn't -- he didn't invite you to come down to the
22 police station -- or the sheriff's department and make a
23 video recording of -- of you-all's conversation?

24 A. No.

25 Q. And what is Shamrock? Is it a gas station?

1 A. Yeah, it's a gas station on the corner of Shakespeare
2 and --

3 Q. So you get a call from Investigator Clarke asking you
4 to meet him at a gas station?

5 A. Yes, on the corner of a gas station and --

6 Q. And does he tell you why he wants to meet with you?

7 A. Yeah, he wants to talk to me about -- he wants to talk
8 to me about the case. He wanted to talk to me about -- he
9 say I just want to ask you a few questions about a burglary
10 that happened, you know, with Gulzar Nathani and stuff that
11 day, and initially I agreed to. When he called, I --

12 Q. Well, first, during that phone call was there any
13 mention of any pending or active warrants against you
14 regarding that incident?

15 A. No, these were phone calls because I called him back
16 and he didn't mention that.

17 Q. So how did your -- how did your first phone call end?

18 A. In the phone call, I agreed to meet with him on my
19 lunch break. It was like 12:00 and I told him I would meet
20 with him and, you know -- you know, that's what I told him.
21 When I left there, like I'll meet with you.

22 Q. You said it's by your work. Tell the judge where you
23 worked at that time.

24 A. I worked at Creative Recycling. It's an electronic
25 recycling facility in which they recycle electronics.

1 Q. Okay. And that was near -- near the gas station?

2 A. Yes, it was at the old Mayflower plant off of Farrow
3 Road and I forgot the name of the street that's over there.

4 Q. Okay. So how long after that -- that first phone call
5 did he want to meet with you?

6 A. He wanted to -- I told him what time my lunch break
7 was and I told him I'd meet him on my lunch break, which
8 was probably roughly about 20, 30 minutes probably till,
9 you know, but it was coming up.

10 Q. Were there any subsequent phone calls between you and
11 Investigator Clarke?

12 A. Yes, I called back.

13 Q. And what did you tell him?

14 A. I told him that I talked to my mom. I told him I
15 called and I asked -- I pretty much asked him about the
16 situation, so I just wanted to get to -- I told her what
17 was going on and the situation, that I talked to this
18 investigator, he wanted to meet me on the corner or
19 something like that, and at that time it's like that don't
20 sound right, you know what I'm saying, that doesn't sound
21 right, okay, that don't kind of sound right, you know.

22 Q. Did it make you uncomfortable?

23 A. It did because I -- you know, he talked about -- I
24 knew I had -- I'd done business with him and that's what I
25 explained to him.

1 Q. When you say you'd done business with him, who do you
2 mean?

3 A. With Gulzar Nathani.

4 Q. The father?

5 A. Yeah. Like I'd done business with him, you know what
6 I mean, things of that nature, so -- but a situation like
7 to occur, you know, it kind of raised a red flag and then
8 he wanted to meet me, so I just called, you know, to
9 understand and stuff like that, and when I called him back,
10 I told him -- I told my family that just don't sound right
11 to just come and meet up with an investigator on the corner
12 at a gas station. I said I don't feel comfortable just
13 meeting you like that, you know, and he started getting a
14 little erratic a little bit and then I told him like
15 listen, you know, I can afford a lawyer if I need to come
16 down there and bring an attorney, and at that time he was
17 like okay, well, you invoking, you know, that's fine, you
18 don't have to go the meeting or whatever the case may be,
19 you don't have to come, and then he --

20 Q. So was that -- was that the end of the phone call?

21 A. Yeah, pretty much. I mean, he did throw out that I
22 told you to come and, you know, he was making little, you
23 know, remarks, but never no mention of no warrants.

24 Q. That's -- that was gonna be my next question. Did he
25 mention any active warrants?

1 A. No, no active warrants.

2 Q. What, if anything, happened to those warrants the next
3 day or after -- or sometime after your phone call with --
4 your last phone call with Investigator Clarke and prior to
5 you being arrested the next day?

6 A. Right. Well, once I found out that he did take out
7 warrants on July 10, 2012, and --

8 Q. And what day was this phone call?

9 A. This phone call was on July 17th.

10 Q. So he had active warrants on you for a week and hadn't
11 mentioned it to you?

12 A. Yes, and alleged that he'd been looking for me and
13 never went to nobody's residence, never went nowhere, so
14 my first time hearing from him I've been working every day
15 of the week.

16 Q. Well, back up for a second. When you say didn't go to
17 anybody's residence, what do you mean by that? Who do you
18 mean by that? Like where -- where didn't he go that you're
19 -- you're referring to?

20 A. Well, Luck Campbell asked him some questions. Did he
21 ever go to [REDACTED] Street to locate me and he said that
22 he'd been to different places that was on my DMV record.
23 That's my mother's address at the time and he'd never been
24 there. He never tried to serve the warrants through any
25 known whereabouts and from the day of the crime he had my

1 -- allegedly had my cell phone number and residence in
2 which I reside and -- but he never checked nowhere.

3 Q. Did they come to your job?

4 A. No, they never come nowhere until after.

5 Q. Did they come to your house?

6 A. No.

7 Q. Did they go to your mom's house?

8 A. No.

9 Q. Did they go to any of the places that you typically
10 frequent?

11 A. No.

12 Q. Okay. Where -- where did they ultimately find you?
13 And -- well, back up. Who was it that was looking for you
14 at this point?

15 A. Well, after talking to him on July 17th, I found out
16 that July 18th, that morning, instead of, you know, trying
17 to serve the arrest warrant he went to the fugitive task
18 force and put in as if I was a fugitive, and when he put
19 in that, the fugitive task force had took up the case or
20 whatever and came searching for me.

21 Q. So did he ever -- did he ever give you an opportunity
22 to turn yourself in? Like did he tell you -- ever tell you
23 about the warrants and that it would be a good idea for you
24 to turn yourself in?

25 A. Oh, no. I literally -- I would have definitely went

1 to the address if he did.

2 Q. Okay. Well, tell the judge about -- about the
3 fugitive task force and where they found you and how they
4 found you.

5 A. All right. So I was on a lunch break. The fugitive
6 task force came on my job. A co-worker did call me and
7 contact me and said that -- of course, in the street --
8 apparently we don't know the difference between SWAT and
9 the fugitive task force, so my co-worker's like SWAT is
10 around here right now and there's a bunch of unmarked
11 cars, they've got a lot of guns out and they're pointing at
12 everybody, and I'm like SWAT and he yeah, they're looking
13 for you. I panicked. Don't know why SWAT is looking for
14 me or whatever like that.

15 Q. And whose -- whose residence are you at at this point?

16 A. Well, I was at nobody's residence. They called me
17 while I was on the way back from lunch break and I decided
18 to go to my own residence, which is -- I'm not good at
19 guessing the miles, but I stayed -- from my job to where I
20 stayed on Colonial Drive, a couple of miles, not that far.
21 About a minute -- less than about ten minutes away.

22 Q. So what Fourth Amendment violations are you --

23 A. Alleging.

24 Q. -- alleging got violated during -- during the fugitive
25 task force apprehension of you?

1 A. Okay. Well, instantly I turned my phone off because
2 everybody was calling my phone. I cut my phone off. I
3 got to my -- I got to my apartment, my duplex or whatever,
4 and I didn't feel comfortable in the home because I -- I
5 was unsure, and I'm gonna be honest with you, so I walked
6 to [REDACTED] Street -- from on Colonial Drive to that
7 residence on [REDACTED] Street, which is just a couple of
8 blocks away from where I initially -- where my apartment
9 was at.

10 Q. And why were you walking?

11 A. Just to have a place of peace, so I could call for an
12 attorney from my -- my phone book. I was calling Randall
13 Hugh, I was calling an attorney --

14 Q. You mean Randy Hough?

15 A. Hough, yeah. Like I said, at that time I was looking
16 for an attorney at that moment because I don't know why
17 they're coming there and plus I knew that I was in a
18 difficult business. I knew I was doing sketchy business,
19 so I knew I had -- I was in a sketchy business, I didn't
20 know what he'd got to do, so I was just covering myself.

21 Q. And we'll get to that -- that business a little bit
22 later.

23 A. All right.

24 Q. So did you say you were -- you were looking or trying
25 to call Randy Hough when the fugitive task force arrived?

1 A. Right. I was in the yellow pages at that time. At
2 that time yellow pages was still a thing, so I was --

3 Q. We're talking about a decade ago, right?

4 A. Yeah. And I -- I opened up the yellow pages and I was
5 looking for an attorney and just trying to make some calls
6 and get someone from -- from the area, but when I got to
7 the -- [REDACTED] Street, [REDACTED] Street, I cut my phone
8 on. When I cut my phone on, I called a cousin of mine.
9 She's pregnant and she was off work at that time and she
10 was actually in the neighborhood and from where I stayed at
11 [REDACTED] Street to where my mother stayed at, which is in
12 the direction of where my cousin's at, she was able to get
13 there in like two or three minutes, but within the house,
14 ten, fifteen minutes in the house, instantly the house was
15 surrounded.

16 Q. So you went to your cousin's house?

17 A. No, I went to [REDACTED] Street where I was at and I
18 wasn't in hot pursuit or anything. I wasn't in hot pursuit
19 or anything. I walked there and --

20 Q. At this point do you know that there are warrants out
21 for you?

22 A. I didn't know it was warrants out for me. I didn't
23 even -- I didn't know nothing about the warrants.

24 Q. I mean, it would be fair to assume that there were
25 given the fact that the fugitive task force was after you,

1 but had anybody actually informed you that there were
2 pending or active warrants against you?

3 A. No, I just -- the first time hearing from anybody was
4 the day before with Investigator Clarke. I didn't know
5 anything about any arrest warrants or nothing like that.

6 Q. Okay. So what happens when -- when they arrive?

7 A. Well, I'm at the house and instantly the house was
8 surrounded. We don't know -- everybody in the house is
9 like what's going on, the house is surrounded and we've
10 got cops at the door, and they bang on the door, bang on
11 the door. The house is a big house. It's a -- it's a big
12 historic house. It's been there since I was a baby and
13 he'd been living there since he was baby. I literally knew
14 him since I was two or three years old. And in the hallway
15 where we was -- because they've got big hallways. In the
16 hallway where we was, I heard them at the door and -- when
17 I was in the back hallway I could hear them was asking to
18 come back and stuff of that nature, we know he's in there,
19 this and the third and, of course, I heard denying giving
20 consent, saying nobody's here, asking, you know, for the
21 warrants, and --

22 Q. Who was it -- who was it that told the fugitive task
23 force they couldn't come in?

24 A. At that time it was my friend's lady because they're
25 not married. The child's mother -- I mean, the mother of

1 his child.

2 Q. But was it somebody that had the authority to -- to
3 deny entry into that -- into that residence?

4 A. Yes, they lived there. There was only two of them
5 home and my cousin came over, so they -- she lived there,
6 so she answered the door and she asked them for -- you
7 know, like he'd tell them like no, you can't come in and
8 stuff like that. They asked, you know, if they could come
9 and she was like no, where are your warrants, and he was
10 like we've got a warrant for his arrest and stuff like
11 that, and she's like you don't have a warrant to come in,
12 she tried to close the door, her foot was in the door, and
13 that's when they, you know, start threatening her because
14 she's pregnant, she's showing, and, you know, we'll lock
15 you up if you don't let them in, and by that time I told
16 my friend, too, you know, you can tell them to come in.

17 But the reason why I went to the Fourth Amendment
18 violation is because this house is a multi-residence house.
19 It's three houses and so the first house is a four-bedroom
20 -- like a four-bedroom house. Where I went, I originally
21 wasn't even gonna go out in no areas because I went into a
22 second house. The second house I went into was actually
23 his grandmother's nursing house and once inside there,
24 you know, they come in and, you know, I heard -- I heard
25 them call lot of stuff of that nature, they came in, did

1 a search and then I seen them, you know, jig the door of
2 the second house, and -- and being in there, not knowing
3 anything, which is stupid these days going as far as I
4 went, but going out the back window of the second house,
5 you know, back --

6 Q. Were you scared at that point?

7 A. Yeah, I just didn't know why -- why SWAT is behind me.
8 I really don't. I ain't gonna lie to you. I couldn't
9 figure it out and for every reason for -- raised in the
10 community I know arrest warrants be like, I know cops come
11 to your house, they'll ask questions and then if you're
12 not there, they'll leave, only they'll try to come back,
13 they'll probably even watch the spot for a while, but I
14 didn't expect them to keep going as far as they was and
15 then with how many cops there was, this is a lot of cops
16 to be, you know what I'm saying, just to be coming at, you
17 know, I didn't --

18 Q. While they were coming after you, what, if anything,
19 were they -- they saying to you?

20 A. Well, I didn't know nothing. I didn't -- I didn't get
21 to hear nothing until I got -- got arrested.

22 Q. Okay.

23 A. And they say I was under the house and stuff like
24 that, but it was a crawl space that got. Like I said, the
25 house -- the nursing house is like on some -- I don't know

1 how you say it, but it's built above the ground, so it's
2 got these -- these wooden things that are kind of up,
3 almost a go-cart can fit under it, and then his mother's
4 house is on top of that house. So it's got like a
5 wraparound that goes upstairs, too, as well. The house
6 that we was -- that I was in, I went in the backyard and
7 I was okay, I'm cool here, sitting there for about five,
8 ten minutes and, you know, and then they come out and I was
9 in the back and they called me out and I didn't come out,
10 after they sent the dogs and stuff like that, I came out,
11 but by the time I was asking questions, the first question
12 I remember asking is like why are you-all even after me,
13 what did I do, and he told me the charges and that's when I
14 kind of went off and I started cussing. Oh, you-all really
15 got me messed up.

16 Q. So it wasn't until after they let a police dog loose
17 on you that they finally let you know that there was an
18 active warrant for you?

19 A. Yeah. Yeah, that's when I found out that, you know,
20 there was a -- no, that I was a fugitive, that I was
21 running from an active warrant, and I'm like how? I've
22 been working every day this week.

23 Q. Did you have any knowledge of the warrant to be able
24 to run from it?

25 A. I stay less than two miles from my mother in my own

1 apartment.

2 Q. Do you know how they got the -- how -- how the
3 fugitive task force ended up at that multi-home residence?

4 A. No, that's the question that I've been asking, and
5 during the -- during trial I did ask Anastasia because they
6 kept saying we've got information. They said -- that
7 morning they said they got information that -- where my job
8 was at. That information was never disclosed. When I
9 asked Anastasia that, she asked them do you-all have any
10 informants and they said no, so they didn't have any
11 informants and there's no statement and I wasn't on
12 Midland's Most Wanted, I wasn't on TV. You know, it was
13 kind of -- they kind of crossed out all the exclusionary
14 rules or exigent circumstances in a sense. I was just
15 thinking like well, who gave you this information, where
16 did you get this information from, like where did this
17 information come from, so.

18 Q. Well, you're asking these questions, I guess, to
19 yourself and to your counsel, but did -- did your trial
20 counsel ask those questions of -- of law enforcement
21 agents?

22 A. No, and I asked her those questions and she did ask
23 them was there any informants when I asked that question,
24 they answered no, but as far as information, where would
25 they get this information or what kind of information, it

1 was never disclosed.

2 Q. And was there ever a motion for disclosure to the
3 judge?

4 A. No.

5 Q. Did she ever ask them to disclose where this
6 information came from on any cross-examination of law
7 enforcement?

8 A. No.

9 Q. And essentially with the -- the fugitive task force,
10 they were -- I think you testified that you said that they
11 thought you were fleeing or said that you were fleeing from
12 -- fleeing from a warrant?

13 A. I -- I believe that was their -- I believe that's what
14 they were trying to conjure up, that I was in flight from
15 these warrants.

16 Q. And in -- and in trial did the State ever use the --
17 the circumstances surrounding your arrest to try and infer
18 flight?

19 A. Can you ask that question one more time?

20 Q. Did -- did anyone from the State, I guess be it
21 Luck Campbell or Meghan Walker, ever try and use those
22 circumstances surrounding your arrest to infer to the jury
23 that you were in flight?

24 A. Yes, that's exactly what they did to try to make it
25 seem as if I was in flight from these charges and this

1 crime and -- and the warrants.

2 Q. And did -- after -- after inferring the flight like
3 you said, did they ever ask the jury to infer anything else
4 from that flight?

5 A. I mean, my guilt. I mean, that's what they were
6 basically trying to infer, but I do remember an objection,
7 but I think it wasn't -- I don't think it was preserved
8 by Robert Bank. He brought up that -- I believe when
9 Andrew Caldwell first was called and he was trying to
10 kind of build, he did say something about that they hadn't
11 built a nexus between whether or not I was actually
12 attempting to run from the warrants and stuff and I do
13 remember him addressing that. And, you know, going through
14 my transcripts, like I said, a lot of the record is the
15 reason why I, you know, chose these issues because these
16 are the things that I seen that they stated that I just
17 went back and researched and it made a lot of sense.

18 Q. And you said the -- you said Robert Bank talked about
19 it, but the issue wasn't preserved. Wasn't preserved, what
20 do you mean by that?

21 A. Well, for appellate review. I had a Anders brief put
22 on me and -- and Susan Hackett pretty much was telling me
23 I don't have no issues preserved, said nothing was objected
24 -- contemporaneously objected to.

25 Q. So this stuff was objected to or talked about by

1 Mr. Bank significantly after the testimony?

2 A. Well, yeah. I mean, I'm not sure if he actually was
3 asking the objection. I think he was somewhat trying to
4 get a ruling from McMahon on whether or not, you know, they
5 were setting the proper foundation. I think at that time
6 he was actually discussing with McMahon about the order in
7 which things should go in and that maybe they should put
8 in Investigator Clarke first. I think a lot that happened
9 was just foundations wasn't being laid properly first and
10 allowed the cart to come in before the horse in a sense and
11 -- and that's how it kind of went.

12 Q. And so you never -- you never found out what the
13 information was that led -- that led them to that house?

14 A. No, and still to this day. And I even went as far as
15 just believing they didn't have no information and I tried
16 to get freedom of information to see if they actually had
17 warrants to track my cell phone. I'm not saying that's
18 what had happened, but what I'm saying is that there was
19 no logical reason and, of course, I'm not a lawyer, but
20 through all my research it states that you have to have
21 some probable cause. I think even the Fourth Amendment in
22 Article 1, Section 10 of the South Carolina Constitution
23 all say that every warrant has to be supported by probable
24 cause and there's nothing in the record that states that
25 they had probable cause to come to that location.

1 Q. Did anybody ever ask them if they -- what their
2 probable cause was to go to that residence?

3 A. No. All they had was information that was undisclosed
4 to me.

5 Q. And ultimately through this information they come to
6 -- all the way down to the inference of flight which infers
7 guilt?

8 A. Right.

9 Q. Okay. Is there anything else on this you want -- you
10 want to talk about?

11 A. Yes. The only thing I just want to put on the record
12 is that that residence was, in fact, a private residence.
13 It was a multi-residence. That the second house that they
14 entered in was -- was a separate residence that they went
15 into. So not only did they come into one residence, came
16 into another.

17 Just one thing I came across is that -- I have to read
18 it. It says a matter of first impression.

19 MR. MATTHEWS: Objection to him reading.

20 BY MR. DERIEG:

21 Q. What are you reading from?

22 A. Well, I'm not gonna read from it. What I was
23 basically just gonna read already was the case law in
24 which --

25 MR. MATTHEWS: Objection to him talking about case

1 law.

2 THE COURT: No, sir. Just your testimony.

3 BY MR. DERIEG:

4 Q. That's my job later on. You just talk about the
5 facts.

6 A. All right. Well, just that I had an expectation of
7 privacy there and that although this was a third-party
8 residence I was welcome there and that it was a complete
9 -- I feel like it was a violation on my rights and their
10 rights -- Fourth Amendment rights.

11 Q. Is there anything to your recollection in the record
12 that establishes the probable cause that they believed they
13 had to go into those residences?

14 A. There's nothing in the record. There's absolutely
15 nothing in the record that says that we think he's -- that
16 said we know he's here in. In fact, from hearing it from
17 outside they was certain that I was in the house and they
18 knew I was there, so, yeah.

19 Q. Okay. Moving onto your point number seven, trial
20 counsel failed to object to the statement permitted to
21 question witnesses regarding Applicant not calling an
22 alibi witness during its case in chief and arguing during
23 closing argument about the alibi witness's absence where
24 the State failed to show the witness was available or under
25 Applicant's control.

1 What can you tell the judge about that?

2 A. There was multiple times Luck Campbell asked witnesses
3 where's T.K. Is T.K. here in the courtroom.

4 Q. And who is T.K.?

5 A. T.K. was an ex-associate of mine.

6 Q. Was his real name Tyrue Ruffin?

7 A. Tyrue Ruffin, yes. He was also the guy -- that name I
8 was -- I was screaming on jail phone calls and I was asking
9 Ms. Diana to get in contact with him. I guess that he
10 became relevant because of that. And being that there is
11 no co-defendant in this record and in this case at all
12 that he became relevant to Luck Campbell and in some shape,
13 form or fashion, I feel like she was making the jury draw
14 an adverse inference that he possibly is, in fact, the
15 co-defendant and that I'm hiding him, and that's -- that's
16 who he is.

17 Q. This issue, when did you first learn about this
18 specific issue in regards to what the State was being
19 permitted to ask questions about when the State failed to
20 show that the witness was available under your control?
21 Who brought this issue to your attention?

22 A. It was Susan. Susan B. Hackett.

23 Q. Who was that?

24 A. That was my appellate attorney.

25 Q. And did she -- did she generate any sort of documents

1 regarding this issue?

2 A. Right. I had -- on my direct appeal, my appellate
3 attorney had filed an Anders brief. In that Anders
4 brief --

5 Q. You say Anders brief?

6 A. Yes, Anders brief. And in that Anders brief, she
7 only addressed that one issue and, you know, there was the
8 missing witness rule and she stated that --

9 Q. And what did you -- what did you say that rule was?

10 A. The missing witness rule --

11 Q. Yes, sir.

12 A. -- violation. And with her constantly mentioning --
13 every time that she kept mentioning T.K. and T.K, there
14 was no objection from the defense attorney until like,
15 I believe, the second or third time and by that time
16 Anastasia asked the judge could he, you know, prohibit.
17 Luck Campbell from saying that again, but it wasn't
18 objected to, so it wasn't preserved. So she just asked --
19 she just asked could Luck Campbell stop saying it and at
20 that time Luck Campbell stated that she could say that, in
21 fact, but she's not gonna say it no more, but as soon as
22 we got into closing she said it again and she had the jury
23 believing that -- well, in my belief I feel like it was
24 burden shifting. I feel like she had the jury believing
25 that -- that T.K. was, in fact, a co-defendant of mine

1 when, in fact, he wasn't even much of a fact witness.

2 Q. Okay. Is there anything else about the missing
3 witness rule that you'd like to tell the judge or do you
4 think that Ms. Hackett's Anders brief pretty much covers --
5 covers it from --

6 A. Yeah, that pretty much covers everything. I do have
7 just a document that's from Anastasia's pre-trial papers.
8 I'm not sure if you have this, but it's dated February 25,
9 2015.

10 Q. Let me see what you're referring to so I can show
11 Mr. Matthews.

12 MR. DERIEG: Let me get this marked for
13 identification purposes. I guess it would be Number 4,
14 if I'm correct.

15 (Plaintiff's Exhibit Number 4 was marked for
16 identification.)

17 BY MR. DERIEG:

18 Q. All right. You're referring to what's been marked as
19 Plaintiff's Exhibit Number 4 for identification purposes.
20 What is that document?

21 A. It just -- it just states that Anastasia was aware
22 that the State was bringing up alibi witness and burden
23 shifting and she recognized it was actually burden shifting
24 and we spoke on that.

25 Q. Were those arguments made in court?

1 A. No.

2 Q. You guys talked about her making those arguments and
3 then they were -- they were never made?

4 A. Well, she -- well, this is her paperwork, so at that
5 time I -- I don't -- I wasn't aware of what burden shifting
6 is. I was aware that the Court -- I mean, that the jury
7 could infer that T.K. was, in fact, maybe a co-defendant or
8 something of that nature in the case because the State said
9 two guys had committed the crime.

10 Q. And when did you -- when did you receive that
11 document, Plaintiff's Number 4?

12 A. When I got to prison.

13 Q. And so you saw when you got to prison handwritten
14 notes from Ms. Anastasia Walker talking about arguing the
15 burden shifting?

16 A. Yes.

17 Q. And were those arguments made in trial?

18 A. No.

19 Q. Was anything preserved for appeal?

20 A. No.

21 Q. Okay. Is there anything else outside of the Anders
22 brief that you want to talk about?

23 A. That's it.

24 Q. All right. Moving onto number eight, trial counsel
25 failed to object to Applicant having to wear shackles and

1 restraints, particularly when the jury was allowed to see
2 Applicant walking past the jury room in the back hall
3 wearing shackles and restraints.

4 Tell the judge about how you came to be in shackles
5 and restraints during the trial.

6 A. In 2012, in October, I had bonded out. I'd been on
7 bond until 2015 when I went to trial. When I get to trial,
8 I'm practically in the elevators with the victims coming
9 to court, and I never once violated at all, and coming to
10 trial I was told that, you know, at the time I was facing
11 99 years or life plus 90, and Luck Campbell after my -- I
12 guess after we swore the jury in, if I'm correct, that's
13 when Luck Campbell said that my bond is now done and they
14 put up an argument with it and Anastasia did tell me that
15 it was gonna come -- we'd take a recess or a break before
16 they stated they were gonna, you know, argue that, that I
17 didn't have anything to really worry about, but Luck
18 Campbell brought up the fact that I had a bench warrant
19 placed on me for a Schmerber hearing. I think I'm
20 pronouncing that right.

21 Q. Schmerber?

22 A. Schmerber. For DNA, DNA testing. And in 2014 they
23 kept sending me mail talking about for -- for the DNA, but
24 they were sending the mail to my brother's address and he
25 worked and he rarely was home, so I guess his wife was

1 disregarding it, so by the time I got a whiff of it, I
2 already had a bench warrant on me. As soon as I got word
3 from Anastasia, I believe she contacted someone, but that
4 very day as soon as she called me, you know, I had -- you
5 know, to bring me up to the courtroom, so we rode up there
6 together and we came to right here on Main Street and I
7 gave them DNA.

8 Q. So how does that relate to you being in shackles and
9 restraints?

10 A. Because she said that based on that -- she said based
11 on the last time I had a bench warrant on me that I had --
12 you know, she basically just said I had a bench warrant on
13 me and I guess Judge McMahon put that as, you know, that
14 was grounds to just revoke my bond and put me in custody.

15 Q. Was -- were there any other reasons for you being
16 shackled during the entire course of the trial other than
17 what you just testified to about the bench warrant?

18 A. No. I didn't even know that would grant me, you know,
19 to be shackled throughout the whole trial, but there was no
20 -- there was no -- no reason about how you say to justify
21 the State's interest of being why I should have been
22 cuffed. I was no threat to the courtroom. I complied with
23 every court date. You know, I was no threat to nobody.

24 Q. Did -- did trial counsel make any motions or ask any
25 questions on cross-examination or any in-camera hearings

1 about the specific reasons why you were being put in
2 shackles?

3 A. No, she didn't.

4 Q. Was there -- was there at least an objection to you
5 having to wear the shackles and restraints?

6 A. No. The only thing I remember her saying is once I
7 -- when I'm at the desk and I keep doing like this and I'm
8 writing, like literally for a couple of days I'm like this,
9 and she's like, you know, keep it down, and by that the
10 jury had been seeing it. I was showing my discomfort. I
11 was like this all day. I've got my laptop bag and so I'm
12 grabbing my laptop bag and writing like this and that's
13 when she asked the Court can they take off at least one of
14 these, so I had this one loose, so now I was able to write
15 like this freehanded, but one time in the back when I was
16 walking to the back I made mention that I seen one of the
17 jurors and they seen me -- like one or two of the jurors
18 and they seen me and then when they come in the courtroom,
19 you know, I'm sitting back like this with my legs, so I'm
20 unconscious of how I'm supposed to carry myself in the
21 courtroom, so I did not know -- I didn't know that I was
22 supposed to hide these. Like they're not supposed to be
23 visible, so.

24 Q. Did your trial counsel ever tell you that you needed
25 to try and keep the -- the shackles and chains invisible?

1 A. Yeah, she eventually told me, you know, keep your feet
2 under the desk so they can't see it, and that's when we
3 made the motion -- well, not a motion. We just asked them
4 could we -- I guess we asked Luck Campbell or whoever was
5 in charge could we take off one of these so I could be able
6 to at least move one arm freely, so at least I could have
7 some type of presumption of innocence.

8 Q. Do you have any violent crimes on your record?

9 A. No.

10 Q. When you were in jail, did you get -- did you get in
11 trouble while you were in jail?

12 A. In county jail?

13 Q. Yeah.

14 A. No, I didn't get in trouble.

15 Q. In between your arrest and your trial, did you have
16 any run-ins with the law?

17 A. I have like a DUS or something like that. I believe
18 I had some type of traffic violation or something like
19 that. I did.

20 Q. But did you have -- were you accused of doing anything
21 violent in between your arrest and your trial?

22 A. No, sir.

23 Q. And other than that bench warrant, did anybody ever
24 require the State to -- or the -- or the judge to
25 specifically articulate the reasons why you were being

1 shackled?

2 A. No.

3 Q. And how often do you think the jury saw you being
4 shackled the day you were in shackles?

5 A. I'm not sure. I was -- I was unconscious. I was
6 oblivious to the fact that I was moving the way I was
7 moving.

8 Q. Well, you're not unconscious like passed out?

9 A. Not unconscious. I just -- I just -- everything was a
10 blur, but I was moving all over the place and I'm talking
11 with them trying to get this and paperwork moving right and
12 left, but I know for a fact I made eye contact a couple of
13 times with jurors and they could see my hands and knew that
14 I was, you know, disabled in a sense with the cuffs on.

15 Q. And did this continue through the entire trial?

16 A. Yes, throughout my whole entire trial I was handcuffed
17 and shackled.

18 Q. Okay. Do you have any anything else you want to tell
19 the judge about this issue before we move on?

20 A. No, that's it.

21 Q. Okay. We'll go to number nine. Trial counsel failed
22 to object to the jury charge of accomplice liability.

23 THE COURT: All right, folks. Let's -- I don't
24 mean to jump ahead, but I mentioned a while ago we'll
25 stop at twelve. We'll be back as we planned or as I

1 decided. If the 1:30 PCR doesn't go, we'll at least
2 hear a motion on that and take care of that one. If it
3 does go, then this one will resume -- this trial will
4 resume at 10:00 in the morning -- or this hearing.

5 MR. DERIEG: So be back at 1:30?

6 THE COURT: Yes, sir.

7 I can't tell you whether this one will go at 1:30
8 or not. That depends on whether the defendant shows up
9 and the other ones show.

10 MR. MATTHEWS: Thank you, Your Honor.

11 MS. WALKER: Your Honor, I do have an issue to come
12 back in the morning. I'm from Greenville. I'm Anastasia
13 Walker. I'm trial counsel.

14 THE COURT: Yes, ma'am.

15 MS. WALKER: Tomorrow morning I have quite a few
16 appointments in Greenville and a hearing.

17 THE COURT: I need you here, ma'am.

18 MS. WALKER: I will say, Your Honor, that I haven't
19 been subpoenaed to be here.

20 THE COURT: Ma'am, all I can tell you is I need
21 you here. I'm not trying to be churlish, but I told
22 Mr. Derieg, he's got other places he's got to be,
23 we've got a lot more PCR's this week. When I start
24 putting lots of gaps between hearings and picking a
25 trial back up, I've lost a lot of visual cues, a lot

1 of my memories fade away. I'm not trying to be hard
2 to deal with, ma'am, but --

3 MS. WALKER: I understand, Your Honor.

4 THE COURT: -- I've got to have you here.

5 If -- if it goes in the morning. I may not.
6 Maybe the 1:30 won't show up and we can finish today.
7 I hope so.

8 MS. WALKER: Thank you, judge.

9 THE COURT: Okay. Please -- please blame me.

10 MS. WALKER: I do not hold it against you or anyone
11 in this room, Your Honor.

12 THE COURT: I get blamed for lot of things, okay?

13 MR. DERIEG: I'll definitely blame you, Judge.

14 THE COURT: That's okay.

15 MR. DERIEG: Absolutely. Or else those magistrate
16 clerks are gonna have my hide.

17 THE COURT: Well, tell them they can blame me, okay?

18 MR. DERIEG: Yes, sir.

19 THE COURT: All right. Thank you-all.

20 MR. DERIEG: Thank you, Judge.

21 (Whereupon, a luncheon recess was taken at
22 12:04 PM.)

23 THE COURT: All right. We will proceed then with
24 Mr. Porterfield and aim to end whether we're done or
25 not around 4:30.

1 So you can come back to the stand, sir.

2 Mr. Porterfield.

3 (Whereupon, the witness resumes the stand.)

4 THE COURT: You remain under oath, Mr. Porterfield.

5 THE WITNESS: Yes, sir.

6 THE COURT: I think, Mr. Derieg, we were about to
7 start number nine. Am I right?

8 MR. DERIEG: Yes, sir. I believe that is correct.
9 Let me pull my notes up real quick.

10 Yes, we were -- we were just starting number nine,
11 Your Honor. You're correct.

12 THE COURT: All right, sir. I'm ready. Proceed.

13 MR. DERIEG: Mr. Porterfield, are you ready?

14 THE WITNESS: Yes.

15 MR. DERIEG: All right. May it please the Court,
16 Your Honor?

17 CONTINUED DIRECT EXAMINATION

18 BY MR. DERIEG:

19 Q. Number nine on your amended application, trial court
20 -- or trial counsel failed to object to the jury charge of
21 accomplice liability. What do you want to tell the judge
22 about that?

23 A. Well, I just feel like that was a charge -- a jury
24 charge that was unsupported by the evidence presented at
25 trial. Well, it was the accomplice liability charge. I

1 haven't been able to come across any information that --
2 that said that any charge like that can be satisfied
3 without at least having an accomplice at a bare minimum.

4 In this case, once again, being as I -- I do still
5 maintain my innocence and I just -- once that charge was
6 read and just looking at the case overall of the hand of
7 one, hand of all, I just don't feel like it was supported
8 by the record where there was no -- at all even been
9 alleged to have been an accomplice at all.

10 Q. Now was the accomplice liability charge a request by
11 the State?

12 A. Yes, it was -- it was requested by, I believe, Luck
13 Campbell.

14 Q. And did your trial counsel object to it at all?

15 A. No. According to the records, no, there's no
16 objection.

17 Q. Okay. Do you recall any testimony at trial that gave
18 evidence that you and another party were acting pursuant
19 to a plan to commit the crimes that you were charged for?

20 A. No, not at all.

21 Q. Was this accomplice ever even identified?

22 A. No. There was nobody other than what I believe Luck
23 Campbell was trying to do with the T.K. thing. Other than
24 that, there was -- there was nothing in the record, so.

25 Q. So essentially would it be -- would it be fair to

1 say that asking for the accomplice liability charge was
2 essentially asking -- or telling the jury they could find
3 you guilty?

4 MR. MATTHEWS: Objection.

5 THE COURT: Sustained.

6 BY MR. DERIEG:

7 Q. To your understanding of the accomplice liability
8 charge and its meaning, what did that tell the jury they
9 could do?

10 MR. MATTHEWS: Objection.

11 THE COURT: Sustained again. Rephrase that
12 somewhat, sir.

13 BY MR. DERIEG:

14 Q. In regards to accomplice liability, what arguments
15 were made on behalf of the State regarding the accomplice
16 liability?

17 A. Well, as far as I can remember it was a theoretical
18 point of view that was made and it kind of fit into what
19 the hand of one hand of all theory is all about, that you
20 can just draw an inference, but the difference is in this
21 case there was no accomplice, there was no co-defendant,
22 it was just me, so to get them to draw -- make a theory
23 of that there is an accomplice, it's kind of burden
24 shifting. It's kind of left to the jury to, you know,
25 draw an adverse inference that there is an accomplice or

1 that I was working, you know, with someone to accomplish
2 some type of illegal act and there's no evidence that tends
3 to prove that there was any -- there was any co-defendant
4 or any accomplice.

5 Q. Was there any -- was there any testimony or any
6 evidence submitted by either side that -- that said that
7 in any way you were acting pursuant to a plan with another
8 person?

9 MR. MATTHEWS: Objection. I believe that's been
10 asked and answered, Your Honor.

11 THE COURT: I think so also. Sustained.

12 BY MR. DERIEG:

13 Q. Okay. Well, is there anything else under -- under
14 this you want to tell the judge about?

15 A. No. I think the only thing -- well, I just seen the
16 pre-trial papers, and I'm not gonna go off it really, I
17 just know that they asked the -- Judge McMahon asked did
18 they want a mere presence charge or something of that
19 nature, which was never read as well, but that would have
20 been totally irrelevant to the whole case being that I
21 still submit that I'd never even been there on the day of
22 the crime.

23 I just wanted to just put on the record that there
24 was never an accomplice and I was never at the crime,
25 so I just don't feel like that there was a reasonable

1 probability that -- with counsel objecting and everything,
2 I would have definitely -- you know, the trial would have
3 definitely been different. The results of that charge if
4 she would have objected to it would have been different if
5 she would have objected to it.

6 Q. Well, you answered my last question. There was --
7 there was no objection to that jury charge by your trial
8 counsel, correct?

9 A. No, there was no objection.

10 Q. Ready to move onto number ten?

11 A. Yes.

12 Q. All right. Number ten. Trial counsel failed to
13 review all discovery with Applicant before trial. Will
14 you tell the judge about the discovery that you were shown
15 prior to the trial and then the discovery that you received
16 after the trial, if any.

17 A. That -- that would be all as far as like evidence?
18 Like can you be clearer on that?

19 Q. What of your Rule 5 discovery motion did you see prior
20 to trial?

21 A. The arrest warrants and mostly everything I got I got
22 when I got to prison.

23 Q. Did you see any witness statements before trial?

24 A. Oh, no, I didn't see any witness statements.

25 Q. Did you see any incident reports before trial?

1 A. No, I didn't see any incident reports.

2 Q. Did you see any phone records before trial?

3 A. No. I think, if I'm honest, she -- it was the day of
4 the crime, the day of the incident, the phone location,
5 cell site location information sheet or whatever like that,
6 I think we -- I think I seen that because I think she --
7 she brought it to my attention, but as far as like
8 statements from the victims and stuff of that nature, I
9 didn't see none of that until I got to prison because
10 that's how I know --

11 Q. What about the statements by the witnesses that were
12 testifying during the defense's case in chief? Did you
13 see their -- their statements prior to trial?

14 A. No, I got them when I got to prison.

15 Q. And, I guess, you somewhat answered this, but when did
16 you get the full -- the full case file of your discovery
17 motion?

18 A. I guess when I got to Kirkland and I put in another
19 motion for a Rule 5 and I -- I got like a packet that had
20 everything in it and that's when I realized -- I realized
21 I ain't known nothing when I was at trial.

22 Q. When you got that packet, how much of it had you
23 already seen?

24 A. I can't even say like five percent of it. Like I just
25 seen -- I didn't see much, if anything. Just, like I said,

1 the arrest warrants. Not much. It was a lot that happened
2 in trial. There was a lot of Rule 5 that had -- I mean,
3 there was a lot of discovery material that was discovered
4 prior to trial.

5 Q. Did you ever ask your trial counsel to review all the
6 discovery with you?

7 A. Well, I -- well, I did ask about the motion about
8 anything -- about the witnesses' statements and stuff of
9 that nature. I believe even when I was told about TK's
10 statements and they was telling me it's irrelevant to call
11 him because all he talks about was the zoo or something
12 of that nature, and some of the other witnesses they'd
13 probably be more relevant, but I wasn't able to see no
14 alibi witnesses' statements, I didn't see TK's statement.
15 I didn't see no statements I don't think.

16 Q. So you were told about some of them, but you didn't
17 get to see any of them?

18 A. Yeah, I was told faintly about some of them, yeah,
19 but it wasn't a full disclosure once I actually seen them.

20 Q. What sort of disadvantage, if any, do you believe that
21 that put you at trial?

22 A. Well, I wasn't prepared. I wasn't prepared with a
23 knowing of what was actually expected or what was actually
24 set in stone before me such as the laptop bag. There's no
25 way, shape, form or fashion possible I would have came to

1 prison -- I mean, came to trial with a black laptop bag
2 knowing that the suspect had a black laptop bag and used it
3 to commit the crime with.

4 Q. Wait. Are you -- are you saying that -- are you
5 saying that you didn't know anything about a laptop bag
6 until it became an issue during trial?

7 A. That's exactly what I'm saying.

8 Q. Okay. That's all the questions I have about -- about
9 this issue. Is there anything additional that you want to
10 tell the judge?

11 A. Not on this issue.

12 Q. All right. Moving onto number eleven. Trial counsel
13 failed to prepare Applicant for his testimony. I think,
14 first, I'd like you to tell the judge sort of how you came
15 to decide that you were gonna testify in the case.

16 A. The phone calls, once they came in, you know, I did
17 tell -- Anastasia came downstairs in the same building and
18 spoke to me about it after -- you know, I think it was when
19 the State was about to rest and asked me if I wanted to
20 testify to kind of put things into a perspective because I
21 was really concerned about how things was going, and I was
22 just asking questions like, you know, I didn't know that
23 could happen and this and the third, and just to tell my
24 side of the story because it was like -- and I can't even
25 say it was coerced or just how it convinced me, but just

1 in the middle of trial you could just tell things took a
2 complete turn from whatever. My preparation, and I don't
3 have the sheet before me, but everything as far as she
4 was telling me prior to trial was, you know, there's no
5 witness, there's no evidence, there's absolutely nothing
6 they have other than the direct testimony of the victims,
7 which I didn't know their statements, or the jail phone
8 calls now which I felt had been turned over. Other than
9 that, before those things, everything else was just
10 completely -- I don't even know why they took it to trial.
11 You shouldn't even be convicted for this. You know, you
12 was at work, had a time card, and so it was more so of do
13 you want to tell your side of the story, I think you can
14 help it pan out, and I was just like --

15 Q. Was that a -- was that a surprise to you?

16 A. Kind of because I didn't want to. I already had
17 incriminated myself enough in a sense.

18 Q. What do you mean?

19 A. Well --

20 Q. With the phone calls?

21 A. Yes, and resisting. I even felt like that wasn't --
22 you know, some of the stuff that had been said could be
23 misleading. However, with the -- with the testifying, you
24 know, I was led to believe that, you know, I can -- I can,
25 you know, put everything in a better perspective, and that

1 did not go right.

2 Q. Well, when the trial -- just prior to trial and when
3 the trial began, did you expect to be testifying on your
4 own behalf?

5 A. Absolutely not, no.

6 Q. How was that decision made?

7 A. It was made upon all the stuff, you know, that
8 was going on at the scene, numerous accounts with no
9 objections, numerous accounts of things being done in
10 the trial. To be honest, with how things was just looking,
11 I felt like I was the only one that could help me at this
12 point. There was nothing -- I felt like I was fighting for
13 my life, and I really was and still am, so I felt like my
14 hands was tied and I just felt like I should because if I
15 didn't, it wouldn't make a lot of sense.

16 Q. Do you feel like you were prepared to testify?

17 A. No, I wasn't.

18 Q. Why is that?

19 A. For one, I didn't -- I didn't know what I was up
20 against and, two, like I didn't -- I never made a
21 statement, so I didn't have nothing to go on. Of course,
22 I'm testifying, but as I'm hearing the stories and the
23 stories unfold of what happened in this crime, I'm just
24 -- I'm free-styling off of what I believed, and in every
25 shape, form and fashion, I wasn't prepare for Luck

1 Campbell. I just -- I just wasn't.

2 Q. Yeah, that's fair.

3 A. I wasn't.

4 Q. Prior to your -- prior to your testimony, had you
5 ever learned that there was no forensic evidence that tied
6 you to the scene of the crime?

7 A. I did find out because -- I did find out. I found out
8 right -- right before trial.

9 Q. Right before trial?

10 A. Yeah, right before trial.

11 Q. And when you were counseled by trial counsel that you
12 probably needed to -- to testify, I guess, to save yourself
13 essentially, how much -- how much time did you have to make
14 that decision?

15 A. A recess.

16 Q. A recess for how long? Ten, fifteen minutes?

17 A. I -- I can't remember the exact how long I waited. It
18 was seven years ago. I just know it was in between going
19 downstairs and her coming to talk to me and having to wait
20 and come back up to make that decision and -- and after --
21 I believe it was a couple of witnesses that went before me
22 and after hearing the State and Solicitor Campbell picking
23 it apart and how it sounded like, you know, it just had
24 everybody confused. I just felt like I would probably be
25 the best candidate to testify for myself to help myself.

1 Q. What specific trial preparation in order to prepare
2 for your testimony was done prior to you testifying?

3 A. I don't know what you mean. You mean like was there
4 any help or --

5 Q. Well, did you or -- or your trial counsel expect that
6 you would need to -- to testify on your own behalf during
7 the trial?

8 A. I mean -- yeah, I mean, I was -- it was -- it was
9 pretty -- it was pretty easy for me to make that decision
10 based upon everything that was going on, but, yeah, it
11 wasn't really being prepared, it was go tell your story,
12 your side of the story, and maybe you can put everything
13 into, you know, a better perspective. That's pretty much
14 the preparation I had.

15 Q. At the time that -- that you testified, had you seen
16 all the discovery yet?

17 MR. MATTHEWS: Your Honor, I believe that's been
18 asked and answered as well.

19 MR. DERIEG: I don't think I asked that one.

20 THE COURT: He's already told us that he saw some
21 when he got his Rule 5 and he said -- he said pretty
22 close to it I saw all the rest of it after I was in
23 prison.

24 MR. DERIEG: I'll rephrase the question, Your Honor.

25 THE COURT: Please.

1 BY MR. DERIEG:

2 Q. Prior to your testimony, what discovery materials had
3 you seen?

4 A. Arrest warrants. I didn't see no statements. I
5 didn't see no --

6 Q. Okay.

7 A. Again, I -- I really hadn't seen much of -- the
8 indictments. I seen the indictments.

9 Q. Indictments and arrest warrants?

10 A. Yeah, and I'm trying to be as accurate as possible,
11 but I know everything I didn't see is pretty much most of
12 everything in my case. That's pretty much all I seen.

13 Q. But you had seen some of the discovery in the State's
14 case in chief, correct?

15 A. What do you mean?

16 Q. Like some of the stuff that you would later get in
17 your discovery, some of that stuff came out during the
18 State's case in chief, right? You were sort of learning
19 as you go?

20 A. Yeah, I was learning as I went.

21 Q. Okay.

22 A. That's -- that was my purpose in bringing the
23 briefcase and paper and pen to trial so I can keep up with
24 the notes of what's going on and what actually happened.

25 Q. Well, that's all I have for this issue. Is there

1 anything else you can tell the judge?

2 A. No. I just -- I just feel like this as well as every
3 other issue there's a reasonable probability at the time
4 for catching errors that the outcome of the trial would
5 have been different.

6 Q. Do you think if you had been more prepared for your
7 testimony that your trial would have like turned out
8 different?

9 A. Definitely.

10 Q. Okay. Moving onto number twelve. Trial counsel
11 failed to ask victims' father and you about your and his
12 prior relationship?

13 A. Right.

14 Q. I guess first explain to the judge what, if any,
15 relationship, personal or business or otherwise, that you
16 had with the father of the alleged victims of this crime.

17 A. Well, I did tell Anastasia about our relationship
18 prior to the incident that occurred -- alleged incident
19 that occurred.

20 Q. And what was that?

21 A. You know, of course, I sell him parts, but he went up
22 there when he was on the stand the fact that I was selling
23 him shell material and broken laptops and that I told him
24 about where I worked and stuff like that, which is all a
25 lie, and -- and I told about our relationship that, you

1 know, not only did I sell him brand new stuff and fresh
2 merchandise, but we also had a personal relationship where
3 he also bought drugs from me and weed, you know what I
4 mean, and being that I was his black friend I have access
5 to, you know, I guess, certain drugs and things of that
6 nature and, of course, when I go to do business we'll, you
7 know, take a shot or so and we'd have Percocet and use
8 cocaine sometimes and, of course, we -- our business, he
9 always knew from the beginning that I was bringing him
10 merchandise and we was always on a don't ask don't tell
11 basis, so him saying he know where I work is inconsistent
12 with how we did business. He never once --

13 Q. And you were bringing him -- bringing him what?

14 A. I was bringing him stolen merchandise. I was bringing
15 him hot merchandise. Him and his son.

16 Q. What kind?

17 A. Stuff that was just coming -- that was coming in from
18 my job and things I would just, you know --

19 Q. Just in -- just in general some of the -- some of the
20 things that --

21 A. Like brand new -- brand new laptops, new game systems.
22 Anything electronic if it was brand new, if it was fresh,
23 if it's re-sellable, what he can do is break it down and
24 re-build or re-shell stuff and put a whole different name
25 or tag on it so that it don't have the identification

1 number. He know how to -- he know how to build and re --
2 he knows how to re-manufacture brand new laptops so it can
3 have an ID number, he can recreate and procreate any kind
4 of gaming system.

5 Q. So this -- this stolen merchandise, would that have
6 come from your job?

7 A. It's a strong chance that everything that he claims
8 had been taken has came from probably.

9 Q. And where did you work again?

10 A. Creative Recycling. Electronic recycling.

11 Q. And what did you-all do there?

12 A. Well, basically that's not like a -- that's not like a
13 -- that's not like a recycling center the way you -- where
14 people come from the streets and you bring stuff and you
15 can get money for. This is like a -- this is a much higher
16 tech place. People don't come off of the streets. We get
17 contracts, so there's no cash, you know. There's no cash,
18 there's no money. You don't get no -- there's no hand
19 over fist type of job. Basically just -- just a quick
20 example, if Midlands Tech wanted to get rid of the science
21 department computers and they're 2008 computers and they
22 want to upgrade to 2020, they'll bring all their computers
23 to us and we'll break them down into wires and, you know,
24 things of that nature, and they'll send them to different
25 places to break them down.

1 Apparently landfills isn't a place where electronics
2 can, you know, be -- what's the word I'm looking for --
3 like disintegrated. It can't be properly broken down, so
4 it comes to facilities like ours. So we get stuff that's
5 broken, old, but we also get stuff that's brand new that
6 maybe had a scratch on it that comes to us, so a lot of
7 stuff that was brand new as management at that job working
8 there for a while I knew how to write some things off and
9 get things to him, so I was -- I think that's how I became
10 relevant to him because I can get, you know, a lot of stuff
11 to him, but --

12 Q. So would you get paid by the victims' -- the victims'
13 father for the stolen goods from your job?

14 A. Yes.

15 Q. And then what would he do with the stuff that he
16 bought from you?

17 A. He'd resell it in his businesses. He'd be selling at
18 the flea market and he'd sell them at the shop.

19 Q. And about how long had this arrangement been going on?

20 A. It's been going on for -- for a while, a couple of
21 months, and, you know, I mean, close to -- well over fifty
22 thousand, but with, of course, other people.

23 Q. \$50,000 or 50,000 pieces of equipment?

24 A. No, fifty thousand cash, but, of course, it was more
25 than that. I think I'm counting really how much I made

1 off of him and that's -- that's the -- the reason why
2 when I was explaining this, there's a couple of people that
3 I introduced him to that he was buying other stuff off of
4 as well, so I'm just saying by myself I made over fifty
5 grand off him.

6 Q. Once you finally saw your -- your complete discovery
7 -- discovery motion, did you see the list of things that
8 the victims' father was claiming was stolen?

9 A. Yes.

10 Q. Were those things that he claimed were stolen similar
11 to the things that -- that you had sold him?

12 A. Similar. I wasn't into PS4 and stuff like that. He
13 wanted the newest models TVs, laptops, digital -- like any
14 kind of entertainment systems or -- I forgot what they're
15 called. Like you put them on the wall. I can't remember
16 the names, but he wanted anything that he -- he could make
17 a couple of grand off of and he would pay a couple of
18 hundred, you know, it would be a markup. If it cost like
19 a thousand, he'd pay like five, six, something like that,
20 and he'd mark the price up.

21 Q. Did you have a financial incentive to keep this
22 relationship going?

23 A. Say that one more time.

24 Q. Did you have a financial incentive to keep this
25 relationship going?

1 A. Yeah, we all did. He was -- he always paid in cash
2 and -- and around the time when allegedly the incident
3 occurred he had -- he was overstocked with everything I
4 could pretty much afford. He said he was looking for some
5 different things at that time, so he was doing different
6 things with different people. But, yeah, I mean, there was
7 nobody else that would come out and pay ten, twelve grand
8 cash.

9 Q. In all, how many pieces of electronic equipment do you
10 think you sold him?

11 A. I'd say approximately in pounds a week -- we went by
12 pounds.

13 Q. Well, in pounds, how much -- how many pounds you do
14 think you sold him?

15 A. Over a couple of hundred.

16 Q. And do you know if he knew that these things were
17 stolen?

18 A. He knew.

19 Q. Did you have any reason to rob -- rob his home
20 business?

21 A. No.

22 Q. That's a -- well, did you -- did you want to testify
23 about that relationship to the jury during your trial?

24 A. Yes, but --

25 Q. And why didn't you?

1 A. Well, she made -- she made some good points, and this
2 was when she was at my house when she actually said this,
3 she said well, it will make you look bad, it will make you
4 look like you actually are into robbery, make you actually
5 look -- you know, it seemed like it was more of a larceny
6 or a breach of trust type thing, but I was explaining the
7 relationship and saying like well, you know, he isn't
8 actually innocent, but it -- the way she kind of presented
9 it made me look like I'm really involved in stuff like
10 this and that I may possibly be guilty of that, so I was
11 kind of convinced not to tell the story of actually -- of
12 our relationship.

13 Q. Well, were there any conversations between you and
14 trial counsel regarding the relationship between you and
15 the victims' father and asking the victims' father on
16 cross-examination about that relationship?

17 A. Yeah, but, once again, it was big on making sure the
18 victims still looked like victims than trying to just paint
19 a picture that I wasn't -- I wasn't, you know, guilty more
20 than trying to show that they were guilty or that he was --
21 you know, had some suspect dealings. I think Robert Bank
22 kind of brought it up little bit, he tried to challenge it
23 a little bit that maybe what the father was doing wasn't
24 so right, and when he did that, you know, Judge McMahon
25 instantly, you know, kind of stopped him from speaking on

1 that, you know, because I think Robert Bank, he kind of
2 tried to say we don't know if his business is legitimate
3 or not because we didn't get to look into his records, and
4 at that time McMahon said, of course, he's got -- this is a
5 place of business, you can have a home business, things of
6 that nature, but at that point it wasn't no real good way
7 to bring in how -- the relationship between me and the
8 father. And I did end up believing like he said if I go
9 up there and get to speaking on how we done drugs together
10 and partied, drank and stuff like that and he'd throw
11 around wads of cash at me and co-workers, and yet that can
12 make me still look guilty, so.

13 Q. Whose -- whose decision was it not to go into the
14 relationship between you and father of the victims?

15 A. It was Anastasia and Robert Bank.

16 Q. In hindsight do you wish you-all had gotten into it?

17 A. Yes.

18 Q. Why?

19 A. I believe it would have -- I believe it would have
20 just put everything into question. It would have put
21 everything into question. I was an open book then, I'm
22 an open book now. I didn't -- I didn't mind putting the
23 truth out there because at that time I didn't commit the
24 crime, so what I did do -- I would much rather had got
25 sentenced for my involvement in what I'd actually been

1 doing. I've admitted that. I even admitted that not only
2 to my supervisor, who was a holier than thou Christian, who
3 felt just completely bad about everything I did, and his
4 distrust, and a lot of that distrust and a lot of that
5 feeling of grief I still deal with to this day because they
6 trusted me, they believed in me. I worked at that company
7 since it opened up and then after that incident they shut
8 the whole company down based upon decisions that I made,
9 so I faced that and I dealt with that, and I felt like if
10 I would have told the truth about me and Nathani's
11 relationship and that fact that his daughters had never
12 been around me and couldn't identify me, they don't know
13 me, I don't know them, if I would have testified to all of
14 this, everything would have been done, I wouldn't be here.
15 I definitely wouldn't be in prison right now with a 30-year
16 sentence over my head.

17 Q. I think that's all the -- the questions I have about
18 this issue. Is there anything else that you want to add?

19 Oh, wait. One more question. What financial
20 incentive, if any, would you have had to rob that business?

21 MR. MATTHEWS: Objection. Asked and answered.

22 THE COURT: I'll allow it, sir.

23 BY MR. DERIEG:

24 Q. I'll repeat. What financial incentive, if any, would
25 you have had to rob that business?

1 A. Absolutely none. Once again, Luck Campbell stated on
2 the record, which I felt like the comment was probably
3 improper, she -- she said that I -- she submitted that I,
4 in fact, robbed that business and then took it to my job
5 to get paid for it. And if you look into Creative
6 Recycling Electronic Facility, that's not a place -- if I
7 would have went there, I wouldn't have gotten nothing
8 there.

9 Q. Would that have been possible -- would that theory
10 that Luck Campbell posed be even possible?

11 A. Absolutely not. It wouldn't have been at all. And
12 I did want to add that the phone -- that phone call, I
13 discussed some of that in that three minutes and forty-five
14 second phone call.

15 Q. To Investigator Martin or Detective Martin?

16 A. And just to be honest, I just recently had sold the
17 victim a .357 pistol, I sold him some cocaine and some
18 other stuff, and in the phone call I was like man, I don't
19 know what's going on, I was asking him about different
20 things, and if that phone call would have came in that
21 would have changed the outcome of the trial as well, so.

22 Q. Were you allowed to testify to any of that?

23 A. I wasn't. I didn't -- I was pretty much banned from
24 talking about that -- stuff like that.

25 Q. Were any questions asked of you by trial counsel that

1 would have allowed you to tell that story?

2 A. No.

3 Q. Okay. That's all I've got unless you have something
4 else for the judge.

5 A. That's it.

6 Q. Okay. We'll get to number thirteen. Trial counsel
7 did not properly investigate this case. In what ways do
8 you -- do you believe that a reasonable attorney in their
9 same position would have done that didn't get done?

10 A. One thing that I asked when we first came, he said he
11 had my cell phone records and that right there kind of --
12 I felt like that was a good thing because they said the
13 victim alleged that I called multiple times, but as soon as
14 they got the cell phone records there's no multiple calls,
15 and I told her there couldn't have been because we don't
16 ever talk like that, so I don't know who he had me confused
17 with, so multiple calls didn't come in.

18 Secondly, I was asking for the cell site location
19 information analysis report, I believe. It kind of pinged
20 off the -- but it was a -- it was a good point she made.
21 She said she kind of -- she said she spoke with someone,
22 I think Watkins, and if you see the forms, she -- it's
23 circled, that was circled by her, and she stated that
24 sometimes the accuracy of the cell site location
25 information isn't always accurate, it could probably ping

1 off another tower, so.

2 Q. And who was telling you this?

3 A. Anastasia.

4 Q. Okay.

5 A. So she was telling me that the cell phone -- my cell
6 phone may could have pinged off another tower, so if we get
7 somebody to come in here and testify and they say something
8 opposite of what we would like for them to say, it can look
9 real bad and -- you know, on my behalf, but for the most
10 part looking at the weight of the rest of the whole case,
11 she's like I think we can, you know, get through without
12 having to go and, you know, find an expert for that, but
13 if need be, I have an expert for that and --

14 Q. Do you know if she ever spoke to that expert about
15 what the cell site records would have shown?

16 A. Well, she did tell me that she had an expert in mind
17 and that she was gonna speak to this expert and that, you
18 know, this expert can possibly potentially come to trial to
19 testify to the cell site location information to see if my
20 phone pinged in any location near the victims' home or
21 residence.

22 Q. Do you know -- do you know who that potential expert
23 was?

24 A. Yes. I gave you some records. His name was Keith
25 Patterson. He's an engineer at AT&T.

1 Q. That was my next question. What was his job?

2 MR. DERIEG: I'll mark this as Plaintiff's Exhibit 5
3 for identification purposes.

4 (Plaintiff's Exhibit Number 5 was marked for
5 identification.)

6 BY MR. DERIEG:

7 Q. I'm showing you now what's listed as Plaintiff's
8 Exhibit 5 for identification purposes, which is sort of an
9 aggregate of several pages. Do you recognize those pages?

10 A. Yes.

11 Q. And what do they show?

12 A. Well, they're --

13 MR. MATTHEWS: I'm gonna object to Mr. Porterfield
14 testifying about what they show. I don't think he's
15 the appropriate witness to do that and it appears that
16 there are some GPS coordinates on this document and I
17 don't think that Mr. Derieg has laid the foundation for
18 Mr. Porterfield to be qualified as a cell phone location
19 expert and I believe you'd have to have somebody come
20 and testify about what these coordinates show because
21 they read 80 degrees by 34 degrees latitude by longitude,
22 I don't know what that is, and I don't -- I think a
23 different witness has to testify about this.

24 MR. DERIEG: Your Honor, I'm not asking him to
25 interpret the first page by any stretch of the

1 imagination. I'm just asking him if he knows what
2 these -- what is contained within the first page. Not
3 his ability to interpret it, but just what it is.

4 MR. MATTHEWS: He did ask what does that first page
5 show. That's a pretty open-ended question.

6 MR. DERIEG: Well, I'll rephrase.

7 BY MR. DERIEG:

8 Q. On this first page, do you know what this document
9 contains?

10 A. It's just -- what I was told is that --

11 MR. MATTHEWS: Your Honor, I don't think this has
12 been authenticated.

13 THE COURT: Sustained. It's not coming in unless
14 somebody is here to do it, Mr. Derieg.

15 MR. DERIEG: Okay.

16 BY MR. DERIEG:

17 Q. To your knowledge, did your trial counsel have a
18 report regarding cell tower locations?

19 A. Yes.

20 Q. To your knowledge, had your trial counsel identified
21 an expert that could come and not only authenticate the --
22 the records, but also interpret them?

23 A. Yes.

24 Q. Who was that witness?

25 A. The witness was Keith Patterson.

1 Q. Was he ever called in your case in chief?

2 A. He was not.

3 Q. Do you have any idea why?

4 A. No, I do not.

5 Q. At any point did you ask your trial counsel to have an
6 expert come and testify regarding the cell tower locations
7 or interpret the cell tower -- the cell tower logs that
8 were in possession of your trial counsel?

9 A. Well, I was under the assumption that the cell phone
10 records were just not coming in because it -- it had no
11 relevance. The only relevance it had was when the victim
12 stated that I called multiple times. Once they got the
13 cell phone records and realized I did not call multiple
14 times, I didn't believe the cell phone records would come
15 in.

16 Q. Well, I'm not -- I'm not referring to cell phone
17 records at this point. I'm referring to the cell tower
18 logs. Did you ever ask that -- ask your trial counsel to
19 have an expert come and interpret the cell tower logs?

20 A. I would say no.

21 Q. Okay. Having identified an expert to interpret these
22 cell tower logs, do you believe trial counsel would have
23 had an opportunity to ask that -- that expert to interpret
24 at least for the defense what these cell tower logs meant?

25 A. I apologize. Can you repeat that?

1 Q. Sure. Being that your trial counsel had the cell
2 tower logs and had identified an expert that could
3 interpret them, was there enough time prior to trial for
4 your trial counsel to have asked for an interpretation of
5 these cell tower logs?

6 MR. MATTHEWS: Objection. Speculation.

7 THE COURT: I'll sustain that.

8 I think, Mr. Derieg, your first question was much
9 more on point. Did he have time to make this request.

10 Did you, sir?

11 THE WITNESS: I can answer that question.

12 THE COURT: Please do.

13 THE WITNESS: Yes, I believe they do. We -- since
14 2012 to 2015, I believe we've had sufficient enough time
15 and we had to postpone the first trial, so I believe it's
16 sufficient enough time. It would have been.

17 BY MR. DERIEG:

18 Q. Do you know if trial counsel ever asked Keith
19 Patterson to interpret the cell tower logs for them?

20 A. I don't know. According to --

21 Q. He was never called to testify or interpret them,
22 right?

23 A. No, he wasn't.

24 Q. Are there any other -- any other things that you
25 believe were are not properly investigated besides the --

1 the cell tower logs?

2 A. Yes. I also asked about -- about like the cameras.

3 Q. Explain that.

4 A. Well, on [REDACTED] -- from Columbia on [REDACTED]
5 next to CompMart was State Farm, to the right was like a
6 car dealer, across the street was a whole plaza and lots
7 of -- a gas station. It's like -- this is in a business
8 district. No cameras. I was asking about cameras. Like
9 no camera popped up nowhere that -- that I was -- you know,
10 anywhere on anybody's radar. As far as the dispatch,
11 dispatch called out from Monticello and [REDACTED] and 26
12 stretched all the way out. I figured if I'm alleged to
13 have come to [REDACTED] at 2:00 in the day and make it to
14 Farrow Road, I would assume in the shortest distance -- the
15 shortest route I could take because Luck Campbell's theory
16 is I had to make it back to work, so I had to take 26, but
17 there should be a substantial amount of cameras through all
18 the restaurants and through all the businesses on [REDACTED]
19 [REDACTED] and I was asking about the investigation into at
20 least one camera on [REDACTED] that would point me out at
21 that time as a suspect on [REDACTED] in broad daylight.

22 Q. Have you had an opportunity to observe the -- the
23 businesses surrounding the incident location?

24 A. When you say observe, what do you mean?

25 Q. Well, could you see any exterior cameras placed on the

1 businesses out -- surrounding the incident location?

2 A. I can't say I remember. It's been quite a few years,
3 it's been seven years to be exact, but I do know that the
4 gas station on the corner, as well as that church right
5 there on -- I believe that's Bush River Road and [REDACTED]
6 [REDACTED] as well as that CVS and a couple of others, I
7 believe they have cameras right in front. Plus it's a
8 plaza. There's literally a plaza right in front of their
9 business. I'm -- I'm just not sure why there wouldn't be
10 a camera somewhere.

11 Q. Do you know if anyone, be it from the State's
12 witnesses or from the defense witnesses and -- and trial
13 counsel, actually tried to attempt to see if there were
14 any video footage of you?

15 A. No. Like I said previous, the only person who did an
16 investigation is now dead.

17 Q. Did he -- did he even try and look at the cameras or
18 see if there were cameras?

19 A. I wasn't able to ask him.

20 Q. So do you know of any investigation that was done
21 regarding exterior cameras that might have picked up the
22 incident location at the time or, I guess, the route that
23 Ms. Campbell said that you would have taken to get back to
24 work?

25 A. Yeah, there was no investigation into none of that.

1 Q. Did you ever -- did you ever ask your trial counsel
2 to see if there were cameras that would have caught you
3 or not caught you on the -- around the incident location
4 and the theorized route that you took back to work for
5 Ms. Campbell?

6 A. I can't say -- I can't say I asked her to, but I do
7 note that I did make mention like there wasn't any. At
8 that time I didn't know what I would need as far as at
9 trial. I didn't know, you know, as far as subpoenas and
10 extra investigations and expert witnesses and stuff. I
11 didn't -- I wasn't familiar with none of that, so I didn't
12 specifically ask her or Robert Bank to go out and look at
13 specific cameras, but I did make mention of these things.

14 Q. That they might be out there?

15 A. Yes.

16 Q. Is there anything else that you feel was -- was not
17 properly investigated by trial counsel? Well, let me ask
18 you this instead. Do you know if trial counsel interviewed
19 the State's witnesses prior to the trial beginning?

20 A. I don't know. I don't know if they did.

21 Q. Have you ever gotten any information to indicate that
22 one way or the other?

23 A. No.

24 Q. Even in the handwritten notes?

25 A. I'm not sure, no.

1 Q. I think that's all I have on -- on this issue unless
2 you've got -- unless you can think of something else that
3 you feel was not properly investigated?

4 A. The only thing that I felt was a failure to
5 investigate was, like I said, the potential for Fourth
6 Amendment violation. Well, just investigating the location
7 of where I told them my house was at, where I lived at on
8 Colonial Drive. I, in fact, had an apartment on Colonial
9 Drive. I'd only been in that apartment two, maybe three
10 months, I could not remember that address, and from that
11 address to [REDACTED] to, you know, where my home was on DMV
12 records, has never been investigated. So when it come to
13 trial Luck Campbell picked it apart saying I don't even
14 know where -- he don't even know where he lives, we don't
15 even know if that's actually where he lived, I felt like
16 some of the areas in which I was lacking could have been
17 investigated a little bit better and would have had -- it
18 would have had me in a much better position.

19 Q. Okay. Anything else?

20 A. That's it.

21 Q. All right. We'll move onto fourteen. Trial counsel
22 failed to object to use of victims' and/or defendant's cell
23 records due to a lack of foundation. What do you want to
24 tell the judge about that?

25 A. Well, instead of -- she told me that the multiple

1 calls, that's the reason why my cell phone has even been
2 implicated in this case. They stated that there was
3 multiple calls placed to the victims. The victims
4 instantly said that was a lie, so my cell phone records
5 ended up becoming irrelevant; however, the cell phone
6 records still came in, but --

7 Q. How did they -- how did they come in?

8 A. They came in through what I believe the assistant
9 attorney general just said, through a lay person, through
10 someone who not the proper party to authenticate the
11 records. They came in through Scott McDonald, which is a
12 captain, Scott McDonald, and Scott McDonald, instead of
13 talking about my cell phone location, instead of talking
14 about multiple calls that were made to the victim, he just
15 -- he just started talking about multiple calls that was
16 made to my home and multiple calls that I possibly could
17 have made and Luck Campbell was making a big thing about
18 my cell phone records that had absolutely -- well, I can't
19 say absolutely nothing to do with it, but he was -- as a
20 lay person, he was saying pretty much the same thing I
21 could have said, and when I look at -- when you look in the
22 transcripts he was stating that I've made plenty of calls
23 all day, all day, but after I studied this for seven years
24 and reading longitudes and latitudes, I still can't -- I'm
25 not an expert for that, but what it does show is that those

1 weren't the calls that was calls that answered.

2 What it is, is any time you call somebody and if you
3 don't answer your phone call, the eight seconds or ten
4 seconds duration of when they was calling you, if you hang
5 up or whatever mechanism you have on your phone, that pops
6 up on your cell phone log as a call that has been attempted
7 to make or something of that nature. So even if somebody
8 called and it went straight to my voicemail, that's where
9 that three seconds comes in, ten seconds or something like
10 that.

11 Scott McDonald testified that I made multiple calls
12 all that day and pretty much now that I think about it, it
13 was nothing really relevant, but I think she was trying to
14 -- she, talking about Luck Campbell, I think she was trying
15 to state that all that day I was just doing a lot, but it
16 had absolutely nothing to do with the fact that multiple
17 calls was alleged to be made to the victim or the cell
18 phone didn't ping at a certain location that put me
19 somewhere, so honestly --

20 Q. Did you say that the -- that the cell phone records
21 from the victims and yourself came in through Scott
22 McDonald?

23 A. That's correct.

24 Q. Where does he work?

25 A. He works at the sheriff's department.

1 Q. He doesn't work for the phone company?

2 A. No.

3 Q. Do you know how he obtained those cell phone records?

4 A. He obtained them through Luck Campbell. I mean, I
5 would assume he obtained them from Luck Campbell because I
6 believe the prosecutors have to subpoena the cell phone
7 records, so for the captain of the sheriff's department
8 to get it, I can only assume that he got it from the
9 prosecutors.

10 Q. Okay. In your legal training as a paralegal and the
11 research that you've done so far, was Scott McDonald the
12 proper person to introduce those records through?

13 MR. MATTHEWS: Objection.

14 THE COURT: Sustained.

15 BY MR. DERIEG:

16 Q. When those cell phone records came in through Scott
17 McDonald, a captain with the sheriff's department, was
18 there any objection from trial counsel?

19 A. There was no objection.

20 Q. No objection?

21 A. No objection.

22 Q. Do you have any idea why there was no objection?

23 A. No, I do not. I -- I honestly don't know why they
24 even came in, but, like I said, I think Luck Campbell was
25 pretty much trying to build a case together and just having

1 him testify to it looking like I was doing something more
2 than -- or less than what I said I was doing, with him just
3 -- like, once again, just making -- getting the jury to
4 draw an adverse inference of what I could possibly be doing
5 that day.

6 Q. And in regards to the cell phone records that came
7 in through Scott McDonald, did Captain McDonald proceed
8 to attempt to interpret those records for the jury?

9 A. He did.

10 Q. At any point during Captain McDonald's testimony,
11 was there ever any testimony regarding his knowledge and
12 ability to interpret cell phone records?

13 A. Well, he didn't say that he -- he did state that he
14 used to -- like I'm not sure exactly. I believe on the day
15 of the crime they had an officer or somebody designated
16 that would look up and research a phone. Investigator
17 Bass, I believe, had explained to Investigator Clarke that
18 somebody in Richland County Sheriff's Department, if a
19 number become relevant in a crime or something, they can
20 take that number and look it up in a database and see how
21 it's relevant to a case. I believe that's his -- that was
22 his in a sense -- I can't say expertise, but he didn't
23 qualify or neither did he put up anything to say that I
24 was an expert in this field.

25 Q. That was my next question. Was he ever offered as an

1 expert in cell phone record interpretation?

2 A. No, he just -- he stated that he just, you know, I
3 guess is the go-to guy in the Richland County Sheriff's
4 Department to just, you know, bring up cell phone records
5 whether they may be relevant or something like that.

6 Q. Do you know which companies those cell phone records
7 came from?

8 A. AT&T. However, on the paperwork it does say something
9 about T-Mobile. I'm not sure that if they -- T-Mobile and
10 AT&T got some type of partnership or something like that,
11 but I know the phone was AT&T records.

12 Q. Whose records came up as T-Mobile?

13 A. Well, no, I'm just talking about the subpoena in
14 the criminal case. It just says to T-Mobile subpoena
15 compliance, but the phone was, in fact, an AT&T carrier.

16 Q. Was there -- were there any witnesses called from the
17 State that worked for the phone carrier?

18 A. No.

19 Q. Did they offer anyone as an expert in interpreting
20 those cell phone records?

21 A. No, just Scott McDonald.

22 Q. Did they offer him as an expert?

23 A. No.

24 Q. No. So there -- there weren't any experts offered?

25 A. Right. I apologize. No.

1 Q. And no -- no objection to the evidence coming in?

2 A. No objections.

3 Q. That's all I've got on fourteen unless you've got
4 something else you want to tell the judge?

5 A. That's it.

6 Q. All right. We'll move to fifteen. Trial counsel
7 failed to adequately prepare defendant's -- or Applicant's
8 witnesses for their testimony. Tell the -- tell the judge
9 why you believe that.

10 A. Like I said, the crime happened -- the incident
11 occurred allegedly in 2012. In 2015 or either -- well,
12 even before that. Let me stop for a second. June 27,
13 2012, is when the crime allegedly happened. I was
14 contacted on July 17th, which was a couple of weeks later,
15 and even to today if you asked me what I did three weeks
16 ago, I -- I wouldn't be able to know unless I looked at
17 Facebook or something like that and checking the post.

18 Q. Do you know what, if any, preparation was done by
19 trial counsel with the witnesses that testified during
20 defendant's case in chief?

21 A. No, I don't. I don't believe -- I don't -- why I
22 don't believe is because some of the witnesses needed
23 their statements to refresh their memory. It was almost
24 three years later, so nobody just remembered what happened,
25 so a lot of people needed a recollection.

1 Q. And did witnesses called during defendant's case in
2 chief ever contradict statements that they may have made
3 prior?

4 A. Yes. Well, no, not that -- not that I remember. I
5 -- I ended up contradicting a statement that one of my
6 witnesses had made and I believed then -- I know that this
7 person had the stories mixed up and the reason why I say
8 that is because on a day to day basis repetitively this --
9 my female friend at that time, Donna, she used to always
10 come and pick me up. I had a DUS and stuff like that and
11 I wasn't driving and -- for a while I wasn't driving to
12 work and she used to drop me off all the time and when -- I
13 guess when you do that all the time people tend to believe
14 that that's a common thing, so that day when she believed
15 she picked me up she actually didn't pick me up. It wasn't
16 on that day. That was actually T.K. and I remember that
17 specifically and -- but she also -- she did come and bring
18 me back to work, so.

19 But as far as statements, you know, she -- she told
20 -- everybody told their statement according to, you know,
21 what they knew or what they believed and they know. I
22 didn't know what they wrote, so only they knew what they
23 wrote, so if they contradicted anything it happened in
24 the -- in the midst of what was going on, so I didn't know
25 until I got the statements and all that in prison.

1 Q. Do you know of any time that the defense -- that trial
2 counsel was forced to give witness statements to the -- to
3 the State?

4 A. No, I didn't know she -- I didn't know she was forced
5 to do that.

6 Q. Okay. Was there to your recollection anything on
7 the record regarding an objection to having to turn over
8 witness statements to the State?

9 A. I believe there was some mention. I can't -- I don't
10 have it in front of me, but I know it might be in the
11 transcripts.

12 Q. To the best of your recollection, was that issue
13 preserved for you to be able to appeal it?

14 A. No, it was not. It was something that I believe
15 happened off the record. I don't know if it was a sidebar
16 or in chambers or something like that, but I know there
17 was something that was discussed because it was already
18 -- I wouldn't say a conflict of interest, but there were
19 already some issues with me not knowing what's being
20 disclosed to the State and why, and I believe that was
21 also one of the issues.

22 Q. When was the -- when was the first time that you heard
23 or saw what defense's witnesses were going to testify to?

24 A. When was the first time I heard or saw, I believe it
25 was that day during the trial.

1 Q. During the trial?

2 A. Yes, during the trial.

3 Q. I don't have anything else on fifteen unless you've
4 got something you want to tell the judge.

5 A. That's it.

6 Q. And sixteen to some degree, we've already talked
7 about. Trial counsel failed to call an expert witness to
8 explain cell tower logs of Applicant's cell phone. Once
9 again, was there an expert that was identified by -- by
10 trial counsel?

11 A. There was.

12 Q. And was he called as a witness on your behalf?

13 A. He was not.

14 Q. Would you have liked for him to have been called?

15 A. Just if they were still gonna put the cell phone
16 records in. I was under the impression that the cell
17 phone -- cell phone records was irrelevant.

18 Q. Well, now we're talking about cell tower logs.

19 A. Cell tower. Well, my bad. The cell tower logs and
20 the only cell phone records is pretty much like one and the
21 same in a sense. They -- like my cell phone records is --
22 is attached to the cell phone logs, so I was just told that
23 it was irrelevant.

24 Q. Did the cell tower logs get introduced into evidence?

25 A. Well, the whole -- the whole form and everything got

1 into the records.

2 Q. And were those cell tower logs --

3 A. Yes.

4 Q. -- on the front of -- the first page of Plaintiff's
5 Number 5 included in that -- in that group of records that
6 you say were given to defense counsel?

7 A. Yes, and just like the attorney general stated, once
8 -- I'm not the proper person to interpret them and if I
9 was just talking about the cell phone records and it was
10 separate from the logs, then maybe I could talk about
11 the cell phone records, but I can't talk about the cell
12 phone records because it's attached to the longitudes
13 and latitudes and things that only an expert can, so for
14 that to come in its entirety I feel like you would need
15 an expert, too.

16 Q. And was an expert ever called to interpret those?

17 A. No, there wasn't.

18 Q. That's all I have on sixteen unless you've got
19 something else you want to tell the judge about the cell
20 tower logs.

21 A. Nothing else about the cell phone towers.

22 Q. I think we're gonna skip seventeen and eighteen as
23 just general statements. Now that -- under the first prong
24 of the Strickland test, you've identified or testified to
25 sixteen different things that you believe were instances of

1 ineffective assistance of counsel?

2 MR. MATTHEWS: Your Honor, I'm gonna object to this
3 question asking him for a legal conclusion.

4 THE COURT: Rephrase the question.

5 BY MR. DERIEG:

6 Q. I'll just start off with one. What prejudice do you
7 believe you suffered for the failure of trial counsel to
8 adequately cross-examine the alleged victims and their
9 fathers -- and their father regarding the prior
10 inconsistent statements?

11 MR. MATTHEWS: Your Honor, I believe he's answered
12 this question on each of the sixteen allegations thus
13 far and this seems like something for summation when
14 Mr. Derieg and I argue about whether he's met the
15 prongs of Strickland. I don't think it's an appropriate
16 question for Mr. Porterfield to answer.

17 THE COURT: Mr. Derieg.

18 MR. DERIEG: I think he can testify to how he
19 believes that -- that he was prejudiced by -- by
20 these things not happening. I think he's testified
21 -- he's testified a couple of times about some of these
22 instances and -- and the prejudice that -- that was --
23 that came from the individual ineffective assistance of
24 counsel items, but in totality I don't think that he
25 has adequately yet testified to any prejudice that he

1 suffered that may have or reasonably --

2 THE COURT: I'll let him in summary form testify.

3 He has gone through sixteen different items now. He's

4 told us every time how it hurt him or prejudiced him.

5 If he wants to sum it up in just a few sentences, that's

6 fine, sir.

7 MR. DERIEG: Okay.

8 THE COURT: We're not going back through all

9 sixteen again.

10 BY MR. DERIEG:

11 Q. Okay. Then on the -- the second -- second prong of

12 Strickland --

13 MR. MATTHEWS: Your Honor, I'd have the same

14 objection.

15 THE COURT: Yes, sir.

16 Go ahead, Mr. Derieg. I'll overrule that to a --

17 to a degree.

18 BY MR. DERIEG:

19 Q. In a -- in a totality of the circumstances summary,

20 how do you feel that you were prejudiced by the -- the

21 sixteen items that we've gone through here today?

22 A. Well, in general, I just feel like there's a

23 reasonable probability that but for counsel's

24 unprofessional errors in this proceeding that what

25 happened wouldn't have with the errors that's surrounding.

1 I -- I do want to put on the record I do -- I did
2 make a mental note that I did mention that on a few issues.
3 There was some I -- I wasn't able to say that with. I
4 didn't -- well, I'm pretty sure I would definitely have
5 to establish record, but I'm definitely claiming and
6 establishing the record, but I feel like that with every
7 issue. And not to walk through every last one of them,
8 but --

9 Q. Just off the top of your head, are there some specific
10 prejudices that you feel you suffered that you haven't
11 testified about?

12 A. Well, mostly what -- what the prosecutors did. There
13 was a lot of comments that was made, there was a lot of
14 suggestiveness, and I remember specifically Luck Campbell
15 during closing said that my time card did not exist. She
16 told the jury that you can't even believe nothing that I
17 say, and the time card actually did exist.

18 Q. Was there any objection to that statement by defense
19 counsel?

20 A. There was no objection. And she greatly -- I mean,
21 not just how I feel, I'm trying not to get into how I feel
22 about the testimony, but just about everything that came
23 from -- it was just a lot of comments that was made that
24 was prejudicial and very much improper.

25 Q. Were there any objections to those prejudicial and

1 improper statements?

2 A. No, there was not. And I feel like overall the fact
3 that I had a five-day long trial and so many issues and so
4 many witnesses not to have one objection preserved for the
5 record is beyond me. I feel like even if cumulatively
6 everything adds up that it just resulted into an unfair
7 trial.

8 Q. Were you prevented from raising issues on appeal due
9 to trial counsel's, I guess, behavior during the trial?

10 A. Yes. Susan B. Hackett literally got tired of me
11 because I was trying to throw so many issues at her.

12 Q. Can you pull that microphone down a little bit so I
13 can hear you? Thanks.

14 A. Yes, I was just saying -- like I said, Susan B.
15 Hackett kind of, you know, told me and my family to stop
16 calling so much because I was telling her about every
17 issue. I wasn't as calm as I was today as I was in 2015.
18 I was very elaborate, had a lot of questions, and I knew
19 a lot had happened during my five-day long trial and I
20 sent a list of all kind of issues that I knew was a just
21 problem and I was told that, you know, none of them was
22 preserved and the missing witness would have to be one that
23 I didn't even think of or was an issue and I think that's
24 the reason why it just made me just want to get into my
25 books personally and just try to figure out what happened

1 and still to this day there's still a lot of unanswered
2 questions and I'm pretty sure that there's a lot I still
3 -- can still raise that I probably just didn't today, but
4 I feel like I've got at least a nice bit of them on the
5 record.

6 Q. Have those sixteen items that -- that we talked about
7 gone the way that you wanted them to as opposed to how they
8 actually happened, do you believe that the outcome would
9 have been different?

10 A. I -- I know the outcome would have been different.

11 Q. And why is that?

12 A. Well, if I don't -- well, even if I don't know, I
13 know that there's a reasonable probability that it would
14 have been different and -- and I believe that's -- that's
15 the biggest hurdle that I have to, you know, get over right
16 now and I think that counsel know that as well. I don't
17 have to speak on that, but what I'm basically getting at
18 is with those multiple statements, with the multiple
19 inconsistencies, with objections, with the things that's
20 been done, there's no way I would have been sentenced to
21 thirty years in prison. There's no way I would have had
22 my life taken from me.

23 Q. And my final question on -- on this issue is what is
24 the -- what is the relief that you are hoping comes from
25 this PCR hearing today?

1 A. Definitely a vacated sentence, you know, a -- you
2 know, a new trial based upon the facts presented and
3 everything I've done.

4 Q. That's -- that's all I've got as far as the summation
5 of the prejudices. Unless you've got anything specific you
6 want to tell the judge, I will -- I will turn it over to --
7 to Mr. Matthews.

8 A. Just one thing. I just want to make sure that -- that
9 all the evidence that I presented, I gave you and presented
10 to the judge at least, be on the record. I don't know
11 everything about the law and it took me a lot to learn a
12 lot of different stuff, but what I do know is that if
13 however I have to go to the Supreme Court with a Federal
14 habeas or anything that there's gonna be a record that
15 speaks for me. It won't be me no more, so I just want
16 everything established for the record.

17 MR. DERIEG: Well, I think this would be a good
18 time, Your Honor, to -- to move that Plaintiff's -- or
19 Plaintiff's Exhibits 1 through 5 be -- be introduced as
20 evidence in this case. I believe that Mr. Porterfield
21 has laid a proper foundation for each of -- each of
22 the five cumulative exhibits to -- to be entered into
23 evidence rather than just for identification so that he
24 can, like he said, preserve -- preserve his record and
25 -- and make sure that all the -- the issues that he

1 has with the assistance of his trial counsel be -- be
2 preserved for potential future hearings.

3 THE COURT: Yes, sir.

4 MR. MATTHEWS: Your Honor, the only objection I
5 have, and I've lost count of his exhibits numbers, is
6 this AT&T document right here. I don't know if that's
7 Number 5.

8 MR. DERIEG: Yeah, it's 5.

9 THE COURT: This is 5.

10 MR. MATTHEWS: I do object to that.

11 THE COURT: This one's not -- this is not going in.

12 MR. MATTHEWS: Okay. The other four exhibits I do
13 not have an objection to.

14 THE COURT: Okay. Those four are in, Mr. Derieg.

15 MR. DERIEG: Your Honor, in terms of Number 5, if
16 the -- if the top page is excised, is the -- the rest of
17 it okay to come in?

18 THE COURT: Not in my view, sir. There's things
19 on here that -- we've got a diagram here, something
20 about a conference call with an AT&T engineer.

21 MR. DERIEG: Well, I believe he -- he testified
22 that his trial counsel had identified an AT&T engineer
23 to -- that was proper to come in and interpret those --

24 THE COURT: She may have identified one, but who's
25 gonna talk -- who's gonna talk about this and what that

1 means? That's why it's not going in. That -- that page
2 isn't going in.

3 Mr. -- let's see here. The second page of
4 Number 5, witness list, role of attorney, what is all
5 of that?

6 THE WITNESS: This is --

7 THE COURT: No, I didn't ask you.

8 THE WITNESS: Okay.

9 THE COURT: That's all right.

10 MR. DERIEG: It's a -- a pre-trial -- essentially
11 pre-trial preparation kind of giving potential witnesses
12 their -- their role in the -- in the case or potential
13 role in the case that was created by defense counsel.

14 THE COURT: Okay. Does the State have any
15 objection to that?

16 MR. MATTHEWS: Your Honor, I think he can enter
17 that when I call defense counsel as a witness. If he'd
18 like to handle that on cross.

19 THE COURT: Okay. Well, for now then page 1 of 5
20 is out. This circle with a line drawn through it is
21 out because I don't -- she may have identified somebody,
22 but I don't know who drew the diagram or what it means
23 and he can't tell us.

24 Then we've got this subpoena in a criminal case.

25 What is that, Mr. Derieg?

1 MR. DERIEG: It's a subpoena of the T-Mobile
2 records that -- that he just -- he just testified to.

3 THE COURT: Well, it's just a subpoena.

4 Any trouble with that from the State?

5 MR. MATTHEWS: Your Honor, I guess I don't know
6 what the relevance of it is. I mean, he can ask trial
7 counsel, Ms. Walker and Mr. Bank, whether -- I'm not
8 gonna make him call Mr. Shealey in here. It looks like
9 Mr. Shealey created this document, but I think he can
10 ask those witnesses whether they prepared the subpoena
11 and for what purpose. I don't know the relevance of it
12 at this point.

13 THE COURT: Well, now didn't we get into something
14 about here tower location data, adjunct tower location
15 data, and then I'm not sure who that -- what it's for.

16 MR. DERIEG: You're not sure what, Your Honor?

17 THE COURT: The last two pages of Number 5.

18 Is that part of the subpoena?

19 MR. DERIEG: Yes, sir, I believe it is. I think
20 it's kind of standard explanations that -- they come
21 along with the --

22 THE COURT: Well, I've already ruled that page 1
23 and the circle with the line through it are out and
24 we'll let -- if it's okay, let somebody else testify
25 about the rest of it in terms of subpoena support.

1 MR. DERIEG: Okay. That's fine.

2 But 1 through 4 are in?

3 THE COURT: Yes, sir. Yes, sir.

4 MR. DERIEG: All right.

5 (Plaintiff's Exhibit Number 1, Discovery
6 Documents; Plaintiff's Exhibit Number 2, Property
7 Research; Plaintiff's Exhibit Number 3, Letter
8 Re: Jail Calls; and Plaintiff's Exhibit Number 4,
9 Trial Notes, were admitted into evidence.)

10 (Discussion off the record regarding scheduling.)

11 THE COURT: All right. We need to take a break
12 right now. We've been going about an hour and a half.
13 We'll be back shortly. About fifteen minutes.

14 MR. DERIEG: Thank you, Your Honor.

15 (Recess taken at 2:58 PM.)

16 (Back on the record at 3:14 PM.)

17 BAILIFF: Remain seated.

18 THE COURT: All right, folks. If you're ready and
19 our target time today is 4:30.

20 MR. MATTHEWS: Yes, sir.

21 THE COURT: Proceed, sir.

22 CROSS-EXAMINATION

23 BY MR. MATTHEWS:

24 Q. Good afternoon. My name is Scott Matthews. I'm with
25 the attorney general's office. I think you said you were

1 an open book, a straight shooter, so I'll try to be open
2 and straight with you, and I won't be as mean as Luck
3 Campbell was.

4 Now you say you go by Amp; is that right?

5 A. I didn't say that.

6 Q. You didn't say it? Nobody -- you've never been called
7 Amp before?

8 A. Yeah, I have.

9 Q. You have been called, but you don't go it?

10 A. Not too much. I mean, that was --

11 THE COURT: Mr. Porterfield, I can't hear a word
12 you're saying. You've got to get closer to that
13 microphone.

14 THE WITNESS: Oh, yes. That was what I went by
15 then.

16 BY MR. MATTHEWS:

17 Q. You did go by that, in fact. So in 2012, that was
18 your nickname?

19 A. Yes.

20 Q. So I can't call you that right now, Amp?

21 A. I'd rather you'd just call me my name.

22 Q. All right. I appreciate it, Mr. Porterfield. I'll
23 call you Mr. Porterfield, all right?

24 Was "Amp" Anthony Markell Porterfield?

25 A. Yes. Yes.

1 Q. And I just want to go over a couple of things with you
2 related to this offense. Now it's my understanding you're
3 here today saying you're innocent of these charges; is that
4 right?

5 A. That's right.

6 Q. Wrong -- wrongfully convicted?

7 A. Right.

8 Q. Okay. And I'm sure Mr. Derieg's explained to you, and
9 you said you wanted a new trial, you would face all these
10 charges all over again, including the burglary first.

11 A. Yeah.

12 Q. Okay. Did you know Gulzar Nathani? Or you called him
13 Nate, right?

14 A. I called him Nate, yes.

15 Q. Okay. So you knew him and you -- actually according
16 to your testimony, you sold drugs to him and gave him
17 stolen goods; is that right?

18 A. Well, not necessarily. I did sell him merchandise and
19 that's what pretty much our relationship was based off of.
20 The extracurricular activity was just something that was
21 occurring in our personal time.

22 Q. So you did -- so you were acquaintances with Nate
23 because you sold him drugs and sold him stolen goods; is
24 that right?

25 A. Primarily stolen goods.

- 1 Q. Primarily stolen goods?
- 2 A. Primarily, yes.
- 3 Q. But occasionally partied with him?
- 4 A. I wouldn't say -- go as far as saying party. We
- 5 wasn't like buddies. Occasionally, like I said, there's
- 6 been times when he wanted things that he couldn't go to
- 7 certain neighborhoods to get.
- 8 Q. Okay. And -- now you said I think you'd been over
- 9 there to his house or that place of business --
- 10 A. Right.
- 11 Q. -- multiple times; is that right?
- 12 A. That's right.
- 13 Q. Okay. And did you know his daughters Rabia and S. N. ?
- 14 A. I knew of them.
- 15 Q. You knew of them?
- 16 A. Yeah.
- 17 Q. So you'd never seen their faces or they'd never seen
- 18 your faces --
- 19 A. No, this is --
- 20 Q. -- your face? I'm sorry.
- 21 A. And we've never been in the same -- this is one thing
- 22 I explained to Anastasia before. I'm not sure if he's
- 23 Islamic, but I will -- and I didn't know a lot of Muslims,
- 24 but I knew his wife used to wear a full -- what do they
- 25 call it -- a hijab and only her eyes being seen. I

1 remember Anastasia asking me do I know who that is over
2 there beside him and I didn't know that was his wife who
3 was fully un-garmented, so his wife is -- I remember only
4 one occasion in all the times I've ever been around his
5 wife was the only female out of his family that walked into
6 the room and, of course, he's high, drinking. He's like I
7 bet you she'll never look at you and he's like she'll never
8 look at you and I be -- I be darned if she didn't look at
9 the floor the whole time. I think in their beliefs women
10 is not allowed around other men and why I say that is
11 because any time I seen his daughters around they was like
12 in the back part of the home -- the residence, and that's
13 it. I never seen them -- never seen them face to face.

14 Q. So -- so but you said you'd never seen them face to
15 face, but they had been around when you were around?

16 A. I wouldn't say like all the time. Like I said, I --
17 I've seen them around. Like I seen them in the back of
18 the residence or the back of the business or something like
19 that. It's never been like in the same room or anything
20 like that. His son's always been right there with us.

21 Q. Did you know him to live anywhere else besides this
22 place, CompMart or whatever you said the sign out front
23 said?

24 A. No, he always said this is his shop. Come to his
25 shop.

1 Q. So he only referenced it as his shop and you never saw
2 a kitchen or any kind of bedrooms there or anything like
3 that the times you went there?

4 A. I didn't even -- I never even knew it had a kitchen.
5 I only -- I only be in the business part. It's always --
6 it's not like it's a big building. It's just that room,
7 that first room. It's a big room.

8 Q. And do you recall -- you said, I believe, earlier on
9 direct examination that nobody ever testified that it was
10 a residence. Do you -- you don't recall the victim saying
11 a TV was stolen from the bedroom in any of the statements
12 or in their testimony?

13 A. I don't believe I said that. Actually I believe I
14 said quite the opposite. There's been numerous times
15 throughout the -- throughout the trial where it was
16 continually speaking as a home-based business, so that's
17 where it probably come from because they were saying that
18 they lived there.

19 Q. That's what they said at trial?

20 A. Yes, so it was -- and even Rabia said that her
21 father did a commercial property, you know, and a home,
22 so it was continuously -- it was always spoken that it
23 was a home-based business, so, yeah.

24 Q. But you -- when you had been over there, you were in
25 the -- the business section?

1 A. Yes.

2 Q. All right. You've raised a good number of claims
3 here to this Court today and I think probably the easiest
4 way to do is it just for me to go through them one by one,
5 so that's what I'm gonna try to do. And I'm not trying
6 to trick you up -- or trip you up or anything, but like
7 you said, you -- you've been thinking about this for
8 seven years now, right?

9 A. I have.

10 Q. And you're glad to finally have your day in court?

11 A. I am.

12 Q. And tell your side of the story like you said. And
13 I haven't been thinking about it for seven years, so if --
14 if I get something wrong, I'm just trying to figure out
15 what your testimony was earlier, so I'm not trying to --
16 to be a jerk and trip you up.

17 So let's go over the first thing. You said that
18 you felt that Ms. Walker and Mr. Bank failed to properly
19 cross-examine the victims and -- which would be Rabia
20 and S.N. [REDACTED], and their father Nate, about their prior
21 inconsistent statements and calling witnesses about those
22 prior inconsistent statements, and my question for you
23 is can you highlight briefly what the -- what your big
24 issues were, the inconsistencies that you felt were most
25 important? I believe you said one of your main -- well,

1 let me ask a better question. One of your main complaints
2 was about the -- the value of the merchandise; is that
3 right?

4 A. Well, one of the main concerns was the fact that the
5 stories was just inconsistent. It wasn't until later on
6 where I seen that -- that was pretty relative to the bigger
7 picture and I think that's pretty significant in any case
8 where you see someone saying that on the day of a crime
9 that a certain amount of merchandise has been taken and
10 then, oh, really it was \$10,000 worth of merchandise that
11 was taken, so it became relative after seeing that the
12 story from the day of the incident to the day right
13 afterward significantly took a turn, so that was --

14 Q. So -- I'm sorry. I interrupted you. Go -- go ahead.

15 A. That was it. I was just saying, you know, that became
16 an issue that I felt was relative to the prior inconsistent
17 statements.

18 Q. So one issue was the value of the goods, but also just
19 the general prior inconsistency of the statements?

20 A. Yes.

21 Q. And then you mentioned another consistency -- or
22 inconsistency was testimony or statements made about a gold
23 Hyundai and was the inconsistency that it wasn't gold or
24 that they didn't say it was a car beforehand?

25 A. Well, I really didn't highlight that point, but I

1 can't say that it was an inconsistency in that statement
2 because they didn't really change up from saying that.
3 Now I remember Luck Campbell or defense was alleging that
4 Nazirah Gale, which is in the case, car was gold in color,
5 which is more like a brown tannish, but wasn't able to
6 really -- the victim just threw out different theories that
7 that possibly had been the one, so I didn't highlight that
8 point. I just highlighted the inconsistencies that I seen
9 on its face, which -- which was on June 27, 2012, and
10 June 28th and, you know, July --

11 Q. And -- I'm sorry. I keep interrupting you.

12 A. That's okay.

13 Q. So the next -- another inconsistency was something
14 about Chick-fil-A and they did say they went to Chick-fil-A
15 earlier and didn't at trial or vice versa?

16 A. Well, they did say it at trial and, you know, I'm not
17 an investigator, but I do have daughters and I just felt
18 that, you know, they would be pretty vivid of what they'd
19 done on the day of or the day after opposed to a month or
20 so after of where they been and where they been at, you
21 know, or what had happened. In the fourth statement, it
22 states that you'd been -- and you know exactly where you
23 been, the chicken sandwich, the pickles, the -- what type
24 of milkshake, that's very specific versus on the day when
25 it's still cold and the fries are still hot and you don't

1 remember it on the day and you was in the house.

2 Q. So you felt like they should have been more specific
3 about what they ordered at Chick-fil-A?

4 A. No, sir. I just feel like -- I feel like on the day
5 of the crime their story was very much inconsistent from
6 what was told the next day, the month after, and so forth.

7 Q. Now this is getting a little bit into a couple of the
8 future issues, but I know it was discussed early on. Luke
9 Shealey was your lawyer originally, right?

10 A. Yes.

11 Q. And he hired somebody named B.G. Watkins?

12 A. Yes.

13 Q. Who died before trial?

14 A. Right.

15 Q. So -- so there was an investigator hired by the public
16 defender's office at least initially in your case, right?

17 A. That's correct.

18 Q. Okay. Now I'll move onto the second one, the burglary
19 first indictment. Now you said that -- and you've talked
20 about -- just now about whether this was a dwelling or a
21 home dwelling or a business dwelling, like a home business,
22 however you want to phrase it, and you acknowledge that
23 your attorney made a directed verdict motion on that issue;
24 is that right?

25 A. That's correct.

1 Q. Okay. So they did say hey, Judge, we should be --
2 have a directed verdict of acquittal because this wasn't a
3 home, it was a business?

4 A. Yes.

5 Q. Okay. So your issue or complaint is that they should
6 have challenged the indictment from the get-go?

7 A. Well, not just the indictment. Based on the charges,
8 I -- you know, I couldn't -- I can't stop what they
9 alleged had happened, so I wasn't really arguing that the
10 indictment or everything should have got thrown out or got
11 acquitted just because it didn't fit the elements. I was
12 basically saying that, you know, it was brought to my
13 attention that hey, there may be some other elements
14 involved in this case and that this wasn't a home, a
15 dwelling, which burglary first tends to point out that it
16 carries a substantial amount of time, and it's a big
17 difference between burglary second and burglary third,
18 which I think her -- the aim was that this was a lesser
19 included offense and there's a possibility that you may
20 get less time if we try to turn this into a burglary
21 second and that made sense once I looked at the statute.
22 So I'm not more so saying that the case should have got --
23 I should have just got acquitted of my whole case because
24 they just failed to establish the fact that this was, in
25 fact, a business, but saying that hey, this was a business

1 and this was a commercial property, in fact, and if it was
2 a dwelling and if that's the case, then so be it, but this
3 is also a business as well, you know, and that should have
4 been at least brought to the Court's attention and --

5 Q. So you don't -- I'm sorry.

6 A. No, go ahead.

7 Q. And you don't think they brought that to the Court's
8 attention during the directed verdict motion?

9 A. According to -- according to what I've learned, I
10 think that they brought it to the attention of the Court,
11 but during directed verdict, if I'm correct, I believe
12 that's when you're asking that the State has failed to
13 reach its burden and being able to prove all the elements
14 of the crime and if you look at burglary second it still
15 talks about a dwelling, so that's kind of inconsistent. If
16 they actually did prove all the elements, I think it's a
17 failure to say that it was alleging that it was a burglary
18 second or third. It's also saying okay, yes, it was a
19 dwelling, we see that it was a home and everything of that
20 nature, but it was also a business. In fact, it was a
21 business.

22 Q. So you felt like it should have been a burglary third
23 under just the building element of burglary third?

24 A. Well, I feel like it should have been challenged
25 according to the pre-trial agreements -- arrangements and

1 preparation. I feel like the fact that it just hadn't been
2 brought up. It's not saying that I feel like I should have
3 a second or a third. I don't want none of these charges,
4 so I just feel like my counsel should have done that and
5 they didn't. I feel like it would have been -- the judge
6 was more likely to give me a lesser included offense than
7 acquit me. I feel like that.

8 Q. Well, I'm glad you mentioned that you didn't want
9 any of these charges because I believe you made the comment
10 earlier when discussing this with Mr. Derieg that you said
11 not that it would have helped, and that was in reference
12 to challenging the burglary first indictment. You didn't
13 raise any issues about kidnapping or armed robbery. You
14 realized that the burglary -- whatever happened with the
15 burglary first indictment, those charges, the armed robbery
16 and kidnapping, those were gonna stay the same, right?

17 A. Not necessarily.

18 Q. So you feel like those should have been challenged,
19 too?

20 A. Well, the reason why I challenged -- well, I sought to
21 challenge the burglary first is because that was something
22 Anastasia brought to my attention. It was also something
23 also documented in pre-trial and plus we spoke on these
24 things. As far as the armed robbery, like I said, I'm not
25 as skilled and well versed as you are, but I know that in

1 armed robbery someone can just allege to have a weapon and
2 I can't -- I can't really say that this indictment should
3 be quashed or I should be acquitted of something or -- you
4 know, it's an allegation, so whether it was --

5 Q. And that was the allegation, right, at trial?

6 A. That was --

7 Q. That they had a weapon?

8 A. That -- yes.

9 Q. This person, the black male -- or two black males
10 robbed with a -- with a weapon, right?

11 A. Correct. So for that reason I don't see -- I don't
12 see challenging of an indictment to armed robbery to have
13 been helpful or -- you know, that would have been helpful,
14 neither the kidnapping, because I didn't know the story.

15 Q. I understand.

16 A. So I just felt like burglary first was the one to
17 challenge because it spoke specifically of certain elements
18 that I realized through the transcript and through, like I
19 said, prior preparation arrangements that it was something
20 -- there was something there, so that's the reason I'm
21 challenging that one.

22 Q. Now moving onto the third issue, failure to object to
23 the foundation for the jail phone calls, and that -- you're
24 complaining about Mr. Waters', Robert Waters' testimony,
25 but from your testimony on direct and at trial you're not

1 contesting that was your voice speaking with Diana on the
2 phone, are you?

3 A. No.

4 Q. Okay. So those were phone calls. You just didn't
5 like how the State went about getting them?

6 A. It's not that I didn't like it. One thing I've --
7 I've realized about the law is some things need to be laid
8 -- certain things have to have a proper foundation, and
9 this is not my own interpretation of the law, but according
10 to the Rule 901 he was talking about authentication and
11 identification and came across some information where
12 things have to be authenticated if they can't -- if the
13 person who identified it cannot authenticate who that
14 person actually is and according to Rule 901 it shows that
15 he wasn't the proper party to authenticate based on the
16 fact that, like I said, he just don't know me. He only can
17 identify the calls as coming from Alvin S. Glenn Detention
18 Center and with all the research and all due respect it
19 seems to make a lot more sense because, you know --

20 Q. But you admitted, Mr. Porterfield, on both direct and
21 cross-examination it was your voice on the phone calls, so
22 there's no question about that, right?

23 A. No.

24 Q. No question about that. All right. Now you knew
25 those phone calls were being recorded, didn't you?

1 A. Yes.

2 Q. Okay. Because they say -- there's a voice, and you
3 don't have to quote it, but it says you're being recorded
4 right now; is that right?

5 A. Right.

6 Q. Now you said also that trial counsel didn't object to
7 the admission of phone calls. Are you saying they didn't
8 object at all or they just didn't object under Rule 901
9 like you wanted?

10 A. Well, they didn't object at all. They tried -- well,
11 they put up a motion up. They went to suppress -- put a
12 motion in to suppress the jail phone calls, so I think if
13 we -- not think, but we went through like a little -- I'm
14 not sure exactly what it's called, but a little --

15 Q. A pre-trial hearing maybe?

16 A. Yeah, a pre-trial hearing-type thing where we was
17 trying to get the jail phone calls suppressed and they
18 found that pretty much difficult and with Luck Campbell
19 and Robert Bank trying to articulate how we should address
20 these jail phone calls because there's so much prejudicial
21 stuff in them, it became complicated. So they ended up
22 conforming to, I believe, Rule 106, to kind of just put
23 them in, to go with the calls that Luck Campbell and Meghan
24 Walker wanted to put in.

25 Q. Now I know you've done some legal education and legal

1 training while you've been in prison.

2 A. Very little.

3 Q. Very little. I understand. But do you ever recall
4 your attorneys when the phone calls were placed and subject
5 to our prior objections? Do you recall that?

6 A. Say that one more time.

7 Q. When the phone calls were moved to be admitted, do you
8 recall your lawyer saying subject to our prior objections?
9 And if you don't remember, that's fine. I'm just asking.
10 In other words, you-all had already talked about it and
11 made some objections to it.

12 A. Well, I don't think the objection that was made was
13 preserved either. I think -- and when I -- and I know --
14 I think I'm familiar with what you're referring to, but I
15 remember -- I remember Robert Bank is the one who was
16 talking about the jail phone calls.

17 Q. And it's okay if you don't remember. I can ask him
18 about it when he comes up to testify.

19 A. But I remember it happening and I remember them
20 talking about objecting to it previously, but it wasn't
21 really nothing that was preserved.

22 Q. Now about the phone calls themselves, you said that
23 you thought they were incriminating; is that right?

24 A. Well, I felt some -- I felt some did mislead -- was
25 misleading and if you didn't know who I am or what I'm

1 saying or the words that I'm speaking, it could tend to
2 say something else, especially the way Luck Campbell
3 spinned it. It tended to work in -- in whatever she --
4 like she wanted it.

5 Q. So -- and I know, and I don't -- I think I'm use --
6 using your words here. You mentioned that your slang or
7 your ebonics, and I don't mean that intentionally, but I
8 think that's the word you used earlier, you said maybe
9 that was misinterpreted by the jury, but -- so you're
10 saying you are innocent, but you felt that these phone
11 calls were incriminating; is that right?

12 A. I am innocent, in fact, but the -- the statements the
13 way they was -- yeah, I just felt like they just wasn't
14 the best thing anybody could say in a criminal case. I --

15 Q. Now do you remember your lawyer basically arguing for
16 the -- they admitted two phone calls you said. I mean, so
17 the State admitted three and your lawyer admitted two to
18 add some context to it; is that right?

19 A. Yeah, but they were completely chopped up, redacted.

20 Q. Yeah, redacted to keep other things out, right? Well,
21 maybe that's not a fair question. Do you recall your
22 lawyer arguing in closing hey, these aren't incriminating,
23 they're -- he's just calling Diana to figure out, you know,
24 who can help him out in this situation? Because that's
25 what you're saying that you were doing, right?

1 A. I remember them arguing that, but by that time it's
2 like you couldn't cure what the jury had heard. There was
3 already too much prejudice. The statements alone by
4 itself, the way they came in, and that's pretty what I'm
5 arguing, how it came in and who it came in by, not what
6 they did afterwards because there was really no curative
7 to cure what the jury already had heard.

8 Q. Now speaking of slang terms, you said that -- I
9 believe the term "them" in all caps was mentioned. That's
10 your music label, right?

11 A. Well, that's something between me and T.K. The
12 Highest Elevated Music. We made a couple of different
13 acronyms for it. We joked about it. It was something that
14 was between us, it's an inside thing. For lack of better
15 words, I was just using whatever I felt would compel him to
16 at least talk to the investigator.

17 Q. And do you recall Luck Campbell or Meghan Walker
18 describing that part of it, tell T.K. this is for "them"
19 in closing?

20 A. Right. It was -- they was alleging that I was
21 manufacturing my witnesses and trying to get them to lie
22 for me and stuff of that nature.

23 Q. Now moving onto the fourth issue about how the State
24 obtained -- now she's not your fiancée anymore; is that
25 right? Diana Addison?

1 A. That's right.

2 Q. Okay. But you didn't like how they obtained her --
3 are you saying your attorneys gave her phone number to the
4 State?

5 A. Well, first and foremost, we've done everything to
6 see if there was any other way they could have and it
7 just seemed impossible. At that time at Alvin S. Glenn
8 Detention Center, I think even Robert Waters had spoke on
9 it briefly, that there was two systems. In 2012 there was
10 a system in which you had to have a cell phone number or
11 any number that was called. Now at SCDC and in pretty much
12 every judicial system now, they have a PIN number that you
13 put in and you can put in your number, the inmate number.
14 At that time, that system didn't -- wasn't in existence.
15 At that time, you had to have the number of who you feel
16 had been called, and so in Alvin S. Glenn at that time the
17 only numbers that they had was numbers that was connected
18 to my DMV record and anything that was in old kind of jobs
19 and stuff. So they had my mother's number and I think my
20 brother's or something, that's not an issue, but long story
21 short nothing had came, up and when we spoke, we gave her
22 that number, Diana's number, and days later 247 phone
23 calls popped up.

24 Q. Now moving onto the fifth issue -- I don't have any
25 other questions for you on that issue -- about the laptop

1 bag. Now this was -- you said that you weren't aware
2 before trial that the defendant or the assailant had a
3 laptop bag --

4 A. Right.

5 Q. -- and you had your laptop bag with you. And it was
6 just a plain black laptop bag?

7 A. It was a laptop bag. It was a -- it was just like
8 black vinyl, just a regular black --

9 Q. It didn't -- did it have like bright sparkly letters
10 on it that said this is Amp's laptop bag or --

11 A. It wasn't even mine.

12 Q. Okay. You just had it as a -- as a storage --

13 A. Yeah, I -- yeah.

14 Q. Was it something like this? I managed to -- I locked
15 it on my chair. Was it something like this, just a plain
16 black laptop bag?

17 A. Something similar.

18 Q. Luckily my co-counsel, Mr. Barlow, brought his laptop
19 bag. So there was no identifying characteristics on it
20 that said, you know, this is Amp's or matched any testimony
21 that was given about what the laptop bag looked like? It
22 was just a plain black bag?

23 A. Yes.

24 Q. Okay. Now you said when Luck Campbell was asking
25 about it, that the questions she asked were not all

1 recorded in the transcript. Do you recall that?

2 A. Yes.

3 Q. So you're saying that there were some additional more
4 nefarious questions she was asking that the court reporter
5 didn't pick up on?

6 A. Yes.

7 Q. What -- what kind of things was she saying the court
8 reporter didn't record?

9 A. I wrote a letter in 2016 specifically stating because
10 if I state right now it will just be free-styling off what
11 I kind of remember, but I remember my letter specifically
12 that I wrote in 2016 to the court reporters and in 2015. I
13 only have the ones from 2016 though. Letters specifically
14 stating exactly what she said. But if I had to, you know,
15 just go off the top of my memory she spent some time, a
16 little minute, asking the -- Investigator Clarke is this,
17 in fact, the bag that the victims said that the defendant
18 had produced a handgun out of and he said yes, that's the
19 one right there, and she said does it look like this, is
20 this the one, and she kept repeating that over and over and
21 all the while while she was asking him she was holding it
22 up high in the air and walking around, turning around in
23 circles to explain it to the jury.

24 Q. Now you're complaining that Ms. Walker, your attorney,
25 or Mr. Bank, they didn't object to her doing that, but then

1 you did say later that they attempted to, you know, say
2 something about it on closing and Judge McMahon shouted her
3 down for it; is that right?

4 A. Yeah, I'm assuming that was her trial strategy when
5 she told me to just hold on or whatever like that, but --

6 Q. So you think she made a strategic decision not to
7 object to it at that point?

8 A. I'm not sure if that was strategic. I'm just saying
9 that that's what -- that was -- I guess assumed that was
10 her tactic and it didn't seem to work.

11 Q. In other words, she -- she had a plan, it just didn't
12 work out the way she wanted it to?

13 A. I'd say that --

14 Q. From your viewpoint?

15 A. No, absolutely not. At that time, at that given
16 time, I, along with my family and pretty much everyone up
17 to right now wish there was an objection, something that
18 would have been definitely preserved or even ask for a
19 mistrial. I mean, I didn't know law and I still -- like
20 I said, I'm not as well educated as you-all, but to enter
21 into evidence during trial, she literally picked it up and
22 said and is this pretty much the armed robbery, kidnapping,
23 burglary merchandise that he'd been using with him when he
24 committed the crime and it just came in with no objection
25 in front of the jury during trial.

1 Q. Who lived -- moving onto the next issue, who lived at
2 [REDACTED] Street? Am I saying that right?

3 A. Nobody say that right. [REDACTED] Street.

4 Q. [REDACTED] Street. All right. Who lived there? You
5 said it was a female.

6 A. A female and male. A friend Jarell Nunez and his --
7 his lady, Kelly Dunlap.

8 Q. Jarell Nunez?

9 A. Yes.

10 Q. Okay. So Jarell Nunez lived there and you said you
11 went there. Now Investigator Clarke had called you the day
12 before, right, and said can you meet with me and you said
13 no, right?

14 A. That's not how I said it, but --

15 Q. Well, I mean, you -- you declined to meet with him?

16 A. Eventually I declined, yes.

17 Q. Okay. And then you had been at work earlier that day,
18 but left work to go to lunch or you just left work early?

19 A. On July 17th, the day they caught me?

20 Q. The day you got arrested.

21 A. Oh, yeah. I was on a lunch break. That -- that was
22 in my normal course of business that we always go to lunch
23 at 12 noon. At Creative Recycling we had three lunch
24 breaks. We worked in a factory, so we'd break at 8:00 --
25 10:00 for 15 minutes, 12:00, thirty minutes, and 2:00,

1 fifteen minutes.

2 Q. Now were you eating lunch over there at Lu -- I'm
3 gonna mess it up.

4 A. [REDACTED]

5 Q. [REDACTED] Street. Were you eating lunch over there?

6 A. No.

7 Q. Why -- why were you over there during your lunch
8 break?

9 A. I didn't go there for my lunch break.

10 Q. Okay.

11 A. I went there after I got called and was told SWAT was
12 at the place.

13 Q. Okay. So you were on your lunch break and then your
14 co-workers called you and said SWAT is here and then you
15 went to [REDACTED] Street?

16 A. No, I went to my apartment first.

17 Q. Okay. When --

18 A. It's on Colonial Drive, which is just a couple of
19 blocks away from [REDACTED] Street.

20 Q. Now do you think it's possible any of your co-workers
21 knew about your friend at [REDACTED] Street or told police
22 that's where you might be?

23 A. Well, my brother -- my biological brother, Sampson
24 Wise, is the one who dropped me off at my apartment. I cut
25 my cell phone off prior to getting those phone calls, so I

1 made it -- I did that purposely because my brother isn't
2 what we call so street or whatever the case may be, so I
3 knew that's he's gonna definitely tell whatever truth that
4 he remembered, which he did, so when he got back to the
5 job, they asked where I was and he told them exactly where
6 I was, but I wasn't there.

7 Q. Oh, so then your brother told them that you were at
8 [REDACTED] Street?

9 A. Not the police.

10 Q. Not the police. Who did he tell?

11 A. According to the records and anything else, there was
12 no records indicating that he did or that anybody did.

13 Q. Okay. Well, I'm -- I'm trying to ask you not what
14 was testified to at trial, but your personal knowledge.
15 So your brother told the police that you -- or told -- what
16 did he tell them as far as you know?

17 A. Well, he -- he completely -- he didn't tell the cops
18 anything. He -- by the time he got to the job, they were
19 already gone.

20 Q. So he worked with you at the job?

21 A. Uh-huh.

22 Q. He dropped you off at [REDACTED] Street and then drove
23 back to the job site?

24 A. Yeah. What I was referring to, which I put my foot
25 in my own mouth, is talking to co-workers. By the time

1 my brother got back to work from dropping me off, he was
2 already rushed. On our lunch break, it says fifteen
3 minutes. Unless we drive around the corner to Shamrock,
4 which is off Shakespeare, by the time we're coming back to
5 work we've probably got roughly maybe five minute, but he
6 went out of his way to take me home and then come back to
7 work. By the time he gets to work the SWAT or whatever is
8 already in route to wherever they got the information from.

9 Q. And, Mr. Porterfield, you mentioned -- part of your
10 sixth issue here today is that you feel there were Fourth
11 Amendment violations in your arrest and I know you're not
12 as -- I don't know, a highly trained legal scholar, maybe
13 more than most people, but what -- what is the evidence
14 that was seized from you when you were arrested that you
15 think should have been suppressed?

16 A. Me.

17 Q. Was there any evidence taken off of you when you were
18 arrested that you feel like should be suppressed as a
19 result of a Fourth Amendment violation?

20 A. Me. And maybe I'm just throwing something out there,
21 but I thought the Court's, once again, constitutional
22 rights, is that every person's affected, things of that
23 nature, and I'm a person.

24 Q. Yeah, you're a person, sure, but did you have any,
25 you know, documents on you or anything incriminating that

1 they took when they arrested you that you think shouldn't
2 have come in?

3 A. No. And I wasn't really even arguing that. It was
4 nothing other than myself in that I was somewhere with
5 an expectation of privacy and that I was somewhere that
6 was undisclosed. I'm not saying that because I was
7 somewhere undisclosed that I should not be able to be
8 located, but how I was located minus no probable cause or
9 no information valuable to say -- or reliable to say that
10 I was at the specific location talking we're about.

11 Q. Now considering police had a warrant for you, you
12 don't think they would have found you eventually?

13 A. Well, considering that Investigator Clarke called me
14 for the very first time July 17th, three weeks from --
15 three weeks after the crime and reached me the exact same
16 day, I'm pretty sure if he would have told me that I had --
17 he had warrants for my arrest and that I need to come in
18 now, I would have came instead of having him come to my
19 job, especially coming to a friend's house. So if I would
20 have knew that, I definitely would have went a different
21 way.

22 Q. Now you mentioned you thought your brother wasn't very
23 wise in the streets. Is that what you said about him?

24 A. I mean -- well, I'm just saying like --

25 Q. Street-wise. Maybe I'm saying that wrong.

1 A. Innocence, yeah.

2 Q. Do you think there's anybody from your circle of
3 friends or associates that might have known you were at
4 [REDACTED] Street?

5 A. Nobody knew I was there. Like --

6 Q. Well, the people there knew.

7 A. Well, I mean -- well, nobody associated with me
8 outside of the people that was there knew I was there.

9 Q. So you didn't tell anybody when you left work I'm
10 going to [REDACTED] Street?

11 A. When I left work, I was going to get some hot dogs and
12 fries. They thought I was just going to get lunch, so when
13 we get the call, the only person I was with was my brother,
14 and -- and just to put it on the record, that's still my
15 brother, so that's --

16 Q. Who is? I'm sorry. Did I interrupt you?

17 A. No, that's okay.

18 Q. Okay. Moving onto the seventh issue, who is T.K.?

19 A. T.K. is Tyrue Ruffin. He's an associate of mine. Was
20 a good friend at one time. There's no bad blood, but at
21 times like he was a roommate, he lived with me, he worked
22 at the job. Like I said, I was in management, so I've been
23 able to get -- help quite a few friends, relatives and
24 stuff like that a job.

25 Q. Now do you recall at the trial -- how would you

1 describe T.K.? You said he was a friend and kind of an
2 ex-friend?

3 A. Yeah.

4 Q. Did you describe him at trial as being like a brother?

5 A. Kind of. I probably did. I can't say I -- I remember
6 exactly how I referenced him in trial.

7 Q. So if you said T.K. was like a best friend, a brother
8 and stuff like that, he was a good friend to me, does that
9 sound like something you would have said?

10 A. Yeah, ball park.

11 Q. And as far as this -- you said your attorneys did not
12 object to Luck Campbell burden shifting by saying hey, they
13 didn't call T.K. Was that your testimony, they did not
14 make an objection to that?

15 A. Yeah. I mean, after she questioned witnesses and I
16 can't word for word verbatim say exactly how she did it,
17 but, you know, there's no accomplice in this -- in this
18 case, so with her constantly asking people well, where's
19 T.K., where's T.K., have you seen T.K. in here today, it --
20 it made the jury, you know, consider like maybe T.K. is
21 that missing element and, you know, they heard about T.K.
22 through the jail phone calls before we even decided to even
23 put up a defense, so.

24 Q. Now would you -- now so you're saying just to get
25 your testimony clear, is that your recollection is that

1 your attorneys, either Mr. Bank or Ms. Walker, never made
2 an objection about burden shifting in that regard?

3 A. They never made -- in that regard, they never made an
4 objection about Solicitor Luck Campbell saying about the --
5 T.K., about mentioning T.K. What Anastasia did do was
6 after -- I'm not sure, it was either the second or third
7 witness or something, she did ask Judge McMahon could she
8 get Luck Campbell to stop saying that and Luck Campbell
9 said that she could -- she said she'll look into some cases
10 to see if she could say that, but she said she'll -- she'll
11 stop saying it, you know, just because she don't -- you
12 know, I can't use her words, but she said she would stop
13 saying it, but in closing she ended up saying it again.

14 Q. Okay. So -- and, again, we're -- we use legal terms
15 of art in here and things like objection and things like
16 that and whether you characterize it as an objection, you
17 do acknowledge Ms. Walker asked Judge McMahon to stop Luck
18 Campbell from doing that; is that right?

19 A. Yes, but it wasn't an objection.

20 Q. Okay. She didn't say objection, we -- she can't do
21 that?

22 A. Well, I -- I thought that during trial as my defense
23 attorney if the State was to do something that wasn't
24 right it's her job to object and she failed to object,
25 and I believe in South Carolina, you've got to also

1 contemporaneously object. So there was no objection.

2 She just asked the judge could he -- could he, you know,
3 forbid her to stop doing something that is a prejudice
4 to me.

5 Q. Now speaking of contemporaneous objections, now you
6 did file a direct appeal through Susan B. Hackett; is that
7 right?

8 A. That's correct.

9 Q. With the Commission on Indigent Defense. And you're
10 not a lawyer, so I don't expect you to know the -- do you
11 know what an Anders brief is? Anders versus California?

12 A. I do.

13 Q. And that was -- to your knowledge, that was filed in
14 that case?

15 A. That was.

16 Q. Okay. But there's -- do you know what issue she
17 appealed under the Anders brief?

18 A. Yes.

19 Q. Wasn't it the burden shifting issue?

20 A. Yes.

21 Q. Okay. So that was, in fact, appealed to the Court of
22 Appeals in an Anders brief?

23 A. But I'm not sure if it was actually and not to get
24 into case law or anything like that --

25 Q. Sure.

1 A. -- but I was under the assumption that when you do an
2 Anders brief that according to Anders versus California
3 that the Court -- somebody has to file at least one issue
4 in regard to something that they feel like stood out the
5 most and I think on the appellate what she was trying to do
6 was state that judge -- the judge allowed Solicitor Luck
7 Campbell to keep doing that, so she was addressing it as
8 that was a trial court error --

9 Q. Sure.

10 A. -- and saying that even if it was preserved or not,
11 that was like some type of fraud upon the court or
12 something like that for the judge to allow Luck Campbell
13 to keep questioning a witness in such a manner. I'm
14 addressing it that my counsel still failed to object and
15 -- and that it still prejudiced me. So even though she
16 raised that issue, when I go back through my trial
17 transcripts, it wasn't preserved then either, so it's
18 almost as if Susan didn't see no issue in the record so
19 she just went for the issues she felt were still a trial
20 court error.

21 Q. And, Mr. Porterfield, honestly I -- I compliment you.
22 That was a very articulate explanation of the difference
23 between a direct appeal and a PCR, and I mean that, I'm
24 being serious about that, but you are correct in that
25 regard.

1 Now moving on to the eighth issue, you say that the
2 issue of you wearing shackles that was never objected to
3 by your trial attorney. Do you recall that being your
4 testimony? Do you recall -- would you like to see the
5 record to refresh your recollection on that point?

6 A. I -- I would, but what's the question that you asked
7 me again?

8 Q. The issue regarding your shackles on. You said my
9 trial attorneys never objected to this.

10 A. Yeah, they never objected. I don't know how I ended
11 up in shackles. Now I know how -- I know how I ended up
12 getting my -- getting revoked and getting sent to Alvin S.
13 Glenn during trial.

14 Q. Sure. Well, again, we might be talking semantics
15 here, but whether it was phrased as an objection or a
16 question to Judge McMahon, do you ever recall her asking
17 Judge McMahon can you take his shackles off before he
18 testifies?

19 A. Before I testified?

20 Q. Yes.

21 A. I didn't testify until my fourth day of trial.

22 Q. Okay.

23 A. And so what I'm saying is that four days before that
24 on Monday I'm dressed in shackles throughout my entire
25 trial and there was no objection and from everything that

1 I've learned, that -- that just robbed me of my presumption
2 of innocence.

3 Q. And you said you thought the jurors saw you and that's
4 -- did you bring that to your trial attorney's attention?
5 Say hey, that juror just saw me or do you -- I mean, did a
6 juror say oh and point to your shackles or are you just --
7 you think they saw you?

8 A. I don't -- I don't think, I know a juror seen me. I
9 was how I am now. I was literally at my table still trying
10 to figure out this case with my papers in front of me the
11 same way and I was writing like this the whole time. So
12 the whole time it was, you know what I'm saying, Anastasia
13 was like this and she was keep your feet under the table
14 and I was like what am I doing wrong? Like you-all got
15 me in shackles, that's how I'm supposed to be, and so the
16 whole time the jury did. So there was times that I'm
17 looking at them, you know, and I'm just like --

18 Q. And do you -- I'm sorry. I interrupted you again.
19 do you recall whether Judge McMahon allowed you to go to
20 the witness stand before the jury came in?

21 A. It wasn't more so allowed. What it was is Anastasia
22 was asking hey, can we finally take his cuffs off him, can
23 we take his cuffs off, can he at least look like he's
24 innocent walking to the stand like every other witness did
25 in this case, and they was like no, we want to make sure

1 that he -- as a matter of fact, Luck Campbell said what we
2 have them do is we have them walk around when the jury is
3 out and -- and -- and get on the stand prior to the jury
4 coming in, but in -- but even then, you know, I think
5 Anastasia did say, you know, can we get the cop to back up
6 a little bit because at the point of me getting on the
7 stand, they had me come -- you know, shimmy my way to the
8 stand, get on the stand and then have an officer in front
9 of me as if I'm some Hannibal Lecter or something. So they
10 -- they had me sit down, you know, when the jury come in,
11 but the courtroom -- what do they say? The courtroom
12 decorum changed when they came in. They already seen me
13 sitting down and plus, like I said, I'm ignorant to the law
14 and what's going on, so I'm sitting all the way back with
15 my legs like this -- like this when they're walking past
16 me.

17 Q. So were you -- so like we are right now, there's not
18 a jury here, but you were sitting on the witness stand when
19 the jury came in?

20 A. Right.

21 Q. Okay. So you think that while you were sitting on the
22 witness stand they may have happened to look over and see
23 you?

24 A. I know because I -- I didn't scoot up until the judge
25 said scoot up and when Knox McMahon said scoot up a little

1 bit, you know, and, like I said, due to the fact that my
2 shackles is not even supposed to be seen and due to the
3 fact I wasn't even supposed to be in them.

4 Q. I'm gonna move onto the ninth issue, Mr. Porterfield.
5 Accomplice liability. Now I understand you're denying
6 that you had any involvement in this, but you were here
7 for the trial listening to testimony. Don't -- wasn't the
8 testimony there were two black males there?

9 A. Yes.

10 Q. So there's not -- there was never an allegation it
11 was just one guy there, it was always an allegation of two
12 black males; is that right?

13 A. That's correct.

14 Q. All right. Moving onto the tenth issue, you said that
15 your lawyers failed to review discovery with you before
16 trial. Did you not -- did you never discuss with them the
17 fact that you had alibi witnesses? I mean, how did they --
18 how did they know about your alibi witnesses if you didn't
19 tell them about them?

20 A. Investigator B.G. Watkins.

21 Q. And these alibi witnesses, I'm gonna get their names
22 wrong I'm sure, but they were -- they had some nicknames.
23 One of them's name was Crip; is that right?

24 A. Yeah, Aaron Griffin.

25 Q. Aaron Griffin. That was your boss at Creative

1 Recycling?

2 A. Yes.

3 Q. And I do not remember the name -- nickname of the
4 other one, but you had Aaron Griffin.

5 A. Adrian DeBerry.

6 Q. Adrian DeBerry. Thank you.

7 A. Bongo.

8 Q. Akeem Cofield?

9 A. Yeah, that's Black.

10 Q. And then, I guess, to extent Nazirah Gale; is that
11 right?

12 A. Yes.

13 Q. Now is it your testimony you didn't know what they
14 were gonna say? You -- I think you testified earlier that
15 you didn't go over their statements, the statements they
16 made before trial. You didn't know what they were gonna
17 say about where you were that day?

18 A. No.

19 Q. Okay. So it was only because of the investigator that
20 your lawyers knew about alibi witnesses. You never said
21 hey, look, I've got an alibi witness?

22 A. No.

23 Q. All right. So you -- why did you never tell your
24 lawyers that you had alibi witnesses? I mean, that was
25 part of the trial strategy, wasn't it?

1 A. I'm not sure if he's -- like I said, I'm not sure if
2 he's actually pressing that. What I'm saying is I didn't
3 know that they asked me all of those -- any of those had
4 made statements. I remember asking about T.K. I didn't
5 see the statements and I heard about them through her. She
6 told me that there were some people that made statements in
7 my behalf. I later was told through Anastasia that look,
8 told B.G. Watkins said we got some -- some stuff in here
9 for you, you've got some people that wrote statements in
10 your behalf, but I never seen their statements.

11 Q. Well, I think we might be talking past each other.

12 A. Okay.

13 Q. You didn't know that -- I mean, you knew where you
14 were that day, right --

15 A. Right.

16 Q. -- on June 27, 2012?

17 A. (Nods head.)

18 Q. So you knew whether you had contact with Nazirah Gale
19 that day, right?

20 A. Right.

21 Q. And you knew whether you had contact with Adrian
22 DeBerry?

23 A. Right.

24 Q. And you knew whether you had contact with Akeem
25 Cofield?

1 A. Right.

2 Q. And with Aaron Griffin?

3 A. Right.

4 Q. So you knew those people could tell the jury I --
5 that I didn't do this, I wasn't there? Like that wasn't a
6 surprise to you, was it?

7 A. Well, I told the investigator, B.G. Watkins, where I
8 worked and he went to my job and, just to be clear, I had
9 about ten other co-workers.

10 Q. Sure. Yeah.

11 A. There was actually another co-worker who wrote a
12 statement, too, Calvin, and -- and from later on learning
13 that a lot of co-workers didn't even want to talk to the
14 cops, but they also seen me that day, too. There was a lot
15 of us in the break room, so I didn't know who wrote in my
16 behalf, so I was thankful that they did because a lot of
17 people, especially -- especially where we come from
18 sometimes people don't want to write no statements and get
19 on the stand for nobody, so that's -- that's a big thing.

20 Q. You're talking about --

21 A. Yeah.

22 Q. -- people being mistrustful of the police?

23 A. Well, not -- not just that. Just the co-workers and
24 a crime happened, nobody really wanted to come and testify
25 on my behalf, especially if I didn't like -- because I

1 wasn't cool with all of my co-workers, so I couldn't -- I
2 couldn't depend --

3 Q. You didn't know if they would be down to come to come
4 to court?

5 A. I didn't know -- I didn't know who was down to come to
6 court for me.

7 Q. But that was -- I mean, did you ever discuss strategy
8 at trial? Did you-all talk about how you were gonna call
9 an expert about cross -- cross-racial identification? Did
10 any --

11 A. Yes. We did talk about that, yeah.

12 Q. And is it your testimony that you never talked with
13 your lawyers saying oh, yeah, we're also gonna present an
14 alibi defense? Was that a surprise to you or no?

15 A. No. No, she told me about we was gonna -- we was
16 gonna present an alibi defense, yes.

17 Q. Okay. And she -- and you knew that your friends --
18 or some of your co-workers were gonna be called, but your
19 testimony and what you're complaining about on PCR is that
20 you didn't have the statements beforehand?

21 A. Well, yeah, not just the statements because even if I
22 was just told about what they spoke about, it could have --
23 at least I'd been prepared, but --

24 Q. What was -- I'm sorry. Go ahead.

25 A. I'm just saying nothing was -- nothing was spoken on

1 in depth of what any of them spoke on, except for T.K., and
2 the only thing I got from T.K. is that, you know, he's
3 found irrelevant, he's talking about going to the zoo and
4 stuff of that nature, but later on finding out once I got
5 to prison that it made sense why Luck Campbell said I've
6 got to stick to the script and --

7 Q. What was -- what was bad about the statement?

8 A. What was bad about which statement?

9 Q. Well, your alibi statements. Did any of them say you
10 don't have an alibi? I mean, why -- why was it significant
11 to you and you think it would have made a difference in
12 your trial if you had read the alibi statements beforehand
13 assuming that's true?

14 A. Well, I don't think that's -- I don't think that's --
15 just to be quite clear, I don't think that's what I raised
16 the issue for. I was basically saying that I was just --
17 I was failed to prepare. I just wasn't prepared for trial.
18 I'm not sure how it would have made a difference, but I can
19 say there's a reasonable probability that multiple times
20 -- that there's strong possibility that the proceeding
21 might have been different.

22 Q. Well, that's what I'm asking you, Mr. Porterfield,
23 because I haven't dealt with this for seven years and I
24 wasn't there at the trial.

25 A. Right.

1 Q. But what it is about the -- didn't the alibi
2 statements help you out? Wasn't that part of your case to
3 the jury to raise reasonable doubt?

4 A. Well -- well, it did, but I think it would have been
5 -- it would have been a little bit different if we would
6 strategize a little bit different because I didn't know
7 what Nazirah Gale had --

8 Q. Do you think she was gonna say something bad because
9 you-all weren't on good terms?

10 A. No. No, actually I appreciate everything she said,
11 but it's that -- that one thing when she thought she came
12 to pick me up that made my statement contradict and that's
13 why the jury charge came out that prior inconsistent
14 statements on us -- on me because I literally went up there
15 after Nazirah Gale -- by getting them to tell their story,
16 I went up there and told a different story against my own
17 witness in which I was really just trying to -- just trying
18 to bring light to the truth.

19 Q. So you think there was an inconsistency between your
20 testimony and Nazirah Gale's testimony that hurt you?

21 A. I believe that if I would have knew about it instead
22 of saying T.K. -- not bringing T.K. to court and a
23 colleague telling Nazirah Gale not to testify probably
24 would have been a better strategy, but I left that up to
25 trial counsel and I didn't know what to testify to, so.

1 Q. Now I'm glad you brought up your testimony and your
2 -- telling your side of the story because that's the next
3 issue, number eleven. Now it's your testimony today to
4 Mr. Derieg that you did not prepare with your defense
5 counsel for the fact that you might testify?

6 A. Right.

7 Q. And you did what? Decided that on a moment's notice,
8 a minute's notice? How did that go down?

9 A. I can't say -- for me it felt like moments. I can't
10 say just minutes because I don't know how long. It was
11 long days in court --

12 Q. Sure.

13 A. -- and you can imagine I went from being with my
14 family to being in cuffs and being in Alvin S. Glenn not
15 being able to talk to nobody during this whole entire
16 trial. So I can't -- I can't say exactly how long between
17 them, but what I do know is that I wasn't prepared. I was
18 just listening to everything happening in court and note
19 while I'm learning as I go and all these multiple things
20 happening from the laptop bag to being chained up in cuffs
21 and learning everything as I go, so I -- I just knew that
22 at that time I just felt real compelled to come and tell my
23 own story after that. Anastasia's like, you know, you --
24 maybe you can put everything in a better perspective, so I
25 wasn't prepared.

1 Q. Now your trial occurred in late February of 2015; is
2 that right?

3 A. That's correct.

4 Q. And somewhere around -- I believe it started
5 February 25th, around that date. Now you said it was
6 continued two weeks prior to that, I believe, on
7 February 9th because the State had dumped the phone calls
8 on your defense team at the last minute. Does that ring
9 a bell to you?

10 A. Yes. I believe it was -- I believe there was a
11 couple of other factors into why we postponed, but that
12 was definitely one of the causes for that.

13 Q. Okay. So, yeah, that's what I'm asking about is the
14 phone calls. So for two weeks prior to that you knew that
15 the State had these phone calls where you were making
16 various statements that you thought might be incriminating;
17 is that right?

18 A. I'm not sure. I can agree that, yes, it was about a
19 week or two.

20 Q. So you knew about the phone calls a week or two
21 beforehand?

22 A. Yes.

23 Q. And you said it was the phone calls -- earlier when
24 Mr. Derieg was asking you questions, it was the phone calls
25 that made you feel like you had to testify?

1 A. Not -- not the phone calls alone. There was a lot
2 -- as you can see, there was a lot that was done that
3 felt -- that made me compelled to just say maybe I should
4 speak up, there's a lot that's going on in this trial
5 throughout this week, but the phone calls definitely stood
6 out as something in which I have to explain, especially
7 when they're saying T.K. and the jury hearing, that it
8 seemed like somebody wanted to hear from me or either T.K.

9 Q. And during that two weeks from February 9th to
10 February 25th or so, it's your testimony your defense team
11 never prepared you for the possibility you might have to
12 testify?

13 A. No. Not at all, no.

14 Q. Moving onto the twelfth issue, you candidly admitted,
15 and I applaud you for your candor, that you're a drug -- or
16 used to be a drug dealer when you were no longer -- when
17 you were on the streets; is that right?

18 A. No.

19 Q. You never sold drugs? You never said you sold drugs
20 to Nate?

21 A. No, I never said that. I -- well, I wouldn't say I
22 sold drugs. What I would say is that I used drugs and I
23 know people that have had drugs and that I helped make
24 purchases and stuff of that nature; not to say that I was
25 the supplier or, you know, anything of that nature, that I

1 was just -- just a drug man or something.

2 Q. Did you not testify earlier that you sold cocaine on
3 one occasion to Nate?

4 A. Yeah. I mean, I helped him get -- I mean, if you want
5 to classify that as, you know --

6 Q. Well, I don't want to put words in your mouth. I
7 mean, you -- you're the one that testified, so I'm just
8 trying to make sure I got it right. And that you were
9 bringing Nate stolen merchandise; is that right?

10 A. Right.

11 Q. And that some of the merchandise at Creative Recycling
12 was stolen and you -- you knew about, right?

13 A. You said that the merchandise at Creative Recycling
14 was stolen?

15 Q. Yeah, I think you said earlier that -- that Nate paid
16 you or knew about this arrangement because you -- some of
17 the things that were taken to Creative Recycling were
18 stolen.

19 A. No.

20 Q. I might have that wrong.

21 A. I'm pretty sure you were right because you had it
22 right up until a point. The stuff at --

23 Q. So which part did I have right? That you did sell
24 stolen goods?

25 A. Yes.

1 Q. Okay. So you stole -- sold stolen goods. Now the
2 question was posed to you earlier about whether you would
3 want the jury to know that and you said Anastasia made
4 some good points about why maybe the jury shouldn't hear
5 that. Do you recall that testimony?

6 A. Yes, there was a couple of different things that
7 just didn't make sense. It wasn't just that. It was the
8 totality of our whole relationship with the business and
9 -- you know, and personal. It just seemed as if it would
10 look worse, it would look more incriminating on me to look
11 like a --

12 Q. Like a thief?

13 A. -- like a drug dealer, a thief and everything else
14 that could have been, so it seemed as if, yeah, I probably
15 -- I probably did do that, so.

16 Q. So you think that in a trial where you were on trial
17 for having allegedly stolen from Nate and his family that
18 it would be a good idea for the jury to hear that you had
19 sold him stolen items before?

20 A. I think it would be a good idea to establish the
21 truth when we're looking for justice. I feel like we'll
22 be hiding too much stuff.

23 Q. So you thought maybe the jury should -- you should
24 tell it all and they should know you're a thief and a drug
25 dealer?

1 A. Yes. Why not? I mean, because at the end of the day
2 if that's what I would have got charged for I wouldn't be
3 in prison for thirty years.

4 Q. Now some of these last couple of issues, and I think
5 we're gonna finish today with you, I thank you for your
6 testimony so far, they kind of blend in together. One is
7 that Mr. Derieg -- or you, through your attorney, say that
8 your attorneys failed to investigate and there were some
9 questions kind of under number thirteen and number sixteen
10 that kind of blend together about cell phone site location
11 and you said that you wanted -- you wanted some kind of
12 cell phone expert to come in and say that your cell phone
13 showed, what, that you weren't near the scene of the crime
14 on the day?

15 A. Well, I can't say that's what I wanted because in
16 2015 I'm not sure exactly what I wanted or needed as far
17 as the cell phone records. I was told specifically that
18 the victim said I called him multiple times, but that the
19 records indicate I did not, so the cell phone records and
20 the cell phone is completely out.

21 Q. And weren't they -- weren't the cell phone records
22 actually Nate's cell phone records that were entered in
23 through Scott McDonald and then they asked Nate about his
24 cell phone records -- or rather McDonald about how many
25 times you called Nate through Nate's cell phone records?

1 Does that ring a bell?

2 A. That's inaccurate. The paperwork I gave you is the
3 paperwork that had come in during trial. That was my cell
4 phone records, which is 803-629-8172. That's the one that
5 Scott McDonald was talking about.

6 Q. So he was talking about -- it's your testimony he was
7 talking about your cell phone records, not Nate's cell
8 phone records?

9 A. He was talking about my cell phone records and how
10 many calls I was making, how many calls come in, but not
11 to the longitudes and latitudes of where my phone's been
12 at and definitely about the multiple calls that was made to
13 Nate, so it was my cell phone records.

14 Q. Okay. So you said -- so I'm just trying to get to
15 what was deficient about counsel's representation in not
16 calling those witnesses.

17 A. Right.

18 Q. And your -- your testimony is well, it was just
19 general inconsistencies you wanted them to see about Nate
20 and Scott McDonald's testimony, not so much that you wanted
21 to prove that you were somewhere else at the time of the
22 crime?

23 A. No. The issue is that counsel told me that we didn't
24 need the -- well, she first told me that -- that we would
25 have an expert witness come in to testify to the cell phone

1 records, which in the records it shows Keith Patterson,
2 the AT&T engineer and things of that nature, and that she
3 was gonna contact if needed; however, I guess, he was not
4 needed, but then the cell phone records came in. And so
5 what I'm basically saying is that counsel was ineffective
6 for failing to at least call an expert once they realized
7 that Scott McDonald was gonna come in and testify to what I
8 couldn't testify to earlier, which he couldn't authenticate
9 those same records as well. So Scott McDonald testified to
10 the cell phone records that an expert would need to be
11 called for.

12 Q. Well, I'm glad you got into whether these were needed
13 and the reason I asked you questions about what you wanted
14 the cell phone records to show is because you had an alibi
15 defense; is that right? I mean, we've talked about that
16 already.

17 A. Right.

18 Q. You called witnesses to say hey, Anthony was not -- he
19 was at work at the time?

20 A. Right.

21 Q. And then you called an expert -- or a witness, Crip,
22 and I'm blanking on his name right now. What was Crip's
23 name?

24 A. Aaron Griffin.

25 Q. Aaron Griffin to say hey, look, here's his time card,

1 this is where he was, so effectively didn't your attorneys
2 present that evidence to the jury that you weren't -- that
3 you were at work during the time of the -- alleged time
4 of the offense? Didn't they present evidence that said
5 that?

6 A. Yeah, and Luck Campbell also said that it didn't
7 exist.

8 Q. Well, I'm sure she argued against, you know, whether
9 it's credible or not because I think it was handwritten,
10 wasn't it?

11 A. No, that's incorrect.

12 Q. The time card wasn't handwritten?

13 A. I thought I brought a copy for you-all to get. The
14 time card actually had three stamps and we discussed this
15 and I believe it's also in Aaron Griffin's testimony. This
16 is a fairly new corporation or company, so we didn't have
17 a hi-tech system, we had the old Fred Flintstone kind of
18 ancient thing and stamps.

19 Q. Well, I think that's what I mean by handwritten. So
20 it wasn't, you know, printed electronically or anything
21 like that?

22 A. Well, it's different because on one slot he actually
23 did have it written and this was something that was
24 happening in the normal course of business, but sometimes
25 when we stamp it the ink or whatever don't go down or

1 doesn't whatever, so it was -- it wasn't handwritten fully,
2 it was --

3 Q. I see.

4 A. -- it was made by a machine and there was one spot
5 where he had to write in the time I came back in, so.

6 Q. I got you.

7 A. All right.

8 Q. And I don't want to beat a dead horse here, but just
9 to emphasize again or to clarify, did you want the cell
10 phone expert to say hey, these cell phone towers prove I
11 wasn't -- or I was in place A versus place B or are you
12 saying that you just wanted a cell phone expert to impeach
13 what Scott McDonald had already said?

14 A. I think I just wanted effective counsel. I think
15 that's it. I'm not sure as -- I think that's as a -- as a
16 layman, as a client, I went in there. I don't know law. I
17 didn't know law then, I know some law now, but I know that
18 I just wanted effective counsel at that time.

19 Q. Sure.

20 A. If counsel seen that something had came into play
21 where they wasn't gonna use an expert, but now somebody
22 wants to bring in certain forms or certain papers, hey,
23 I think it's time to bring this expert in.

24 Q. Well, that's -- I guess that's what I'm trying to get
25 at, Mr. Porterfield.

1 A. I'm not trying to say that I feel like she should have
2 had an expert, but I feel that when you brought in someone
3 who's not an expert to testify to something that only an
4 expert can testify to and we have an expert readily at
5 hand, then maybe we should call that expert in to testify
6 to what he shouldn't have been able to testify to or at
7 least object to Scott McDonald testifying to something he
8 wasn't the proper party to authenticate the records.

9 Q. And that was because you felt he shouldn't have been
10 allowed to testify about how many times you called Nate or
11 vice versa?

12 A. Well, I didn't call many times Nate. It's not more so
13 myself. I think it's just by what the records indicated.
14 The records indicated he spoke for several -- the records
15 indicated that I did not call multiple times and that's
16 what the victim said on the day of the crime, which is
17 inconsistent with what actually he stated in trial. So
18 there was almost no reason or no relevancy for the phone
19 calls to come in other than to produce some type of
20 confusion or prejudice.

21 Q. I think I'm just about at the end, Mr. Porterfield.

22 A. Okay.

23 Q. My -- I think my last question or group of questions
24 is gonna deal with allegation number fifteen. You said
25 that counsel failed to adequately prepare your witnesses.

1 What was your complaint with your witnesses? Did they do a
2 bad job on the stand? Were they ill prepared? Do you
3 think they -- they didn't help you out? I mean, they --
4 what was your complaint about them that you felt -- or why
5 did you feel like they weren't prepared?

6 A. All this in a sense it just seemed an ambush. They
7 wasn't prepared. They came to trial. They -- I didn't
8 want to go back on history, but, like I said, the crime
9 happened a couple of weeks -- I wasn't notified -- I wasn't
10 notified until a couple of weeks after the crime and by the
11 time they all individually got investigated by Investigator
12 Clarke, it's been months, weeks after. So by that time
13 everybody was going off their memory bank and they going
14 off their time cards or their Facebook timeline or whatever
15 the -- whatever the case it is to try to remember the
16 date and hey, I remember this date, and it all added up.
17 However, some had some things that was -- you know, that
18 was a little inconsistent, so I feel like by the time two,
19 almost three years later coming to trial, you know, nobody
20 -- nobody knew, you know, all those things to remember and
21 everybody got different lives and different habits and
22 whatever the case may be, so nobody was in their -- nobody
23 walked around with their statement for two, three years
24 remembering exactly what they said. So when it came to
25 coming to trial, some people had to literally put the paper

1 in front of them just so they can remember what they said,
2 and I feel like if -- if they was prepared or at least
3 been like hey, you know, you're my client's witness, I
4 want you to look over your statement, not knowing if
5 that's illegal or not, I don't know if it is, but I felt
6 like that would have been proper preparation for them to
7 at least acknowledge what you actually said years ago.

8 Q. Didn't one of them fly in from Florida?

9 A. That was Aaron Griffin, yes.

10 Q. Aaron Griffin. So that was -- is that Crip?

11 A. That's -- yes.

12 Q. So he's pretty important to getting the time card in
13 evidence?

14 A. Right.

15 Q. And your lawyers got him to come all the way from
16 Florida?

17 A. Yes. Um -- okay.

18 Q. Hold on just a moment.

19 (Discussion between counsel.)

20 MR. MATTHEWS: Thank you, Mr. Porterfield, for
21 answering my questions. Your attorney might have a few
22 more questions on redirect.

23 THE COURT: Mr. Derieg.

24 MR. DERIEG: Very briefly, Your Honor.

25 THE COURT: That's fine.

1 REDIRECT EXAMINATION

2 BY MR. DERIEG:

3 Q. I believe -- I believe on -- on cross-examination
4 Mr. Matthews asked you if you -- if you actually knew the
5 victims and I think your -- your answer to him was that
6 you'd never been in the same room with them prior --

7 A. Right.

8 Q. -- prior to the trial?

9 A. Right.

10 Q. Could you have recognized them or picked them out of
11 a lineup? Like did -- the times that you said you saw them
12 in passing, like how well did you see them?

13 A. Barely. I couldn't recognize them when I was in the
14 elevator with them on my first day of trial.

15 Q. That's fair enough.

16 A. They didn't recognize me either because we -- I
17 literally -- like we were all right there in the elevator
18 at the same time.

19 Q. So they didn't -- they didn't react to the person that
20 they said had committed this armed robbery, burglary and
21 kidnapping being in the same elevator with them?

22 A. No.

23 Q. You were talking about some -- I believe in -- in
24 response to some of the questions about the phone calls
25 from Mr. Matthews, you said that some of the calls were

1 incriminating because of the spin put on them by Luck
2 Campbell. Is that -- did you -- or when you were asked by
3 Mr. Matthews about you feeling like the phone calls made
4 you feel the need to -- to testify, was that -- that spin
5 that was put on by Ms. Campbell what led you to feel like
6 you needed to testify about those calls and what they
7 actually meant?

8 A. Yes, that was part of the reason why -- compelled me
9 to get on the stand.

10 Q. All right. I'm gonna take a shot at this. [REDACTED]
11 Street?

12 A. [REDACTED] Street, yes.

13 Q. Yes. I was -- I was confused a little bit in the --
14 in the timeline. Your brother dropped -- did you say that
15 your brother dropped you off at your house?

16 A. Yeah.

17 Q. And did he -- did he leave immediately after dropping
18 you off?

19 A. Yes. Immediately.

20 Q. Did he know that you went to [REDACTED] Street?

21 A. Nobody knew but the people at [REDACTED] Street when I
22 got there.

23 Q. Nobody at your job?

24 A. No.

25 Q. Not your brother?

1 A. (Shakes head.)

2 Q. Mr. Matthews was talking about you describing T.K. as
3 -- as your best friend or brother. You didn't feel like
4 that at the time of trial, did you?

5 A. No, I didn't feel like that when I was in Alvin S.
6 Glenn Detention Center.

7 Q. Was there -- was there ever a time in your
8 relationship with T.K. where you did feel like that, where
9 you-all were -- you-all were close like that?

10 A. Yeah, there was.

11 Q. But ultimately the -- the relationship deteriorated?

12 A. Yes, it did.

13 Q. On cross Mr. -- Mr. Matthews was talking about how the
14 -- the trial got continued for a two-week period regarding
15 those extra 247 phone calls, right?

16 A. Uh-huh.

17 Q. So you knew of the existence of those phone calls,
18 right?

19 A. Right.

20 Q. Were you allowed to listen to any of those phone calls
21 in that two-week period?

22 A. I do believe Anastasia or Robert Bank sent us the ones
23 the State felt like was the most compelling or something
24 like that. I believe she sent an e-mail or something like
25 that so we was able to listen to one or two or a couple of

1 calls, I'm not specific, but a couple of calls that she
2 said that was relative to what Luck Campbell wanted to
3 raise. As far as 247 of them, no, it was just the -- just
4 the ones that they, I guess, cherry-picked out of all of
5 them.

6 Q. So you were -- you were allowed to know about and
7 listen to the ones that your trial counsel thought you
8 should listen to?

9 A. I listened to the ones that Luck Campbell thought
10 was relevant. I think Anastasia and Robert Bank was
11 focussed more on suppressing and not using none, but then
12 I think even in the transcripts it speaks where he said,
13 you know, maybe under Rule 106 we can find some that's
14 around the same area to try to put everything into a better
15 perspective, and they later did that.

16 THE COURT: Let me -- hold on for one second. Let
17 me take this call.

18 MR. DERIEG: Okay.

19 (Pause in proceedings.)

20 THE COURT: Proceed, sir.

21 MR. DERIEG: All right. Your Honor, I've got, I
22 think, two -- two questions left.

23 BY MR. DERIEG:

24 Q. In response to Mr. Matthews talking to you about the
25 -- the failure to investigate issue and in regards to

1 McDonald being allowed to testify to the cell phone records
2 at trial, was it your testimony that the same record that
3 McDonald was allowed to get into evidence during your trial
4 you were not allowed to get into evidence today or be able
5 to authenticate today?

6 A. That's correct. That's the same exact evidence.

7 Q. So Mr. Matthews made a proper objection and it was
8 kept out because you aren't the right person to get that
9 in, right?

10 A. I believe so because I can't -- I'm not an expert.

11 Q. And was any objection made to Scott McDonald getting
12 those cell phone records in?

13 A. There was not.

14 Q. Okay. And finally he was -- Mr. Matthews asked you
15 what did you want an expert for. Did you understand the --
16 the value of the information in the cell phone records and
17 the cell tower logs?

18 A. At that time I didn't. At that time I didn't really
19 understand how cell phone pings and stuff like that are. I
20 didn't understand the value of it, but I --

21 Q. So would an expert have helped you understand the
22 evidence that was being -- being put up by the State
23 against you?

24 A. Yes, I think what's experts are for, to help us break
25 down to the little people.

1 Q. And typically an expert would interpret or explain
2 to the jury as well because they're lay people and not
3 necessarily in the know, right?

4 A. Right.

5 MR. DERIEG: That's all I have, Your Honor.

6 THE COURT: Mr. Matthews.

7 MR. MATTHEWS: Your Honor, I don't have anything
8 on recross.

9 THE COURT: Okay. Sir, you can step down.
10 Thank you.

11 (Witness excused.)

12 MR. MATTHEWS: Your Honor, if it pleases the Court,
13 in terms of scheduling Mr. Derieg informs me he's calling
14 one more witness, Diana Addison. He says -- we can't
15 hold him to it now, but he says he's only got about three
16 questions to ask her. I personally have to go pick up my
17 daughter soon, so I'm not itching to stay here too much
18 longer, but I've explained to Ms. Walker, she's got a very
19 important hearing on Thursday she said. She's been very
20 helpful to us in this case and being -- willing to be here.
21 She says she didn't get a subpoena, but she still wanted to
22 come here. If that's the case, we're only gonna be three
23 questions' worth with Ms. Addison, then we ought to be able
24 to get her taken care of pretty soon tomorrow morning
25 unless there's something else we're supposed to do.

1 MR. DERIEG: We can do her right now. I've got
2 three questions.

3 THE COURT: Okay. How many cross-examine questions
4 do you got for her?

5 MR. MATTHEWS: Not many.

6 Well, in any event, we can get Ms. Walker out of
7 here --

8 THE COURT: Let's go ahead and try to get those two
9 or three questions in now.

10 Folks, I'm not trying to rush you-all, but I've
11 got -- this isn't the only hearing this week I've got.
12 I've got more.

13 Call your witness, sir.

14 MR. DERIEG: Petitioner would call Diana Addison to
15 the stand, please.

16 THE COURT: Is that your only remaining witness,
17 Mr. Derieg.

18 MR. DERIEG: Yes, sir.

19 THE COURT: All right. As far as defendant's trial
20 counsel, can she be called in the morning first thing?
21 Is that possible?

22 MR. MATTHEWS: Yes, Your Honor. That's my plan.
23 That's what I was trying to unartfully say and I think
24 she's -- she would rather not come back, but I think she
25 could if necessary.

1 Is that right?

2 MS. WALKER: That is correct.

3 THE COURT: That's -- that's up to you.

4 MR. MATTHEWS: Well, Your Honor, I mean, I feel
5 like I need to call her next.

6 THE COURT: That's between you and her.

7 MR. MATTHEWS: Yeah.

8 BAILIFF: Place your left hand on the Bible and
9 raise your right.

10 (Whereupon, Diana Addison was duly sworn by the
11 Bailiff.)

12 BAILIFF: All right. Have a seat in the witness
13 box and state your full name for the record.

14 THE WITNESS: Diana Addison.

15 DIANA ADDISON,

16 having been duly sworn, testified as follows:

17 DIRECT EXAMINATION

18 BY MR. DERIEG:

19 Q. Thank you for being here, Ms. Addison. Question
20 one. It's been testified to that you were engaged to
21 Mr. Porterfield at the -- at the time of the trial.

22 Through that relationship, did you have occasion to be
23 present during some of the attorney/client meetings that
24 -- that Mr. Porterfield had with his trial counsel?

25 A. Yes, I was.

1 Q. Do you know how the State, particularly Luck Campbell
2 and Meghan Walker, got your cell phone number?

3 A. Anastasia mentioned it in a meeting with her close to
4 the trial that she provided my number.

5 Q. And what do you know about the black laptop bag that
6 Mr. Porterfield was using to transport his papers during
7 trial?

8 A. That bag was my laptop bag. I was in school at the
9 time and during the time I was in school and when the
10 supposed crime happened, me and him were not living
11 together, so that bag was in my possession the whole time.
12 It's actually black with a little bit of blue on the front
13 and he didn't have my bag. That stayed with me in the
14 house as I went to school online.

15 MR. DERIEG: Your Honor, I kept my promise.

16 THE COURT: Mr. Matthews.

17 CROSS-EXAMINATION

18 BY MR. MATTHEWS:

19 Q. Were you present for the trial to listen to the phone
20 calls?

21 A. I was present every second.

22 Q. That was your voice on the phone talking with --

23 A. I was on the phone.

24 Q. -- with Mr. Porterfield?

25 A. I was on the phone.

1 Q. Okay. So those phone calls were fair and accurate
2 discussions you-all had together?

3 A. To my knowledge, yes.

4 MR. MATTHEWS: Your Honor, I don't have any other
5 questions.

6 MR. DERIEG: No redirect.

7 THE COURT: Thank you, ma'am. Thank you for your
8 patience.

9 (Witness excused.)

10 MR. DERIEG: Thank you, Your Honor, for allowing
11 us to get to her done today.

12 THE COURT: All right.

13 MR. MATTHEWS: Your Honor, I think she's cut out
14 for the day. Do you want us to come back at 9:30
15 tomorrow?

16 THE COURT: Yes, sir.

17 Let me talk to you-all before you leave though.

18 (Whereupon, the proceedings were concluded for
19 May 24, 2022, at 4:34 PM.)

20 (The following proceedings were held May 25, 2022,
21 beginning at 9:30 AM.)

22 BAILIFF: Keep your seats.

23 THE COURT: Good morning.

24 MR. DERIEG: Good morning, Your Honor.

25 THE COURT: Mr. Matthews, are you ready?

1 MR. MATTHEWS: We're ready.

2 The State calls Anastasia Walker.

3 (Whereupon, Anastasia Walker was duly sworn by the
4 Bailiff.)

5 BAILIFF: Have a seat in the box here and state your
6 full name for the record.

7 THE WITNESS: My name is Anastasia Walker.

8 MR. DERIEG: I'm sorry, Your Honor, would it be
9 okay if my client's right hand was freed from the
10 shackles so he can write?

11 THE COURT: I'd have to defer to the deputies.

12 OFFICER: I can't right now. I mean, I have to
13 call the associate warden to get that approved. If you
14 want me to step out and call, I can.

15 THE COURT: Yeah, go ahead with that.

16 I don't mind, but I generally defer to them for
17 security matters.

18 MR. DERIEG: Yes, sir. I mean, we heard a lot of
19 testimony about how he spent a whole week in shackles with
20 one arm undone, so I was seeing if we could at least get
21 that --

22 THE COURT: I mean, it's okay with me, but I -- I
23 defer greatly to them for security issues.

24 MR. DERIEG: Thank you, Judge.

25 THE COURT: I sort of stay in my lane.

1 MR. MATTHEWS: Good morning, Ms. Walker.

2 Your Honor, may it please the Court? Can we begin?

3 THE COURT: Yes, sir.

4 ANASTASIA WALKER,

5 having been duly sworn, testified as follows:

6 DIRECT EXAMINATION

7 BY MR. MATTHEWS:

8 Q. Ms. Walker, you've met me before. My name is Scott
9 Matthews. I thank you for being here today. I know you
10 have other things you'd like to do, so I'll try to be as
11 brief as possible. I'm gonna start out asking you some
12 general questions about your background and defense
13 representation and the legal field in general and then
14 we'll get into some more specifics about Mr. Porterfield's
15 case.

16 Can you tell His Honor how long have you been a
17 practicing lawyer?

18 A. Approximately fourteen years.

19 Q. And how much of that time was spent in criminal
20 defense?

21 A. I was a public defender in Richland County for ten
22 years.

23 Q. And when -- what were the dates of you being a public
24 defender here in Richland County?

25 A. I believe it was November 2007 to June 2016.

1 Q. And what's your current occupation now? I know you
2 work with Root and Rebound. What is that?

3 A. It's a nonprofit that does legal aid work for
4 individuals that are system impacted.

5 Q. In the ten years that you were a public defender, how
6 -- this may be an unfair question. Can you approximate how
7 many criminal defendants you represented during that time?

8 A. Probably over fifteen hundred over the course.

9 Q. And, again, also a rough approximation, about how many
10 of those cases went to a jury trial?

11 A. Maybe fifteen or twenty.

12 Q. Okay. So you had approximately fifteen to twenty jury
13 trials scheduled that you would estimate?

14 A. As an estimation.

15 Q. Fair enough. Now in a typical situation where a
16 case would go to trial, I'm gonna ask you about your
17 general habits and practices and then go specifically to
18 Mr. Porterfield. Would it be your common practice to
19 review discovery with a defendant beforehand prior to a
20 trial?

21 A. Yes.

22 Q. Tell us about what that would normally entail.

23 A. We would discuss what was in the discovery and what I
24 would foresee the issues at trial to be and the materials
25 and the discovery that related to that issue, as well as

1 any other evidence that we had from the State, as well as
2 anything that we had received from our investigation or any
3 information we had received.

4 Q. I'm glad you mentioned investigation. There's been
5 some testimony here yesterday about whether the public
6 defender's office investigated this case. Did you when
7 you were at the public defender's office typically employ
8 a private investigator or PI to investigate cases for you
9 ahead of time?

10 A. It depended on the case, whether it was needed, but if
11 we needed to do that we were able to submit a funding order
12 to the administrative judge to request those funds to do
13 so.

14 Q. Does the Richland County Public Defender's Office
15 typically employ an investigator or somebody who's in that
16 position full-time?

17 A. I think at the time we had Mac Neely, who was employed
18 full-time, but I do not believe in Mr. Porterfield's case
19 he had any association with it.

20 Q. All right. We'll get to Mr. Porterfield's case here
21 in a minute. Specifically a defendant in any given
22 criminal trial, what's your practice as far as advising
23 defendants about their right to testify and the possibility
24 that they will testify?

25 A. My practice would be that they have the right to

1 testify and that decision is solely in their court, but
2 that I may have advice on one way or the other whether I
3 think it would be helpful or harmful.

4 Q. And is that something you would talk about beforehand
5 or would it be a -- kind of a last minute kind of thing
6 depending on how the trial's going?

7 A. If we were going -- I mean, that decision -- my advice
8 may change as the trial proceeds, but I would have advised
9 prior to trial.

10 Q. So in -- prior to any given trial, would you meet
11 with a defendant to prepare for a trial, to go over their
12 testimony and what witnesses you would call?

13 A. I would make an effort to do so. If they were
14 incarcerated, it would be much easier for me to locate
15 the individual once I would go to the jail and prepare
16 with them, and if they were out on bond I would request
17 that they'd come meet with me or make arrangements to
18 do so.

19 Q. Okay. Now I'm gonna end the general questioning
20 now and get into the specifics the specifics of
21 Mr. Porterfield's case. Do you recall representing --

22 THE COURT: Let me stop you for a minute.

23 I understand -- let the record reflect that
24 corrections has found out -- or our security deputies
25 that it's permissible to free one of his hands.

1 Right, sir?

2 OFFICER: Yes, sir.

3 MR. DERIEG: Thank you.

4 THE COURT: Proceed, Mr. Matthews, please.

5 BY MR. MATTHEWS:

6 Q. Ms. Walker, do you recall representing the Petitioner
7 in this case, so the plaintiff, Mr. Anthony Porterfield?

8 A. I do.

9 Q. And tell us if you recall when you began your
10 representation of Mr. Porterfield.

11 A. In reviewing my notes, Shealey, Mr. Luke Shealey,
12 who was with our office had this case initially, and then
13 he left the office to go into private practice and it was
14 transferred to me at the end of 2012.

15 Q. Okay. And so do you recall when Mr. Porterfield's
16 case was called to trial in this matter?

17 A. I believe it started being on the radar and status'd
18 towards the end of 2013 and then the first actual trial
19 date we got, I believe, was at the end of January of 2014.

20 Q. Okay. When did you-all actually sit down for a jury
21 trial here in Richland County? Was it --

22 A. It -- I'm sorry.

23 Q. No, go ahead.

24 A. February 2014, I believe.

25 Q. Could it be February of 2015?

1 A. It could be. I -- I may have the years wrong.

2 Q. Okay. So, roughly speaking, you represented
3 Mr. Porterfield for about three years?

4 A. I apologize, but I -- for the record, I have my notes
5 here, Your Honor, from my representation. It looks like I
6 received the case at the end of 2013, was when I started
7 representing him, and then the case went to trial in 2015.
8 I apologize.

9 Q. Okay. So February of 2015 and so that would be
10 roughly a little bit over a year you represented
11 Mr. Porterfield? End of 2013 to February of 2015?

12 A. Roughly, yes.

13 Q. Okay. Moving into some of the specific allegations
14 that have been made here, you were here yesterday and heard
15 Mr. Porterfield's testimony; is that right?

16 A. I did.

17 Q. Okay. We're moving onto -- well, would you like a
18 copy of these allegations or do you just want me to refer
19 to them? Because I'm sure Mr. Derieg would be glad to
20 provide you a copy.

21 A. If there's an extra copy, that would be helpful.

22 MR. MATTHEWS: Do you have a copy of the
23 allegations?

24 MR. DERIEG: I'll just give her mine.

25 MR. MATTHEWS: Your Honor, may I approach?

1 THE COURT: Yes, sir.

2 MR. DERIEG: Are we gonna mark that for ID?

3 (Defendant's Exhibit Number 1 was marked for
4 identification.)

5 BY MR. MATTHEWS:

6 Q. Now for your reference, Ms. Walker, I'm handing you
7 what's been marked for identification as Defendant's or --
8 that sounds odd to say for me -- State's Exhibit Number 1.

9 Referring you to the first accusation, Mr. Porterfield
10 has claimed -- that you failed -- failed to adequately
11 cross the victims. That would be Rabia Nathani and S.N.
12 and the father regarding prior inconsistent
13 statements. Before I ask you about those specific things,
14 do you recall the testimony of both -- each of these three
15 witnesses and generally what they said?

16 A. Very generally. I recall it very generally.

17 Q. Okay. And was it your recollection that they
18 identified -- well, let's begin with the eldest sister.
19 Did she identify Mr. Porterfield in the -- did you-all have
20 a Neil v. Biggers hearing in this case?

21 A. I believe we did, but I would defer to the trial
22 record.

23 Q. Okay. And do you -- I mean, I have a copy of the
24 trial record here if I need to show you a copy to refresh
25 your recollection. So would it be your typical practice

1 if there was a photo lineup identification to request a
2 Neil v. Biggers hearing?

3 A. If there was an out of court lineup or out of court
4 identification, I would have requested a Neil v. Biggers
5 generally.

6 Q. Okay. And, generally speaking, do you recall -- what
7 was the primary evidence against Mr. Porterfield?

8 A. The primary evidence was the statements of the
9 daughters.

10 Q. Okay. So the daughters had identified Mr. Porterfield
11 as being the person that robbed them; is that correct?

12 A. Eventually they did, yes.

13 Q. Okay. And was -- again, was there an out of court
14 photo lineup identification done here to your recollection?

15 A. To my recollection, yes.

16 Q. Okay. And then, of course, did the two victims, Rabia
17 and S.N. [REDACTED], did they testify at trial who the assailant was
18 that robbed them?

19 A. Did they identify him out of court or in court?

20 Q. Both.

21 A. I believe both times they identified Mr. Porterfield
22 to the best of my recollection.

23 Q. Okay. And as far as their statements, Mr. Porterfield
24 has alleged that there were inconsistencies in their
25 statements and one of the things he highlighted was the

1 value of the merchandise taken. That there was one value
2 approximated in their statements and then a higher value
3 at trial. Was that a significant thing or fact to you to
4 cross-examine them on and, if not, why not?

5 A. I believe as far as elements of the crime that was
6 alleged, it may not have been specific -- or it may not
7 have been important. However, pointing out a prior
8 inconsistent statement may have gone to credibility.

9 Q. So do you recall the offenses Mr. Porterfield was
10 indicted for and standing trial for?

11 A. I do.

12 Q. What were those?

13 A. I believe they were armed robbery, burglary first
14 degree -- pardon me -- and I believe there was a kidnapping
15 charge.

16 Q. Could there have been two kidnapping charges?

17 A. That would make sense.

18 Q. Now is there a dollar valuation or is the element of
19 any of those offenses dependent on the amount of goods
20 taken or stolen?

21 A. On the offenses, no, it is not an element.

22 Q. Okay. Now he also -- Mr. Porterfield alleged there
23 were some inconsistencies about what restaurant, if any,
24 the victims had been at. Was that -- can you tell us about
25 that and whether that was a significant issue for you in

1 cross-examining these victims?

2 A. While it didn't go to the elements of the crime, it
3 may have gone to credibility.

4 Q. Okay. And do you recall what was -- what was your
5 goal in cross-examining these victims? Was it to cast
6 doubt on their identification of Mr. Porterfield or just
7 to make points about general credibility?

8 A. Well, I think that we had issues regarding
9 identification as the expert that we called in our case
10 in chief was an expert to do with identification, so that
11 was a primary goal. However, I believe with any witness
12 credibility is an issue.

13 Q. So I'm glad you mentioned that and that was Dawn
14 McQuiston; is that right?

15 A. It was.

16 Q. And so your theory of the case, you and Mr. Bank, was
17 -- did you have both an alibi and a misidentification
18 defense?

19 A. Yes.

20 Q. Okay. And the alibi defense was based on calling
21 co-workers and friends of Mr. Porterfield to say he was
22 elsewhere at the time of the robbery; is that right?

23 A. Yes, we had multiple witnesses indicate he was at
24 work.

25 Q. Okay. And then also, of course, at the end of that

1 you called a witness and she testified to what exactly?

2 A. Are you talking about Dr. McQuiston?

3 Q. Yes, Dr. McQuiston. What was her general theory that
4 she presented to the jury?

5 A. Well, she testified generally, not to this case
6 specifically, issues regarding cross-racial identification,
7 something she calls weapon blindness. When individuals are
8 under conditions of stress, that the focus is primarily not
9 on the individual, but on the circumstances that may be
10 giving them risk to their safety or life, and she also
11 testified about short-term memory versus long-term memory
12 and how those generally work in individuals.

13 Q. So the general theory or what you emphasized in
14 closing was despite that these victims may have seen
15 Mr. Porterfield before, that was a misidentification based
16 on this theory because they'd known him before but they
17 experienced weapon blindness?

18 A. Weapon blindness, cross-racial identification, and
19 then issues regarding short-term and long-term memory and
20 that it had been almost three years since the alleged
21 offense occurred.

22 Q. And I believe there was testimony about this
23 yesterday, but the victims in this case were Pakistani or
24 of Middle Eastern descent?

25 A. Yes, that's my recollection. Pakistani.

1 Q. And then the cross-racial identification would be
2 Mr. Porterfield is an African American?

3 A. Yes, he's a black man and they are different races.

4 Q. Now moving onto issue number two, Mr. Porterfield has
5 alleged that you failed to object to the burglary first
6 indictment and that's kind of a multilayered issue. Do you
7 recall making a directed verdict motion in this case?

8 A. I don't recall specifically my argument, but generally
9 my general practice was always to make a directed verdict
10 motion.

11 Q. Would it refresh your recollection to the view the
12 specific page of the record in which this objection was
13 made?

14 A. It would.

15 MR. MATTHEWS: Your Honor, may I approach?

16 THE COURT: Yes, sir.

17 BY MR. MATTHEWS:

18 Q. Ms. Walker, I'm handing you a copy of the trial
19 transcript. I'd refer your attention to page number 546.
20 Can you take a moment to look at that and familiarize
21 yourself with that page and the following page.

22 A. It looks like at the -- when the State rested that I
23 moved for directed verdict.

24 Q. And what was the specific reason you had for moving
25 for a directed verdict on the burglary first indictment?

1 MR. DERIEG: I'm sorry, Scott. What page are you
2 on?

3 MR. MATTHEWS: 546.

4 MR. DERIEG: Thank you.

5 THE WITNESS: I argued regarding the -- I made the
6 general argument for directed verdict in viewing the light
7 -- the evidence in the light most favorable to the State,
8 there was no favors for the jury, but I also specifically
9 spoke about burglary first degree and argued case law.

10 Q. And was part of your argument based on the concept
11 of whether Mr. Nathani's place of business slash residence
12 was actually a dwelling under burglary first?

13 A. Yes. It looks like, moving to page 548, it says
14 that -- it looked like my argument was regarding whether
15 this would be considered a dwelling versus a business.

16 Q. Now in your experience as a criminal defense
17 attorney having tried fifteen to twenty trials, is that
18 the appropriate stage of the trial to raise that kind of
19 issue as to whether the State has provided evidence or met
20 their burden on a particular charge?

21 A. Yes.

22 Q. And did you -- Mr. Porterfield has claimed that the
23 appropriate time to do that was prior to trial. Do you
24 know of anything that was wrong in your judgment with the
25 burg -- or defective about the burglary first indictment

1 on its face? And you can -- I can give you a copy of the
2 burglary first indictment, if you'd like.

3 A. Rather than guess, I will ask for a copy of the
4 indictment.

5 (Defendant's Exhibit Number 2 was marked for
6 identification.)

7 BY MR. MATTHEWS:

8 Q. Ms. Walker, I'm showing you what's been marked for
9 identification as Defense Exhibit Number 2. Can you tell
10 us what that document is?

11 A. It appears to be an indictment for Anthony
12 Porterfield. It looks like the number is 12-GS-40-05295
13 for burglary first degree.

14 Q. Now on the back in the body of the indictment, is
15 there any redacted language or anything that has been
16 redacted from that such as the address?

17 A. Yes. It looks like the address of the business is
18 redacted.

19 Q. Now in your judgment viewing that document, do you
20 see anything that you now in hindsight think is defective
21 about that indictment that you should have objected to
22 prior to swearing of the jury?

23 A. For the sufficiency of the indictment, I don't see
24 anything insufficient regarding the indictment. Our
25 argument was that the State's burden is to prove that it is

1 a dwelling as an element of burglary first and we obviously
2 disagreed.

3 Q. Now being that you disagreed with that element, would
4 the appropriate stage to voice that disagreement be the
5 directed verdict stage after the State's presented their
6 evidence?

7 A. That would be my assessment.

8 Q. Thank you, Ms. Walker.

9 Now moving onto the third issue, failure to object to
10 the foundation for the jail phone calls, there was a lot of
11 testimony about this yesterday. Tell the Court what's your
12 recollection about how those phone calls were given to you
13 by the State and -- and your memory or recollection about
14 how jail phone calls were kept in Richland County back in
15 2012. Do you recall anything about that?

16 A. My recollection at the time was that individuals that
17 were incarcerated in order to make phone calls used a PIN
18 number that was specific to the individual and that the
19 jail retained those -- retained those recordings. I do not
20 recall whether that procedure changed during -- between
21 2012 and 2015, but I believe that in 2012 that was how
22 those calls were generally obtained.

23 Q. Okay. And this kind of blends a little bit into
24 the fourth this issue. Yesterday Diana Addison testified,
25 and so did Mr. Porterfield, that you provided Ms. Diana

1 Addison's phone number to the State of South Carolina. Do
2 you recall whether you did that or not?

3 A. I did not.

4 Q. Okay. So you recall you did not give over Diana
5 Addison's phone number?

6 A. I do not recall giving them that phone number. As
7 the defense, I turned over what I was required to turn over
8 and that phone number would not have been anything I was
9 required to give the State.

10 Q. Okay. And, in fact, wasn't there a -- this case was
11 originally scheduled for something like February 9th and
12 was continued for what reason?

13 A. I believe it was originally scheduled and it was
14 continued because the State -- one, the State turned
15 over about roughly 250 jail phone calls that we needed
16 to review and those were given to us very shortly before
17 the Monday of trial. We were also locating a witness.
18 He was in Florida. We found him. We had to make travel
19 arrangements.

20 Q. Okay. So regarding these jail phone calls, do you
21 recall how many phone calls that were actually played by
22 the State at trial? I believe for your recollection it
23 was -- Mr. Porterfield said it was three yesterday. Does
24 that conform with your memory that the State actually
25 played in their case in chief?

1 A. That -- that sounds roughly correct. I -- I can
2 recall them telling -- giving us notice of three calls that
3 they may or may not use. I cannot quite recall what was
4 played at trial. Three sounds as that was the number of
5 calls they turned over to us as calls they may use in their
6 case in chief.

7 Q. And did you as Mr. Porterfield's defense also admit
8 some of the calls into evidence in this case to -- under
9 Rule 106 to give the other phone calls context?

10 A. Well, I believe that we had had an argument at some
11 point about it being a double-edged sword of sorts in
12 that these calls contained evidence that was inadmissible;
13 however, the other side of the coin was that the calls
14 played in whole were the way to put them in context
15 because it was a dispute over the interpretation of what
16 was contained within those calls.

17 Q. Okay. And did you and Mr. Bank object to the
18 admission of these three phone calls? Do you recall
19 having a pre-trial discussion with Judge McMahon about
20 their admissibility?

21 A. I might -- if my recollections are being correctly,
22 I believe we did argue that, but, again, I'd defer to the
23 trial record.

24 Q. Okay. And Mr. Porterfield has claimed that they were
25 not objected to through Mr. Waters under Rule 901 of the

1 South Carolina Rules of Evidence, to be authentication.

2 Did you have any reason to doubt the authenticity of these
3 phone calls?

4 A. We did not call any -- other than the custodian of
5 the records, we did not call anyone to authenticate
6 Mr. Porterfield's voice.

7 Q. And that was Mr. Waters' job, wasn't it, to be -- he
8 was the custodian of records from Alvin S. Glenn?

9 A. I believe so.

10 Q. Now you were here yesterday and Mr. Porterfield and
11 Ms. Addison acknowledged that was Mr. Porterfield's voice
12 on the phone calls. So, again, you didn't see any issues
13 with their -- with the phone calls' authenticity?

14 A. I cannot recall if I saw an issue with the
15 authenticity outside of it being a business record and a
16 custodian. I probably should have called an expert to
17 authenticate his voice.

18 Q. And why do you say that now?

19 A. Upon recollection -- or upon reflection, if the calls
20 were solely identified by a PIN number, it was common
21 practice for individuals that were detained to use each
22 others PIN numbers and so that could have been a viable
23 argument to argue that, whether the voice was his or not.

24 Q. But did he ever contest to you in your meetings with
25 him? Say hey, that's not my voice, Ms. Walker? Did he

1 ever say that wasn't his voice on the phone calls?

2 A. I don't recall that conversation.

3 Q. Moving onto the fifth issue, you recall this
4 demonstrative demonstration by Ms. Campbell with the
5 laptop bag. Tell us how that came about.

6 A. In their case in chief when the daughters, and I am
7 referring to them as the daughters, so I don't completely
8 mispronounce their names, Rabia and Natalia, I believe.

9 Q. S.N. or S.N. .

10 A. S.N. and -- well, just say daughters. When the
11 daughters testified, I believe there was an allegation
12 from one or both of them that a black laptop bag of sorts
13 was on Mr. Porterfield's person during the incident when
14 they -- when this occurred and so when Mr. Porterfield
15 came to trial and every day until he was detained, he had
16 brought a bag with him to take notes and just had paper and
17 a pen in it, and Ms. Campbell at some point used it maybe
18 with the investigator or -- I can't remember which, I want
19 to say the investigator, but, again, I'll defer to the
20 trial record, that -- pardon me -- that -- essentially
21 arguing that that laptop bag was like the one that had been
22 used.

23 Q. Now were you expecting Ms. Campbell to do that or was
24 that kind of a heat of the moment thing that was done?

25 A. I was not expecting that at all.

1 Q. Now in response to that, do you recall whether you
2 objected to her demonstrative action?

3 A. I did not. I believe I was caught off guard.

4 Q. Okay. And -- but after she had already done it, did
5 you attempt to remedy that situation or use the laptop bag
6 to your advantage?

7 A. I attempted to. I probably -- as it wasn't in
8 evidence, I should have objected to keep reference of it
9 out when she -- when she grabbed it from our table.

10 Q. Now tell us about your attempt. We heard testimony
11 yesterday that Judge McMahon scolded you for that attempt,
12 but what did you try to do?

13 A. I attempted to show that laptop bags are common and --

14 Q. Just a plain black laptop?

15 A. Yes.

16 Q. Do you recall if it had, you know, this belongs to
17 Anthony Porterfield written on it or any kind of
18 identifying marks on it?

19 A. Based on the allegation of the daughters, I believe
20 that the only -- the only description was black laptop bag.

21 Q. Okay. Now I was remiss a minute ago in not asking you
22 this question, but we heard -- moving backwards just for --
23 just for a minute for the issue about the jail phone calls,
24 do you recall arguing about those phone calls in closing
25 and about -- or trying to use those phone calls to your

1 advantage to say they were not incriminating?

2 A. I do. It was -- that was an issue commonly,
3 especially in Richland County regarding jail calls, was
4 the interpretation of race or any number of things in the
5 jail calls. Jail calls, I believe, were limited to about
6 ten minutes and then a segment of them would be played
7 and so my recollection at closing was arguing that the
8 statements were somewhat innocuous and not characterized
9 as -- as what Ms. Campbell and Ms. Walker had alleged.

10 Q. And I believe Mr. Porterfield's testimony was he
11 thought they were incriminating, but was there any
12 admission played for the jury where Mr. Porterfield says
13 I did this or, you know, you got me or anything like that
14 or was it just as you say innocuous -- could be interpreted
15 as innocuous references?

16 A. Well, I mean, that was my argument, that it was
17 innocuous. It doesn't seem the jury accepted that
18 argument. Their argument was that it was incriminating,
19 that it was his attempt to manipulate witnesses. I can't
20 recall the substance of the -- I recall something about
21 T.K. and say do it for our music group or do it for me or
22 something of that nature and then I can't recall the
23 substance quite of the other two, but were they direct
24 statements of I did this armed robbery, I've got to get
25 out, absolutely no, they were not, but --

1 Q. Now -- I'm sorry.

2 A. No, no. Go ahead.

3 Q. Now I've handed you a copy of the transcript up
4 there. If you need to refresh your recollection, pages
5 941 and 943 are the relevant pages where you argued this
6 in closing. I think you've summarized most of it, but
7 if you care to take a look at that just to refresh your
8 memory of your argument.

9 A. Did you say 941?

10 Q. Yes. 941 through 943.

11 A. All right. It looks like at some point that he --
12 that Mr. Porterfield said something in those calls to the
13 tune of I have to prove my innocence and it looks like I
14 attempted to explain it with a movie reference that
15 Mr. Porter field referenced.

16 Q. What movie reference did you make?

17 A. It looks like it was the movie Enemy of the State.

18 Q. That's a Will Smith movie?

19 A. It is.

20 Q. So, again, that theme about proving your innocence,
21 that was essentially what you said Mr. Porterfield was
22 trying to do in those phone calls?

23 A. That was my argument for one of those calls it
24 appears.

25 Q. Thank you, Ms. Walker. I'm gonna move on now to the

1 sixth issue, which is the failure -- Mr. Porterfield's
2 alleged failure for you to address Fourth Amendment
3 violations regarding the arrest at the residence at [REDACTED]
4 Street. Do you recall any discussions either between you
5 and Mr. Bank or you and Mr. Porterfield about potential
6 objections that may arise resulting to that or potential
7 Fourth Amendment violations?

8 A. I don't recall.

9 Q. Now could that be because -- was there any evidence
10 entered at trial that was taken as a result of
11 Mr. Porterfield's arrest?

12 A. I also don't recall that. I -- I recall -- all I
13 recall is a dog, a K-9.

14 Q. A K-9. Because he was bitten by a dog during the
15 arrest; is that correct?

16 A. That is what I recall. I do not recall whether any
17 evidence or alleged evidence was obtained upon his arrest.

18 Q. Well, we recapped the evidence earlier. Essentially
19 it was the eyewitness identification was the evidence
20 against him. I believe you testified to that earlier. So
21 was there any note that was taken from him that said I did
22 this robbery or any bloody glove so to speak that tied him
23 to the scene of the robbery?

24 A. I don't -- I don't recall if they recovered anything
25 and I don't recall any evidence from that arrest being

1 submitted if it was recovered.

2 Q. Now in your experience as a public defender in your
3 fifteen to twenty trials, have you ever made objections or
4 moved to suppress evidence based upon the State's violation
5 of the Fourth Amendment?

6 A. I have before.

7 Q. And typically you move to exclude that evidence
8 because it's a violation; is that right? That's what a
9 Fourth Amendment objection is?

10 A. Yes.

11 Q. And if there was no evidence taken as a result of
12 the arrest, there would be no purpose in making a Fourth
13 Amendment motion, would there?

14 A. I'll defer to the trial transcript once more. I can't
15 remember if there was any statement made upon his arrest.
16 Not that he had made a formal interview statement, so I'm
17 not sure if there was something to argue there, but I don't
18 recall whether a statement was made or not upon his arrest.

19 Q. Okay. Do you remember having a Jackson v. Denno
20 hearing related to his lone statement made to Investigator
21 Clarke?

22 A. I do.

23 Q. And to your knowledge was that the only statement that
24 Mr. Porterfield made in this case?

25 A. I believe there was one statement. I know that

1 Investigator Clarke contacted Mr. Porterfield under the
2 guise of hey, meet me at this gas station to talk and --
3 but didn't disclose what the subject matter was, so I'm
4 not sure if that was a statement made during that time or
5 if it was at his arrest, which was, I believe, shortly
6 thereafter.

7 Q. Okay. Moving onto the seventh issue, the missing
8 witness rule, now there was a gentleman referenced
9 throughout this trial named T.K., and I believe
10 Mr. Porterfield said his time is Tyrue Ruffin. Did you
11 ever -- do you recall this individual and his role in
12 this case and why he was significant?

13 A. I recall him. His role, I recall it very vaguely.

14 Q. Was he a friend of Mr. Porterfield's?

15 A. At some point he was a friend of Mr. Porterfield's
16 during the incident date.

17 Q. And possibly a roommate?

18 A. Could be.

19 Q. Okay. Now do you recall the State making reference
20 to this witness and not only this witness, but the presence
21 or lack of identification of the second black male that was
22 alleged to have participated in this robbery?

23 A. I do.

24 Q. Okay. And do you recall objecting to the State's
25 references to your failure to call this individual, T.K.

1 or Tyrue Ruffin?

2 A. I do.

3 Q. Okay. And for purposes of your recollection, page
4 676 through 77 of the record, I believe, is where that
5 objection was made. Can you turn to those pages please
6 and familiarize yourself with that page?

7 A. It looks like I made the objection to her making
8 reference to it to various witnesses.

9 Q. Okay. So after reviewing this portion of the record,
10 you did make an objection on that ground?

11 A. It appears that I made the objection regarding -- my
12 argument was burden shifting.

13 Q. Yes. And now I don't know if you're -- are you
14 familiar with the appeal in this case and what was argued
15 by Susan Barber Hackett on appeal?

16 A. I am not.

17 Q. Okay. And that's okay if you're not, but we'll move
18 on to the eighth issue. Now on this issue, do you recall
19 making a request or an objection to Judge McMahon about
20 Mr. Porterfield having shackles on during his testimony or
21 during the trial?

22 A. I do recall making -- making that motion.

23 Q. Okay. And to reference you to the record, page 683.
24 Could you turn to that page, please?

25 A. Yes.

1 MR. DERIEG: What page was that?

2 MR. MATTHEWS: 683.

3 BY MR. MATTHEWS:

4 Q. Now have you had a chance to review page 683?

5 A. I beg indulgence. Yes, I've familiarized myself with
6 it.

7 Q. Okay. Did you make an objection to Mr. Porterfield
8 having to wear his shackles during the trial?

9 A. It looks like I requested of the Court to remove --
10 and I, again, defer to the trial record. My practice would
11 have been generally at the beginning of the trial or at any
12 point when a client of mine was detained to request that
13 all shackles be removed. I believe I may have been denied
14 on that. However, since Mr. Porterfield was taking the
15 stand and -- I requested for them to be removed so he could
16 walk to the stand as all the other witnesses had.

17 Q. And in this case, Judge McMahon denied your motion or
18 overruled your objection?

19 A. He did.

20 Q. Moving onto issue number nine, Mr. Porterfield has
21 alleged that you failed to object to the hand of one is
22 the hand of all instruction, also known as accomplice
23 liability. Now, again, I think I've asked you this
24 already. Was it alleged that there were two black males
25 that participated in this robbery and home invasion?

1 A. I'm not sure I recall.

2 Q. You don't recall the testimony of Rabia and S.N. that
3 there were two black male individuals?

4 A. That sounds vaguely familiar.

5 Q. My co-counsel is looking for a reference in the
6 record to refresh your recollection, but in any event,
7 what was your reasoning or thought process -- do you
8 recall whether you objected to the hand of one is the
9 hand of all instruction and, if so, why or why not?

10 A. I do not recall objecting to it and I do not have a
11 reason why.

12 Q. Okay. And if in a typical -- well, your typical
13 practice, if there are co-defendants in a case, you know,
14 such as this, would you typically object to the hand of
15 one hand of all instruction?

16 MR. DERIEG: Your Honor, I'm gonna object to that.
17 There was no co-defendant in this case. There was never
18 a second person ever arrested.

19 MR. MATTHEWS: Your Honor, we're dealing with the
20 range of competent legal representation and I asked her
21 about a typical situation in which two --

22 MR. DERIEG: Okay. If we're talking in a
23 hypothetical situation, I'll withdraw.

24 THE COURT: Yeah. Thanks for the clarification,
25 Mr. Matthews.

1 I'll let her answer.

2 BY MR. MATTHEWS:

3 Q. Ms. Walker, to reemphasize, if you were representing
4 a defendant which had a co-defendant or multiple alleged
5 defendants, would that be an objection you would make, to
6 the hand of one is the hand of all instruction?

7 A. I can't say that's a general practice. It would
8 have been case specific and it -- it seems as if my
9 failure to object on that ground may have been the lack
10 of an identified co-defendant, which would have been a
11 failure on my part.

12 Q. Now if there were an unidentified co-defendant, would
13 there be evidence in the record that two people acted in
14 concert?

15 A. Repeat the question, please.

16 Q. If there -- if the allegation in a hypothetical case
17 is that two defendants acted together to achieve a criminal
18 end, would there be evidence of the hand of one is the hand
19 of all?

20 A. Well, I believe I would be speculating what the State
21 does and I will be honest I've never prosecuted a case.

22 Q. Well, regardless of what the State does, would there
23 be evidence in such a situation that accomplice liability
24 would be an appropriate charge?

25 MR. DERIEG: Your Honor, I think we're getting into

1 speculation at this point. There's no -- in this
2 hypothetical, there aren't any facts to back up any of
3 the suppositions that he's making or asking about.

4 THE COURT: Mr. Matthews, your reply, please?

5 MR. MATTHEWS: Well, Your Honor, the very nature
6 of PCR is we're engaging in hypotheticals, talking
7 about what should have been done and what would typically
8 be done. That's the very nature of one of these type
9 of cases is what would you do in a particular situation
10 versus what did you do here, and I think that's
11 appropriate in this context.

12 THE COURT: I'll overrule the objection. I'll allow
13 that. Don't get to far into what if's, okay?

14 BY MR. MATTHEWS:

15 Q. Moving back to my previous question, would it help
16 refresh your recollection to review the testimony of Rabia
17 Nathani regarding the presence of a second individual?

18 A. Well, I don't think that changes my answer in that
19 if there was -- I think the reason I failed to object to
20 the instruction was because there was no identified
21 co-defendant and so I think that was a failure on my part.
22 I think it would have been more apparent to me had there
23 been a named co-defendant and so that could have been a
24 failure on my part that a person was unidentified and --

25 Q. Well -- I'm sorry. Go ahead.

1 A. -- and I was unaware of who it was. I mean, it was
2 a -- a very small part, I believe, of the case. If the
3 daughters testified that there was two black men at the
4 location, then I may have missed the opportunity to argue
5 that jury instruction should not have been there because
6 the co-defendant wasn't identified.

7 Q. Well, maybe that was my mistake for not asking a
8 specific question, but my specific question is do you
9 recall the testimony and allegation being that there were
10 two black males and your previous answer was no, I don't
11 recall. Do you now recall whether there were two black
12 males or at least an allegation there were two black males?

13 A. I still do not recall, but I'd defer to the trial
14 transcript --

15 Q. Okay.

16 A. -- and if you indicate that the trial transcript made
17 the allegation, then I will refer to it and speak on that.

18 Q. You don't have this volume, so I'm gonna approach with
19 page 198 for your benefit.

20 MR. DERIEG: Your Honor, in an effort to move this
21 along, I'm willing to stipulate that there two black
22 males that were alleged by the victims without her having
23 to go back through the whole transcript.

24 THE COURT: Is that satisfactory, Mr. Matthews?

25 MR. MATTHEWS: Your Honor, we accept that

1 stipulation.

2 Thank you, Mr. Derieg.

3 THE COURT: Thank you, Mr. Derieg.

4 MR. DERIEG: You're welcome, Your Honor. Anything
5 I can do.

6 BY MR. MATTHEWS:

7 Q. I'm gonna move onto the tenth allegation here, which
8 is that you and Mr. Bank failed to review discovery with
9 Mr. Porterfield prior to the trial. You've earlier
10 testified about your typical practice. Do you recall your
11 specific trial preparation with Mr. Porterfield in this
12 case?

13 A. I do specifically recall some of it.

14 Q. Okay. And tell the Court a little more detail. Did
15 you-all meet before trial to prepare and was it here in the
16 courthouse? Was it at his home? Do you remember any of
17 the specifics about that?

18 A. I met with Mr. Porterfield when he was on bond and
19 I met with him -- both. I met with him at my office here
20 at the courthouse and then I believe we met with
21 Mr. Porterfield at the home he had at the time at least
22 once, maybe twice.

23 Q. Now do you recall -- it might be an unfair question,
24 but approximately how many times do you think you met to
25 prepare with him prior to trial?

1 A. Roughly five or six. We met once regarding the
2 Schmerber motion by the State, which was about a year
3 prior, and then once the case was on the radar again we
4 were meeting then to prepare for trial.

5 Q. Did you utilize the assistance of an investigator in
6 this case?

7 A. Did I specifically utilize --

8 Q. Well, you and Mr. Bank as his defense, was -- did
9 you-all employ an investigator at the time to help with
10 this case?

11 A. Mr. Shealey had retained the services of Bobby Watkins
12 prior to his death where the statements were given to the
13 investigator. Between the time -- that time Mr. Watkins
14 passed away and I believe Bobby -- Mr. Bank and I retained
15 the services of an investigator to assist with locating
16 individuals that gave statements.

17 Q. Now in the five to six times that you met with
18 Mr. Porterfield before trial, did you review the discovery
19 that had been provided to you by the State during those
20 meetings?

21 A. It would have been my practice to review discovery
22 with a client.

23 Q. Now would that include witness statements and phone
24 calls?

25 A. It would recall -- or it would contain evidence turned

1 over by the State. We did not listen to all 250 jail calls
2 and I did not go over all 250 prior to the case and I did
3 not review all 250 with Mr. Porterfield.

4 Q. Understandably so. Now did you -- in those two weeks
5 where the trial was delayed or continued, did you review
6 any of the phone calls with Mr. Porterfield?

7 A. I think we did review as much as we could within the
8 time period.

9 Q. Specifically -- I'm sorry. Did you have an idea as to
10 which ones would be used by Ms. -- did Ms. Meghan Walker
11 and Ms. Luck Campbell give you an indication hey, we're
12 maybe gonna use these ones?

13 A. I want to say -- well, again, I'll defer to the trial
14 record. I believe there were three calls turned over, but
15 I believe there may have been reference to the possibility
16 of more, but I don't recall receiving more --

17 Q. Okay.

18 A. -- that were -- receiving more that were identified by
19 the State. I would have had them, but I don't recall them
20 identifying which ones out of the ones that were given to
21 us.

22 Q. Now these three phone calls that you do recall
23 receiving from the State, did you review those with
24 Mr. Porterfield?

25 A. If I thought they were gonna come up at trial, I

1 would have reviewed those calls.

2 Q. And, again, in relation to witness statements,
3 specifically statements by both the two daughters, the
4 two victims, and Mr. Porterfield's alibi witnesses, would
5 you have gone over those with Mr. Porterfield prior to
6 trial?

7 A. I would have.

8 Q. And it's been a long time, I know, but do you
9 specifically recall going over them or that would be your
10 typical practice?

11 A. It would be my typical practice to have done that.

12 Q. Moving onto issue number eleven, failure to prepare
13 Mr. Porterfield for his testimony at trial, do you recall
14 discussing with Mr. Porterfield the possibility of him
15 testifying at trial and whether that was part of your
16 strategy?

17 A. I do.

18 Q. And tell us what you recall of that.

19 A. I recall preparing for potential testimony. I cannot
20 recall if my advice to him was to testify or not testify
21 or which I thought was better in the case. I don't recall.

22 Q. Well, speaking of which, Mr. Porterfield candidly
23 for the Court yesterday admitted that he had sold drugs in
24 the past, including cocaine, and that he engaged both in
25 receiving stolen merchandise and selling stolen merchandise

1 to Gulzar Nathani. Do you recall discussing his candid
2 admissions or his sordid background with him?

3 A. I -- the only -- I recall reviewing any offenses that
4 may have appeared on his background check just for purposes
5 of impeachment should he have taken the stand and I believe
6 there was a notion of the daughters' father, who was the
7 owner of the business, engaging in receiving and selling
8 stolen goods and that perhaps -- actually I don't remember
9 if the -- if Mr. Porterfield said that he was engaged in
10 it, I don't think he did, but that Mr. -- that the witness
11 was more likely than not engaged in that because although
12 Mr. Porterfield did business with the daughters' father,
13 he also did business with a lot of individuals.

14 Q. So you don't recall Mr. Porterfield saying hey, I
15 want to testify that I sold this guy stolen goods? That
16 was never a discussion that you-all had during your
17 preparation?

18 A. I don't recall. The only offenses I know I would have
19 certainly discussed with him was anything that could have
20 been brought up during testimony that appeared on his
21 SLED check. I don't recall talking about that issue
22 specifically with him about drugs or stolen goods.

23 Q. Okay. In a trial in your experience as a criminal
24 defense attorney, if someone is standing trial for armed
25 robbery and burglary first degree, would it be your

1 recommendation that they should tell the jury that they
2 admitted to stealing goods in the past?

3 A. I think it would depend on the situation.

4 Q. What -- in what situation do you think that would be
5 a good idea?

6 A. I mean, I've had trials in the past where there were
7 admissions to certain, quote unquote, bad acts, but we may
8 be disputing other ones, sometimes the strategy was to
9 dispute all of them, and so I don't think there's a typical
10 strategy in that.

11 Q. Well, let me ask you about in this case. Do you
12 think in this case it would have been advantageous for
13 Mr. Porterfield to have him testify that he engaged in
14 receiving and selling stolen goods with Mr. Nathani?

15 A. I don't know. I don't know if that would have made
16 a difference to the jury to bring up the relationship --
17 the nature of Mr. -- I don't want to mess his name up so,
18 again, I'll refer to him as the father -- the daughters'
19 father, I don't know that -- if that would have made a
20 difference. It could have if they thought that he was
21 engaged in criminal conduct as well.

22 Q. Just to recap on the testimony issue, your testimony
23 here is that you did discuss the possibility or strategy
24 of Mr. Porterfield testifying as part of your preparation
25 for trial?

1 A. I do recall preparing him to testify. Again, I don't
2 recall what my advice was one way or the other.

3 Q. And that was not at the last minute, but it was -- you
4 know, not right before his testimony, but it was in the
5 weeks preceding trial?

6 A. It was not the day of his testimony.

7 Q. Now Mr. Porterfield in general has raised an objection
8 or a claim that you failed to investigate or properly
9 prepare for this case and as part of that testimony -- or
10 part of that allegation he's saying that a cell phone
11 expert should have been hired. Do you know who Keith
12 Patterson is? Do you recall who this individual is that
13 Mr. Porterfield mentioned yesterday?

14 A. No.

15 Q. Do you recall ever reviewing -- or Luke Shealey
16 telling you when he left hey, this is somebody I want to
17 call or do you recall Mr. Porterfield saying this is
18 somebody I want to call?

19 A. I recall cell phone records being an issue. I cannot
20 recall Keith Patterson.

21 Q. Okay. So in your -- it's your testimony that you
22 don't remember Mr. Porterfield ever suggesting to you in
23 preparation or you considering when we need to hire an
24 expert to talk about where Mr. Porterfield's phone was
25 during this robbery?

1 A. My recollection is that Mr. Shealey had subpoenaed
2 the cell phone records early on in this case and that those
3 records were reviewed because I believe they contained
4 coordinates. My recollection is -- and, again, I'll defer
5 to the trial transcript, is that triangulation may not
6 have been brought up at trial, but I am having a hard time
7 remembering if I consulted an expert or who I would have
8 argued would have been an expert that worked with AT&T
9 regarding triangulation.

10 Q. Well, speaking of triangulation, what would be your
11 purpose as a defense attorney in showing a defendant's
12 coordinates at a particular time?

13 A. Well, triangulation was -- at the time was a pretty
14 general and not specific way of putting someone in a
15 general vicinity, so it wasn't quite as accurate as it
16 would be today.

17 Q. Well --

18 A. At the time I think that it could have gone to alibi.

19 Q. Okay. And, well, let's say it was accurate. The
20 purpose of calling such an expert or witness would be as
21 part of an alibi?

22 A. Yes.

23 Q. Okay. And your strategy was to present an alibi; is
24 that right?

25 A. Yes.

1 Q. And you did, in fact, present alibi witnesses?

2 A. Yes.

3 Q. So essentially you did provide an alibi or attempt to
4 provide an alibi for Mr. Porterfield albeit through other
5 witnesses?

6 A. Well, we attempted to show alibi because there were
7 witnesses who testified he was at work at the time of the
8 incident.

9 Q. And one of those witnesses was a gentleman named Crip
10 or also Aaron Griffin or Adrian Griffin who introduced a
11 time card; is that right?

12 A. Aaron Griffin, yeah.

13 Q. Aaron Griffin. And he produced a time card for
14 you-all that said Mr. Porterfield was at work during the
15 time of the robbery?

16 A. I believe so.

17 Q. And that was a -- do you recall if that was an exhibit
18 that was entered at trial?

19 A. The time card, I believe, actually Mr. Shealey had had
20 and turned that over in Mr. Porterfield's bond hearing per
21 the file.

22 Q. And that was part of your defense to show that
23 Mr. Porterfield was not at the scene of the robbery?

24 A. Yes. I believe we also referred to the time card at
25 trial as additional evidence regarding alibi.

1 Q. And this person, Aaron Griffin, you-all flew him in
2 from Florida, right?

3 A. We did.

4 Q. And it was kind of a painful thing. He had a flight
5 cancel, do you recall, and how it was difficult to get him
6 here?

7 A. I don't recall a flight cancellation. I do recall him
8 arriving late for whatever reason. Late at night, not late
9 for the trial.

10 Q. Now there was testimony yesterday regarding a State's
11 witness named Scott McDonald and his bona fide sort of
12 ability to enter in phone records. Mr. Porterfield claimed
13 that Mr. McDonald entered his, being Mr. Porterfield's
14 phone records. Do you recall if that was the case?

15 A. I don't.

16 Q. Okay. Do you recall Mr. McDonald entering in the
17 phone records of the victim Gulzar Nathani?

18 A. I only recall McDonald discussing the records. I'm
19 not sure if they were admitted anywhere than through him.

20 Q. Well, I guess my question is whose records were
21 they? Were they the victim's records or were they
22 Mr. Porterfield's records?

23 A. I don't recall. I know that they both existed to the
24 best of my recollection.

25 Q. Would it refresh your recollection to review this

1 specific portion of the transcript?

2 A. It would.

3 Q. Okay. I'm gonna approach and hand you page 434 of the
4 record on appeal. If I could direct your attention to the
5 bottom of page 434, could you review that for me, please?

6 A. The bottom of page 434?

7 Q. Yes.

8 A. It looks like Exhibit Number 33 were the records of
9 Mr. Nathani, which was the daughters' father that I've been
10 referring to.

11 Q. So that was the -- not the direct victim, but the
12 father of the victims' cell phone records that were being
13 admitted through Mr. McDonald?

14 A. Well, it looks like I'm questioning him about it, but
15 let me -- if you'd give me just a second.

16 So this testimony is Meghan Walker, who is questioning
17 him -- McDonald about the -- and she admitted State's
18 Exhibit 33 into evidence without objection.

19 Q. And that was -- again, I guess my question if I could
20 be specific is were those Mr. Porterfield's records that
21 were being admitted in State's Exhibit 33 or were they the
22 phone records of Mr. Gulzar Nathani?

23 A. According to the transcript, Exhibit 33 was the --
24 were the records for Mr. Nathani.

25 Q. I think I'm coming to a close, Ms. Walker. I think

1 we've covered most of the issues here.

2 There was testimony by Mr. Porterfield yesterday
3 regarding you-all obtaining traffic cameras or cameras from
4 shopping centers nearby. Do you recall Mr. Porterfield and
5 you discussing that issue or potential defense?

6 A. I don't recall us discussing it. My recollection is
7 this was a business on [REDACTED] Road, it was a busy
8 area, but we did not obtain any sort of videos and I
9 don't believe that the State provided us any videos to my
10 recollection.

11 Q. And is that something -- do you recall Mr. Porterfield
12 ever asking you to do? Like hey, check out these video
13 cameras to show I wasn't even in the vicinity?

14 A. I don't recall if he asked me to do that, but I
15 think that would have been something I could have thought
16 of myself even if he didn't bring that to my attention,
17 but I don't recall having a specific conversation with
18 Mr. Porterfield about that.

19 Q. Okay. I think we're just about finished here.

20 Number fifteen. Mr. Porterfield alleges that you did
21 not prepare his defense witnesses, so that would be --
22 excuse me while I refresh my recollection on their names --
23 that would be Nazirah Gale, Diana Addison, Adrian DeBerry,
24 Akeem Cofield and Aaron Griffin. Do you recall meeting
25 with those witnesses beforehand to prepare for their

1 testimony?

2 A. I recall talking to Mr. Griffin on the phone, I recall
3 talking to Mr. DeBerry on the phone, and I cannot recall
4 Mr. Cofield, but presumably if I called him as a witness
5 I would have spoken to him about testifying.

6 Q. In your recollection, did these witnesses accomplish
7 their stated purpose or reason you were calling them? Did
8 they present an alibi for Mr. Porterfield?

9 A. To the best of my recollection, they did. My
10 preparation of a witness would have simply been to show
11 them their statement, see if they had any changes, and that
12 would have not exceeded much of that to not interfere with
13 the substance of their testimony.

14 Q. Do you recall any of those witnesses being
15 substantially impaired or impeached by Ms. Campbell in
16 her cross-examination? Was there any glaring errors they
17 made?

18 A. I believe with Mr. Griffin there was an argument
19 regarding the time clock, the card punch time clock, and --

20 Q. And --

21 A. Go ahead.

22 Q. Mr. Porterfield, I believe, said that there was a
23 handwritten alteration that he had made to the time card.
24 Do you recall that? Meaning Mr. Griffin made a handwritten
25 alteration to the time card.

1 A. That does sound familiar.

2 Q. And that was something that he was cross-examined on
3 extensively?

4 A. Yes, that was an on -- that was an issue between
5 cross and direct regarding that witness, but I believe
6 was difficult to properly flesh out. And what I mean by
7 difficult is that I believe the jury was confused about
8 the time clock operation and standard practices and so I
9 don't believe we fleshed that issue out appropriately for
10 the jury to understand that the clock wasn't entirely a
11 malfunction.

12 Q. And this was the gentleman that was flown in from
13 Florida the night before, right?

14 A. I believe that was the -- that's where the time card
15 came in, was through Mr. Griffin because I believe he was
16 the supervisor at the time.

17 Q. Other than this shortcoming or difficulty with
18 Mr. Griffin, do you recall any of your other witnesses
19 that you called being unprepared or negatively affecting
20 Mr. Porterfield's case?

21 A. Other than that time clock issue, which I don't
22 believe was Mr. Griffin's failure as much as mine, no, I
23 don't believe that they testified inconsistently with the
24 prior information that they had given.

25 Q. And by your failure, you mean not a sufficient ability

1 to explain the operation of their time clock system to the
2 jury and the intricacies involved with that?

3 A. Yes. I believe the jury was confused about the
4 argument -- our argument regarding what the time clock
5 exactly showed.

6 Q. Just one other -- I think one other question.

7 MR. MATTHEWS: Actually, Ms. Walker, I don't have
8 any other questions. Please answer any questions that
9 Mr. Derieg may have.

10 THE COURT: Let us take a break now for about
11 fifteen minutes. We've been in here one hour and
12 fifteen minutes.

13 Ms. Walker, as you well know as a lawyer, you're
14 not to discuss this matter with anybody about anything
15 while you are a live witness.

16 THE WITNESS: Yes, Your Honor.

17 THE COURT: Thank you-all.

18 (Recess taken at 10:46 AM.)

19 (Back on the record at 11:03 AM.)

20 BAILIFF: Remain seated. Come to order, please.

21 THE COURT: Mr. Derieg.

22 MR. DERIEG: Thank you, Your Honor. May it please
23 the Court?

24 CROSS-EXAMINATION

25 BY MR. DERIEG:

1 Q. Just -- I want to jump -- I'm gonna get a little bit
2 out of order than I planned to, but I want to make sure
3 that I get this in or talk about this. I think on -- on
4 direct Mr. Matthews asked you about did any of the defense
5 witnesses get -- were they impeached by Ms. Campbell or
6 Ms. Walker on their written statements. My question to
7 you is do you remember how Meghan Walker and Luck Campbell
8 got those statements?

9 A. I do.

10 Q. Would you, please, tell the judge about that.

11 A. In -- when the trial was originally scheduled --

12 Q. Well, first, before you do that, let me -- let me ask
13 you, did you prior to trial obtain these statements from
14 -- did you or an investigator prior to trial obtain these
15 written statements from the defense witnesses?

16 A. Bobby Watkins obtained those statements.

17 Q. Okay. So you had them prior to going into trial. I'm
18 assuming you received a reciprocal Rule 5?

19 A. I did.

20 Q. Are these statements something that you turned over
21 as part of the reciprocal Rule 5?

22 A. No.

23 Q. Would it be typical for you to do that in a case, to
24 turn over defense witness written statements that you had
25 obtained or someone from -- from your team had obtained

1 prior -- prior to trial as part of a reciprocal Rule 5?

2 A. No.

3 Q. Okay. How did they get -- how did the State get those
4 statements?

5 A. I believe the judge was Judge King when the trial was
6 originally scheduled and we were talking in chambers. It
7 was me, Mr. Bank, Ms. Campbell, Ms. Meghan Walker and Judge
8 King, and maybe his clerk, and I indicated outside of the
9 jail calls that we had a witness that we had just located
10 in Florida and that we needed to get him here because we --
11 and I -- that we had done an investigation, and at some
12 point I must have said or I must have been asked about
13 written -- prior written statements. I don't know who
14 asked, but I must have answered that they had given
15 statements in the past, especially considering, I guess,
16 that Bobby Watkins had passed, and the -- Judge King
17 ordered me to turn them over. I objected. Not formally
18 because we were in chambers, this was off the record, and
19 he ordered me to turn them over.

20 Q. I imagine you probably objected pretty strenuously in
21 chambers?

22 A. I believe so. That's my recollection.

23 Q. And -- and you said it wasn't objected to formally.
24 Did it ever get put on the record?

25 A. I don't believe so.

1 Q. Okay. So that -- that issue of Judge King forcing
2 you guys to turn over reciprocal discovery that potentially
3 wasn't proper was not preserved for Mr. Porterfield to
4 argue to the Court of Appeals?

5 A. It was not on the record, no.

6 Q. Okay. All right. I wanted to make sure I didn't
7 forget that, so let me kind of jump back. You said you
8 were -- you were in the PD office for about ten years and
9 when did you -- when you did start at the public defender's
10 office?

11 A. I had interned previously, but I passed the bar in
12 late October -- no, I was sworn in mid November 2007.

13 Q. So by 2015 how many of those fifteen to twenty trials
14 do you think occurred between November of 2007 and when
15 this case was tried in 2015?

16 A. I can only recall one trial I second seated between
17 Mr. Porterfield's trial and my departure off the top of my
18 head, but I could be wrong.

19 Q. Okay. So most of your trial experience happened
20 before Mr. Porterfield?

21 A. Yes.

22 Q. Or at least in the public defender's office at that
23 point when it happened?

24 A. Yes.

25 Q. Okay. Now getting to the -- the first, I guess,

1 issue here regarding the -- regarding the inconsistencies
2 between the witness statements. Mr. Matthews said, I
3 guess, properly that -- or got you to say that the value of
4 the merchandise isn't an element of burg first, kidnapping
5 or armed robbery, but what would have been the value of
6 asking, particularly the father in the case, I guess we'll
7 call him Nate, what would have been the value of asking him
8 about why the value kept changing or why the value went up
9 significantly from arrest to trial date?

10 A. I believe it would have gone to witness credibility.

11 Q. I think the only inconsistency that Mr. Matthews had
12 pointed out or asked you about between the two victims'
13 statements was about which restaurant they went to. Can
14 you recall either based on -- based on your recollection
15 of the trial or anything that Mr. Porterfield's testimony
16 yesterday jogged in your memory, other inconsistencies
17 between the girls' statements from the day that -- the
18 incident date to the day after to a few months later to the
19 time they actually got to trial three years later?

20 A. Off the top of my head -- I don't recall other
21 inconsistencies off the top of my head.

22 Q. Do you recall any inconsistency about where the girls
23 said that the two black males were, I guess, to begin the
24 whole -- the whole incident?

25 A. I don't recall that, no.

1 Q. Do you recall any statements that said that the two
2 black males were basically waiting on the front porch?

3 A. I would defer to the trial record, but I -- I can't
4 recall if that was an inconsistency that they had given
5 something -- that they had given something different
6 earlier.

7 Q. So you wouldn't be able to remember if there was a
8 statement that said that the two black males were sitting
9 in the car?

10 A. I don't recall.

11 Q. Okay. You did -- you did call an expert in this case
12 regarding cross race ID, weapon blindness, short and
13 long-term memory?

14 A. Uh-huh. I'm mean, yes. I'm sorry.

15 Q. Just in general, why do you call experts?

16 A. To explain -- explain issues that lay individuals may
17 not know or understand or have expertise in.

18 Q. Be it either lay people like ourselves as attorneys or
19 lay people being the jury, right?

20 A. Absolutely.

21 Q. They're there to kind of educate us on things that are
22 a little outside our scope?

23 A. Yes.

24 Q. In regards to the AT&T expert, I think you testified
25 that you had identified an AT&T expert?

1 A. I spoke with an engineer at AT&T.

2 Q. Do you know what that engineer's name was?

3 A. I don't.

4 MR. DERIEG: May I approach, Your Honor?

5 THE COURT: Yes, sir.

6 BY MR. DERIEG:

7 Q. I'm gonna show you what's been marked as Plaintiff's
8 Number 5. This one for identification. I'd like for you
9 to look at the second page of -- of that pack of paper. Do
10 you recognize that second page?

11 A. I do.

12 Q. What is it?

13 A. Are you asking what it is?

14 Q. Yeah. Just in general what that sheet is.

15 A. It's a witness list that I -- that are my notes that I
16 put who was gonna handle which witness.

17 Q. And you created this list?

18 A. I did.

19 MR. DERIEG: And, Your Honor, at this time I'd
20 like to move the second page of Plaintiff's Number 5
21 into evidence.

22 MR. MATTHEWS: Your Honor, I don't have an
23 objection to that. I request that he would remove
24 that from the overall packet and mark it as Defendant's
25 -- or Applicant's Number 6 since the other pages are

1 inadmissible.

2 THE COURT: All right. We can do that.

3 MR. DERIEG: I'll do that.

4 (Plaintiff's Exhibit Number 6 was marked for
5 identification.)

6 MR. DERIEG: I would move now Plaintiff's 6 into
7 evidence, Your Honor.

8 MR. MATTHEWS: No objection.

9 THE COURT: Thank you.

10 (Plaintiff's Exhibit Number 6, Defense witness
11 list, was admitted into evidence.)

12 BY MR. DERIEG:

13 Q. Looking at Plaintiff's Number 6, do you have an AT&T
14 engineer listed on that -- you said this was a witness
15 list, right?

16 A. Yes.

17 Q. Do you have an AT&T engineer listed on your witness
18 list?

19 A. Yes.

20 Q. And what is his name?

21 A. Keith Patterson.

22 Q. All right. And you would have spoken with
23 Mr. Patterson? Or you -- I think that the testimony was
24 you recall speaking to an AT&T engineer about -- about
25 the cell records.

1 A. I do recall speaking to one.

2 Q. Do you know whether it was Keith Patterson or not?

3 A. I don't.

4 Q. Okay. But if you -- if you had called an expert to
5 trial regarding the cell phone logs or the cell tower logs,
6 presumably it would have been Keith Patterson?

7 A. I'm not sure. I can't -- I believe I was confused
8 because if Mr. Shealey had told me about Keith Patterson,
9 I'm not sure it was the same person. So although I did
10 list it here, I'm not sure if it was Keith Patterson or
11 not. That's just my honest recollection. I don't know.
12 Presumably it could have been.

13 Q. Okay. Well -- and let's say the engineer that you
14 spoke to is Keith Patterson or some other AT&T engineer,
15 my question would be if you can recall why you didn't call
16 him to the stand or any expert to the stand regarding the
17 cell phone records or cell tower logs?

18 A. My recollection at trial is that they did not bring
19 up triangulation. The testimony of McDonald was about
20 frequency of calls and time of calls and who the numbers
21 belonged to.

22 Q. Yeah.

23 A. Again, I'd defer to the transcript, but we separately
24 had the triangulation records very early on in this case
25 and that testimony for the engineer was not helpful.

1 Q. Okay. Are you saying that -- or do you remember
2 specifically why it wasn't helpful? Either the cell towers
3 were giving a very broad range or whether it was something
4 that the cell towers just wasn't refuting his alibi so to
5 speak?

6 A. It was a very broad range and it did not directly
7 refute his alibi.

8 Q. And I think --

9 A. Wait. It did -- well, I guess it -- it didn't put him
10 outside the broad triangular area.

11 Q. And I think you stated or testified earlier it's a lot
12 better now at pinpointing than it was a decade ago?

13 A. Yes.

14 Q. Cell tower records are?

15 A. Yes.

16 Q. So when you talked to the AT&T engineer, it was fair
17 to say that in regards to those cell tower records that
18 they put -- they put Mr. Porterfield in a very broad area
19 that he could have been during the time?

20 A. I recall it being a broad area, but that included
21 the incident location, and so because it didn't put him
22 directly outside of it, it was very broad, it wasn't
23 helpful.

24 Q. And let's -- and think about the different places that
25 are, I guess, brought up in the trial; being his work --

1 his place of work, where he lived, [REDACTED] Street, the
2 Shamrock gas station, they're all kind of in the same area
3 or roughly close to each other, right?

4 A. I don't recall.

5 Q. Okay. Now I think in your -- you direct testimony
6 you talked about your -- your DV motion and attacking --
7 attacking the dwelling versus business in your DV motion,
8 right?

9 A. Yes.

10 Q. Do you recall ever doing that prior to -- prior to
11 trial?

12 A. I do not recall a pre-trial motion on that issue, no.

13 Q. Do you recall in your -- well, did you -- did you do
14 the cross-examination on both victims? Or, excuse me, the
15 -- yeah. Did you do the cross on both victims?

16 A. On both the daughters, I don't recall.

17 Q. Okay. And do you recall who did the cross on the
18 father, on Nate?

19 A. If I'm referring to Plaintiff's Exhibit 6, it was
20 assigned to me.

21 Q. Okay. And under Plaintiff's 6, who were the two
22 daughters assigned to?

23 A. Me.

24 Q. Okay. And do you recall in your cross-examination of
25 those three witnesses ever trying to flesh out where the --

1 the business stopped and the residence began?

2 A. I don't recall that.

3 Q. Okay. Did you ever get a chance to visit the incident
4 location?

5 A. I viewed it by driving past it. I never went inside
6 the location.

7 Q. You never went in inside?

8 A. No.

9 Q. Okay. I guess as a general -- general question,
10 which of the State's witnesses that testified did -- did
11 you interview prior to the trial in regards to this trial?
12 Because I'm sure that you -- you talked to some of the
13 witnesses in this case and about other trials in the past,
14 but do you recall in your preparation for this trial
15 meeting with any of the State's witnesses prior to their
16 testimony?

17 A. No.

18 Q. Do you remember who investigator -- or, excuse me,
19 Officer Bass or Officer Stone were?

20 A. I don't.

21 Q. I'll show you what's been marked as Plaintiff's
22 Number 1. I guess look in the bottom right-hand corner
23 of -- of the first page of Plaintiff's Number 1. Who's
24 that officer listed on that incident report?

25 A. On the bottom left it says reporting officer is James

1 Stone.

2 Q. Okay. And do you recall there being -- well, did --
3 did James Stone according to his report take a -- take a
4 statement from the victims?

5 A. Give me just a second. It looks like he did speak
6 with the two daughters.

7 Q. And do you -- in the course of the investigation, do
8 you remember if -- do you remember Investigator Stone,
9 excuse me, Investigator Clarke interviewing the girls the
10 next day?

11 A. I don't.

12 Q. If you look at page two of that packet, would it
13 refresh your memory?

14 A. According to Investigator Clarke, he did -- and spoke
15 with them the next day. The entire family it appears.

16 Q. And do you -- do you recall any inconsistencies
17 between the first -- the day of the incident and then the
18 following day?

19 A. Off the top of my head, I do not.

20 Q. I'll let the evidence speak for itself. I was just
21 wondering if you recall specifically during the trial.

22 A. I don't recall specifically during the trial.

23 Q. Do you recall during your preparation for the trial,
24 I guess, just I'll call it flagging the -- the different
25 statements that the girls had made and the inconsistencies

1 between their statements?

2 A. My general practice would have been to go through
3 and flag any inconsistencies, but it's it -- I could have
4 missed inconsistencies as well.

5 Q. Do you remember that being a big part of your cross,
6 a big focus of your cross, or were you focussed on other
7 things on your cross of those two girls?

8 A. I think I primarily -- if I recall correctly, again,
9 deferring to the transcript, I recall mostly focussing on
10 the identification.

11 Q. Got you. You said -- in regards to how the State got
12 Diana Addison's phone number, did you say that you don't
13 know how that happened or did you say you don't recall or
14 -- I kind of missed that.

15 A. I did not provide it. I am unaware of the method
16 they obtained it. They have access to many databases that
17 I do not.

18 Q. So it wasn't something -- and it wasn't something
19 like Judge King did in chambers where he ordered you turn
20 it over?

21 A. Not to my recollection.

22 Q. All right. Is there any chance you could have
23 inadvertently given that number to them?

24 A. No.

25 Q. Okay. You said that to your -- your recollection

1 the phone system used a PIN -- a PIN number to identify
2 specific inmates on the jail system, right?

3 A. That's my recollection.

4 Q. Do you recall a time prior to the PIN system?

5 A. I'm not sure how it operated. I can't remember when
6 it changed; if that was the version of it when I first
7 started practicing or if it was the later version.

8 Q. Okay. And I think based on your -- your last answer,
9 you would say that you don't -- you're not sure exactly
10 when they went to the PIN system?

11 A. I'm not.

12 Q. Okay. And you said -- turning to the general phone
13 calls, you didn't listen to all 250, right?

14 A. I did not.

15 Q. But you guys did use some of the calls in the defense
16 case in chief, right?

17 A. I don't recall, but if the transcript says that, then
18 we did.

19 Q. Okay. And assuming the -- assuming the transcript
20 does say that you guys played a couple of calls for the
21 -- during the defense case in chief, how would you have
22 figured out which of -- which calls from that 250 to
23 actually use?

24 A. We reviewed as many as we could.

25 Q. And do you remember about how many that was?

1 A. I don't.

2 Q. Do you think you got close to 250 or --

3 A. No.

4 Q. Okay. You-all didn't have an intern or a law clerk
5 you could punish by just making them sit there and listen
6 to all 250?

7 A. We absolutely did and he listened to as many as he
8 could.

9 Q. Got you. I think in the questions you were asked by
10 Mr. Matthews he was -- he was mentioning testimony that my
11 client gave yesterday where he said that the -- he stated
12 the phone calls were incriminating. Did you -- did you
13 hear that testimony yesterday?

14 A. That Mr. Porterfield indicated they were
15 incriminating?

16 Q. Right.

17 A. I did hear that.

18 Q. And didn't he go on to say that it was -- the way that
19 Luck Campbell was spinning or interpreting for herself what
20 those -- those statements said?

21 A. Yes.

22 Q. And was there really -- really any other way to, I
23 guess, dispute Ms. Campbell's interpretation of those
24 through a witness other than -- other than Anthony or
25 Diana? Because certainly --

1 A. Oh, to dispute what they meant?

2 Q. Right.

3 A. I don't believe so.

4 Q. Because certainly you could offer your own spin or
5 explanation on the -- on what the call said in a closing
6 argument, but through a witness can you think of any other
7 witnesses that you could have asked that would have been
8 able to explain what -- what that stuff meant other than
9 Anthony or Diana?

10 A. I guess if there were other terms that were unfamiliar
11 that another witness may have been familiar with them.

12 Q. Okay. So like some of the street lingo might have
13 been familiar to other witnesses?

14 A. Or a name for a group or something of that nature.

15 Q. Okay. But would it be fair to say that the best
16 people to truly explain what they meant in their -- in
17 their own conversation would have been the people actually
18 having the conversation?

19 A. Absolutely.

20 Q. Okay. Do you recall during the State's case in chief
21 whether or not anyone was able to positively identify who
22 the voices on those phone calls were?

23 A. I don't.

24 Q. Do you recall objecting to the entrance of those --
25 those phone calls into evidence?

1 A. I don't other than -- well, I think we did -- actually
2 we objected not based on voice identification.

3 Q. What was it that you guys objected on?

4 A. Well, I believe I testified on direct about it
5 being a double-edged sword essentially that to put it
6 in context you needed to listen to the whole call, but
7 there was evidence that was inadmissible -- statements
8 that were inadmissible in those calls as well, so out of
9 an abundance of caution they should be wholly kept out.

10 Q. And that was sort of the essence of your pre-trial
11 motion to suppress?

12 A. I believe so.

13 Q. Okay. Did you -- did you object to the introduction
14 of those calls based on a failure of the State to obtain a
15 search warrant to -- to listen to those phone calls?

16 A. I don't recall any Fourth Amendment argument to the
17 best of my knowledge.

18 Q. Okay. And you said that you met with Anthony, what,
19 five, six times prior to -- prior to trial?

20 A. I believe so.

21 Q. Do you remember in those five to six meetings if you
22 ever made sure that he was aware that a laptop bag was
23 involved in the case?

24 A. If we reviewed the discovery, it may have been
25 mentioned. I do not remember it being a big issue flagged

1 in my head --

2 Q. Right.

3 A. -- so I don't believe I would have -- that would have
4 been a very significant portion of the conversation outside
5 of what may have been mentioned in the reports.

6 Q. I'm saying at first blush when you first looked at
7 the case and look at the statements and stuff, it's fair
8 to say that the black laptop bag wasn't -- wasn't a very
9 significant -- at least prior to Luck Campbell the black
10 laptop bag wasn't a very significant part of the case?

11 A. No. I was -- I don't recall it being an issue prior
12 to Luck Campbell making it a significant issue.

13 Q. And, I guess, while -- while we're there, what do you
14 recall about Ms. Campbell's testimony -- or well, call it
15 what you want, I guess, questioning regarding the black
16 bag?

17 A. I recall sitting at defense table beside
18 Mr. Porterfield, and as I testified on direct, he brought
19 a bag with him every day to contain his records, files,
20 notes, and Ms. Campbell grabbed the bag and had -- I
21 believe it was Investigator Clarke say a bag like this or
22 maybe it wasn't Clarke. It was somebody --

23 Q. Well, I'll ask you to look at page 501 of the
24 transcripts. It's gonna be the second page of the second
25 book.

1 A. It looks like it was Investigator Clarke.

2 Q. And you said that -- I think you just testified that
3 Luck Campbell went and grabbed the bag from beside Anthony?

4 A. Yes.

5 Q. Is that reflected anywhere in the transcript? At
6 least on page 501.

7 A. I don't believe so. That doesn't appear. My
8 recollection though was -- my recollection was that she
9 had it, but she -- that she physically touched it.

10 Q. And when she came and grabbed it, did you object to
11 it?

12 A. I didn't.

13 Q. And not just looking at 501, but from your memory
14 about what Luck Campbell did with that bag, could you
15 tell -- tell His Honor what her demonstration and -- and
16 questions to Investigator Clarke were?

17 A. I'm sorry. Repeat that.

18 Q. I guess briefly describe what she did with that bag
19 and how she -- she used it with Investigator Clarke's
20 testimony.

21 A. I believe she asked if he had witnessed the black bag
22 -- witnessed Mr. Porterfield coming into court and if he
23 had brought anything with him and something like is it a
24 black -- like a black laptop bag and like the one that
25 was used in the incident, but my recollection is that she

1 picked it up from defense table from behind Mr. Porterfield
2 was my recollection.

3 Q. Yeah. Do you recall whether or not -- and Mr. -- I
4 guess Mr. Porterfield testified yesterday that there were
5 -- there were certain things, specifically on page 501,
6 that happened during that questioning of Investigator
7 Clarke. Do you remember Ms. Campbell doing anything or
8 asking anything that was -- besides picking up the black
9 bag that isn't contained on 501? Like specifically do you
10 remember whether or not she asked Investigator Clarke if --
11 if that bag was similar to the one that was used?

12 MR. MATTHEWS: Your Honor, I believe this has been
13 asked and answered multiple times now.

14 MR. DERIEG: If I may.

15 THE COURT: Mr. Derieg, go ahead, sir.

16 BY MR. DERIEG:

17 Q. Do you recall Ms. Campbell asking Investigator Clarke
18 if that -- if that bag was similar to the one that was used
19 in the -- in the case or in the incident?

20 A. Yes, she did ask that.

21 Q. Okay. Do you recall whether or not Ms. Campbell ever
22 actually asked Investigator Clarke the -- I guess the real
23 question that she was getting to was that the actual bag
24 that was used in the -- in the crime?

25 A. I don't think she said those words directly, but

1 I think she -- what I recall is that she said something
2 like is the bag similar to this and maybe that was more
3 what was insinuated in the transcript versus what my
4 recollection is. So she was insinu -- I remember her
5 picking up the bag, which is not reflected in the
6 transcript, and that the insinuation was it was very
7 similar to the same bag that he had at that time.

8 Q. Okay. And I guess while we're on this bag, I'll --
9 I'll ask you to look at the pages Mr. Matthews had you
10 look at. I believe 434 through 435. Excuse me. Excuse
11 me. It's where -- where is this?

12 Well, while I'm looking for this page number, will
13 you tell the judge what you were trying to do when you were
14 using those -- using those laptop bags in your closing.

15 A. I was -- my thought process was to show that it's a
16 common item.

17 Q. And what happened when you -- when you pulled those
18 out?

19 A. My recollection is -- I can't remember if Judge
20 McMahon or Luck Campbell spoke first, but immediately I
21 was objected to by one or the other.

22 Q. If you would look at page 954, does looking at that
23 page, particularly around line 9, help refresh your memory
24 as to who it was that went first objecting to you using the
25 bag?

1 A. It looks like the -- that Judge McMahon spoke first.

2 Q. And, I guess, if you'll -- I guess just read from
3 line 9 to line 14. To your recollection was that the --
4 the only -- only statements made regarding -- especially
5 from the Court regarding those laptop bags? I guess did --
6 because I called it him kind of going after you yesterday.
7 Do these pages reflect your memory of the Court's objection
8 to you using those laptop bags?

9 A. As far as statements, yes. I would say the sequence
10 of events is a little different.

11 Q. Okay.

12 A. I mean, it's not reflected here is what I'm saying.
13 My description of the event is not reflecting the same just
14 by these records.

15 Q. Okay. Can you elaborate?

16 A. I remember as soon as I brought it in -- I think I
17 had a very large trash bag or something with like ten
18 or fifteen of these bags and my -- I meant them as
19 demonstrative and as soon as I said it, the Court made
20 the statement and then I went to move on and then the
21 Court interrupted me again -- or stopped me again to have
22 Mr. Tate, who had just joined our office, take them out
23 of the courtroom completely, and then I believe I didn't
24 start again until they had actually gone out the back
25 door. I don't believe it took five minutes, but it was

1 -- I would characterize it as an awkward period of time.

2 Q. During your closing?

3 A. Yes.

4 Q. Do you recall when if -- when Ms. Campbell grabbed
5 Mr. Porterfield's black laptop bag and paraded it around
6 the courtroom and asked questions about it, you said you
7 didn't object, correct?

8 A. I didn't.

9 Q. Did -- did the Court interject itself into that and
10 object like they did during your closing?

11 A. To my recollection, no, but I don't recall that.

12 Q. Will you look at -- look at page 501 and tell me
13 whether that's reflected at all in the -- in the
14 transcript.

15 A. Other than -- that he did not interject without
16 being -- I can't think of the word -- without it -- he
17 was just asked to reflect about -- let the record reflect
18 that Investigator Clarke identified the defendant is all
19 -- that's the only statement kind of in that line of
20 questioning where the Court spoke.

21 Q. Right. But regarding -- anything regarding
22 Ms. Campbell's use of that black laptop bag from Anthony,
23 he didn't say anything?

24 A. No, and there was no objection from me either.

25 Q. So he thought it was okay for Ms. Campbell to do

1 something, but didn't think it was okay for you to do it?

2 A. I don't venture to guess Judge McMahon's thoughts.

3 Q. Would the -- would what played out in trial seem to
4 indicate that?

5 A. Based on the two transcripts --

6 MR. MATTHEWS: Your Honor, I'm gonna object on the
7 speculation. She just said she can't speculate as to
8 what Judge McMahon was thinking.

9 THE COURT: I understand. Sustained.

10 BY MR. DERIEG:

11 Q. Okay. And just very simply, Ms. -- Ms. Campbell was
12 allowed to use Anthony's laptop bag, but you weren't
13 allowed to use it at trial -- in closing?

14 MR. MATTHEWS: Your Honor, this has been asked and
15 answered many times.

16 THE COURT: Sustained.

17 MR. DERIEG: Okay. I'll move on.

18 BY MR. DERIEG:

19 Q. In regards to getting the videos, any surveillance
20 videos from exterior cameras of businesses that were
21 located around this incident location, I think you said
22 nobody went and got those videos?

23 A. Not to my recollection.

24 Q. Do you know if anybody ever tried?

25 A. Not to my recollection.

1 Q. And I think you stated on -- on direct that in regards
2 to Mr. Matthews asking you if Mr. Porterfield ever thought
3 of it and asked you to do it, I think your response was you
4 couldn't remember if he did, but that -- that would have or
5 could have been something that you had thought of yourself?

6 A. Yes, I -- I was aware of where the incident location
7 was and that it was a busy area and so that is not a thing
8 that Mr. Porterfield would have -- it's not a piece of
9 information he would have had to give me.

10 Q. Okay. And potentially if there had been some, I
11 guess, collection of exterior videos from around the time
12 that potentially could have either shown Mr. Porterfield
13 there at the incident location or not, correct?

14 A. Potentially.

15 Q. And if you and your investigators went out and got
16 that -- that surveillance video stuff and reviewed it and
17 had seen that it had shown something negative towards
18 Mr. Porterfield's case, is that something that you would
19 have had to turn over as part of reciprocal Rule 5?

20 A. No.

21 Q. So really there would have been no danger in going
22 and getting those videos and taking a look and -- well,
23 one, seeing if they existed and then, two, taking a look
24 and seeing what was in there?

25 A. Not that I can recall or think of.

1 Q. And in regards to, I guess, the testimony of the
2 father or Nate, if you had gotten -- if you had asked
3 questions about the relationship of the business dealings
4 between Mr. Porterfield and Nate, do you think that -- do
5 you think that you should have now looking back on it?

6 A. I think it had the potential to play out differently
7 -- that the trial may have played out differently had I
8 brought that issue up.

9 Q. And why is that?

10 A. I think that it could have affected credibility of the
11 witness as well.

12 Q. Do you -- do you recall whether or not either Meghan
13 or Luck from the State either implied or expressly talked
14 about Mr. Porterfield trying to have a financial gain from
15 these alleged crimes such as going and -- and selling the
16 stuff that was stolen?

17 A. I can't recall off the top of my head.

18 Q. Okay. Do you remember whether Ms. Campbell or
19 Ms. Walker ever ascribed any sort of motive for this
20 incident, be it financial or otherwise, towards
21 Mr. Porterfield?

22 A. I am not sure if they put forth a motive or not.

23 Q. Okay. Well, if -- if you had asked Nate and, I
24 guess, by extension ultimately asked Anthony when he was
25 on the stand about the -- Anthony stealing goods from his

1 company and selling it to Nate and then Nate selling it
2 at the flea market or out of his house, do you think that
3 that testimony would have negated any sort of financial
4 -- implied financial gain or financial motive to -- for
5 Anthony to have robbed Nate or Nate's daughters?

6 A. It could have.

7 Q. Do you -- and I actually missed this part of your
8 direct. Do you recall whether or not Anthony talked to
9 you about exactly what was going on with him getting
10 electronics from Creative Solutions and then selling them
11 to -- to Nate?

12 A. We may have had that discussion, but I do not recall
13 it.

14 Q. Okay. I want you to look at page -- please at page
15 484 of the transcript regarding Scott McDonald's testimony.
16 I believe Mr. Matthews asked you to look at the bottom of
17 that page and -- and talk about Exhibit Number 33. Do you
18 recall that part of your testimony?

19 A. I do.

20 Q. And he went onto emphasize or ask you about if
21 Exhibit 33 was -- was evidence of the father's cell
22 records.

23 A. According to the transcript.

24 Q. Yeah. If you will look above on page 434, I guess
25 the question starting at line 5 and the answer starting at

1 line 9, was Detective -- or Captain McDonald up there
2 talking about the victims' and the defendant's cell phone
3 records?

4 A. He testified that he was asked to review both, both
5 the victim and the defendant, Mr. Porterfield, and he
6 indicated he did.

7 Q. Okay. Was a burg second or a burg third jury charge
8 requested by the defense?

9 A. I don't believe so.

10 Q. Do you remember why not?

11 A. I don't.

12 Q. Do you think that -- I guess in looking back now, do
13 you think that's something that you should have or could
14 have asked given the testimony in the trial if, you know,
15 there had been -- was the evidence sufficient enough to
16 have asked for a burg second or a burg third jury charge?

17 A. I could have requested it.

18 Q. Okay. And I guess by extension, if you had been
19 granted it, Anthony could have been found guilty of a
20 lesser burglary, right?

21 A. If the instruction had been provided, the jury would
22 have had that option.

23 Q. Okay. In terms of actual physical documents, what --
24 what sort of access did Anthony have to his discovery?

25 A. He had access to his file. I don't recall him

1 requesting a copy of it during my representation --

2 Q. Okay.

3 A. -- but if he had wanted it, he could have it or have
4 reviewed it.

5 Q. Okay. Do you recall making a copy of the file and
6 giving it to him?

7 A. I -- the only time I recall an actual request and copy
8 was after he had been convicted.

9 Q. Okay. So any time you remember actually copying the
10 whole file and giving it to him was -- was after -- his
11 request after he was convicted?

12 A. That's the only time I can recall.

13 Q. Okay. I think one of the theoretical questions you
14 were asked was is your general practice to show defense
15 witnesses their statements prior to putting them on the
16 stand.

17 A. I believe it was asked if I prepared defense
18 witnesses.

19 Q. We had -- there was definitely the preparing witness
20 testimony, but I think you specifically got into -- I think
21 you said that as a -- in general that you would -- as part
22 of the general preparation you would show -- you would
23 typically show your witnesses any statements that they had
24 made or given, be it orally or written, through the course
25 of the investigation.

1 A. Yes.

2 Q. And you said that, I guess, at least two, if not
3 three, of the witness preparations had to be done over the
4 phone?

5 A. Mr. Griffin was in Florida, so I spoke to him over
6 the phone until he got in South Carolina and I then spoke
7 to him -- I believe he got in late, late the night before,
8 and then I believe we spoke to him that morning a little
9 more in person. And then Mr. DeBerry was pretty insistent
10 about not coming, but we subpoenaed him and so I know that
11 I spoke to him over the phone about his statement.

12 Q. Okay. And that was gonna be my next question. Did
13 you orally review his statement with him if you couldn't
14 get face-to-face with him prior to him taking the stand?

15 A. I don't recall a face-to-face meeting with him unless
16 it was the day he was subpoenaed, but I don't recall it.

17 Q. Okay. What do you recall about T.K. in -- in this
18 case? Did you ever meet him or talk to him?

19 A. I don't recall.

20 Q. Okay. Do you recall Ms. Campbell repeating his name
21 over and over and over again in questions during the
22 State's case in chief?

23 A. I do.

24 Q. Did you ever object to that?

25 A. I don't know if it was an objection or if I had

1 addressed it during a break on the record. I know I
2 addressed it on the record, but I can't remember if it
3 was in the form of an objection in front of the jury not.

4 Q. Okay. Do you know whether that was -- well, what was
5 your -- what was your objection meant to achieve?

6 A. To -- so that she could not comment on the fact that
7 T.K., Tyrue Ruffin, was not at the trial for whatever
8 reason.

9 Q. Did you kind of feel like that was burden shifting?

10 A. That was my argument to the Court.

11 Q. Okay. And you don't know whether that was preserved
12 on the record?

13 A. I think the argument was on the record, but I can't --
14 like I said, I can't remember if it was contemporaneous to
15 Ms. Campbell's statement or if I had addressed it in a
16 break when the jury was out. I can't recall if the jury
17 was in the room or not.

18 Q. Okay. What do you remember about the -- about how
19 the State got the information about Ms. Gale having a
20 brown Impala?

21 A. I don't recall. It may have -- I don't recall. It
22 may have been in the statements that Judge King ordered me
23 to turn over.

24 Q. Do you -- do you remember during the trial making an
25 objection to essentially Ms. Campbell implying or even

1 asking law enforcement -- or Ms. Campbell really implying
2 or saying that law enforcement were the ones that connected
3 Ms. Gale to a brown Impala and that you were the one that
4 actually provided it to the State be it through those
5 witness statements or otherwise?

6 A. I'm so sorry. Repeat that one more time.

7 Q. Do you recall talking about or having a problem with
8 Ms. Campbell and her inference or her statements that law
9 enforcement were the ones that connected Ms. Gale to this
10 -- this brown Impala when in realty it came from something
11 that you turned over to the State probably through those
12 witness statements?

13 A. I don't recall.

14 Q. Okay. Do you remember stating on the record that you
15 were making an objection to that, but you hadn't made it
16 contemporaneously?

17 A. I don't recall.

18 Q. Okay. Did you -- and I kind of already asked this,
19 but did you get a chance to interview the daughters, the
20 victims, or their father prior to the -- prior to the
21 trial?

22 A. No.

23 Q. Based on your recollection of -- of the testimony, do
24 you recall whether the daughters called their father first
25 or did they call 9-1-1 first?

1 A. I recall that being an issue, but I can't recall what
2 the answer to it is.

3 Q. Okay. Did you get a -- did you get a sense that those
4 girls' father was involved in, I guess, helping them with
5 their testimony?

6 A. I think -- I do recall that being a concern of sorts.

7 Q. Do you recall initially the girls not being able to
8 identify the two black males that came to their house?

9 A. You mean -- what do you mean originally?

10 Q. Right off the bat do you recall whether the 9-1-1 call
11 said that it was Amp or Anthony Porterfield?

12 A. I do. I recall that that was missing from the 9-1-1
13 call, if I remember correctly, but I'd, again, defer to the
14 transcript.

15 Q. Okay. And do you recall whether it was before or
16 after the girls admitted to talking to their father that
17 they started saying that it was Amp that -- that was one
18 of the people that robbed them?

19 A. I believe that that was in the record, that that was
20 part of the argument, that -- that the timeline of who
21 talked to who was an issue. I'm not exactly recalling
22 the timeline of what it was, what the order was, but
23 that's --

24 Q. And I think I'm almost done to get you out of here.
25 I think I have two minutes left.

1 You made a motion about the defendant wearing
2 shackles. I think you said while he was testifying you
3 asked that the shackles be removed. Was that --

4 A. I did. I did ask that the shackles be removed.

5 Q. I think that was your testimony on direct. Did you
6 object to him being put in shackles prior to the trial
7 starting?

8 A. I believe I did at the beginning --

9 THE WITNESS: And, Your Honor, I -- out of an
10 abundance of caution, I don't want to prevent
11 Mr. Porterfield from his case, so if this stops I will
12 certainly return.

13 MR. DERIEG: No, this is --

14 THE WITNESS: Just in case. I don't want to stop
15 the case or cause anybody to not make their case.

16 BY MR. DERIEG:

17 Q. You said you think you remember objecting to it prior
18 to -- to the trial?

19 A. That would have been common practice, but I'd defer to
20 the transcript.

21 Q. Okay. And do you recall any -- any specific findings
22 made by the Court as to -- as to Ms. -- Mr. Porterfield
23 specifically and individually why he was needed to be
24 shackled the -- the entire time?

25 A. I think it had something to do with a prior bench

1 warrant.

2 Q. So a bench warrant is the reason that he was so
3 dangerous he had to be shackled?

4 A. I can't -- I do recall something about a bench warrant
5 being brought up and I can't remember if that had to do
6 with him being shackled or if that had anything to do with
7 him remaining out on bond during the trial, but I do recall
8 being denied him being unshackled during the trial.

9 Q. And do you -- do you recall about -- I guess the
10 reasoning behind the bench warrant regarding mail going to
11 the wrong address?

12 A. I believe what happened was he was -- I had had this
13 case and that Ms. Campbell moved under Schmerber for a new
14 DNA sample, I believe, and notice was sent, but I'm not
15 sure where it went, but I don't believe Mr. Porterfield
16 had notice and then I very indirectly got in touch with
17 Mr. Porterfield I think after the date had passed and then
18 when I got a new date, Mr. Porterfield showed up.

19 Q. So --

20 MR. MATTHEWS: And, Judge, this is my last question.

21 Q. So to the best of your recollection, the only reason
22 that was enumerated by the Court for Mr. Porterfield being
23 shackled from his ankles, belly chain and wrists for the
24 entirety of the -- of the case besides him be able to use
25 his hand to write was a bench warrant that ultimately was

1 issued because he didn't get -- he never got notice to show
2 up to court?

3 A. I -- that's what I recall. I recall that the bench
4 warrant was an issue. And, again, I can't remember if
5 it was remaining on bond or shackles. I'd defer to the
6 transcript.

7 Q. And, I'm sorry, I just have two quick questions. Was
8 -- was that when he was supposed to come for a Schmerber
9 hearing?

10 A. Yes, that's why the bench warrant was issued because
11 he'd been noticed for -- well, notice had been sent out
12 for a Schmerber. I don't believe Mr. Porterfield received
13 it. I very indirectly got in contact with him, it was a
14 very short period of time later and asked -- when it was
15 rescheduled, Mr. Porterfield did show up and the bench
16 warrant was vacated at that hearing.

17 Q. And, final question, did he have any problem giving
18 over his -- his DNA or did he --

19 A. I believe he consented.

20 Q. He said he consented to the Schmerber, right?

21 A. I believe so, yes.

22 MR. DERIEG: That's all I have, Your Honor.

23 THE COURT: Mr. Matthews.

24 MR. MATTHEWS: Ms. Walker, I don't have any
25 questions.

1 (Witness excused.)

2 MR. MATTHEWS: Thank you for being here and I'm
3 not sure if you're under subpoena, but, Your Honor, I
4 would request she be released from her subpoena.

5 MR. DERIEG: No objection.

6 THE COURT: Ma'am, I appreciate your patience with
7 me and all of us.

8 MS. WALKER: Thank you, Your Honor.

9 MR. DERIEG: Thank you for being here.

10 THE COURT: Mr. Matthews, has the remaining witness
11 arrived?

12 MR. MATTHEWS: Your Honor, my remaining witness is
13 Bobby Bank. He's in the courtroom. I don't know Your
14 Honor's preference on trying to squeeze that in this
15 afternoon depending on how things go.

16 THE COURT: To a reasonable degree of legal
17 certainty --

18 MR. MATTHEWS: Your Honor, to a reasonable degree
19 of legal certainty, my questioning will be quick. Less
20 than an hour. Probably thirty minutes.

21 THE COURT: Okay.

22 All right. Now we should go to the two scheduled
23 hearings this afternoon.

24 MR. MATTHEWS: Yes, sir.

25 (Discussion off the record regarding scheduling.)

1 THE COURT: It sounds like we'll put that up this
2 afternoon. So we'll try to -- I mean, I'm not saying it
3 now --

4 MR. MATTHEWS: Your Honor, may I proposal an
5 alternative? Perhaps we show up depending on
6 Mr. Derieg's schedule and if some of these things fall
7 through, and I know Mr. Banks is here in the courthouse
8 downstairs, we could potentially wrap it up depending on
9 how other things shake out this afternoon.

10 THE COURT: I don't mind doing that. I'll do that.
11 If not, 9:00 in the morning. If we don't finish tomorrow,
12 it will be June 20th, and I'm in Sumter with no court
13 that day.

14 MR. DERIEG: How much time do we have in the morning?
15 From 9:00 until?

16 THE COURT: We've got till about 1:30 tomorrow.

17 MR. MATTHEWS: Yes, sir.

18 MR. DERIEG: We'll definitely get done tomorrow.

19 THE COURT: We'll see.

20 MR. DERIEG: And now are we waiting on --

21 THE COURT: Well, now, Mr. Derieg, do you-all want
22 to come back at 1:30 and see where we stand on these
23 other two. If they -- if one or both fall out, maybe we
24 can pick it back up. That's up to you-all. I'll let
25 you-all decide.

1 MR. MATTHEWS: Your Honor, gas is expensive these
2 days.

3 THE COURT: I know.

4 MR. MATTHEWS: Department of Correction's got to
5 drive Mr. Porterfield back, Mr. Derieg's got to go to
6 Grants Mill and back. We can knock it out today.

7 THE COURT: But that's if the other two make room
8 for it, so I'll let you-all decide that about 1:30 today.
9 Otherwise, it will be 9:00 in the morning.

10 MR. DERIEG: It would be my preference to come back
11 in the morning, Your Honor, just because essentially
12 we'd be sitting through at least, what, two PCR's and
13 hopefully that they -- they get done in time for us to
14 go back on the record.

15 MR. MATTHEWS: We don't -- my understanding is we
16 don't know if they're gonna go forward or not.

17 THE COURT: Well, I don't know either. I'm not
18 gonna order you-all come back at 1:30. I'll leave that
19 up to you-all three people here.

20 If we know what happens -- this is all off the
21 record.

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23 afternoon. So we'll try to -- I mean, I'm not saying it
24 now --

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2 Grants Mill and back. We can knock it out today.

3 THE COURT: But that's if the other two make room
4 for it, so I'll let you-all decide that about 1:30 today.
5 Otherwise, it will be 9:00 in the morning.

6 MR. DERIEG: It would be my preference to come back
7 in the morning, Your Honor, just because essentially
8 we'd be sitting through at least, what, two PCR's and
9 hopefully that they -- they get done in time for us to
10 go back on the record.

11 MR. MATTHEWS: We don't -- my understanding is we
12 don't know if they're gonna go forward or not.

13 THE COURT: Well, I don't know either. I'm not
14 gonna order you-all come back at 1:30. I'll leave that
15 up to you-all three people here.

16 If we know what happens -- this is all off the
17 record.

18 (Discussion off the record regarding scheduling.)

19 (Whereupon, the proceedings were concluded for
20 May 25, 2022, at 12:06 PM.)

21 (The following proceedings were held May 26, 2022,
22 beginning at 9:11 AM.)

23 BAILIFF: Remain seated. Come to order.

24 THE COURT: Thank you-all very much.

25 For all of you who have gathered earlier on time,

1 I am sorry I'm late. As I mentioned earlier, I always
2 underestimate the massive, trying, patience-robbing
3 traffic of Columbia, so thank you.

4 Mr. Matthews, we have your witness?

5 MR. MATTHEWS: Yes, Your Honor.

6 Before we get to my final witness, if it pleases
7 the Court, Mr. Derieg and I agreed to a stipulation
8 yesterday afternoon. I was remiss, and in full candor
9 to the Court, Scott McDonald, I asked Ms. Walker
10 questions about whether he entered in the victim's
11 phone records or the defendant's phone records, and
12 thanks to my co-counsel I noticed on page 437 of the
13 record the defendant's phone records are also admitted
14 through Mr. -- Agent McDonald as State's Exhibit
15 Number 34. I didn't want to hide the ball from the
16 Court since that was a point of my questioning about
17 only the victim's cell phone records being admitted,
18 so I think Mr. Derieg is willing to stipulate to that.

19 THE COURT: Is that right?

20 MR. DERIEG: Certainly. He kind of cut me off
21 with one of the points I was gonna make this morning
22 with Mr. Bank, but, yes, I'll stipulate to that.

23 THE COURT: Okay.

24 MR. DERIEG: So that will cut out some of my --
25 some of my cross-examination.

1 THE COURT: So we have an agreement on one issue?

2 MR. DERIEG: Yes, sir.

3 Well, I stipulated to something yesterday, I forget
4 what it was, so we've got two.

5 THE COURT: We're moving right along.

6 Mr. Matthews, I'm ready, sir.

7 MR. MATTHEWS: Thank you, Your Honor.

8 The State calls Bobby Bank to the witness stand.

9 BAILIFF: Come forward and be sworn.

10 (Whereupon, Robert Bank was duly sworn by the
11 Bailiff.)

12 BAILIFF: Have a seat in the witness box and state
13 your full name for the record, sir.

14 THE WITNESS: My name is Robert Bank. I'm known
15 around the courthouse as Bobby, so that might be why the
16 name's being interchangeably used sometimes.

17 ROBERT BANK,

18 having been duly sworn, testified as follows:

19 DIRECT EXAMINATION

20 BY MR. MATTHEWS:

21 Q. Thank you, Mr. Bank, for being here for the third
22 day in a row now. I'm Scott Matthews with the Attorney
23 General's Office. We've spoken on the phone before and
24 you've had an opportunity to sit in here and listen to
25 the testimony of Mr. Porterfield and Ms. Addison and

1 Ms. Walker. I'm gonna begin with you as I did with
2 Ms. Walker yesterday and ask you a few general questions
3 about your criminal defense history and then we'll into the
4 specific allegations that Mr. Porterfield has raised.

5 How long have you been a practicing lawyer, Mr. Bank?

6 A. Eight and a half years.

7 Q. And how much of that eight and a half years have been
8 spent in your current job at the Richland County Public
9 Defender's Office?

10 A. All of it.

11 Q. And it may be an unfair question, but if you could
12 approximate in those eight and a half years how many
13 criminal defendants do you think you've represented?

14 A. I think Ms. Walker estimated fifteen hundred for
15 herself, so I would say that sounds about right. At least
16 a thousand probably.

17 Q. Okay. Do you recall how many of those defendants you
18 represented at a jury trial during your eight and a half
19 years?

20 A. For serious and most serious cases, I've probably been
21 involved in fifteen to twenty trials in some capacity. If
22 you add in misdemeanor cases and magistrate cases, it will
23 bump up.

24 Q. Well, I didn't ask Ms. Walker this yesterday, do you
25 typically get assigned the more serious crimes or do you

1 get a little bit of everything?

2 A. I get assigned more serious crimes.

3 Q. Okay. And how -- tell us about your typical practice
4 when you're -- if a case is gonna go to trial, what would
5 be your typical practice in meeting with a defendant as to
6 review discovery and/or prepare for trial?

7 A. Sure. Well, if a case is getting scheduled for trial,
8 myself and the general practice in our office is about
9 two months out, maybe longer, you'll get your second or
10 third chair lawyer in place, begin reviewing the case, meet
11 with the client as much as possible, make sure that they've
12 had every opportunity to review whatever discovery they
13 want and talk about trial strategies and things like that.

14 Q. And that -- would that involve going over witness
15 statements as well?

16 A. Yes.

17 Q. And specifically when it comes to preparing a
18 defendant for the possibility that he may testify, is it
19 your typical practice to advise a defendant about his
20 rights to testify or not testify under the Fifth Amendment?

21 A. Yes.

22 Q. And do you typically meet with a defendant beforehand
23 to discuss those rights and that trial strategy as far as
24 whether they will testify?

25 A. Yes.

1 Q. Now I'm gonna turn your attention specifically to
2 Mr. Porterfield. Do you recall representing Mr. Anthony
3 Porterfield?

4 A. I do.

5 Q. And I believe Ms. Walker's testimony yesterday was
6 that he was originally represented by Luke Shealey, but she
7 took over representation at the end of -- or towards the
8 end of 2013. Is that the time you began representing him
9 as well?

10 A. I think I got involved in the case about two to
11 three months before it went to trial.

12 Q. All right. So would that be late 2014 or early 2015?

13 A. Approximately.

14 Q. And do you recall approximately when the trial
15 occurred?

16 A. I believe that was February.

17 Q. Of 2015?

18 A. Correct.

19 Q. Okay. So for about three months you were involved
20 with rep -- in the preparation for Mr. Porterfield's trial.
21 When did you think it was gonna go to trial? About the
22 time you got involved?

23 A. Right.

24 Q. Okay. And Ms. Walker testified yesterday about the
25 trial being continued from, I believe, February 9th to

1 February 24th. Do you recall that?

2 A. I do.

3 Q. And that was related -- why was it continued, do you
4 remember?

5 A. The major reason was the witness from Florida that
6 we couldn't get up, I think Mr. Griffin or something like
7 that, but there was also an issue with jail calls being
8 dumped on us at the last minute, and by dumped I mean
9 disclosed to us at the last minute, which is the general
10 practice of the Fifth Circuit Solicitor's Office to try to
11 give us as much discovery as close to trial as possible.
12 We've always believed that to be a strategic effort on
13 their part to violate our clients' rights.

14 Q. Well, I appreciate your candor, Mr. Bank. So being
15 that you had an extra two weeks with the -- was it 247
16 phone calls? Does that sound right?

17 A. That sounds right.

18 Q. And that's a lot of phone calls, I'll concede that,
19 but did you in those two weeks have an opportunity to go
20 over those phone calls with Mr. Porterfield?

21 A. I don't -- I don't recall being able to go over all
22 of them.

23 Q. Sure.

24 A. Generally what happens is you kind of have a team
25 try to go through as many as possible to make sure, the

1 lawyers, law clerks, paralegals, and what we would
2 generally do is probably have any client listen to what
3 we think is, you know, relevant whether it be prejudicial
4 or whether it be helpful to our case.

5 Q. And I believe Ms. Walker said you-all had a law clerk
6 that you assigned to listen to a good number of those
7 calls, but he maybe didn't make it all the way through
8 them?

9 A. Yeah, I don't remember specifically. I just know
10 that's what our general practice was and what we would have
11 done in Mr. Porterfield's case.

12 Q. Well, I'm getting ahead of myself a little bit here,
13 so I'm gonna get into the specific allegations that
14 Mr. Porterfield raised here on I believe it was Tuesday.
15 I'm losing track of days.

16 Beginning with the first allegation, Mr. Porterfield
17 has alleged that you and Ms. Walker failed to adequately
18 cross-examine the victims, Rabia and S.N. [REDACTED] and
19 their father. Now I think Ms. Walker testified yesterday
20 that she was the one that cross-examined them, but were
21 you present and did you discuss trial strategy as far as
22 the cross-examination of the victims with Ms. Walker?

23 A. I'm sure I would have, yes.

24 Q. And the specific inconsistencies that Mr. Porterfield
25 raised to this Court, one of those that I took note of

1 was the value of the merchandise stolen being one amount,
2 a lower amount in initial witness statements, and a
3 larger amount given at trial. Can you tell us was that
4 significant to you to cross-examine these victims on and,
5 if so, why and, if not, why not?

6 A. Sure. I think my answer is pretty consistent with
7 Ms. Walker's, which is that it simply didn't go to the
8 elements of the crime. You know, armed robbery, burglary,
9 those all involve an element that's a value amount, but
10 any time you can show inconsistencies in statements is a
11 positive strategy to try to have.

12 Q. So as far as those inconsistencies, that would be a
13 point you would try to make on general witness credibility?

14 A. Yes.

15 Q. Okay. Another specific allegation Mr. Porterfield
16 raised was the -- or inconsistency had to do with the
17 restaurant the two girls ate at versus -- or saying and not
18 saying in the initial statement they ate at Chick-fil-A and
19 clarifying that at trial. Was that significant to you?

20 A. Again, the same answer. Any time you can point out
21 inconsistencies and just start adding them up and adding
22 them up, that's -- that's a strategy worth pursuing.

23 Q. And would your answer be the same -- I believe another
24 issue he mentioned was a gold colored Hyundai versus a -- I
25 think it was an Oldsmobile or a different type of gold car

1 that Ms. Nazirah Gale drove.

2 A. Exactly.

3 Q. Okay. Moving onto the second issue, Mr. Porterfield
4 has alleged that you and Ms. Walker failed to object to
5 the sufficiency of the burglary first indictment. Do you
6 recall making an argument via a directed verdict motion
7 about that, whether the State had met the elements of
8 burglary first?

9 A. I remember an argument was made. I don't recall if
10 it was me or Ms. Walker, but we discussed it at length,
11 the issue of whether the building was a dwelling or not.

12 Q. Okay. And so that argument -- whether it was you or
13 Ms. Walker, that was made to the trial judge?

14 A. On directed verdict, yes.

15 Q. Okay. And in your judgment having been a defense
16 attorney now for eight and a half years and tried fifteen
17 to twenty cases, is that the appropriate stage to challenge
18 something like -- or to challenge an indictment like that
19 at directed verdict versus pre-trial?

20 A. Yeah, it's -- you're not gonna lose anything doing it
21 at pre-trial, but I think my common practice is to argue at
22 directed verdict.

23 Q. Now I asked Ms. Walker yesterday to review the
24 indictment, which I believe has been marked as ID up there.
25 Would you like to review the indictment as well to see if

1 you see any structural or facial deficiencies on it?

2 A. I'm happy to, but I don't recall any.

3 Q. Mr. Bank, I'm handing you what's been marked for ID
4 as Defense Exhibit Number 2. Can you tell us what that
5 document is?

6 A. It's a true billed indictment against Anthony
7 Porterfield for first degree burglary.

8 Q. And could you review the reverse of that indictment,
9 to the body of it, please?

10 A. I've reviewed it.

11 Q. And do you see any structural deficiencies in that
12 indictment that would immediately jump out to you as
13 something you should challenge before the jury is sworn?

14 A. No.

15 Q. Okay. Now I'm gonna move onto the third issue, and
16 we've addressed this a little bit, this was back to the
17 jail phone calls. On Tuesday Mr. Porterfield freely
18 acknowledged, I believe on direct and certainly on cross,
19 that that was his voice in the phone calls and I believe
20 Diana Addison testified to that as well. Do you recall
21 ever being -- that being an issue between you and
22 Ms. Walker? Like is that really Anthony Porterfield's
23 voice? Is that a challenge you considered making?

24 A. Well, no. If I can kind of -- I worked on the jail
25 call issues for the case and so -- and you-all -- a lot of

1 these issues have to do with the jail calls, so I can kind
2 of give an overview of how the jail calls work.

3 Q. Sure. Actually, I'll -- if this would help you out,
4 were you the one that did the pre-trial objections to the
5 jail phone calls?

6 A. (Nods head.)

7 Q. And what were the grounds that you raised to Judge
8 McMahon and why did you think those were important?

9 A. Sure. And, again, to answer your question, I think
10 it will be help to explain how the -- the jail calls were
11 kept. So the -- when you're arrested and go to jail at
12 Alvin S. Glenn Detention Center, just like most county
13 detention centers, you're told that you are going to have
14 your phone calls recorded. Typically an inmate number is
15 assigned to you which you would use to make phone calls
16 to family members who have paid up on accounts to receive
17 those phone calls. The phone calls at the beginning of the
18 calls say they're being recorded and they last, at least in
19 Richland County, for about ten minutes. The Fifth Circuit
20 Solicitor's Office has absolute access to the Richland
21 County jail calls, not for security purposes, but for
22 investigatory purposes. They do not subpoena them, they
23 do not have a search warrant. Typically today their system
24 is it actually transfers automatically over their computer
25 system. It wasn't quite like that when Mr. Porterfield was

1 in jail.

2 So there's a number of concerns that I had at the time
3 for the jail calls, and I continue to have in other cases,
4 and there's kind of three main ways to attack it. One, is
5 you attack these phone calls on some form of substantive
6 level, and that's essentially what we did here, some type
7 of 403, this is prejudicial, this is confusing, that type
8 of thing.

9 Q. Did you raise Rule 106 also?

10 A. Yes. So in response to essentially being denied on
11 403, then you raise 106 to go ahead and get potentially --
12 I don't want to say favorable jail calls in, but I think
13 that we might want to use these jail calls so I can maybe
14 put the other ones in context.

15 THE COURT REPORTER: Could you slow down just a bit,
16 please?

17 THE WITNESS: Excuse me?

18 THE COURT REPORTER: Slow down just a bit.

19 THE WITNESS: Oh, absolutely. Sorry. They've said
20 I testify fast.

21 The second -- and -- and we made those objections
22 and preserved them.

23 The second potential way you could go about
24 attacking the jail calls is what's been brought up by
25 Mr. Porterfield, which is authentication. It would be

1 my position that even if Mr. Porterfield later in the
2 trial was going to admit that the phone calls were his
3 or not, the State still has to follow the rules of
4 evidence to properly get them admitted in regardless of
5 what Mr. Porterfield testifies to later. We did not do
6 that.

7 The third way of attacking it is under a Fourth
8 Amendment strategy. So to say that he has a privacy
9 interest and that these jail calls were done without a
10 search warrant, so they should be is suppressed.

11 There is a case, State v. Ellison, South Carolina
12 Supreme Court in the 1970's, which dealt not with jail
13 calls but with handwritten notes, and it's a similar
14 fact pattern, right? You go to jail, you're told if
15 you write letters we are going to read them and they
16 are reading them not for security purposes at the jail,
17 they're reading them for investigatorial purposes for
18 law enforcement and the solicitor's office.

19 Here that would be an objection that we should
20 have made. We should have said under State v. Ellison,
21 they should have had a search warrant for these phone
22 calls despite there being information given by the jail
23 to Mr. Porterfield that they were being recorded. The
24 Supreme Court in State v. Ellison said you cannot force
25 a person to consent to waiving their privacy rights

1 and --

2 Q. And -- I'm sorry. I cut you off.

3 A. Sure.

4 Q. I was gonna bring up State versus Ellison because you
5 and I discussed that on the phone; is that right?

6 A. That's right.

7 Q. And you did say candidly that that was something you
8 wish you had brought up in your argument?

9 A. Right. Like I said, I did not -- I did not come
10 across State v. Ellison until after Mr. Porterfield's
11 trial.

12 Q. Okay. And to clarify again, that dealt with a written
13 correspondence from the jail versus a phone call, but you
14 believe the same principle would apply should our appellate
15 courts choose to address a jail phone call?

16 A. Correct.

17 Q. Okay. Now as far as Mr. Waters, he was the witness
18 -- so I'm -- I'm getting ahead of myself. To recap, you
19 objected based on 403 grounds?

20 A. (Nods head.)

21 Q. And then having that argument been denied by Judge
22 McMahon, you then said we'll we need to put some more in
23 for context; is that right?

24 A. Correct.

25 Q. And although there was some discrepancies, you know,

1 the State said three at first, maybe six or something. Do
2 you recall exactly how many they admitted and how many did
3 you admit for context?

4 A. I don't recall. I remember the State at pre-trial
5 saying they intended to introduce three of them and I
6 believe the three involved, one, a statement where he says,
7 you know, don't ask T.K. if he was with me, tell T.K. he
8 was with me. There was one where he said, you know, armed
9 robbery isn't my M.O., as in modus operandi, and I don't
10 recall the third one.

11 Q. Well, we'll get into this a little later, but he
12 did testify he was engaged in receiving stolen goods and
13 selling stolen goods, so could that have been what he meant
14 by I'm into other things, but not armed robbery?

15 A. I don't believe it.

16 Q. Good. Fair enough. So when Robert Waters testified,
17 do you recall -- before, I believe, Mr. Porterfield
18 testified that there were no objections made, but, of
19 course, you've testified here now that there were
20 objections made pre-trial. Would it be your typical
21 practice to say -- when the State offers an exhibit to say
22 -- to make a contemporaneous objection and say subject to
23 our prior objections?

24 A. Right. When Mr. Waters testified, we did that for
25 the first argument. It would have been at that point

1 that we would have tried to use the second argument, the
2 authentication argument, that I would use today, but I
3 not used then, which is, again, to kind of explain their
4 system, Mr. Waters has nothing do with the recording of
5 phone calls, the maintaining of phone calls, the reviewing
6 of phone calls. He's just the random person they picked
7 to send to every trial where there are jail calls. The
8 jail calls are actually maintained by a private company.
9 They're recorded by the private company and maintained by
10 the private company and then they're disclosed to the Fifth
11 Circuit Solicitor's Office to the jail, which then goes to
12 the Fifth Circuit Solicitor's Office.

13 Q. So do you believe that an employee of that company
14 would be the custodian of records?

15 A. Yes.

16 Q. And you said, I think, now they're -- since -- maybe
17 I'm wrong -- 2015 they changed to the PIN system?

18 A. Yes.

19 Q. Was it different back in 2012?

20 A. It's always been the same since I've been here,
21 which was -- candidly, I think Mr. Porterfield was in
22 jail in 2011 and I started at the office in 2013, but
23 it's been the same for me since 2013. I think they may
24 have switched companies, but the procedure for how the
25 calls are maintained or are made is all the same.

1 Q. Now Mr. Porterfield has maintained his innocence here
2 today and earlier this week, but he also claims that he
3 viewed the phone calls as incriminating. Do you recall any
4 strategy regarding hey, these can be explained, they're not
5 admissions to the crime and we can put them in context so
6 to speak or did you attempt to do that in closing argument
7 or else during trial?

8 A. Well, obviously Ms. Walker closed or did the closing
9 argument. We -- I don't have a specific memory, but that's
10 typically how it would work. You would listen to the jail
11 calls so that you can to try to figure out whether they're
12 kind of for or whether it could be prejudicial or how we
13 can argue it, you know, so I'm sure that we had those
14 discussions.

15 Q. And was there ever a point in the phone calls the
16 State introduced where he said I did it, I robbed the two
17 girls or anything that incriminating?

18 A. No.

19 Q. But as I think Mr. Porterfield testified, his slang
20 or lingo could be interpreted that way and Luck Campbell
21 attempted to do that. Is that your memory of it?

22 A. Yes.

23 Q. Okay. And then you by contrast attempted to provide
24 an innocent explanation or Ms. Walker did?

25 A. Yes.

1 Q. To your knowledge, was there a warning on the phone
2 calls regarding them being recorded --

3 A. Yes.

4 Q. -- was at play?

5 A. Was it played to the jury?

6 Q. Well, no, I mean, when someone would make a phone call
7 from Alvin S. Glenn, would they be notified they're being
8 recorded?

9 A. Yes.

10 Q. Okay. Did you ever give the State of South Carolina
11 Diana Addison's phone number either in the pre-trial
12 process or during trial? Do you recall doing that?

13 A. I wouldn't have held an elevator door for the Fifth
14 Circuit Solicitor's Office at that time, so, no, absolutely
15 not.

16 Q. Well, you've been very honest, so I appreciate your
17 honesty. So that's a no on that issue, but you think based
18 on your understanding of the jail phone calls with the PIN
19 system that -- could the solicitor's office get his phone
20 calls without Diana Addison's phone number or would they
21 need her phone number to accomplish that?

22 A. What they would typically do is they would look at
23 Mr. Porterfield or anybody else's phone calls and see who
24 they were calling the most and then go listen to those
25 calls and then you could pretty easily be able to piece

1 together who's the girlfriend, who's the friend, who's the
2 mother, who's who.

3 Q. So hypothetically if you had given them the phone
4 number -- or, let's say, you don't recall giving it over.
5 Would they have gotten them anyway?

6 A. Yes, and they did.

7 Q. All right. Moving on to the fifth issue, the laptop
8 bag. We've heard a lot about this. Did you anticipate
9 that Luck Campbell would grab the laptop bag off your
10 table?

11 A. No.

12 Q. And did that catch you off guard or catch you by
13 surprise?

14 A. I believe that was Ms. Walker's witness, but, yeah,
15 we were -- we were both caught off guard, yes.

16 Q. Now was this just a plain Jane laptop bag? It didn't
17 have any identifying characteristics on it?

18 A. Yeah, that's what I remember.

19 Q. Okay. And as a result of that, being surprised of the
20 use of the laptop bag, did you and Ms. Walker attempt to
21 counteract that through an argument that you made?

22 A. Through an argument much later, but not through
23 objection at the time.

24 Q. Okay. So no objection, but you attempted to what in
25 closing?

1 A. Make up for the fact that we screwed up by not
2 objecting and tried to argue that this was a ridiculous
3 point that Ms. Campbell was making and it wasn't -- it
4 didn't show that Mr. Porterfield was --

5 Q. Did you do that through demonstrative evidence?

6 A. I believe she attempted to do it through demonstrative
7 evidence and was stopped by Judge Knox McMahon.

8 Q. Okay. Now moving onto the sixth issue,
9 Mr. Porterfield has claimed that there were Fourth
10 Amendment violations that took place during his arrest
11 at [REDACTED] Street. In your career as a criminal defense
12 attorney, have you made prior motions to suppress based on
13 Fourth Amendment violations before?

14 A. Yes.

15 Q. And do you recall discussing any Fourth Amendment
16 violations with Mr. Porterfield and, if so, what would you
17 seek to have suppressed as a result of that?

18 A. I did not. And, I mean, outside of us failing to do a
19 Fourth Amendment argument on the jail calls, which I know
20 was not your point, but any Fourth Amendment violations
21 regarding to his capture I don't recall having any
22 conversations about that and I don't know what we would
23 move to suppress.

24 Q. Well, let me rephrase the question. Was there
25 anything used against him at trial that was taken from his

1 person as a result of that arrest or any incriminating
2 statements he gave when he was arrested?

3 A. I believe there was a statement, but as far as I
4 remember I don't remember any physical pieces of evidence
5 they brought up. I'd rely on the transcript over my
6 testimony obviously, but there was evidence that came
7 from flight that the State was able to present and then
8 argue in closing, but I don't know that a Fourth Amendment
9 argument would have been the way to deal with that.

10 Q. Now just to clarify on the statement, could that have
11 been the statement he gave to Investigator Clarke the day
12 prior?

13 A. Possibly. I just know that there was some statement.
14 I don't remember exactly when it was made.

15 Q. Now as far as issue number seven, Mr. Porterfield
16 has phrased that as the missing witness rule, and you
17 and I just talked in your office about the appellate
18 skills of Susan Hackett. Do you recall if she represented
19 Mr. Porterfield on appeal?

20 A. I believe she did, but I learned that just this week.
21 I didn't know that prior. I learned that from just the
22 testimony this week.

23 Q. Okay. Do you know what issues she presented to the
24 Court of Appeals via an Anders brief?

25 A. I don't remember specifically. I do remember it was

1 an Anders brief.

2 Q. Okay. Could it have been the burden shifting issue
3 regarding the State's bringing up T.K. and the lack of T.K.
4 being present at trial?

5 A. That sounds familiar.

6 Q. Okay. And speaking of T.K., we've heard testimony his
7 name is Tyrue Ruffin. Did you-all attempt to locate him
8 and, if so, what did you-all do to get him?

9 A. We -- I've been trying to jog my memory this week.
10 There were a number of alibi witnesses. Some -- they all
11 gave statements in the beginning of the case to Mr. Bobby
12 Watkins. By the time we got to trial several years later,
13 several of those witnesses were not keen on cooperating or
14 coming to court. They weren't changing their statements,
15 they just didn't want to be involved. There's a lot of
16 people in the community that don't want to be involved in
17 criminal trials, even when they're not being accused of
18 anything. Going through which ones were more cooperative
19 or less cooperative, I can't -- I can't do seven years
20 later.

21 Q. I understand.

22 A. But I -- I am sure that we attempted to find him. I
23 believe we found him. I believe we talked to him, but I
24 can't be certain and I'm not -- I don't recall a strategic
25 reason for us not calling him as a witness.

1 Q. Okay. Do you recall was he an alibi witness? Could
2 he -- could he provide an alibi for Mr. Porterfield?

3 A. My memory is that he wasn't the true alibi witness.
4 He was kind of the witness that jogged Mr. Porterfield's
5 mind as to what day everybody was talking about.

6 Q. Because he moved out that day or something --

7 A. Right. So Mr. Porterfield wasn't arrested for at
8 least two or three weeks after the incident, so
9 Mr. Porterfield is trying to recall what is happening.
10 You know, if you asked me what happened three weeks ago
11 on -- what's today? Today's the 26th. If you asked me
12 what I was doing on the 10th, I wouldn't recall, but
13 if I could remember a significant memory from that day,
14 such as a roommate moving out of the house, that's what he
15 was using to jog his memory. So the defense wasn't that
16 Mr. Porterfield was with Mr. Ruffin at the time of the
17 robbery. The defense was that he was at work at the time
18 of the robbery, but Mr. Ruffin was how his memory was
19 jogged if I remember correctly.

20 Q. Okay. Now just to sum up this issue and clarify
21 before we move on, do you recall either yourself or
22 Ms. Walker making an objection to the State's burden
23 shifting as far as bringing up T.K. and how the defense
24 didn't produce him?

25 A. I rely on the record. I -- I believe Ms. Walker may

1 have at least once, but I do not believe that we made a
2 continuing objection. I don't believe we would have.

3 Q. Would it refresh your memory to refer to pages 676 and
4 677 of the record?

5 A. Sure.

6 I see the argument, but I'm trying to find Judge
7 McMahon's ruling. Do you have it offhand where his actual
8 ruling is?

9 Q. I don't have offhand where I think --

10 A. That's fine.

11 Q. -- the ruling is, but I think it was -- Ms. Walker
12 testified to sort of consent decree where he said well, you
13 don't ask that again and I believe Ms. Walker's testimony
14 was Luck Campbell brought it up again in closing anyway.
15 Does that sound familiar?

16 A. Yeah. I definitely see arguing that and I remember
17 arguing it. I just don't recall whether we preserved it
18 well enough to be argued at the Court of Appeals.

19 Q. Well, if that was an issue, in fact, raised, albeit
20 through an Anders brief, it was at least attempted to be
21 raised in the Court of Appeals. Would that be right?

22 A. I believe so. I'm not quite as familiar with
23 appellate law.

24 Q. I understand. Now moving onto a different objection,
25 the failure -- alleged failure by yourself and Ms. Walker