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SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Horry County

Honorable Bentley Price, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

DLANOR PHILLIP TILTON,

APPELLANT

APPELLATE CASE NO. 2023-000075

RECORD ON APPEAL

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1 STATE OF SOUTH CAROLINA) GENERAL SESSIONS
 2 COUNTY OF HORRY) TRANSCRIPT OF RECORD

3 -----x
 4 STATE OF SOUTH CAROLINA,)
 5 Plaintiff,)
 6 vs.) Case Nos.:
 7 DLANOR PHILLIP TILTON and) 2019-GS-26-01895
 8 MAZAR NATHANIEL STURDIVANT,) 2019-GS-26-01896
 9 Defendants.) 2019-GS-26-01898
 10) 2019-GS-26-01901
 11 -----x

July 18, 20-21, 2022

11 B E F O R E:

12 The Honorable Michael Holt, Presiding Judge; and a jury
 13 (Monday, July 18, 2022).

14 The Honorable Bentley Price, Presiding Judge; and a jury.
 15 (Wednesday, July 20, 2022, and Thursday, July 21,
 2022.)

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

17 Joshua D. Holford Esq.
 18 Elizabeth A. Farmer, Esq.
 Assistant Solicitors for the Plaintiff/State

19 Eric Fox, Esq.
 Attorney for Defendant Tilton

20 Johnny Gardner, Esq.
 Attorney for Defendant Sturdivant

21 Stuart Axelrod, Esq.
 22 Attorney for Defendant Shamoray Rockel Holmes

23
 24 Court Reporter: Bobbi Fisher, RPR
 25 SC Official Court Reporter III

MOTIONS/MATTERS OF LAW

MR. HOLFORD: Yes, Your Honor. This is the State of South Carolina versus Dlanor Tilton. That is, true-billed indictment 2019-GS-26-01894 for armed robbery, 2019-GS-26-01895 for armed robbery, and 2019-GS-26-01896 for armed robbery.

Also, State of South Carolina versus Mazar Nathaniel Sturdivant, true-billed indictment 2019-GS-26-01898 for armed robbery, 2019-GS-26-01900 for armed robbery, and 2019-GS-26-01901 for armed robbery; as well as the State versus Shamoray Rockel Holmes, 2019-GS-26-01897, true-billed indictment for armed robbery.

Mr. Tilton is represented by Eric Fox, Mr. Sturdivant is represented by Johnny Gardner, and Mr. Holmes is represented by Stuart Axelrod.

The attorneys are present. Mr. Sturdivant is present. Mr. Tilton and Mr. Holmes are not present. They were given notice of this trial today. It was sent to their last-known address. They were subpoenaed for trial. They're not here. I think that may be the first matter we need to address with the Court. The State would intend to try Mr. Holmes and Mr. Tilton in their absence.

THE COURT: All right. Counsel?

MR. AXELROD: Your Honor, I went through last week -- I actually didn't think my client was actually noticed of the

1 trial, but we went through all the computer work we had, and
2 he came in with his father the first week of July. We
3 physically handed him the subpoena, and we told him he had a
4 trial, and I have done my best this past week to reach him.
5 So we're prepared to go forward. He was given notice, Your
6 Honor.

7 THE COURT: Okay. Mr. Fox?

8 MR. FOX: Your Honor, I addressed this, as you'll recall
9 this morning. In the interim, I verified with the solicitor's
10 office that, in fact, the address that they had was the last
11 address we had that was provided by Mr. Tilton.

12 I did not know this morning for sure that they received
13 that notice, but, in fact, they did. I have a copy of that
14 subpoena.

15 I also spoke with Mr. Tilton about three weeks ago, mid
16 June, and advised him that he was on the trial roster. So I
17 believe he -- and, of course, the bond paperwork said that he
18 can be tried in his absence. So I believe he is on notice at
19 this point. I'm satisfied that he is. The solicitor's
20 complied with the requirements to put him on notice, and like
21 Mr. Axelrod, we're ready to forward if the Court rules that he
22 can be tried in his absence.

23 THE COURT: All right. Y'all have a motion of
24 continuance based on him not being here, and I would
25 respectfully deny the motion.

1 MR. FOX: I will put that motion on -- I would prefer to
2 have my client here, Judge. I think given -- I will make this
3 argument: Given the severity of the charges, potentially
4 three armed robbery charges, carrying up to 90 years in
5 prison, essentially a life sentence, I would ask, despite the
6 fact that he has been notified, that we -- the Court issue a
7 bench warrant and that he be taken into custody at the
8 earliest possible time to be dealt with at that time, whether
9 that will be a plea or a trial at a subsequent date. So we'd
10 ask for a continuance in the alternative.

11 THE COURT: All right. And you share in that motion,
12 Mr. Axelrod?

13 MR. AXELROD: I do, Your Honor.

14 THE COURT: All right. Counsel, do you need to add
15 anything?

16 MR. HOLFORD: We'd respectfully ask that the Court go
17 forward with the trial in the absence, Your Honor.

18 THE COURT: So ordered. I will respectfully deny the
19 request for continuance, and we will go forward in their
20 absence.

21 Okay. What's next?

22 MR. HOLFORD: Your Honor, I believe the next matter will
23 probably be -- Mr. Fox filed a motion to -- it was titled a
24 Motion to Elect. As Mr. Tilton and Mr. Sturdivant both have
25 three separate armed robbery charges, Mr. Holmes only has one.

1 Those arise out of the three separate armed robberies from
2 three separate nights: December 27th, December 28th, and
3 December 29th of 2018. And so I believe there's a motion to
4 sever.

5 That's the basis; correct?

6 MR. FOX: It is, Judge. There's really two separate but
7 very interrelated motions. One is require the State to elect
8 which of the three armed robberies they would proceed to trial
9 on, rather than all three. And very related to that is a
10 motion to sever the trials of these three defendants. That is
11 very related to -- all three defendants gave statements to the
12 police. All three defendants, at the very least, they
13 sometimes implicate each other; at the other time, at least
14 put one or both of their co-defendants on the scene. And I
15 would argue that -- so I think the starting point really is
16 the statements of the defendants, because now we're
17 implicating *Bruton* issues and whether those statements can be
18 used against the other two co-defendants.

19 And, again, this goes every which way. Mr. Axelrod's
20 client, Shamoray Holmes, gave three different statements, and
21 in the second and third, very specifically implicated
22 Mr. Tilton, my client, but also Mr. Sturdivant to at least
23 being present on the first of these incidents.

24 Mr. Holmes does not allege and did not discuss the second
25 two instances. So he is only involved with the first one.

1 But, for that one, he does implicate both Mr. Sturdivant and
2 Mr. Tilton.

3 Mr. Sturdivant is charged in all three armed robberies.
4 He gave a statement denying his own involvement, but again,
5 indicating at least some knowledge and implicating Mr. Tilton.

6 My client, Mr. Tilton, also charged in all three, also
7 gave a statement, and, again, denied his own personal guilt,
8 however, gave a very specifically incriminating allegation
9 regarding Mr. Sturdivant in the third robbery and put him on
10 the scene, I believe in if not both of the other two -- at
11 least the first one.

12 So all three of them, in different ways, implicate each
13 other. They're intertwined. And then that goes to, in my
14 opinion, whether these cases should be -- number one, whether
15 those statements can be admitted into evidence in a joint
16 trial, and then, number two, if they are, whether they are so
17 prejudicial that these trials should be severed regardless.
18 And that also gets to a motion to elect. So they're all very
19 intertwined, although they're technically separate.

20 THE COURT: All right, sir.

21 MR. FOX: And I think -- from my point of view, I
22 think -- of course the Court can proceed what's logical to
23 Your Honor, but my point of view, the starting point is the
24 statements of the various defendants, because if there's not a
25 way to satisfy *Bruton*, then they have to be separated. If

1 there is a way to satisfy *Bruton* -- and I submit my argument
2 would be there is not -- but if there is a way to do it, then
3 we still have, you know, to address the underlying issues.

4 THE COURT: All right, sir.

5 MR. FOX: Then I would ask -- the last thing I'll say --
6 because part of my argument depends on the State's position.
7 So with regards to both -- rather, the motion to elect, with
8 regard to that issue, of course 404(b) is a rule of exclusion,
9 other bad acts. These are three distinct crimes on three
10 different days. The allegation is that they are -- and I'm
11 not sure if the date is going forward under the theory that
12 these are common scheme or plan or under theory of identity or
13 both. But it's a rule of exclusion, so the starting point is
14 evidence of other crimes should not be brought in, in the
15 prosecution of another crime. My argument would be based
16 somewhat on what the State's theory is for the admissibility
17 of those.

18 THE COURT: Yes, sir. All right.

19 Yes, sir?

20 MR. HOLFORD: Your Honor, we are prepared to do a *Jackson*
21 *v. Denno*. I think that the *Bruton* issue can be handled
22 separately. I don't believe, based on the Court's ruling,
23 there's going to be -- I don't have to put the statements in
24 evidence. They can be redacted. They could not be put into
25 evidence. I could have an officer testify or I could choose

1 not to use the statement of a co-defendant at all. And so I
2 don't think that's necessarily the issue. If I were to seek
3 to introduce the statement in full, then it would, but Bruton
4 is -- I'm going to have to deal with *Bruton*, period, at some
5 point anyway.

6 As to the joinder -- as to the charges, Your Honor,
7 it's -- charges can be joined if they arise out of the same
8 single chain of circumstances, although it looks like I'm
9 looking at a *State v. Beekman*, 415 S.C. 632. It says,
10 "Joinder is appropriate for crimes that involve connected
11 transactions closely related in kind, place, and character."

12 And then back to the *State v. Tucker*, which is a '96 case,
13 324 S.C. 155. So that's the first one. The single chain of
14 circumstances or closely related in kind, place, and
15 character, (2) are approved by the same evidence, (3) are of
16 the same general nature, and (4) have no real right that the
17 defendant has been prejudiced.

18 Your Honor, based on that, the evidence -- well, they're
19 all out of the same chain of circumstances. The only
20 difference is the victim involved in the subsequent nights.
21 So, on the 27th, you have a victim, Marcus Harris. He is --
22 meets up with them via a Grindr app communication and is then
23 robbed.

24 The 28th, similar incidents. There's communication via
25 Grindr. The victim there, Matthew Beckoff, goes to meet one

1 of the defendants, and then he's robbed by multiple
2 defendants.

3 The 29th, Christopher Ward is the victim. He goes, same
4 area -- we're talking about the same location as well, within
5 a block of each other.

6 The very next night, communication through Grindr. Meets
7 up with the -- supposed to meet up with the individual and
8 gets robbed.

9 The evidence in this case, other than the victims and the
10 responding officer to each night, the investigation is all
11 subsumed into one. The defendants are not arrested until the
12 next night, on December 30th of 2018.

13 And, so, the investigation throughout the entire process
14 is using the Grindr photo from the 27th. It's talked about
15 throughout the entire investigation with both of the
16 subsequent victims. Police are on-scene in an undercover
17 capacity because of the string of armed robberies that
18 happened by these defendants. There are no other defendants
19 or suspects believed to have committed these crimes other than
20 the ones that were arrested. They're all identified by the
21 victims. And the police are running this investigation as
22 one.

23 And, so, if we severed the charges, we would have three
24 trials that are identical but for the victim. The pictures
25 would be the same. The testimony would be the same. The

1 evidence would be the same. The statements would be the same.
2 The only thing that would be different is the victim.

3 Your Honor, I believe that they are so closely connected
4 and related that it would be nearly impossible to try the
5 second or third armed robbery without talking about the first
6 one, and so that brings up the issue of *Lyle*, I think, when
7 we're talking about prior bad acts. In order to try the
8 second and third, we have to talk about the Grindr photo that
9 they were shown that's identified as the suspect who did
10 commit the robbery. So I think that would create a
11 circumstance where they're best tried and should be joined
12 together as far as the charges are.

13 As far as the defendants, we would have to try each
14 defendant alone, all the same witnesses, all the same
15 evidence. They joined together to do this. The three of them
16 joined together the first night, and then Sturdivant and
17 Tilton joined together the next two subsequent nights in order
18 to commit these crimes.

19 So, Your Honor, the State would respectfully request that
20 this Court allow the trial to go forward on all three armed
21 robbery counts for Tilton and Sturdivant, the one for Holmes,
22 and then would allow that all trial -- all the defendants be
23 tried together.

24 I will say -- and there's a case from 1990, *State v.*
25 *Boys*, it's in our handbook. It says, "Criminal defendants who

1 are jointly tried are not entitled to separate trials as a
2 matter of right."

3 I believe it's in the Court's discretion -- both of these
4 matters are in the Court's discretion, but I think there's
5 sound law from both points to support a trial of all the
6 indictments into one trial as well as all the defendants into
7 one trial.

8 THE COURT: All right, sir.

9 Yes, sir?

10 MR. FOX: I'll start back with the -- having heard that,
11 I think I can clarify my own position slightly. With regard
12 to the joinder, I would just put on the record that, of
13 course, *Bruton*, the significance of that is that, if that
14 can't be complied with, then it implicates the confrontation
15 clause rights of defendants under the Sixth Amendment. So
16 that would be the specific right that we're facing that motion
17 on, as well as *Bruton*.

18 And, Judge, I think for you to make a decision, of course
19 the State can try the case as they see fit under the rule, but
20 it's a very different scenario if they don't use the
21 statements at all or if they use some of the statements but
22 not others or try to redact it; it implicates very different
23 things.

24 And so I think, at some point, they're going to have to
25 let us know. If they're not going to use them, that's easy,

1 and we don't have that issue. If they are going to use them
2 but try to redact them, well, there is case law that says that
3 can be done, but it must be done in such a way that either
4 explicitly or implicitly doesn't refer to one of the other
5 defendants.

6 And you can find that -- that's a *McDonald* case as well
7 as *United States Supreme Court/Gray* as well as *Richardson v.*
8 *Morris*, which was a U.S. Supreme Court case, "must be redacted
9 to eliminate not only the defendant's name but any reference
10 to his or her existence." That's been qualified somewhat.

11 So I think where we get with that depends very much on
12 the solicitor's decision, which is their decision on how --
13 which evidence to try to introduce. That's one.

14 Now, with regard to my motion to elect, I'm not sure if
15 the State's theory is that they should be allowed to try all
16 three charges against my client because they're similar or
17 because it goes to identity or both, but it is a slightly
18 different analysis. *State v. Lyle* is still the preeminent
19 case, even with *Perry* out, over the last couple of years.

20 Common scheme of plan is actually not what *Lyle* is about.
21 That is the check forger. He forged checks in Georgia and
22 then Aiken, and although they were just kind of
23 run-of-the-mill basic forgeries -- he was kiting checks and
24 forging them -- South Carolina Supreme Court said that's not
25 similar enough -- similarity is not enough. That's basic.

1 That's what *Lyle* is usually cited for.

2 But *Lyle* was actually an identity case. The reason that,
3 ultimately, the prosecution was able to introduce testimony of
4 two Aiken bankers was to specifically refute Mr. *Lyle*'s alibi
5 defense. So he said, "It wasn't me," he wasn't even here, and
6 the State said, "Well, we've got these two bankers that,
7 within minutes of when you're alleged to have forged this
8 third check, these two bankers say you were down the street
9 forging a check there, and they know you and they identified
10 you. And then you went to this other bank, and that banker
11 identified you." And this would have been minutes of the
12 charge he was going to trial for.

13 And so the *Lyle* court said, on the issue of identity, to
14 refute an identification -- or an alibi defense, rather, those
15 are admissible, but those ones over in Georgia are still not
16 admissible. The State sought to introduce those under
17 identity as well.

18 Why is that important? In this case, they don't need --
19 the State does not need evidence of the other crimes to prove
20 identity, at least in the second one. So the second incident
21 involved in the three, where Mr. Beckoff is the victim -- I
22 believe that was on the 28th of December in 2018. In that
23 one, there is an identification from a Grindr photo. That
24 person was able to -- was shown or was able to identify. They
25 were able to backtrack to my client's other social media.

1 My client, in his statement, if it's admissible in the
2 light most favorable to the State, puts himself on the scene.
3 Now, he denies criminal intent of robbing anybody with an
4 armed -- with a weapon, but they don't need it to show
5 identity in that case. So they could quite easily try that
6 second armed robbery this week with no reference to the other,
7 no possibility of prejudicing Mr. Tilton, and satisfy or at
8 least attempt to satisfy the requirements needed -- the
9 elements of the crime to try to convict Mr. Tilton.

10 There is -- I won't go through all -- the cases that I
11 think are relevant are *Lyle* and *Perry*, which is the 2020 case.
12 And I think there's language in several cases that say, if
13 it's not -- that evidence must be necessary, not just
14 relevant. It's relevant evidence they seek to introduce; I
15 don't dispute that. But there's a further inquiry. And it
16 must also be necessary. And that's in *Lyle*, actually: "To
17 justify the admission of an extraneous crime in exception of
18 the general rule" -- and, again, the general rule is these
19 things are excluded -- "for the purpose of proving identity."
20 Right? So to admit these things for the purpose of proving
21 identity such evidence must be necessary. It's not necessary
22 here.

23 So our argument would be it doesn't come in under
24 identity. Common scheme or plan, that's where *Perry* addresses
25 at great length that in the context with sexual assaults, but

1 addresses it at great length, and there's some really
2 wonderful language in there from Justice Hearn, on the wall
3 there, that says repeating the same crime is not a common
4 scheme or plan. I think her example originally was, you know,
5 selling drugs.

6 This is not -- although there are similarities in these
7 three allegations of using the Grindr app to lure people in
8 and then rob them, you know, I can say, as an officer of the
9 court, in my own personal experience, I have defended more
10 than a few defendants who have done a very similar thing.
11 Young ladies who have gone on Facebook and other things and
12 said, "Hey, let's hook up" and then, get there, and there's
13 someone there to stick them up.

14 So I don't think there's anything unique about this
15 particular scenario. It is simply the repetition of what has
16 become fairly common crimes.

17 So I think it's not necessary to prove identity. I don't
18 think it's distinct enough to satisfy the common scheme or
19 plan element.

20 THE COURT: Okay. Anything else?

21 MR. HOLFORD: Your Honor, I would just point out the fact
22 that there were -- the way that they went about these
23 robberies was the same in all three instances. The area they
24 were committed was the same in all three instances. And we're
25 not talking about months --

1 THE COURT: So they did three days in a row --

2 MR. HOLFORD: Three nights in a row.

3 THE COURT: Using this app.

4 MR. HOLFORD: Using this app, and within a block of each
5 other. The victims were supposed to come to this area where
6 they lived or stayed, and that's what happened all three
7 nights.

8 THE COURT: All right. Okay. I'm -- all right.
9 Mr. Fox, I'm going to respectfully deny your motion, sir.
10 I'm satisfied with the argument of the State. I concur and,
11 as indicated, I will deny your motion.

12 MR. FOX: Yes, sir.

13 MR. HOLFORD: Thank you, Your Honor.

14 MR. GARDNER: For the record, Your Honor, earlier this
15 morning, I had said that I joined with him on his motion. I
16 wanted to make sure that the record is clear that we're not
17 arguing with your ruling; we just want to make sure the record
18 knows that, on behalf of Sturdivant, we have the same
19 objections. And I think, if I understood right, your ruling
20 is as to separating the three different events?

21 THE COURT: Yes, sir.

22 MR. GARDNER: Okay. So the next thing would be *Bruton*,
23 and we would join with the objections in that, obviously.

24 THE COURT: Yes, sir. And just let the record reflect
25 that Mr. Gardner has joined in those motions.

1 Yes, sir?

2 MR. AXELROD: Good afternoon, Your Honor. Stuart
3 Axelrod. May I be heard on the issue?

4 THE COURT: Yes, sir.

5 MR. AXELROD: Your Honor, I listened intently to the
6 solicitor, and the solicitor eloquently said there would be no
7 real prejudice to any of the defendants if they were tried
8 together. And he then said that all three -- all three
9 trials, they're all identical. All three cases. If he
10 separated them into individual trials, all three trials would
11 be identical. That's what the solicitor said.

12 Okay. Your Honor, my client's been charged with one
13 crime, the crime occurred that the first night, the 27th.
14 Thursday night the 27th. December 27th, 2018. My client is
15 not charged with any other crime.

16 So if the State is going to allow my client to leave
17 after they talk about the first one -- because what you're
18 doing is he's trying to bootstrap a bad case with my client by
19 having him sit there for two other cases that he's not even --
20 he wasn't arrested for, wasn't indicted for, wasn't anything
21 for. There's absolutely no way that my client can be lumped
22 in with these other two defendants. There's just no way.

23 I think that Mr. Fox, to elect, I think that was correct.
24 I think if they elected doing the very first one, then maybe
25 my client could be on that one. But there's no way that they

1 can do the next two robberies.

2 Now, if they want to say to the jury, "Mr. Axelrod's
3 client is only maybe guilty of first one, don't look at him
4 for the next two." I see no way how this Court can allow my
5 client to sit through two more robberies. That is
6 prejudicial. That's what prejudicial means. That's what
7 prejudice means. Thank you, sir.

8 THE COURT: All right, sir.

9 Yes, sir?

10 MR. HOLFORD: Your Honor, it's not prejudicial to his
11 client because he's not charged with those offenses. He can't
12 be found guilty of those offenses.

13 His client has been charged with the first offense, for
14 which he has admitted he participated in, and he's only being
15 tried for that first robbery. He can't be found guilty of the
16 subsequent robberies where no one has said he was present at.

17 So I don't see how it's prejudicial that he wasn't at a
18 later robbery. That's not prejudicial to his client that he
19 wasn't present at the later robberies.

20 MR. GARDNER: He's trying to have his cake and eat it
21 too, Your Honor. I mean, this goes to all of them, back to
22 what we said earlier, trying to bootstrap weak cases with
23 alleged stronger cases. And the truth of the matter is, what
24 he's trying to do here, he wants the jury to hear three
25 separate incidents in one trial so they can say where there's

1 smoke, there's fire, let's go ahead and convict these young
2 men, and that's just not right.

3 Again, I don't want to argue your ruling. We stand by
4 your ruling.

5 THE COURT: You're not. You're not.

6 MR. GARDNER: But the truth of the matter is, these are
7 not a chain of circumstances, not a chain of events. Each
8 one -- each allegation is a different day. What we're hearing
9 now is one is a deployment of two individuals, maybe three, on
10 the 27th; an allegation of a separate event on the second day
11 involving only two; and on the third day, involving only two.
12 We don't know if it's -- and we'll get into that when we start
13 talking about the next issues of *Bruton* and everything, and
14 how they're going to show which of the three it was, which of
15 the two it was.

16 This is designed to confuse the jury, and I don't believe
17 it's fair to anybody that they just throw all three of them in
18 there for the jury to decide. And I will tell you, there's
19 many cases where we've had -- in federal court not too long --
20 well, it wasn't too long a time ago -- where the appellate
21 court said that they should have only let two cases go to the
22 jury, but because evidence -- I mean, only one case go to the
23 jury, but because evidence was admitted for the second case
24 that wouldn't have been admitted for the first case, it
25 confused the jury, so they had to have a whole new trial.

1 That's what we're going to have here. If Axelrod's guy
2 is -- and the only allegation is that he participated in one
3 robbery, but you hear common scheme and plan and
4 identification and chain of events and all these big words,
5 the jury is going to be prejudiced against his guy, and
6 they're going to find him guilty even if they're -- even if
7 the solicitor says, "Well, don't worry about Round 2 and
8 Round 3. We just want him for Round 1." But why go into
9 Round 2 and Round 3? It's extremely prejudicial. I hate to
10 say it, but I agree with Axelrod.

11 But the *Bruton* is the biggest thing in this case. I want
12 to make it clear on the record. The objection is piling on
13 for three separate incidents that are not -- I understand
14 there's some good case law that says you can try cases
15 together if there's a chain of events, and there's some good
16 case law that says you can't, you have to look at each one the
17 same.

18 What we've got here is three separate deployments.
19 They're not a continuous chain of events. They're not even
20 the same players, is what we're hearing now. So it doesn't
21 fit with the -- where you can try all three of them together,
22 number one. Number two, it's highly prejudicial for his guy.
23 And, number three, how are they going to get the proof in
24 there when they have these statements? I don't see how you
25 can clear these statements when the only allegations that tie

1 them there are the finger pointing. Sorry about that. That's
2 my record, Your Honor.

3 THE COURT: Thank you.

4 MR. HOLFORD: Your Honor, the only evidence is not that
5 they finger point and all admit that they were there and
6 implicate the others. That's not the only evidence.

7 It's not different people. I didn't throw those people
8 together. The three of them combined together in the first
9 one, and two of the three combined together in the second one,
10 and those same of the three combined together in the third
11 one. I don't think that's overly complicated.

12 THE COURT: All right.

13 MR. AXELROD: Judge, I think he just made my case for me.
14 I'm only in the first one.

15 MR. HOLFORD: That's right. That's why he's only
16 indicted for the first one.

17 MR. AXELROD: Then why didn't you indict him for the
18 second and third one if you don't think it's prejudicial,
19 doing for all three, but you didn't because you know he's not
20 there. It is absolutely prejudicial for the jury to look at
21 my client while you're trying to convict two other defendants
22 on two charges that my client is not even charged with.

23 That is -- it astounds me, Your Honor. If my client had
24 three charges with him, I could see that. I could see his
25 position. And for him to tell the Court that it's not

1 prejudicial, I don't know. I'm beginning to wonder about
2 Mr. Holford here.

3 THE COURT: Okay.

4 MR. AXELROD: I ask that my client be released, and he
5 can try him later. I'd be fine with that.

6 THE COURT: Anything else?

7 MR. HOLFORD: No, Your Honor.

8 THE COURT: All right.

9 MR. HOLFORD: Your Honor, I will say one thing. If the
10 Court is inclined to sever defendants, I bet there's a
11 distinct possibility we could try multiple this week. And for
12 Tilton and Sturdivant, if the charges are separate, if
13 convicted of one, the next one is substantially more serious
14 following a conviction as a most serious offense. I want the
15 record to be clear about that. That doesn't affect Holmes,
16 who is only charged with one -- only involved in one. But I
17 think we could try multiple defendants in this week if we need
18 to.

19 THE COURT: Okay. All right. Anything else on
20 Mr. Axelrod's request to be severed?

21 MR. HOLFORD: Nothing further, Your Honor.

22 THE COURT: Yeah, I keep coming back to the fact that he
23 wasn't there for the second and the third day. It makes more
24 sense to try them all together, but I'm concerned about the
25 prejudice that could arise if he is forced to stand trial with

1 two other co-defendants of which you have other charges
2 stemming from different days. I mean, sometimes we see -- you
3 know, you have conspiracy and several defendants, and some are
4 charged -- you know, have no charges and somebody is less
5 culpable and they don't -- typically, that person pleads.

6 Here, they're all charged with armed robbery, and he
7 wasn't there for the second or third alleged robberies. So, I
8 mean, I would -- I respectfully grant your request as to your
9 client.

10 MR. AXELROD: Thank you, Your Honor. Have a good day,
11 sir.

12 THE COURT: Now, do you want him subject to being called
13 this week; is that right?

14 MR. HOLFORD: Yes, sir.

15 THE COURT: Okay.

16 MR. HOLFORD: We'll try Tilton and Sturdivant together,
17 and then turn around and try Holmes.

18 MR. AXELROD: Friday afternoon I do that radio show.
19 Just try to remember that.

20 MR. HOLFORD: It's your motion.

21 MR. AXELROD: Hey, it is what it is.

22 THE COURT: All right. Maybe he'll come to court by
23 then.

24 MR. AXELROD: We can do that.

25 THE COURT: Mr. Holford, do you want a bench warrant on

1 his client?

2 MR. HOLFORD: Yes, Your Honor.

3 THE COURT: All right. So ordered.

4 Okay.

5 MR. FOX: Your Honor, very, very briefly again just to
6 complete my record. I meant to indicate that, on the election
7 of charges, that one of the bases for my argument is Rule 403,
8 and that the probative value of that evidence, even if it is,
9 doesn't meet one of the 404 exceptions that probative value is
10 substantially outweighed by the prejudicial effects. I just
11 wanted the record to reflect that that's also a basis of that
12 motion.

13 THE COURT: So noted.

14 MR. FOX: Thank you.

15 MR. GARDNER: And same for me, Your Honor. I understand,
16 in Columbia, they look at every little thing, so I want to
17 make sure that the record -- put that on there.

18 THE COURT: Yes, sir. So noted.

19 MR. GARDNER: Thank you, Judge.

20 If that's all there is on the elect part, can we go into
21 the statements -- the *Bruton* part of the statements, Your
22 Honor?

23 THE COURT: Yes, sir.

24 MR. HOLFORD: And, Your Honor, that will actually shorten
25 it. We'll have two statements.

1 MR. GARDNER: I guess the basis of my argument, for the
2 record, to take a look at -- if we have a statement made by
3 Co-defendant A that implicates Co-defendant B and there's no
4 testimony from these, I think that's a violation under *Bruton*,
5 and we'd ask that the State not be allowed to use those
6 statements.

7 If there's a redaction that they're going to try to do, I
8 would like to hear that in plenty of time to get ready for
9 that. In the old days, they use to redact them "Billy Joe and
10 an unknown black male were walking down the street." Well,
11 they see Billy Joe sitting at the table with a black male, and
12 the jury doesn't have to think very far as to who that is. So
13 I don't think that's allowed anymore. So whatever the
14 redaction is, we need to make sure it's not pointing to
15 anybody. And they can't get around the statement by having a
16 police officer say this is what so-and-so said because that's
17 a violation of the rule.

18 I just did one of these cases. It lasted three weeks.
19 The first week was spent going line by line on the statements
20 where we were redacting, excluding, redacting, excluding.
21 Those statements were actually played in front of the jury.

22 If he doesn't want to play the statements -- it's his
23 case; I'm not telling him how to try it. If he wants to play
24 the statements, then we have to see if it can be -- I don't
25 know if it can be redacted. It may be redacted so much that

1 it has no value for him or anybody else. But if he elects not
2 to play the statement, he can't get around that by having a
3 police officer repeat what was said, because that will also be
4 a *Bruton* violation, because it's the hearsay and it's the one
5 co-defendant implicating another one without testifying and
6 cross-examination.

7 So that's the objection that I think is the biggest
8 part -- I mean, both parts of the objection are very
9 important. The piling on, you ruled on that one. This one is
10 *Bruton*, and we'd ask that that be -- that we address that
11 somehow before we start going forward.

12 THE COURT: All right.

13 MR. FOX: And I would just join in Mr. Gardner's motion
14 on behalf of Mr. Tilton.

15 THE COURT: All right. Thank you.

16 Yes, sir, Mr. Holford?

17 MR. HOLFORD: Yes, Your Honor. I'm aware of *Bruton*, and
18 I'm aware that -- I'll use names, I guess. Sturdivant's
19 statement cannot be played such that it implicates, explicitly
20 or implicitly, Tilton. And so it couldn't say another male.
21 It's very restrictive. I understand that.

22 Sturdivant's statement can only be used to show that he
23 has admitted his involvement. Tilton's statement can only be
24 used to show that it met Tilton's involvement. And I think I
25 can do that. *Bruton* is when it implicates the co-defendant.

1 THE COURT: Yes, sir.

2 MR. HOLFORD: Not when it implicates the defendants
3 themselves. And so I believe that I'll be able to elicit
4 testimony that will -- Tilton will implicate himself.
5 Sturdivant will implicate himself without implicating the
6 others.

7 MR. FOX: But, Judge, it also -- that's all true; I don't
8 disagree with any of that. However, it's a little more
9 complicated than that because part of -- it puts Mr. Tilton,
10 at least, in a catch-22, because it -- with regards,
11 specifically, to the third alleged armed robbery, Mr. Tilton
12 says, "Yes, I'm there, and I watched Mr. Sturdivant do these
13 things." Part of his defense, frankly, is to, you know,
14 frankly, blame Mr. Sturdivant for that one. "Not me, him."
15 If that's redacted out -- so I think it's going to be a little
16 more -- I guess it will be a little more complicated than just
17 any references coming out of Sturdivant and Tilton or Tilton
18 and Sturdivant because, again, there are things that may be
19 helpful to Mr. Tilton's defense that would be best in but
20 would be potentially quite harmful to Mr. Sturdivant's
21 defense.

22 THE COURT: All right.

23 MR. HOLFORD: Your Honor, I believe *Bruton* is concerned
24 with the State's presentation of evidence, and I'm not
25 required to present defenses on behalf of the defendant. I

1 think, for the State's portion of it, I can elicit testimony
2 that Tilton implicates himself, Sturdivant implicates himself
3 without getting into their defenses. Now, if a defendant
4 wants to testify and put the blame on someone else, then
5 they're going to have to take the stand, and the *Bruton* is
6 null and void.

7 THE COURT: All right, sir. Okay. I concur with the
8 State on this issue of he's got the burden, it's his case.
9 I'm sure y'all will be ready to pounce if the opportunity
10 arises. And he indicates he's not going to use it to
11 implicate the other. Just implicate the named the defendant,
12 their statement against the person who made the statement. So
13 I would respectfully deny your motions on those grounds.

14 All right?

15 MR. HOLFORD: So, Your Honor, I think that brings us to
16 whether the statements are voluntary or not, because I can't
17 use any of the statement even against the defendant himself
18 unless it's found to be free and voluntarily, so I think we
19 need a *Jackson v. Denno* hearing.

20 MR. FOX: I agree. Judge, before we leave the *Bruton*
21 issue, will we have a chance -- have you already redacted?

22 MR. HOLFORD: I have not. I intend to play the full
23 thing for the Court to hear.

24 MR. FOX: But in terms of the jury tomorrow, we
25 anticipate starting testimony. I don't think it would be very

1 practical to wait -- although we can; we can wait until
2 something is played and then object and send the jury out.
3 But if there's any way to have it before, then we can review
4 even overnight. I think that would be better and maybe more
5 efficient and know coming in what objections or --

6 THE COURT: Yeah, it can get cumbersome if we have them
7 sitting over there and we have to stop, send them out, and
8 discuss it. We'll be here all -- we won't get to
9 Mr. Axelrod's client.

10 MR. FOX: There's a couple of hours' worth of statements
11 in total.

12 MR. GARDNER: I think that's real important because,
13 especially if one of the defendants makes the statement, "I
14 was there, but I didn't have anything to do with it," and they
15 only play, "I was there," that's not fair to anybody,
16 especially to the jury, because all they hear is somebody
17 saying they were there.

18 I guess it's -- we'll have to listen to all the
19 redactions. And I would like to do that before we do our
20 opening because that's going to tell us what we can -- guide
21 the jury on what they're going to hear about. If I tell the
22 jury you're going to hear a statement where my client says he
23 was there but he didn't do it, and all they hear is "I was
24 there," then they're going to think that I was dishonest to
25 them.

1 THE COURT: So, logistically, how do you suggest we -- do
2 you guys want to --

3 MR. GARDNER: I think the way we did it last time is the
4 State made a transcript of what they were going to -- that
5 they planned to present to the jury. The judge looked it
6 over. The defense made objections to what they thought was
7 objectionable, and the judge ruled on it. And when we
8 finished, that was the material that was presented to the jury
9 during the trial.

10 THE COURT: It's 4:00 right now, though. And you said
11 there's two hours of this?

12 MR. HOLFORD: It's about an hour for each --
13 approximately -- for each defendant.

14 MR. FOX: Mr. Sturdivant gave --

15 MR. HOLFORD: He gave two, but I think it's a total of --

16 MR. FOX: Total of about an hour. And I know Mr. Tilton
17 is about an hour, give or take.

18 THE COURT: Okay. So what can you do? Can you -- have
19 you reduced it to a transcript?

20 MR. HOLFORD: I have, but it's not -- I mean, it's a
21 transcript from our office. It's not a court reporter
22 transcript. It's not official, but I can certainly provide
23 copies of what I have so that we can kind of follow along
24 together.

25 MR. GARDNER: That's fine.

1 MR. FOX: That's fine.

2 MR. HOLFORD: I certainly don't have a problem with that.

3 THE COURT: All right.

4 MR. AXELROD: Can I get a copy of that too?

5 MR. GARDNER: No, you're not in this anymore.

6 MR. AXELROD: I might need it.

7 MR. HOLFORD: I can't use their statements against your
8 guy in a separate trial.

9 MR. AXELROD: They might testify. You never know.

10 THE COURT: Well, why don't we do this. Why don't we all
11 look at it, and we can raise some objections in the morning as
12 to -- because, otherwise, we're going to be here very late
13 this evening.

14 MR. HOLFORD: Correct me if I'm wrong, but at a minimum,
15 don't we have to hear the statements in their entirety --

16 MR. GARDNER: Yes, we do.

17 MR. HOLFORD: -- and determine whether they freely and
18 voluntarily gave the statement itself?

19 THE COURT: Yeah.

20 MR. GARDNER: I think he's talking about two different
21 things.

22 MR. HOLFORD: I know we're talking about two different
23 things, but, at some point, don't we all have to listen to the
24 full statement and determine -- if the Court were to rule it's
25 not free and voluntarily, then we don't have to go through

1 this process.

2 THE COURT: Yeah, I was getting sidetracked.

3 MR. GARDNER: That's a good point, Josh.

4 MR. HOLFORD: I'm asking the Court to rule that it is
5 freely and voluntarily, obviously, but playing devil's
6 advocate.

7 But I can make copies of these now and hand them out, and
8 we can read them as we listen, if that's okay.

9 THE COURT: Okay.

10 MR. FOX: So we can kind of do it together. As we're
11 listening, we can maybe note objections to things, and then,
12 again, if Your Honor -- that will be done. If Your Honor
13 rules them admissible, then we're ready to go, and if not,
14 then, fine, we spent a little extra time.

15 THE COURT: All right. Let's go.

16 MR. HOLFORD: I'll be right back.

17 (Pause in the proceedings.)

18 MR. GARDNER: Judge, can I take my client in the back and
19 talk to him for a minute while we're waiting on him?

20 THE COURT: Sure.

21 (A brief recess was taken at 4:17 p.m. to 4:28 p.m.)

22 MR. HOLFORD: Your Honor, Mr. Sturdivant is present.
23 He's been present this morning. The jury has not been sworn.
24 My understanding is he still remains on bond, so I just wanted
25 that to be clear that he has the right to show up tomorrow,

1 but if he fails to do so, the State would move to try him in
2 his absence.

3 MR. GARDNER: You're going to be here at 9:00 tomorrow?

4 DEFENDANT STURDIVANT: Yes.

5 THE COURT: And just let the record reflect, on
6 Mr. Holmes, who was not present at the call of the case, the
7 Court has issued a bench warrant for him, and I have executed
8 that order.

9 MR. HOLFORD: Yes, sir.

10 THE COURT: And -- okay, anything further?

11 MR. GARDNER: No, Your Honor.

12 THE COURT: I appreciate your patience and we'll see you
13 in the morning. We're adjourned.

14 (At 4:29, the trial was adjourned until Wednesday, July
15 20, 2022, at 9:30 a.m.)

16 NOTE: Due to judge's illness, no court was held Tuesday,
17 July 19, 2022.)

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JULY 20, 2022 - TRIAL DAY 2

(At 9:01 a.m., the trial resumed as follows. Due to illness, the Honorable Bentley Price substituted for the Honorable Michael Holt for the remainder of the trial.)

THE COURT: All right. What do y'all want to do first?

MR. HOLFORD: Your Honor, I believe we can do a *Jackson v. Denno*.

THE COURT: All right. I'm ready.

MR. HOLFORD: The State calls Bishop Gibson.

Your Honor, I guess I just want to put on the record, too, one thing.

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

BISHOP GIBSON,

after having been duly sworn, was examined and testified to as follows:

MR. HOLFORD: Mr. Fox's client, Mr. Tilton, was not present on Monday when we started. Judge Holt did grant the motion to do a trial in his absence. Johnny's client -- Mr. Gardner's client, Mazar Sturdivant, was present, and he was notified on the record that we would proceed in his absence if he chose not show up. I don't see either of them here this morning.

THE COURT: All right. Well, obviously, for the record, if there is a conviction in either one of their cases and

1 they're not here, their sentences will be sealed and their
2 bonds will be estreated.

3 MR. HOLFORD: Thank you, Your Honor.

4 MR. GARDNER: I want to go ahead and put on the record
5 our conversation we had earlier this morning that I have
6 spoken to Mazar. He lives on 10th Avenue in Myrtle Beach with
7 his mother. They're having transportation problems. They
8 were in route at the same time the solicitor was in en route.
9 I don't know what time he'll get here, but I told him we were
10 going to start the motion with or without him, so we're ready
11 to go.

12 THE COURT: Fair enough. For the record, I came from
13 Jasper to Georgetown to Garden City to Surfside to here, and I
14 made it on time, so let's make sure everybody makes it on time
15 from here on out.

16 MR. GARDNER: Yes, sir.

17 MR. HOLFORD: Yes, Your Honor.

18 DIRECT EXAMINATION

19 BY MR. HOLFORD:

20 Q Sergeant Gibson, where are you currently employed?

21 A Myrtle Beach Police Department.

22 Q And how long have you been with the police department?

23 A Twenty-three years.

24 Q Back in 2018, what was your assignment at Myrtle Beach
25 Police Department?

1 **A** I was a detective with the Property Crimes.

2 **Q** As your role as a detective with the Property Crimes, in
3 2018, did you have an occasion to come into contact with the
4 defendants in this case, Dlanor Tilton and Mazar Sturdivant?

5 **A** Mr. Tilton, I did.

6 **Q** Okay. Did you do an interview with Mr. Tilton?

7 **A** Yes, sir.

8 **Q** Was Mr. Tilton in custody at that time?

9 **A** Yes, sir.

10 **Q** Was he in handcuffs?

11 **A** He was in an interview room at the police department. He
12 was not handcuffed.

13 **Q** Did you already have warrants for him at the time or not?

14 **A** Yes. He was already placed under arrest for the
15 warrants.

16 **Q** And did you interview him?

17 **A** Yes, sir.

18 **Q** Before this interview, can you tell us about how long he
19 had spent in custody?

20 **A** I know he was arrested earlier that night. He was
21 transported to the police department. Detective Rose and
22 myself went to the police department and interviewed him
23 there. It was early morning hours of the 31st, around, I
24 believe, 2:00, and I think he was arrested on the 29th, at
25 nighttime, around 11:00 or 12:00. Maybe even earlier.

1 Q All right. So if you -- let me back up.

2 If you interviewed him around 2 a.m. on the 31st, you
3 think he was arrested on the 30th or the 29th?

4 A He was arrested on the 30th. I'm sorry.

5 THE COURT: So he already had a bond hearing and was in
6 custody at the jail?

7 THE WITNESS: He didn't go through the bond hearing.

8 THE COURT: He had not been through the bond hearing yet?

9 THE WITNESS: No, sir.

10 THE COURT: Okay.

11 BY MR. HOLFORD:

12 Q So we're talking about a couple of hours; is that right?

13 A Yes, sir.

14 Q Did you give him water or food or anything like that?

15 A No.

16 Q Did he request it?

17 A No.

18 Q Had he been held for a substantial amount of time, over
19 four or five hours?

20 A No.

21 Q Did you threaten him? Did you coerce him?

22 A No.

23 Q Did you promise him anything to give a statement?

24 A No.

25 Q Did you read him Miranda rights?

1 **A** Yes, sir.

2 **Q** And do you have a form that Myrtle Beach uses?

3 **A** Yes, sir. It's a Miranda Rights form.

4 **Q** If I showed you a copy of that form --

5 COURT REPORTER: Marking No. 8.

6 (State's Exhibit No. 8, Miranda Rights Form, was marked
7 for identification.)

8 BY MR. HOLFORD:

9 **Q** -- would you be able to identify it?

10 **A** Yes, sir.

11 **Q** I'm going to hand you what's been marked as State's 8 for
12 ID. Are you familiar with that document?

13 **A** Yes, sir.

14 **Q** And is that a Miranda form that you signed?

15 **A** Yes, sir.

16 MR. HOLFORD: Your Honor, for purpose of this hearing,
17 the State would seek to introduce State's 8 for the *Jackson v.*
18 *Denno*.

19 THE COURT: All right. Any objection?

20 MR. FOX: None from Mr. Tilton, Your Honor.

21 MR. GARDNER: None from Mazar, Your Honor.

22 (State's Exhibit No. 8 was received into the record for
23 the hearing portion of the trial.)

24 BY MR. HOLFORD:

25 **Q** Now, on the form, do you actually go over their Miranda

1 rights with the defendant?

2 A Yes, sir.

3 Q And did you do so for Tilton?

4 A Yes, sir.

5 Q And did he initial on the form, stating that he
6 understood those rights?

7 A Yes, sir. He signed it.

8 Q And he signed that form?

9 A Yes, sir.

10 Q And you signed the form?

11 A Yes, sir.

12 Q Was this interview audio-recorded?

13 A Yes, sir.

14 (State's Exhibit No. 3, Tilton's Interview DVD, was
15 marked for identification.)

16 BY MR. HOLFORD:

17 Q I'm going to hand you what's been marked as State's 3 for
18 ID purposes. Are you familiar with what State's 3 is?

19 A Yes, sir.

20 Q And what is State's 3?

21 A It's a disc that has his taped interview on there.

22 Q And that's Tilton's taped interview?

23 A Yes, sir.

24 MR. HOLFORD: Your Honor, for the purpose of this
25 hearing, the State would seek to introduce State's 3.

1 THE COURT: All right. Without objection?

2 MR. FOX: Yes, sir.

3 THE COURT: All right.

4 (State's Exhibit No. 3 was received into the record for
5 the hearing portion of the trial.)

6 BY MR. HOLFORD:

7 Q And after you produced the audio recording, did you then
8 turn it over -- in your case file and turn it over to our
9 office?

10 A Yes, sir.

11 Q And that's what this is?

12 A Yes, sir.

13 MR. HOLFORD: Your Honor, permission to publish
14 State's 3.

15 THE COURT: All right.

16 BY MR. HOLFORD:

17 Q About how long is this interview?

18 A I want to say an hour and a half maybe.

19 MR. HOLFORD: Your Honor, do you have a copy of the
20 transcript we created?

21 THE COURT: I have it right here: Statement of Dlanor
22 Tilton.

23 MR. HOLFORD: And we provided a copy to defense on Monday
24 so that we could go through this with the transcript.

25 THE COURT: How do y'all want to try to go through it?

1 What specific, I guess, questions and answers are you
2 objecting to? Do we really need to watch the whole hour and a
3 half as opposed to just go through the transcript and let me
4 make decisions? Do you see what I'm saying?

5 I mean, there's no reason -- if you're not objecting to
6 the first 40 minutes of it and you're only going to object to
7 three questions, we can just go over the transcript and do it
8 now, and I can just ask any questions I may have by the
9 context of the question itself with the detective on the
10 stand.

11 MR. FOX: You know, Judge, I've had judges do it both
12 ways. Some judges prefer to have the whole thing played.
13 We're going to have to, at some point, go through and
14 discuss -- because there is statements back and forth between
15 the two defendants. So that's something that's going to have
16 to be -- I don't have any objection to going through the
17 transcript and deciding what portions we object to and need to
18 be redacted.

19 THE COURT: And you have the same for your statements as
20 to your client as well, Mr. Gardner?

21 MR. GARDNER: Yes, sir, Your Honor.

22 THE COURT: I say we just do it with the transcripts,
23 just like with a deposition in a civil trial. I mean, that's
24 how we do it then. You know, anything that needs to be
25 redacted -- obviously, in a deposition in a civil trial,

1 they'll say, "Object to the form," and when the trial comes,
2 we have to go through and make all the determinations of the
3 relevancy of the question or whether it's admissible, so I
4 think we just do it that way.

5 MR. GARDNER: That's fine with me, Your Honor. For the
6 record, I think that I would object to the whole thing coming
7 in, but I know, if parts are going to come in, and then if he
8 wants to tell you what he wants to put in, we can go line by
9 line, like you just said.

10 THE COURT: Well, he wants in the whole thing. I got
11 that. But you don't want the whole thing in.

12 MR. GARDNER: Right.

13 THE COURT: So let's go with what you don't want in, and
14 then let's argue back and forth, and I'll make a decision. So
15 let's start with -- because the detective is on the stand now
16 for Tilton, let's start with Tilton. So we'll just go page
17 number and then line number. Fair enough?

18 MR. FOX: Yes, sir.

19 THE COURT: All right. And I'm sorry, Detective; your
20 last name?

21 THE WITNESS: Gibson. G-i-b-s-o-n.

22 THE COURT: All right. And you go by Detective Gibson?

23 THE WITNESS: Yes, sir.

24 THE COURT: All right.

25 MR. HOLFORD: Your Honor, so the Court's aware, this is

1 the transcript that was made by our office. It's not an
2 official transcript made by the court reporter, and that was
3 also put on the record on Monday.

4 MR. FOX: It was, Your Honor.

5 THE COURT: All right. If there's any objection to the
6 verbiage, then we'll just take it up at that time. It doesn't
7 sound like Mr. Fox is worried about that.

8 MR. FOX: No, Your Honor. I've had a chance to review
9 it. I think it tracks very, very closely. It's not perfect
10 but it very, very closely tracks to the recording, and it's
11 not going to be in evidence itself. So for purposes of what
12 we're doing, I'm perfectly satisfied to work from it.

13 THE COURT: All right.

14 MR. GARDNER: For the record, I don't have any objection
15 to what we're using as a tool to help us through that. I have
16 read it, and I do believe it. For the record, in case I make
17 a mistake, my objection is to anything that Tilton says that
18 identifies Mazar Sturdivant. And I'll go through it line by
19 line with you, but I may make a mistake, and for the record, I
20 want anything that -- I don't want the police officer to be
21 able to testify to the jury that -- what's your client's name?
22 Tilton -- that Tilton says that Mazar did something.

23 THE COURT: Okay.

24 MR. GARDNER: And I think that's what Bruton is all
25 about, so...

1 THE COURT: Right.

2 MR. GARDNER: Okay.

3 THE COURT: Which I asked earlier -- you weren't here --
4 I said, Are they pointing fingers at each other one, and they
5 said one is and the other one is just a blanket denial.

6 All right. So, then, does Tilton implicate Sturdivant?

7 MR. GARDNER: Yes, sir.

8 THE COURT: All right. Let's go to that page and that
9 line.

10 MR. GARDNER: Judge, it looks like it doesn't start until
11 page 9. Looks like on 39, 40, 41, 43. Well, the rest of that
12 page is all talking about Mazar. If you want to look at that
13 and let me know what you think. I would object to all of
14 that, for the record. And then it carries over to the next
15 page. M-a-z-a-r. And the next page. And page 13, Your
16 Honor. One continuing objection starting page 9, 41 -- line
17 41 all the way carried through --

18 THE COURT: So it goes from page 9 all the way to 13.

19 MR. GARDNER: It looks like it does, Your Honor.

20 THE COURT: Yeah. All right. So it looks like it stops
21 on page 14 when they start to talk about Sham.

22 All right. What's the State's position as to any mention
23 of Mazar by Tilton?

24 MR. HOLFORD: I think it should be taken out, pursuant to
25 *Bruton*, Your Honor.

1 THE COURT: All right. Let's do it.

2 MR. FOX: Judge, I'm in a little weird position.
3 Mr. Tilton, as you read through that, you will see that his
4 questions explains his own presence on different nights, and,
5 at some point, points the finger at Mr. Sturdivant, denies his
6 own culpability. If we take that out -- I understand the
7 basis for taking it out, but then, that is implicating my
8 client's due process rights to present a full defense.

9 THE COURT: How so?

10 MR. FOX: Well, because he will not have the -- the jury
11 will not hear that. They're going to play this. It's going
12 to be redacted. They won't know that there's anything about
13 Mr. Sturdivant in there, although, here was my client saying,
14 "I was present on these three things." So they'll get an
15 incomplete picture. And I don't know if my client will show
16 up or, even if he would, and take the stand, they'll be
17 confronted with this and the contrast with what they're going
18 to hear on that -- in that interview.

19 THE COURT: That's factual information.

20 MR. FOX: I'm sorry; I didn't mean to interrupt.

21 THE COURT: No, go ahead.

22 MR. FOX: Which is part of my basis for asking that the
23 State elect and try one of these at a time to avoid these same
24 kind of issues, separate the defendants as well as the charges
25 because we're into this incredibly tangled mess that's

1 impacting my client's right to a fair trial.

2 THE COURT: Well, with all due respect, I think that's
3 factual information that, in fact, the statement is admitted
4 into the record and he's not present, he doesn't testify, or,
5 if, in the alternative, he does come and testify, then they're
6 going to have to give the weight and credit to either the
7 statement that was given in the beginning or the testimony
8 that was presented at the trial.

9 MR. FOX: Yes, sir, I understand. So that will just be
10 my objection to all the material that was discussed regarding
11 Mr. Sturdivant and Mr. Tilton's statement that we're going
12 through now. I won't get up with each line. I'll just object
13 to anything coming out regarding Mr. Sturdivant.

14 THE COURT: Fair enough.

15 MR. FOX: Thank you, Your Honor.

16 THE COURT: All right. So we'll take out beginning on
17 page 9, No. 39, when Detective Rose asked who you -- well,
18 it's fine -- let's go back to Thursday. Okay. And the next
19 question -- let's start there -- "Who are you hanging out with
20 Thursday night?"

21 So, obviously, the next answer is, "Mazar." So it's
22 going to start there and go all the way to page 14, line 6,
23 where Detective Gibson says, "No, tonight." And Tilton says,
24 "Yeah." And then Detective Gibson says, "What's his name?"
25 "I don't know if y'all stopped him tonight." Then they go on

1 and talk about Sham. So just take it out all the way to line
2 6 where Detective Gibson answers, "No, tonight."

3 MR. GARDNER: Yes, Judge.

4 THE COURT: All right. What's next?

5 MR. GARDNER: Judge, I don't think the next one is until
6 page 23. It looks like line 43. Detective Gibson asked the
7 question, "Whose?" And Tilton answers, "Mazar."

8 THE COURT: All right. Take that out to 48, because
9 Detective Gibson then says -- well, take out "Anybody." Well,
10 "Anybody else?" And then they say, "Yeah, Sham."

11 MR. HOLFORD: Your Honor, on page 14, line 36, I see him
12 and Mazar.

13 THE COURT: All right. Take it out there.

14 MR. GARDNER: Judge, this is the one that -- that I don't
15 know how you want to handle this, but when they say -- when
16 Tilton says [as read], "They're just, like -- there's like --
17 they, like, around me, be, like, you know, they watch the car
18 I got into, yeah." Obviously, he's talking about somebody,
19 and I don't want the jury to think the "they" is my guy. So
20 I'd object to that. I don't know how you'd rule on that, but
21 it is a generic pronoun. I think *Bruton* and its progeny
22 doesn't want the redaction to point to the unknown person as
23 the co-defendant.

24 THE COURT: I'm fine with that. I agree.

25 MR. GARDNER: Thank you, Judge.

1 MR. HOLFORD: Just for the record, Your Honor, I would
2 put on that "they" is not specific. It's not a he, it's not a
3 she. It doesn't necessarily reference one person or multiple
4 people, and so I don't think it would necessarily point to
5 Sturdivant.

6 THE COURT: Well, the issue that we've gotten ourselves
7 into is that the fact that we're trying them both together. I
8 agree with you in the sense that, if this was just a
9 one-person trial as opposed to a co-defendant sitting right
10 there, it makes it a little different, because "they" now
11 becomes that person. If that person wasn't sitting there and
12 it was just one, I would agree with you completely, because
13 we're not pointing the finger at the person sitting in that
14 chair. But since we're trying co-defendants, it makes a
15 difference, so take it out.

16 MR. HOLFORD: And where was that, Johnny?

17 MR. GARDNER: Page 24.

18 MR. HOLFORD: There was something before page 24 you
19 pointed to.

20 MR. GARDNER: I must have missed it.

21 MR. HOLFORD: Was there some on page 16, you said? Line
22 26, page 16.

23 MR. GARDNER: Yeah.

24 THE COURT: Yeah. "Did you go with Sham or Mazar?" And
25 he said, "Yeah, I probably would. I usually walk with them to

1 the gas station." So you have to take all that out.

2 Yeah, and I'm fine with the next line, "I mean, I
3 probably did, like, that's what I'm saying. I can't sit and
4 think back that far or what happened Thursday because I do the
5 same shit every day."

6 MR. HOLFORD: All right. So, after page 16, where was
7 your next --

8 (Pause in the proceedings while counsel reviews
9 document.)

10 MR. GARDNER: Page 24?

11 THE COURT: All right. Page 24?

12 MR. GARDNER: Yeah, I think you've already addressed
13 it --

14 THE COURT: I did.

15 MR. GARDNER: -- but Josh and I were trying to figure out
16 where we were on it, what lines.

17 THE COURT: All right.

18 MR. GARDNER: Yeah, it looks like line 11. And then it
19 keeps on going down while they're talking about "they."

20 Okay. Page 26, Judge, the middle of the page, line 28.
21 Gibson says, "Who was with you?" And Tilton says, "Mazar."

22 THE COURT: All right. Keep on going down to line 38.
23 And then line 40 says, "How about Sham?" "Nah, Sham wasn't
24 there that night." And then it goes and says, "Where was
25 Mazar at?" So we've got to take all of that out.

1 MR. GARDNER: Yes, sir.

2 THE COURT: All the way down to -- all right. I'm fine
3 with then starting up with Detective Gibson's next question on
4 line 7, "And did you meet with anybody else trying to look for
5 weed on Thursday?"

6 MR. GARDNER: Page 30, Judge, at 13, "Was anybody with
7 you during that time?" That's line 11. Tilton answers on 13,
8 "Yeah, Mazar."

9 "What was Mazar doing?"

10 Keep on going. 32, "How about Mazar?"

11 MR. FOX: It keeps going.

12 MR. GARDNER: The next page.

13 MR. FOX: It's all part of the same...

14 MR. GARDNER: There's "y'all" on page 16 -- I mean, line
15 16 on page 31.

16 And then line 43, "Y'all leave first."

17 That looks like all for that section, Judge.

18 THE COURT: Well, what about -- it keeps on going. I
19 mean, how picky are we going to get when it comes to this?
20 Because it says -- then Detective Gibson says, "Okay. Did you
21 get in the car with him?"

22 "No, I didn't sit -- I didn't even sit in the..."

23 Gibson says, "You just opened the door and just say 'hey,
24 what's going on?'"

25 And he says, "No, I ain't say 'hey, what's going on?' I

1 just..."

2 And Detective Gibson says, "All right."

3 And Tilton says, "The motherfucka was just weird as shit,
4 bro."

5 So he's talking about somebody.

6 MR. HOLFORD: He's talking about the victim.

7 MR. GARDNER: I thought he was talking about the victim
8 at that time.

9 THE COURT: Okay. Obviously, I have no earthly idea.

10 MR. GARDNER: Oh, I understand. I had to read it several
11 times last night to get a feel for what was happening.

12 THE COURT: For which one he's talking about. Okay.
13 Fair enough.

14 MR. HOLFORD: And, Your Honor, on page 30 -- I mean, the
15 lines where Tilton says, "I was going to get in the car with
16 him, but I didn't get no" -- other words.

17 THE COURT: Right.

18 MR. HOLFORD: That -- that is Tilton simply implicating
19 himself.

20 MR. GARDNER: Well, wait a minute.

21 MR. HOLFORD: Tilton says, "I was going to get in the car
22 with him, but I didn't get no fucking..."

23 THE COURT: You can say it. It's fine. It's a statement
24 that's going to have to come in on -- well, it may come in on
25 the video.

1 MR. HOLFORD: I mean, he doesn't mention Mazar. He
2 doesn't mention "he." He's talking about getting in the car
3 with the victim. That's Tilton implicating himself. He's not
4 implicating anyone else.

5 And then, when we get down to line 36, "What side did you
6 approach: The driver or the passenger side?"

7 "I approached the damn passenger."

8 "So you came from the passenger side?"

9 "Yeah."

10 "Okay."

11 "I came from the passenger..."

12 None of that is implicating Sturdivant. That's Tilton
13 implicating himself.

14 THE COURT: What's your position, Mr. Fox? You don't
15 have to stand. We're just -- we're doing it informally.

16 MR. FOX: Just -- it's the same, Judge. I mean, this
17 is -- I'm back to why these trials, in my opinion, should have
18 been separated to begin with.

19 THE COURT: It makes it messy, I agree.

20 MR. FOX: Well, and my client -- and I know redaction can
21 be a solution to *Bruton* issues, but *Bruton* starts with you
22 cant try them together, and then the impracticality of that
23 led to, well, there are some circumstances, but I think we're
24 seeing right here just how messy it is and it leaves, from my
25 client's perspective, an incomplete picture. I think there's

1 a rule of completeness thing. Like, I would say the jury is
2 entitled to hear this whole thing because it might be
3 self-serving, they may think, you know, don't believe it, he's
4 just trying to pass the buck to his co-defendant, but there is
5 an explanation in there that -- because, of course,
6 Mr. Sturdivant can't be required to testify and, of course, my
7 client can't be required. He's under no burden to present a
8 defense, but if they're going to introduce this evidence, then
9 I think the jury should hear the whole thing.

10 THE COURT: All right. Well, I mean, he's not talking
11 about any of the co-defendants, and we're still under the
12 Bruton, so let's keep page 30, line 26 in for the time being.

13 MR. FOX: Yes, sir.

14 MR. GARDNER: The only thing I would add to that, Judge,
15 is that one of the issues in this case is going to be which
16 defendant was on which side of the car. If the victim says
17 Defendant A was on the driver's side and Defendant B was on
18 the passenger side and Tilton's statement says that he was on
19 one of those sides, I'm afraid that the implication comes in
20 inadvertently that unknown other defendant is the one that was
21 on that side -- the other side of the car.

22 THE COURT: I think we're getting a little picky on that.

23 MR. GARDNER: Well, okay, I'm with you.

24 THE COURT: I agree also, Mr. Gardner. I mean, we all
25 get it, but I'm not sure if 12 members of the jury are going

1 to figure that out.

2 MR. GARDNER: I gotcha. Well, the next -- on the top of
3 page 31, he actually says it. He says Mazar was on the
4 driver's side. So I think that that will help --

5 MR. FOX: It also leaves the impression, Your Honor, that
6 maybe there's one. I believe, based on the statements they
7 gave, that both Mr. Ward, who is the victim in the third, and
8 Mr. Beckoff, who is the victim we're talking about here, will
9 say that two people approached them. They are going to hear
10 my client talking about one person: himself.

11 And they may believe him as against Mr. Beckoff and
12 Mr. Ward, but that would be a deliberate -- not deliberate,
13 but that would be a contradiction that doesn't have to be.
14 The implication will be that my client is the only one,
15 because that's all they're going to hear, from his words, and
16 of course, they're using his words. It will have even more
17 force. My client puts himself on the scene. We're going to
18 have to try to explain that, but he's being boxed in even
19 further now.

20 MR. HOLFORD: Your Honor, he boxed himself in by
21 admitting that he was there. The defense wants it both ways.
22 They want to keep stuff out but then force the State to put
23 stuff in that we're not allowed to. So if I have to limit it
24 to Tilton's implications against himself, then I can't, and I
25 don't have to present his defense for him. The same for

1 Sturdivant. The victims are going to say that two men --
2 these guys -- came and held guns at them. Both of them held
3 guns.

4 MR. GARDNER: That would clean it right up, Judge, if we
5 just discarded these statements.

6 MR. HOLFORD: But the defense doesn't get to choose that
7 their statements against their interest don't come in. That's
8 not what the law says. The law doesn't say that the State's
9 not entitled to play --

10 THE COURT: What's your point, Mr. Gardner? You're
11 saying just don't play the statements at all?

12 MR. GARDNER: If that's what he's saying. If he's saying
13 the victims are going to get up there and he doesn't need
14 these statements, then don't play them, because they're going
15 to add more -- we've got potential -- I don't want to try the
16 case twice, as the old lawyers say, and this is what we're
17 staring down the barrel at, so to speak.

18 But I believe I'm entitled to object to his -- to
19 Tilton's statements because they're implicating Sturdivant.
20 And I believe also that Tilton's allowed to object to the
21 things that go against him, but I can't concern myself -- Eric
22 Fox is one of the best lawyers we've got. I've got to concern
23 myself with Mazar, and I just can't let Tilton's statements
24 against Mazar come in.

25 MR. FOX: And if they are tried separately, these are not

1 an issue. This isn't an issue we don't have to redact. I
2 think there's one thing in my client's statement that I would
3 request, referencing a prior arrest. Everything else, if he's
4 being tried alone, I think comes in without -- I don't have
5 any doubt Your Honor would find it admissible, and there's
6 really nothing in there that's objectionable other than his
7 reference to a prior arrest, and that's at the very end of the
8 interview after he's talked about everything else.

9 So there's no issue if these are separate trials with
10 either defendant. Their own statements can be used against
11 them however the solicitor chooses to, but it doesn't impact
12 specifically Mr. Tilton or Mr. Sturdivant's rights to a fair
13 trial.

14 MR. HOLFORD: Your Honor, we already argued this on
15 Monday, and a judge has already said that they're going to sit
16 together despite these issues. I mean, we're rehashing again
17 this *Bruton* issue. They want it separate so that they can
18 point the finger at the guy who's not sitting there, and both
19 of them can individually point at the guy who's not sitting
20 there, and the State would not be allowed to call the
21 co-defendant to trial at that time anyway.

22 And, so, they want to choose how the State tries the
23 case --

24 MR. FOX: Not at all, but the --

25 MR. HOLFORD: -- and that's not the way that the law

1 says.

2 MR. FOX: I'm sorry, Josh; I didn't mean to talk over
3 you.

4 Not at all, Judge, but the State has elected to try --
5 that's their decision to request that they be tried together,
6 and at three charges, and then they decide to do two; we were
7 prepared to go forward on three.

8 Judge, the difference is -- and I don't mean to try to
9 re-argue what we did Monday with Judge Holt; however, the
10 difference is, now we're into these, and we're not even --
11 we've just barely started, and I think the difficulties are
12 obvious. We did not get down in the weeds with Judge Holt, so
13 that's the basis for me raising it again.

14 MR. HOLFORD: And, Your Honor, if I just may be heard. I
15 don't think that Tilton is saying, "I was going to get in the
16 car, I approached the passenger side, I came to the passenger
17 side" implicates anyone else. That implicates him. And I
18 think the State should be allowed to use the fact that he's
19 admitted to being where the victims say he was because he's
20 going to deny it. I mean, that's why we're on trial. He
21 denies committing these acts. And for the State to not be
22 allowed to put the fact that Tilton himself puts himself
23 there, which corroborates what the victims say, that's --

24 THE COURT: I agree. I'll let it in. Let's keep --
25 let's keep moving on.

1 MR. FOX: Yes, sir.

2 MR. HOLFORD: And, Your Honor, the State does not intend
3 to play the audio portion. This is what I had mentioned at
4 the bench. The State intends to elicit the testimony from the
5 allowed statements through a detective.

6 THE COURT: Okay.

7 MR. HOLFORD: So, like, Officer Gibson, when you
8 questioned Tilton, "Did he say he went to" -- or "What did he
9 say?" He said, "I was there. I met him. I went to the
10 passenger side." And so I don't think --

11 THE COURT: I think that's fair enough. I mean, if
12 you're not going to play the audio in its entirety, then I
13 think that gives the defense counsel more than ample
14 opportunity to cross-examine the detective as to what was
15 said, so I'm fine with that.

16 MR. HOLFORD: And the only reason I was wanting to play
17 the audio here is just for purpose of *Jackson v. Denno* to say,
18 "Is the statement, in its totality, free and voluntary? Am I
19 allowed to use any of the statements at all?"

20 THE COURT: Are y'all contesting that any of it was not
21 given freely and voluntarily?

22 MR. FOX: I'm not, Judge.

23 MR. GARDNER: I don't --

24 THE COURT: Problem solved then. Let's keep rolling.

25 MR. HOLFORD: Thank you.

1 MR. GARDNER: I think we need a finding from the Supreme
2 Court, but I mean, I don't think I have to contest it for the
3 Supreme Court.

4 MR. FOX: Yeah. I think you just need to make a finding.

5 THE COURT: Right. Well, I mean, just based on that as a
6 whole and based on the testimony of the detective, I find that
7 it was freely and voluntarily given and that he was under no
8 duress, no coercion. Obviously, none of the factors were in
9 place where he was held over a lengthy amount of time, he
10 wasn't threatened or coerced in any way, and that the
11 statement was freely and voluntarily given.

12 MR. GARDNER: Thank you, Judge.

13 MR. HOLFORD: Thank you, Your Honor.

14 THE COURT: Is that your testimony, Detective Gibson?

15 THE WITNESS: Yes.

16 THE COURT: All right. Wow, Mr. Gardner, all the way to
17 the Supreme Court already? I mean, geez Louise. [Laughter]
18 I mean, I've made seven rulings and I'm already up there?

19 MR. GARDNER: No, Judge. I'm sorry.

20 THE COURT: Geez.

21 [Laughter]

22 MR. GARDNER: Oh, Lord.

23 THE COURT: All right. What's next?

24 MR. HOLFORD: Do we want to continue through this
25 statement?

1 MR. FOX: I mean, it's in.

2 MR. GARDNER: If he's going to testify -- if he just
3 doesn't testify when he's talking about what Tilton said, if
4 he just doesn't say anything about what Tilton said about
5 Mazar, then we should be good.

6 MR. HOLFORD: All right.

7 THE COURT: Let's move on.

8 MR. GARDNER: But if he says something about it, then I'm
9 going to ask whatever I think --

10 THE COURT: Yeah. It will be a mess at that point.

11 But, Detective, just have a -- just be very careful in
12 your questioning of Detective Gibson. Be very to the point.

13 I think he understands, just from hearing us argue, that
14 he can't speak about anybody other than the statement that is
15 being questioned about; i.e., Tilton or Sturdivant. But just
16 be very direct in your questioning of Detective Gibson.

17 MR. HOLFORD: Yes, sir.

18 THE COURT: All right.

19 MR. HOLFORD: Your Honor, the State would call Sergeant
20 Amos with -- procedurally, we need to go through Amos's
21 questions and Sturdivant and so...

22 THE COURT: Right. So, Detective Gibson, you may be
23 excused at this time.

24 THE WITNESS: Yes, sir.

25 THE COURT: So, procedurally, with this detective, just

1 go through procedurally how he went forward with the actual
2 questions and determine whether it was freely and voluntarily
3 given.

4 MR. HOLFORD: Yes, Your Honor.

5 THE COURT: And I'll have a couple of questions, and
6 then, obviously, we'll discuss what we just discussed with
7 Detective Gibson with him.

8 MR. HOLFORD: Yes, sir.

9 THE CLERK: Please raise your right hand and place your
10 left hand on the Bible.

11 SERGEANT JUSTIN AMOS,
12 after having been duly sworn, was examined and testified
13 to as follows:

14 THE WITNESS: Justin Amos. J-u-s-t-i-n A-m-o-s.

15 DIRECT EXAMINATION

16 BY MR. HOLFORD:

17 Q Sergeant Amos, where are you currently employed?

18 A The Myrtle Beach Police Department.

19 Q And how long have you been there?

20 A About 15 years.

21 Q Back in 2018, what was your position or --

22 A I was an investigator in our Violent Crimes section of
23 investigations.

24 Q As an investigator in Violent Crimes, in December --
25 around December 31st of 2018, did you have an occasion to come

1 into contact with Mazar Sturdivant?

2 A I did.

3 Q And was Mr. Sturdivant in custody at that time?

4 A Not the first time I came in contact with him, he was
5 not.

6 Q Okay. So tell me about the first time you came in
7 contact with him. Where were you and where was he?

8 A The first time, we were at a residence that we were
9 serving a search warrant on, and Mr. Sturdivant was on the
10 front porch.

11 Q Okay. And did you question him at that time?

12 A I did.

13 Q Did you -- was he a suspect?

14 A At that time, I don't think we were looking at him
15 actively as a suspect.

16 Q Did you have arrest warrants for him?

17 A No.

18 Q Did you place him in handcuffs?

19 A By the time I arrived on-scene, the patrol officers had
20 already secured that residence, and I don't recall if he was
21 in handcuffs or not.

22 Q Did you question him on the scene there, or did you take
23 him to the police department?

24 A The first time, we questioned him on the scene.

25 Q Did you provide him Miranda rights?

1 **A** I did.

2 (State's Exhibit No. 9, Sturdivant Miranda rights, was
3 marked for identification and received into the record for the
4 hearing portion of the trial.)

5 (State's Exhibit No. 10, Sturdivant Miranda Rights, was
6 marked for identification and received into the record for the
7 hearing portion of the trial.)

8 BY MR. HOLFORD:

9 **Q** And does Myrtle Beach Police Department have a standard
10 Miranda form that you use?

11 **A** We do.

12 **Q** I'm going to hand you what's been marked for ID as
13 State's 9 and 10. Can you tell me what 9 and 10 are?

14 **A** So, both of these are our standard Miranda rights forms.
15 State's 9 is the one that I used on the night of the 30th into
16 the 31st while he was on the porch, and 10 was later when he
17 was in custody the next day.

18 **Q** And how do you know that? How can you tell the
19 difference?

20 **A** On State's 10, I have got "607" written on the top right,
21 which is approximately the time that the interview began at
22 the police department for the second interview.

23 **Q** Okay. And did you sign these Miranda forms?

24 **A** I did.

25 **Q** And did Sturdivant sign them?

1 **A** He did.

2 **Q** So let's go back to the first one. Did he acknowledge
3 that he understood his rights?

4 **A** He did.

5 **Q** Did you produce an audio recording of that interview?

6 **A** I did.

7 **Q** I'm going to hand you -- well, let's go to the second
8 interview. What about the second interview? When did you
9 interview him again?

10 **A** The second interview was around 6 p.m. on the 31st of
11 December 2018 in the interview room at the Myrtle Beach Police
12 Department. We have one interview room.

13 **Q** So would that have been at least -- what? -- 18 hours
14 afterwards?

15 **A** That's about right, yes, sir.

16 **Q** 12:00, something like that. If it was 6 p.m. --

17 **A** Yeah.

18 **Q** Okay. But both were on the 31st?

19 **A** That's right.

20 **Q** Was he in custody for the second interview?

21 **A** He was.

22 **Q** Had he been at Myrtle Beach Police?

23 **A** He had been taken into custody, and he was at the Myrtle
24 Beach Police Department.

25 **Q** Did he have a bond hearing by then?

1 **A** He had not had a bond hearing.

2 **Q** And did you have warrants for him at that time?

3 **A** We did have active warrants for him at that time. I did
4 not have an active warrant for him at that time.

5 THE COURT: Who did?

6 THE WITNESS: Detective Gibson had warrants for -- I
7 actually only investigated Day 1 and Day -- or Day 3, so
8 Detective Gibson Investigated Day 1 and Day 2, so he had
9 active warrants for those two events.

10 BY MR. HOLFORD:

11 **Q** In connection with this case?

12 **A** That's right.

13 **Q** And in either of those interviews, did you threaten
14 Sturdivant to give a statement?

15 **A** No.

16 **Q** Did you coerce him?

17 **A** No.

18 **Q** Did you use any physical, emotional, mental harm?

19 **A** No.

20 **Q** Did you promise him anything?

21 **A** No.

22 **Q** And did he sign both of those Miranda forms?

23 **A** He did.

24 **Q** And did you audio or video record those interviews?

25 **A** I did.

1 Q Did you provide that audio recording to the State?

2 A Yes, sir.

3 Q I'm going to hand you what's been marked as State's 4 for
4 ID. Are you familiar with State's 4?

5 A I don't know that I have watched it. It says, "Mazar
6 Sturdivant interview."

7 Q Okay. Would you need to hear a portion to see if that's
8 the interview you did?

9 A I would.

10 Q You audio-recorded the interview; correct?

11 A I did make the audio recording.

12 Q Of both the interviews?

13 A That's right. I just don't know what's on that disc.

14 THE COURT: The State is alleging that that is your
15 audio. Do you have any reason to believe that is not the
16 audio of that interview with Mr. Sturdivant on December 31st,
17 2018, at 1:37 a.m.?

18 THE WITNESS: No, Your Honor.

19 BY MR. HOLFORD:

20 Q And could it also include the second interview together?

21 A It could. I supplied them all to the prosecutor's office
22 together.

23 MR. HOLFORD: Your Honor, for purposes of this hearing,
24 the State would seek to introduce State's 4 in evidence.

25 THE COURT: All right. Without objection.

1 (State's Exhibit No. 4, Interview, was received into the
2 record for the hearing portion of the trial.)

3 THE COURT: While he's doing that, this is, obviously,
4 New Year's Eve at 1:37 a.m. Did he seem impaired or
5 intoxicated in any manner?

6 THE WITNESS: He did not.

7 THE COURT: All right. I mean, it's without objection.
8 Y'all don't need to play it unless you want to.

9 MR. HOLFORD: Your Honor, I was just going to pull up the
10 1 and 2 and let him say for the record that, yes, that's mine.

11 THE COURT: Okay.

12 MR. GARDNER: I don't object because we -- he and I did
13 this at a prelim. What was that? Like three years ago?

14 THE WITNESS: It was a long time ago.

15 MR. GARDNER: Yeah. So I'm good with whatever he says.

16 THE COURT: All right. We don't need to play it for the
17 record. If we need to utilize it for any portion -- because,
18 obviously, y'all indicated y'all aren't going to play it.
19 You're just going to question him concerning it.

20 MR. HOLFORD: That's correct.

21 THE COURT: All right. Then we're good to go.

22 BY MR. HOLFORD:

23 Q During these interviews, he was provided Miranda. Did he
24 give you a statement both times?

25 A Both times he gave a statement, yes, sir.

1 Q And did you promise him anything?

2 A No, sir.

3 Q On the second interview, did you force him? Did you
4 threaten him? Did you coerce him?

5 A No.

6 Q Did you refuse to provide him a drink or water or use the
7 bathroom?

8 A No.

9 MR. HOLFORD: No further questions at this time.

10 THE COURT: All right. Anything from the defense?

11 MR. GARDNER: No, Your Honor.

12 THE COURT: All right. Anything from Mr. Fox?

13 MR. FOX: Not on this one.

14 THE COURT: What I've asked to do at this time is I'm
15 going to find that his statement was freely and voluntarily
16 given. The State has indicated they're not going to play the
17 audio version of that and simply just question the detective.
18 So I find that it was freely and voluntarily given based on
19 the questions from the State and from myself; that
20 Mr. Sturdivant was in custody, he had arrest warrants, he was
21 not intoxicated or impaired, and, obviously, he doesn't meet
22 any of the criteria of the time lapse or any threats by the
23 detective or coercion, and so I find his statement to be
24 freely and voluntarily given.

25 What I'd ask you to do, Detective Gibson and Detective

1 Amos, is -- I'm not sure when y'all are going to testify, but
2 let's just be very careful, obviously, as to your testimony.
3 So if you'd go ahead and read the transcripts to make sure
4 you're up to par as to what was said. Because what's going to
5 happen is that, since this is not an actual handwritten
6 statement by the defendant, they can't utilize this to say,
7 "Hey, I'm going to refresh your recollection with something
8 that we just made in our office." They can't do that.

9 So, if you don't remember, you're going to say you don't
10 remember. All right? And I don't want you to say you don't
11 remember. I just want you to be prepared.

12 THE WITNESS: Sure. Thank you, Your Honor.

13 THE COURT: And Gibson's is -- I wrote on it. Here it
14 is. You can just give it to him.

15 All right. Anything else?

16 MR. GARDNER: I think we're good.

17 MR. HOLFORD: I think that's all, Your Honor.

18 THE COURT: All right.

19 MR. FOX: I mean, other than taking out any references to
20 Mr. Tilton and his statements.

21 THE COURT: We're not going to allow the statements in.
22 They're not going to play the audio --

23 MR. FOX: Okay.

24 THE COURT: Right. We're simply just going to allow them
25 to testify, and you'll have every opportunity to cross-examine

1 him.

2 MR. FOX: Yes, sir. Okay.

3 MR. GARDNER: Same guidance on him as for Gibson.

4 THE COURT: I told both of them to make sure they read
5 the interviews so they can -- because y'all can't utilize that
6 to refresh their recollection of it.

7 MR. GARDNER: Right. But we don't want him saying, "And
8 Mazar told me that Tilton said whatever."

9 THE COURT: Right. You understand you'll be under that
10 same -- you're not to say that he told you about another
11 co-defendant. He's not going to ask that question, so we
12 should be fine.

13 All right. You can step down.

14 THE WITNESS: Yes, sir.

15 MR. FOX: Judge, just briefly for clarification: There
16 are -- there's only a couple of lines in here but they are
17 when Mr. Sturdivant is talking about going over to
18 Mr. Tilton's aunt's house, Ms. Latanya Walker. It's
19 Mr. Tilton's aunt that he was living with.

20 THE COURT: Right.

21 MR. FOX: She's identified by name in here. She's on the
22 witness list; I don't know if they'll call her. That's an
23 oblique reference to Mr. Tilton. So I'd just raise it. It's
24 not direct, it doesn't say, but certainly they will know --
25 the jury will know in, I think, the testimony that that's

1 where he lived. You know what I'm saying? In other words, he
2 doesn't say, "I went to Dlanor's house," but it's only one
3 step removed. So I just bring -- that's in just a couple of
4 places, and I just bring it up. I would request that that,
5 you know, not be referred to, Ms. Latonya Walker. And I think
6 there are literally two references: one on page --

7 THE COURT: What is the issue with the jury not knowing
8 that he lives at his aunt -- at his aunt's house?

9 MR. FOX: Judge, I just think it's a different way to
10 refer to --

11 THE COURT: Did the crime occur at that location?

12 MR. FOX: Yeah. Well, right across the street. And
13 that's where Mr. Tilton and -- not Mr. Sturdivant -- and
14 Mr. Holmes -- well, he was down the street. My client was
15 arrested there -- was taken into custody there.

16 THE COURT: We'll wait to see if she testifies.

17 MR. FOX: Okay. That's fine. And like I say, I raise it
18 as a possibility. I'll object if I need to. Thank you.

19 MR. GARDNER: I do have one issue. I don't know if we
20 need to take it up now, but this started out with three
21 charges, and it's only two. So, obviously, I would ask that
22 they not say anything about the allegations contained in
23 Charge 1.

24 THE COURT: So it was on the 28th, 29th, and 30th. There
25 was three; correct? Those were the dates?

1 MR. HOLFORD: Your Honor, it was the 27th, 28th, and
2 29th.

3 THE COURT: And so the victim from the 27th is not
4 testifying, and so we're not going to address that.

5 MR. HOLFORD: That's correct.

6 THE COURT: Okay.

7 MR. HOLFORD: Because the 27th involved Mr. Axelrod's
8 client, Mr. Fox's client, and Mr. Gardner's client together.
9 The 28th and 29th only involved Mr. Fox and Mr. Gardner's
10 client.

11 THE COURT: And so since he's been severed, we're
12 going -- not going to discuss that one.

13 MR. HOLFORD: That's correct.

14 THE COURT: All right. Fair enough.

15 What else do we need to take up?

16 MR. FOX: Judge, I'll just make the usual motion to
17 sequester witnesses.

18 THE COURT: All right. I'll allow the two detectives to
19 stay in. So, Detective Gibson and Detective Amos -- and you
20 are?

21 DETECTIVE ROSE: Detective Rose.

22 THE COURT: Rose. I'll allow that, because you're going
23 to testify as well; correct? All right. So those three can
24 stay in.

25 You'll have, like, an investigator, of course, that will

1 all stay?

2 MR. HOLFORD: Victim advocate and admin, Your Honor.
3 They won't be testifying.

4 [Laughter]

5 MR. FOX: Judge, I'm requesting that the -- I know you
6 have the lead investigator, but I'm not sure all of the
7 officers are entitled to stay in.

8 MR. GARDNER: That defeats the purpose, doesn't it?

9 MR. FOX: Yes. They're not a special class of witness.

10 THE COURT: Okay. Who swore out the warrants? So Gibson
11 is the lead detective?

12 MR. HOLFORD: Well, Gibson swore out the warrants. Amos
13 is listed as the lead detective because he took over on the
14 third night, and he took out two warrants. I would designate,
15 I think, Amos, if I had to, as the lead detective, if I have
16 to choose one. Rose and Gibson worked together, but Gibson
17 took out the warrants initially.

18 THE COURT: All right. Then we'll just let Amos stay.
19 Gibson and Rose will be sequestered.

20 When do you expect to call them to testify? Today?

21 MR. HOLFORD: The way we're proceeding this morning, yes.
22 I might need a minute to get my first witness here.

23 THE COURT: Well, the jury is not coming back for another
24 40 minutes.

25 MR. HOLFORD: Okay. Because I fully anticipated doing

1 the -- listening to the two hours of interviews, and so I had
2 my witnesses on standby for noon, but we can call them
3 immediately.

4 THE COURT: Not a problem.

5 So what we'll do is, we're going to take a break for 40
6 minutes. We're going to come back at 11:00 because the jury
7 will be here. As soon as they're here, I'll let you know. So
8 come back around 10:45, so if we can start early, we'll start
9 early.

10 And what we will do is we're just going to go right on
11 through. So I'll swear the jury, I'll appoint the foreperson,
12 then I will explain -- what I normally do is I explain kind of
13 all the moving parts, who all these people are because, of
14 course, it makes jurors nervous, like, "Why is he here? Who
15 are these people? Why does she keep leaving constantly? Why
16 do I eat mints?" It's because I'm aggravated.

17 So I'll explain all of that to them, and then we'll go
18 ahead and get into opening statements, and we'll just barrel
19 on through until we see where we can get a stopping point.

20 MR. HOLFORD: Yes, sir.

21 THE COURT: All right. We'll be adjourned until 10:45.

22 (A brief recess was taken from 10:12 a.m. to 11:08 a.m.)

23 (State's Exhibit No. 5, Holmes DVD, was marked for
24 identification only.)

25 (State's Exhibit No. 6, Circe K DVD, was marked for

1 identification only.)

2 THE COURT: All right.

3 MR. FOX: I have one very brief thing to put on the
4 record.

5 THE COURT: Okay.

6 MR. FOX: I am going to renew -- based on what we did
7 this morning and argued with regard to both defendants'
8 statements, I just wanted to renew for the record the motion I
9 made on Monday to sever Mr. Tilton's trial from
10 Mr. Sturdivant's. I don't believe I specifically made that
11 request, although there was some discussion. So I simply want
12 to place that on the record so it's clear.

13 THE COURT: All right. And, for the record, I think I
14 need to make clear that I don't believe I can overrule the
15 former judge's ruling as to that, now that we have already
16 began the trial, even though the jury has not been sworn.

17 MR. FOX: Yes, sir.

18 MR. GARDNER: And I would join, for the record, just like
19 last time, that motion, Your Honor.

20 THE COURT: All right. Fair enough.

21 All right. Where did Bobby go?

22 THE DEPUTY: He's with the jury.

23 THE COURT: Okay. Bring them up.

24 (The jury entered the courtroom at 11:10 a.m.)

25 THE COURT: You can take that chair out, if you want, and

1 sit next to him back there. Whatever is convenient for you.

2 Oh, y'all moved it so they can get back there? Got it.

3 All right. Good afternoon. Thank y'all so very much for
4 being here. Obviously, I'm not Judge Holt. I am from Conway.
5 I was born and raised here. My dad was Dr. Price, who was an
6 OB/GYN here. I'm a Conway High School graduate of '95. I am
7 a circuit court judge in Charleston, and so I'm the closest
8 one. Judge Holt had a family emergency yesterday afternoon
9 and had to attend to that, so they asked for me to come and
10 preside over the trial.

11 We have been working hard this morning to make sure that
12 we can get this trial done this week, and I'm very confident
13 and positive we'll get it done. All right.

14 So my name is Judge Price. And, again, I'm from
15 Charleston -- or I'm from here but I live in Charleston now.
16 But, real quickly, before I go over everything, I want to go
17 over seating. We're going to have to administer the oath. So
18 if y'all will please stand, we'll administer the oath.

19 THE CLERK: Please raise your right hand.

20 (The jury was duly sworn.)

21 THE CLERK: Thank you. Please be seated.

22 THE COURT: All right. Where are our two alternates?
23 You're one? And you're the other?

24 All right. Ma'am, your name?

25 JUROR NO. 42: Virginia Frick.

1 THE COURT: No, I'm asking her her name.

2 BAILIFF ROPP: This is an alternate and there's an
3 alternate.

4 THE COURT: Okay. And your name, ma'am?

5 JUROR NO. 42: Virginia Frick.

6 THE COURT: All right. Ms. Frick, you are sitting in the
7 hot seat; that is, the forelady's seat, and so you will be
8 appointed the forelady. All right? You seem more than
9 capable and there are a lot, a lot of duties and
10 responsibilities, which is -- there's really none. Okay?

11 So, at this point in time, your only role and
12 responsibility is to ensure two things: One, nobody discusses
13 the case because you haven't heard the whole case yet.
14 There's no reason to deliberate about something that you
15 haven't heard about. So I ask that you don't deliberate,
16 don't talk about the case. You're going to have a lot of time
17 together, but that's the only thing really -- your role and
18 responsibility at this time is to -- if there's any type of
19 situation that may arise or some issue that needs to be
20 brought to the Court -- not questions because, obviously, I
21 can't answer questions, but something that may arise as an
22 emergency, just put it in a note, give it to the bailiff, and
23 I'll address it. I'll explain all your roles and
24 responsibilities at the end.

25 At this point in time, let me just kind of explain all

1 the moving parts. I'm not sure if Judge Holt did that, but
2 just so you'll kind of understand what's everybody's role and
3 responsibility.

4 These are our wonderful clerks. As you see, they will
5 administer the oath. They are keeping up with evidence,
6 whatever is going on in the courtroom. They're going to order
7 your lunch. They're going to keep me apprised of when it's
8 here, all of type of things. Anything that's administrative
9 and clerical, they handle. All right.

10 This is my law clerk. She goes with me everywhere, and
11 so she has all the, basically, administrative duties that I
12 need to have handled. So you'll see her typing a lot. She'll
13 pass me a note a lot. She has to leave a lot, but understand
14 this: None of that has to do with the trial. 99 percent of
15 the time, she -- the notes that you see her passing me, she's
16 going to say, "Oh, my God, I just saw they got a new
17 restaurant. Can we go there for happy hour?" So it's not
18 about the trial.

19 So don't ever think that, if I am moving and I'm doing
20 something, that I have any issue whatsoever with what is going
21 on. I have to be listening, but I'm doing a lot of things all
22 at once. All right?

23 This is our wonderful court reporter. She's taking
24 everything down, so I'll try to talk slow. That's not my
25 forte, but I'll try.

1 You already met the attorneys. Obviously, this is the
2 detective associated with the case. They have an
3 investigator, an administrative assistant, and a victim's
4 advocate. All right? So they'll be walking in and out; don't
5 worry about that. They work for the solicitor's office, and
6 they've got a lot of duties as well.

7 You met our wonderful deputies. They are here for our
8 protection. And then anybody else in the gallery -- this is
9 an open courtroom. They can come and go as they please.

10 Also, there will be times where they'll be interactions
11 between myself and you, because y'all go in the back and so do
12 I. There will also be interaction when we go outside, with
13 the lawyers and whomever. All right? I will not speak to
14 y'all, because I don't want to have -- for the lawyers to feel
15 like I have any influence over this case because I don't, and
16 I have instructed the lawyers the same. So if they see you on
17 the street or you see them in the elevator and you say "hello"
18 or they say "hello," they're not going to say anything to you
19 but that's because of me. All right? So don't feel like
20 anybody is being rude to you during this trial. I have
21 instructed everybody to just remain silent. Because, again,
22 if they say hello to you, "how is your day?", somebody is
23 going to come over and say, "Oh, they were trying to influence
24 the jury." We don't need any of that, you know, concern, so
25 don't worry about that.

1 Also, y'all have asked to take notes. If one person
2 takes notes, you all get to take notes. But I'll warn you
3 about taking notes. Every time you look down to put a date
4 and time, you're missing the next question and answer. All
5 right? So if you want to take notes, I'm certainly okay with
6 that, but make sure that you're able to still keep up with
7 everything that's going on. All right?

8 At this point in time, the way that we're going to
9 proceed with the trial is that I am going to allow the
10 attorneys to give opening statements. That's not to be
11 considered evidence whatsoever. All right? All the evidence
12 will come from this witness stand. All right? It's just
13 simply what the attorneys believe the evidence is going to
14 show at this trial. All right?

15 At the close of the case, I'm going to let him do closing
16 arguments, which is simply the opposite. I'm going to let
17 them argue to you what they now believe the evidence has
18 shown. All right?

19 So, in moving forward, once we do, we're going to call
20 our first witness and proceed with the trial. Understanding
21 that, we can take a break about every hour. If anybody needs
22 a break for whatever reason, just raise your hand, and the
23 bailiff will come over, and you just tell him, "I just need a
24 break," and then he'll tell me and we'll take a break. All
25 right?

OPENING STATEMENT ON BEHALF OF THE STATE

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1 Apart from that, we have ordered lunch for y'all today,
2 so we don't have to get out and can keep moving so we can get
3 this trial accomplished this week because, obviously, this
4 normally would have been started on Monday at 3:00, and we're
5 already at Wednesday at 11:00. So we're going to work hard.
6 All right? Fair enough?

7 All right.

8 MS. FARMER: May it please the Court?

9 THE COURT: Yes, ma'am.

10 OPENING STATEMENT ON BEHALF OF THE STATE

11 MS. FARMER: Good morning.

12 VARIOUS JURORS: Good morning.

13 MS. FARMER: Ladies and gentlemen, I think we can all
14 agree that Myrtle Beach is a great place to vacation. People
15 come from all over for a little rest and relaxation, and then
16 they pack up, they go their hometowns -- they go back to their
17 hometowns, and they continue their life as usual.

18 But, this week, you're going to hear about two men who
19 weren't able to do that. They weren't able to do that
20 because, while they were in Myrtle Beach for a few days, the
21 last week of December in 2018, they became the victims of
22 armed robberies.

23 Now, let me give you a little overview of what happened
24 in this case and why we're all here this week. So, the first
25 armed robbery, the victim was Matthew Beckoff. He was down

1 visiting Myrtle Beach for a few weeks -- a few days, excuse
2 me, the last week of December of 2018.

3 Now, while he was down in Myrtle Beach, on December 28th,
4 he matched with one of the defendants in this case, Dlanor
5 Tilton, on a men's dating app called Grindr. Now, through
6 that app, he and the defendant, Tilton, began talking, and
7 they made a plan to meet up. Now, Defendant Tilton told
8 Mr. Beckoff to meet him at 6509 Bryant Street. That's right
9 there in Myrtle Beach off of 65th Avenue North.

10 So, Matthew Beckoff left his hotel, and he drove to
11 Bryant Street, and when he got there, he was just expecting
12 Defendant Tilton to come out, but instead, out comes not only
13 Defendant Tilton but the other defendant in this case, Mazar
14 Sturdivant. They walked up from the darkness, put guns in
15 Mr. Beckoff's face, and they demanded his belongings. So
16 that's the first incident that we're here for this week.

17 The second incident that we're also here for occurred the
18 next day, December 29th of 2018. Now, this incident involved
19 Christopher Ward. He's the victim in that armed robbery.
20 Now, Mr. Ward was also in Myrtle Beach for a few days, and,
21 again, he was using the men's dating app called Grindr.

22 Now, you can probably guess where the story goes from
23 here. He matched with Defendant Tilton on that dating app.
24 They began chatting, and they made plans to meet up to hang
25 out. And, again, Defendant Tilton told Mr. Ward to meet him

1 at 6509 Bryant Street.

2 Now, Mr. Ward left his hotel. He drove to Bryant Street.
3 And, when he got there, instead of just Defendant Tilton
4 walking out to meet him, along came Defendant Sturdivant as
5 well. They emerged from the darkness, armed with guns, and
6 again, they put them in Mr. Ward's face, demanded his money,
7 his wallet, and the keys to his vehicle. But something a
8 little different happened this time because Mr. Ward said no,
9 and he tried to run. As he was running down the street, one
10 of these defendants actually chased him down and
11 pistol-whipped him in the back of the head.

12 And that is why we're all here today, so that the
13 defendants that committed these crimes can pay for their
14 actions.

15 Now, I want y'all to know that these victims weren't
16 randomly chosen. Mr. Beckoff and Mr. Ward, they weren't
17 simply in the wrong place at the wrong time. They were preyed
18 upon by these defendants, and they were picked because they
19 weren't from the area, they didn't know the area well, and
20 they met on a men's dating app.

21 So the defendant's belief was that there's no way they'd
22 call the police, they wouldn't want to hear about all that,
23 but they were wrong. These men did call the police, and that
24 is why we're all here this week.

25 Now, as representatives of the State, Solicitor Holford

1 and myself, we have the burden of proving that these
2 defendants are guilty beyond a reasonable doubt. Now, defense
3 counsel will try to make that seem like it's impossible, but
4 it's not.

5 Now, beyond a reasonable doubt is a high burden, but it
6 is the same standard of proof that's used in criminal courts
7 across the United States. And the question is whether, at the
8 end of this trial, you have been left firmly convinced that
9 these defendants are guilty.

10 Now, ladies and gentlemen, because we take this burden so
11 seriously, we're going to be paying careful and close
12 attention to everything that happens in this courtroom this
13 week, and I'd ask now that you-all do the same. And there's
14 several things in particular that I want you to focus on.

15 Number one: Pay close attention to the similarities that
16 you're going to hear between the robbery that occurred on the
17 28th and the robbery that occurred on the 29th, how these
18 defendants met these victims, where they told them to meet,
19 and how they all had everything taken from them.

20 Next, you're going to hear from the victims themselves,
21 and they're going to talk to you about what happened to them
22 and how their lives were forever changed, and they just
23 couldn't go back home and go back to normal.

24 The evidence in this case is going to be presented to
25 you. Pay close attention to that what the evidence is and to

1 where that evidence was found because that's going to be very
2 important.

3 And, next, you're going to hear from law enforcement.
4 I'd ask you to listen closely to their testimony because
5 they're going to talk to you about the scenes that they
6 responded to, how this investigation unfolded, and what led
7 them to the two defendants on trial this week.

8 And now, ladies and gentlemen, at the end of this trial,
9 after you have heard from the victims, after you have heard
10 from the witnesses, and after you have seen the evidence
11 that's going to be presented to you, Solicitor Holford is
12 going to stand in front of you-all again, and he's going to
13 ask that you render the only just and fair verdict in this
14 case, and that is that Defendant Tilton and Defendant
15 Sturdivant are guilty of committing armed robberies on
16 December 28th and December 29th of 2018. Thank you.

17 THE COURT: All right. Mr. Gardner? Mr. Fox, do you
18 want to go first?

19 MR. FOX: Yes, Your Honor. We have elected to go with
20 age before beauty, so I will go first.

21 THE COURT: All right. I'd be the last to call up there.

22 MR. FOX: Thank you.

23 OPENING STATEMENT ON BEHALF OF DEFENDANT TILTON

24 MR. FOX: Good morning, ladies and gentlemen; it is still
25 morning. Again, my name is Eric Fox, and I'm the attorney on

1 behalf of the defendant, Dlanor Tilton. I appreciate you
2 being here. This is a -- I was also told this is one of the
3 highest forms of civic duty that we have. My dad would say
4 there were three: Voting, serving in time of war, and jury
5 duty. So it's very, very important. And I know it's an
6 inconvenience to everybody, and I appreciate it.

7 I have been practicing over 30 years. I don't know how
8 many cases I have tried at this point, but all that really
9 means is I have probably made every mistake that a lawyer can
10 make, quite honestly, but hopefully, I don't make the same
11 mistake twice, and one mistake I have found is to try to go
12 too far into details and argue facts in an opening argument,
13 because I don't know for sure -- I have a pretty good idea of
14 what the State's evidence will be, but sometimes it plays out
15 very, very differently than what you expect.

16 Witnesses -- human beings -- are unpredictable, and just
17 because they may have said something to law enforcement or you
18 may expect it a certain way, what they say up there and what
19 they say under oath in a courtroom and what they say when
20 cross-examined by an attorney sometimes is very, very
21 different. So I have learned not to get up and promise
22 something in an opening argument other than to say I disagree
23 with some of the facts that Ms. Farmer laid out for you.
24 That's her version of events, and I would simply tell you, we
25 have a very different version of events.

1 And so what I'm asking you to do is pay very close
2 attention to all of the witnesses. Do not prejudge this case
3 until you have heard from all the witnesses for the simple
4 reason -- and it would be normal. You'll hear one witness and
5 say, "Well, I'm kind of thinking like this over here," but
6 then you may well hear another witness that changes your mind.
7 So don't prejudge or fix your opinions before you have heard
8 all the evidence and also heard the Judge at the end of the
9 case, he will give you the instruction on the law. That's
10 called the jury charge. So he will tell you the law that
11 applies to this case. You take the law and you take the
12 facts, and you decide.

13 I would urge you to keep in mind the entire time,
14 although Mr. Gardner and I are here together, we're on sort of
15 the same side but we're not together, is my point. We're in
16 the same courtroom, we're on sort of the same side of the
17 courtroom, we each represent a defendant, but we do not
18 represent the same defendant, and Mr. Sturdivant and
19 Mr. Tilton are entitled to separate verdicts. You must reach
20 a verdict based on the evidence against each separate
21 defendant, and you must do that with respect to each separate
22 case.

23 There's two alleged crimes here, and so there must be a
24 determination: Is Mr. Tilton guilty of the crime that's
25 alleged to have occurred on December 28th, 2018, and

1 separately, is he guilty of the crime that was alleged to have
2 occurred on December 29th? And that is independent of what
3 happens with Mr. Sturdivant, Mr. Gardner's client. So I'd
4 just urge you to keep that in mind.

5 The final thing I would say, with regard -- the judge
6 will define "reasonable doubt" for you, tell you exactly what
7 that means. There have been many ways to explain it. Firmly
8 convinced is one. Another is a doubt that would cause a
9 person to hesitate to act in their own personal life. I'm not
10 sure if this is good. It's impossible to establish anything
11 beyond all doubt. That's not what the law requires. But it
12 is something way more than maybe. Could have happened like
13 that, might have been like that. If that's the level of
14 certainty you have, that's a not-guilty verdict. Okay?

15 So you have got to be firmly convinced that the State has
16 met its burden of proof as to each defendant and each charge
17 before you can return a verdict of guilty. It is the highest
18 standard of proof in the law. It is the same across the
19 country. If you were in a civil court, if you were here
20 having a lawsuit over an auto accident, and we were suing the
21 insurance company to do what they should do and pay us the
22 money, that's simply preponderance of the evidence. So you
23 think of the scales of justice, you just need to tilt the
24 scales in your favor a little bit. Reasonable doubt is
25 something a lot more than that. Okay? So that's just a very

1 simple way to think of it.

2 I will talk to you in a lot more detail at the end of the
3 case. Thank you.

4 THE COURT: All right. Mr. Gardner?

5 MR. GARDNER: May Your Honor, please?

6 OPENING STATEMENT ON BEHALF OF DEFENDANT STURDIVANT

7 MR. GARDNER: Madam Foreman, ladies and gentlemen of the
8 jury. Mazar Sturdivant lives on 10th Avenue. I think it's
9 actually Ocala Street off of 10th Avenue. He lives with his
10 mother.

11 At the time of the allegations contained in the
12 indictment before you, he was 17 years old, living with his
13 mother, a junior at Myrtle Beach High School. He still lives
14 with his mother.

15 The allegations that the solicitor was talking to you
16 about occurred, I think, on 65th, 67th, somewhere up there.
17 If you're familiar with Myrtle Beach, they have south avenues,
18 and they have north avenues, and as you go north, the avenues
19 increase: 1st Avenue, 2nd Avenue, 3rd Avenue. So 67th would
20 be more north than 65th.

21 So Mazar lived with his mother on Ocala Street and 10th
22 Avenue. This was during Christmas break. Remember, he's a
23 junior at Myrtle Beach High School. He's a young man. His
24 father is visiting or actually living with his aunt on 67th
25 Avenue. And Mazar wants to spend time with his dad.

1 So, during the Christmas break, his mother and his father
2 determined that he will visit with his father for part of the
3 time during the Christmas break. That's something that, if
4 you have had any experience on the second floor, you know what
5 I'm talking about.

6 So he's going to visit with his dad. Unfortunately, his
7 dad, Dennis Washington, I believe is his name, is courting, as
8 we would say in the old days, the mother of the aunt of
9 Tilton. And they live on Bryant Street, which is off of 65th
10 Avenue.

11 So, prior to this incident, Dennis, the father, dating
12 the aunt on Bryant Street, Mazar had never seen, heard, or met
13 Tilton. They didn't know each other. Tilton, I believe, was
14 going to a community college down in Charleston somewhere.
15 Older and different location geographically.

16 So when Mazar is spending time with his dad and his dad
17 is spending time with his girlfriend, Mazar goes with him.
18 That's his entire interaction with him. They do what boys do:
19 Played video games, played basketball. There's a basketball
20 goal out on the -- in the parking lot somewhere. That's his
21 interaction with him, and that's it.

22 There was a third fellow that they talked about, and I
23 don't know if we'll hear about that. Maybe we will, maybe we
24 won't. But for the purpose of what's going on with Mazar,
25 he's pled not guilty. He denies any involvement, any criminal

1 activity. And the State -- we disagree on that, and we'll see
2 what happens.

3 I have been doing this for over 30 years. These two
4 lawyers did a great job explaining to you what the -- how it
5 works, and the judge did a really good job telling you how it
6 works, and I usually have a thing that I do and I talk about
7 the different burdens of proof and all that stuff. I'm going
8 to do something different, because I think you have a good
9 concept of it. I saw a lawyer do this recently, and I thought
10 it was a good way to demonstrate about the burden of proof and
11 all the things wrapped up in one.

12 If you could imagine somebody that you trust, somebody
13 that -- it would be a spouse, a parent, a child, a friend, a
14 partner, somebody that you trust and you know that they were
15 not doing anything bad, and if, out of the blue, somebody came
16 up to you that you don't know and said, "Did you hear what
17 your friend did? It's a horrible event he did." You would
18 say, "Oh, I guess he did it," wouldn't you? No, you wouldn't
19 say, "I guess he did it." You would say, "You better prove
20 that to me. I don't believe you."

21 Well, guess what? That's what Mazar is telling the
22 State. He's not here -- the judge will tell you, he don't
23 even have to be here. He was here earlier, and he may be here
24 later today, but the way the system is set up, not only do
25 they not have to testify, they don't even have to be here.

1 They don't have to present evidence. They don't have to prove
2 anything.

3 As you can imagine, it wouldn't take too long to think
4 about a scenario where somebody completely innocent would not
5 be able to, through no fault of their own, would not be able
6 to prove their innocence. You know, you can't float and
7 you're guilty? No, we don't do that anymore. That was
8 hundreds of years ago. So he doesn't have to prove anything.

9 And, like I said earlier, he has told the State, "You
10 better prove it," and they're not going to be able to prove it
11 because he didn't have anything to do with these robberies.

12 Thank you for your attention.

13 THE COURT: All right. Call your first witness.

14 MS. FARMER: Your Honor, the State would call Andrew
15 Reynolds.

16 THE CLERK: Please raise your right hand and place your
17 left hand on the Bible.

18 ANDREW REYNOLDS,
19 after having been duly sworn, was examined and testified
20 to as follows:

21 THE CLERK: Please state your full name and spell it for
22 the Court.

23 THE WITNESS: Andrew Reynolds. A-n-d-r-e-w
24 R-e-y-n-o-l-d-s.
25

1 DIRECT EXAMINATION

2 BY MS. FARMER:

3 Q Good morning, Mr. Reynolds.

4 A Good morning.

5 Q Where are you currently employed?

6 A The FBI.

7 Q And before you worked for the FBI, where were you
8 employed?

9 A Myrtle Beach Police.

10 Q How long had you been with Myrtle Beach Police before you
11 transitioned to working for the FBI?

12 A Approximately two -- a little over two years.

13 Q So would you have been working for Myrtle Beach in
14 December of 2018?

15 A Yes.

16 Q What would your duties have been then?

17 A I was assigned to patrol, responding to 911 calls.

18 Q And did you respond to any calls for service on
19 December 28th of 2018?

20 A Yes.

21 Q What was the nature of that call?

22 A I have it as a -- responding to a robbery that had
23 already occurred that was not in progress.24 Q Do you remember around what time you would have
25 responded?

1 **A** 2344 hours.

2 **Q** And can you tell this jury what location you responded
3 to?

4 **A** Yeah. I was responding to 3200 South Ocean Boulevard,
5 which was not the location of where the incident was.

6 **Q** Why did you respond to that location if it wasn't the
7 incident location?

8 **A** The subject who called the police, that's, I guess, at
9 the hotel they were staying at. After the incident, they
10 returned to their hotel and called me from the hotel, from the
11 3200 South address.

12 **Q** And what did you do when you arrived to that address?

13 **A** I spoke with the victim.

14 **Q** And what did you learn upon making contact with this
15 victim?

16 **A** That they were alleging they were robbed on the north end
17 of the city.

18 **Q** Did you learn where, what address this robbery occurred?

19 **A** Yeah. I have it listed as the 6700 block near Kings
20 Highway and Bryant, in that area.

21 **Q** Mr. Reynolds, I'm showing you what's been premarked for
22 identification purposes as State's Exhibit 1 and State's
23 Exhibit 2. I don't want to show these to the jury quite yet.

24 Just take a look at these.

25 **A** Okay.

1 Q Do you recognize these?

2 A Yep.

3 Q How are you able to recognize these locations?

4 A My time in the city. I patrolled that area regularly.

5 Q So you had been to these spots before?

6 A Yes.

7 MS. FARMER: Your Honor, at this time, the State would
8 seek to enter State's Exhibit 1 and 2 into evidence.

9 THE COURT: All right. Any objection?

10 MR. GARDNER: We don't know what it looks like. We
11 haven't seen it.

12 MS. FARMER: I apologize.

13 MR. GARDNER: That's okay. If it's just a map of Myrtle
14 Beach, we don't object. What are the pictures?

15 (Counsel reviews the exhibits.)

16 MR. GARDNER: That's a lot of swimming pools.

17 MS. FARMER: It is. It's Myrtle Beach.

18 MR. FOX: I have no objection.

19 MR. GARDNER: No objection, Your Honor.

20 (State's Exhibit Nos. 1 and 2, Large Maps, were marked
21 for identification and received into evidence.)

22 MS. FARMER: Your Honor, may I have the witness step down
23 to point a couple of things out for the jury?

24 THE COURT: Absolutely.

25

1 BY MS. FARMER:

2 Q This is kind of a big, bulky map. Can you point to where
3 you learned that this robbery occurred?

4 A In this area (indicating). Bryant, between 67th and
5 65th. It's Kings Highway down there.

6 Q That's Kings Highway?

7 A Yes.

8 Q And, then, off Kings Highway would be Bryant Street?

9 A Correct.

10 Q Okay. Do you have a specific address where you know this
11 armed robbery occurred?

12 MR. FOX: Your Honor, I'm going to object.

13 A No, I don't.

14 MR. FOX: He doesn't have firsthand knowledge that the
15 armed robbery occurred. He didn't see it. It's hearsay.
16 He's relaying what he was told by a witness as far as the
17 location.

18 THE COURT: I agree. I'll sustain the objection.

19 BY MS. FARMER:

20 Q But, Officer Reynolds, it did occur in this general area;
21 is that correct?

22 A Yes, ma'am.

23 MR. GARDNER: Same objection, Your Honor.

24 MR. FOX: Same objection.

25

1 BY MS. FARMER:

2 Q Okay. If you'd like to take your seat. Thank you.

3 Officer Reynolds, did you learn about what time this
4 armed robbery had taken place?

5 A Yes. The victim told me it happened at approximately --

6 MR. GARDNER: I think we have to object to the hearsay,
7 Your Honor.

8 THE COURT: Just state what you learned through your
9 investigation. Don't say what someone told you. Just say,
10 "Through my investigation, I..."

11 THE WITNESS: Yes, sir.

12 A Through my investigation, I learned that this happened at
13 around 2200 hours, about 10 p.m.

14 BY MS. FARMER:

15 Q About 10 p.m. standard time?

16 A Yes.

17 Q And through your investigation, did you learn how many
18 people or how many suspects robbed this victim?

19 A Two.

20 Q Were you provided a description of what these suspects
21 would have looked like?

22 A Yes, ma'am.

23 Q And what is that description?

24 A Suspect 1 is described first as a 30-year-old male and,
25 later, as a teenager. Suspect 2 is described as a 40-year-old

1 black male with heavy build.

2 Q And what did you do next?

3 A I tried to get a better idea from the victim about what
4 exactly happened. He described the scenario, how it played
5 out. And then I contacted the detectives.

6 MS. FARMER: Court's indulgence for just a moment, Your
7 Honor.

8 Your Honor, no further questions for Officer Reynolds.

9 THE COURT: All right.

10 CROSS-EXAMINATION

11 BY MR. FOX:

12 Q Officer, 67th Avenue North runs, at least in large part,
13 between Kings Highway and the bypass, 17; is that right?

14 A Yes, sir.

15 Q So the bypass and Kings Highway run north and south and
16 67th Avenue runs -- it right angles to those roads; correct?

17 A Yes, sir.

18 Q And then it runs for several blocks between those two
19 highways?

20 A Correct.

21 Q Probably seven or eight. You could see on the map.

22 A Yeah, about accurate.

23 Q And Bryant Street, if you were on the ocean side, on the
24 Kings Highway side, Bryant Street would be four or five blocks
25 up 67th?

- 1 **A** I'd say that's accurate.
- 2 **Q** And it runs at -- again, it right angles to 67th? In
- 3 other words, it crosses --
- 4 **A** Parallel with Kings Highway.
- 5 **Q** Exactly.
- 6 All residential over there?
- 7 **A** Yes, sir. Apartments and houses.
- 8 **Q** Apartments and houses. There's not bars --
- 9 **A** No, sir.
- 10 **Q** -- restaurants, anything commercial. There's nothing
- 11 commercial in that area?
- 12 **A** No, sir, only on Kings Highway.
- 13 **Q** Now, how long have you lived in the Myrtle Beach area?
- 14 **A** I lived here for about two and a half, three years.
- 15 **Q** Okay. So you're familiar with -- and you were -- I'm
- 16 sorry, you were with Myrtle Beach Police Department?
- 17 **A** I was, yes, sir.
- 18 **Q** Okay. In your experience -- do you still live in the
- 19 Myrtle Beach area?
- 20 **A** No.
- 21 **Q** Okay. But in those two and a half years, is your
- 22 experience that putt-putt golf courses stay open late at night
- 23 in late December?
- 24 **A** Not in December, sir.
- 25 **Q** Okay. So, on December 28th, say, you would be surprised

1 to hear that a putt-putt golf course was open at, say, 10:00
2 or 11:00 at night?

3 **A** Yes, sir.

4 **Q** During the course of your investigation, you referred to
5 Mr. Beckoff indicating that he had returned to his hotel and
6 that's when he called law enforcement.

7 **A** Correct.

8 **Q** Did you also learn whether that was his first stop after
9 this alleged armed robbery?

10 **A** It was not.

11 **Q** In fact, he went all the way back to Conway prior to
12 that; correct?

13 **A** Yes, sir. That's what he told me.

14 **Q** And then, from Conway, all the way back to the beach?

15 **A** Yes, sir.

16 **Q** Okay. And that's, depending on traffic, a good 20- or
17 30-minute ride each way?

18 **A** Yes, sir.

19 **Q** So it was at least an hour or more before he contacted
20 law enforcement; correct?

21 **A** Roughly.

22 **Q** Okay. And the original description was a 30-year-old
23 male, later modified to a teenager. That's a pretty big
24 discrepancy, wouldn't you say?

25 **A** Yes, sir.

1 Q A minimum of 11 years. Maybe more.

2 And a 40-year-old black male; correct?

3 A Yes, sir.

4 Q Heavy build?

5 A Yep.

6 Q Okay. Anything further? Any clothing description or
7 anything like that?

8 A No, I don't have that in my report.

9 Q Okay. Did you have any part in further investigating
10 this after your interview with Mr. Beckoff?

11 A I don't think I did, sir. I don't remember it very well
12 afterwards, but I don't think I did.

13 Q You would have a report. If you had had any contact with
14 Mr. Tilton, that would be reflected in a report?

15 A Yeah, absolutely.

16 Q Okay. And you don't have any report that would reflect
17 that you had any contact or conversation with Dlanor Tilton?

18 A No, sir.

19 Q Thank you.

20 MR. FOX: That's all.

21 THE COURT: All right.

22 MR. GARDNER: Very briefly, Your Honor.

23 CROSS-EXAMINATION

24 BY MR. GARDNER:

25 Q So you're familiar with the avenues at Myrtle Beach.

1 10th Avenue is not even on this thing. Do you need to look at
2 it?

3 A You said 10th Avenue?

4 Q 10th, right?

5 A Correct.

6 Q Ocala is off of 10th Avenue; is that right?

7 A I don't really remember. It's been three years since I
8 worked as a patrolman, but...

9 Q The avenues go -- as you go north, the avenues increase
10 in number?

11 A Yep.

12 Q So 10th would be way down here somewhere?

13 A Correct.

14 Q And The Cloisters are on 67th Avenue. Are you familiar
15 with those?

16 A What did you say?

17 Q The Cloisters. It's a condominium that's right next
18 to -- there on the bypass.

19 A Is it off of 67th, the big apartments?

20 Q Yes.

21 A Yes.

22 Q You've got the bypass. 67 intersects it. You have got
23 the funeral home. You have got the -- one is an AA and then
24 one is a church. One of them is going to get you.

25 A Yeah.

1 Q And then you've got The Cloisters, which is the
2 apartments.

3 A Okay.

4 Q Okay. So we have The Cloisters on 67th, 10th Avenue way
5 down here, and -- and you don't have any information about
6 Mazar Sturdivant; correct?

7 A About what?

8 Q Mazar Sturdivant.

9 A I don't know what that is.

10 Q Okay. All right. Thank you, sir.

11 THE COURT: Anything as a follow-up?

12 MS. FARMER: Court's indulgence, Your Honor.

13 Just briefly, Your Honor.

14 THE COURT: Okay.

15 REDIRECT EXAMINATION

16 BY MS. FARMER:

17 Q Officer Reynolds, did you learn what was taken from this
18 victim that night?

19 A Yes, ma'am.

20 MR. GARDNER: Objection. Improper redirect, Your Honor.

21 THE COURT: I'll sustain the objection.

22 Rephrase your question, please.

23 BY MS. FARMER:

24 Q Officer Reynolds, defense counsel asked if you knew why
25 this victim didn't call the police but an hour later. Did you

1 learn why?

2 **A** He told me -- through investigation, he said he wanted to
3 drive to a family member's house to use their phone to cancel
4 his credit cards.

5 **Q** And, Officer Reynolds, why would he have had to use
6 another phone?

7 **A** Because his was stolen.

8 **Q** Thank you.

9 MS. FARMER: No further questions for this witness, Your
10 Honor.

11 THE COURT: All right. You may step down.

12 THE WITNESS: Thank you, sir.

13 THE COURT: Call your next witness.

14 MR. HOLFORD: Your Honor, the State calls Heather Parker.

15 MR. GARDNER: Your Honor, if this is where I think we're
16 going, I think I have a matter of law to take up.

17 THE COURT: All right. Ladies and gentlemen of the jury,
18 this will be hopefully not a common occurrence, but sometimes
19 it may require something that I need to take that will need to
20 be outside the presence of the jury.

21 I'm the sole judge of the law, and you are the sole judge
22 of the facts, and so, if they have a legal question that needs
23 to be resolved prior to any testimony, I have to decide that
24 before we allow y'all to hear the testimony. All right?

25 So I'm going to ask that you excuse us, take about a

1 THE COURT: Yeah, it's in the record.

2 MR. FOX: Okay. Thank you.

3 (Open court resumes as follows:)

4 (The jury entered the courtroom at 11:52 a.m.)

5 (State's Exhibit Nos. 11 through 16, Photographs, were
6 marked for identification.)

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

8 Call your witness.

9 THE CLERK: Please raise your right hand and place your
10 left hand on the Bible.

11 HEATHER PARKER,

12 after having been duly sworn, was examined and testified
13 to as follows:

14 THE CLERK: Please state your full name and spell it for
15 the Court.

16 THE WITNESS: Heather Dawn Parker. H-e-a-t-h-e-r D-a-w-n
17 P-a-r-k-e-r.

18 THE COURT: All right. Yes, sir.

19 DIRECT EXAMINATION

20 BY MR. HOLFORD:

21 Q Ms. Parker, the record can't see your shirt, but can you
22 tell us where you work?

23 A I'm a store manager at Circle K.

24 Q And how long have you been a store manager at Circle K?

25 A Since 2017.

1 Q And are you familiar with the Circle K store on
2 65th Avenue?

3 A Yes, sir. I was the store manager there from 2017 to
4 2020.

5 Q Okay. So, on December of 2018, you were the store
6 manager at the Circle K on 65th Avenue?

7 A Yes, sir.

8 Q Is that in Myrtle Beach?

9 A Yes, sir.

10 MR. HOLFORD: Your Honor, may I approach the witness?

11 THE COURT: Absolutely.

12 BY MR. HOLFORD:

13 Q I'm going to show you what's been entered as State's
14 Exhibit 1. Are you familiar with this area on the map? And
15 I'll give you a second to -- if this is 17th here and we have
16 67th and 65th, are you familiar with that area?

17 A Yes, sir.

18 Q And there's a red dot on here: 6501 North Kings Highway.
19 What is that?

20 A That is the Circle K.

21 Q Okay. So this is the Circle K you were the manager at,
22 at the time?

23 A Yes, sir. And this employee parking lot. There's three
24 parking spaces there.

25 Q Okay. Now, does that Circle K have video surveillance?

1 **A** Yes, sir. It has a 3X Logic.

2 **Q** Can you explain to us what a 3X Logic is, please?

3 **A** It is a digital camera system. It's more updated than
4 the original that they had at that store.

5 **Q** And does it record multiple angles?

6 **A** Yes. It has a 360 camera inside the system. It has
7 cameras on top of the registers. It has a camera outside the
8 store. It has a camera to the back room, which goes to the
9 bathroom to a certain spot. There's cameras near the soda
10 cooler, the hot dog area. So there's multiple cameras in that
11 store.

12 **Q** And does your surveillance system, does it capture a time
13 stamp and date?

14 **A** It does dates. It captures audio. It captures every
15 time somebody walks in the door. They have a heat map on it,
16 so if it does not -- if you don't walk in that area, it's not
17 going to record at that time.

18 **Q** Okay. And have you reviewed a video surveillance from
19 December 28th, 2018, of that store?

20 **A** Yes, sir, I did.

21 MR. HOLFORD: Your Honor, may I approach?

22 THE COURT: Absolutely.

23 BY MR. HOLFORD:

24 **Q** I'm going to hand you what's been marked as State's 7 for
25 ID. Do you know what State's 7 is?

1 **A** No. No, sir.

2 **Q** Okay. Did you --

3 **A** I was asked to watch the video and to initial it.

4 **Q** Okay. Did you initial this video?

5 **A** Yes, sir.

6 **Q** State's 7?

7 **A** My signature is right here.

8 **Q** Okay. And, on that video, is it the surveillance from
9 that store that we're talking about?

10 **A** Yes, sir. I can verify the employee working and the
11 customer that's inside the store that owns a business right
12 next to the location.

13 MR. HOLFORD: Your Honor, at this time, the State would
14 introduce State's 7 into evidence.

15 THE COURT: Which is the video?

16 MR. HOLFORD: Is the video, Your Honor.

17 THE COURT: All right. Over the objection.

18 (State's Exhibit No. 7, Circle K DVD, was marked for
19 identification and received into evidence.)

20 MR. HOLFORD: Permission to publish?

21 THE COURT: Absolutely.

22 (State's Exhibit No. 7, video, playing.)

23 MR. FOX: Your Honor, can we pause that a second? That's
24 okay. Go ahead.

25 MR. HOLFORD: Will you pause it?

1 Your Honor, I'd ask the witness to come off the stand
2 just briefly.

3 THE COURT: Sure.

4 BY MR. HOLFORD:

5 Q Now, Ms. Parker, you said that there's a time and date
6 stamp. Does this video include that?

7 A Yes, sir. This is the store number. The location is
8 Outside Camera 1. It has your date and your time, and it
9 tells you the pixel on the camera system.

10 Q Okay. And so what date and time are we looking at right
11 now?

12 A You are looking at December the 28th of 2018 at
13 10:13:22 p.m.

14 Q And in the 8114, that gives us the exact --

15 A The store number, yes, sir.

16 Q And that's the store on 65th Avenue?

17 A That is correct.

18 Q Now, let me ask you this: There's no sound to this. Do
19 all the cameras have sound?

20 A No, not all the cameras. The ones at the registers have
21 sound, so if you were robbed, you could hear.

22 (Video continues to plays.)

23 BY MR. HOLFORD:

24 Q You can sit back down.

25 A Sit down? Okay.

1 (Video continues to play.)

2 BY MR. HOLFORD:

3 Q Now, the screen just changed. It will tell us here at
4 the front door that that's just a different angle from the
5 same. We can look at the date and timestamp?

6 A Yes, sir.

7 (Video continues to play.)

8 BY MR. HOLFORD:

9 Q All right. So now there's audio on the video; is that
10 correct?

11 A That's correct, because it's at the register. And it
12 will also show you what they bought.

13 Q Okay. So this side is showing us what?

14 A What they're buying.

15 Q And is that live?

16 A Yes. That's live.

17 Q As it's recording.

18 And we still have a date and time stamp down here?

19 A That is correct.

20 Q And POS 1 --

21 A -- is the register system 1. And then there's another
22 register on the other side.

23 Q Okay.

24 (Video continues to play.)

25

1 BY MR. HOLFORD:

2 Q Now, is that the video you watched?

3 A Yes, sir.

4 Q And that's the video of the store --

5 A Yes, sir.

6 Q -- from December 28, 2018?

7 A That's correct.

8 Q Okay. I'm going to hand you --

9 MR. HOLFORD: Your Honor, may I approach?

10 THE COURT: Absolutely.

11 BY MR. HOLFORD:

12 Q -- what's been marked for ID as State's 11, 12, 13, 14,
13 15, and 16. Are you able to look at those and tell what those
14 are pictures of?

15 A This first picture is the picture of the parking lot
16 outside. I mean, I can tell you the ice chest runs along
17 here. The employee parking lot is over here.

18 Q And are those pictures from the video we just watched?

19 A That is correct. It's from the first lot.

20 Q And how can you tell?

21 A The gas pumps -- I was at that store for almost three or
22 four years.

23 Q Do they have timestamps on it?

24 A They do. It's time-stamped at the bottom with the date
25 and the times from the same video. It's just like a minute

1 off.

2 Q And what about the next set? Let's go through them. 12?

3 A This is the second slide from the video with the two
4 gentlemen walking through the parking lot. And you can tell
5 by the gas pumps and the parking lot and the car itself.

6 Q Okay. 13?

7 A This is the front door that's time- and date-stamped.
8 The ATM was beside the front door. Register 1 is as soon as
9 you walk in the register -- walk in the store.

10 Q Okay. 14?

11 A It's the same video -- same picture from the video. I'm
12 sorry. It has my lead CSR running the register at the time --

13 Q All right.

14 A -- with her Georgia Bulldog jacket on the ground.

15 Q And 15?

16 A It's POS 1 from the same location at 6501 North Kings
17 Highway. The guy in the picture is a regular in that store.
18 He owns the pizza place next door.

19 Q The guy at the counter with the white hair?

20 A Yes, sir.

21 Q And 16?

22 A It's the slide of my lead CSR at POS 1 at 65th.

23 Q So State's 11 through 16, are these all pictures of what
24 we have already viewed that's in evidence on State's 7 through
25 the video?

1 **A** Yes, sir.

2 MR. HOLFORD: Your Honor, at this time, the State would
3 seek to introduce 11, 12, 13, 14, 15, and 16 into evidence.

4 THE COURT: All right. Over the objection.

5 MR. HOLFORD: Thank you, Your Honor.

6 (State's Exhibit Nos. 11 through 16 were received into
7 evidence.)

8 MR. HOLFORD: Your Honor, I have no further questions at
9 this time.

10 THE COURT: All right. Thank you, sir.

11 MR. GARDNER: Judge, can we approach for a minute?

12 THE COURT: Sure.

13 BENCH CONFERENCE

14 (The following bench conference was held outside the hearing
15 of the jury and others:)

16 MR. GARDNER: The video's got their names on it. The
17 video has got the defendants' names on it, so the jury has now
18 seen the names on the video, and there's nothing saying that
19 those are the defendants except for -- it's the same as saying
20 here's a picture of --

21 THE COURT: Hold on.

22 (Open court resumes as follows:)

23 THE COURT: All right. Ladies and gentlemen of the jury,
24 there's a matter of law that I'll need to take up. But let's
25 go ahead and take this as our opportunity to take our

1 THE COURT: All right.

2 MR. HOLFORD: There hasn't been yet, but, I mean, you
3 know, we get in this catch-22. I have to lay a foundation to
4 get a video in before I can get testimony from it, and so...

5 THE COURT: Well, before we publish anything else, let's
6 make sure that we're not scrolling through and having those
7 catalogue issues. But, at this time, I don't think I'm going
8 to give a curative instruction, but I'll certainly allow y'all
9 to cross-examine about the fact that she, obviously, is not
10 going to be able to testify that she has any idea who these
11 people are.

12 So bring them out.

13 MR. FOX: And Judge, again, for the record, I would move,
14 on behalf of Mr. Tilton, for a mistrial. I believe this has
15 impermissibly and irrevocably tainted the trial.

16 THE COURT: All right. Give me one second.

17 Do you have a plea today? I was looking at this docket.
18 So there's some pleas and stuff on this. Are y'all doing
19 those today?

20 MR. HYMAN: Next door.

21 THE COURT: Got it. Easy enough.

22 For the record, which supervisor went out?

23 DEPUTY: Corporal Capps.

24 THE COURT: Okay. So a corporal went out to
25 Mr. Sturdivant's house, and his grandfather indicated they

1 haven't seen him since yesterday. So, at this point in time,
2 I'm going to have to revoke his bond and send the sheriff's
3 department to go find him.

4 MR. HOLFORD: Your Honor, the State did not request the
5 same of Tilton, as the jury had not been sworn at that point.
6 We would respectfully ask the same of Dlanor Tilton.

7 THE COURT: Yeah. We'll revoke his bond and send the
8 sheriff's department to look for him.

9 MR. HOLFORD: Thank you.

10 THE COURT: Bring them out.

11 MR. FOX: I'm sorry, Judge. I didn't --

12 THE COURT: I didn't want to put her on the record. Do
13 y'all want her to testify to it?

14 MR. GARDNER: No.

15 THE COURT: Okay. All right. Go ahead.

16 MR. FOX: Judge, I do need a ruling on my mistrial
17 motion.

18 THE COURT: Okay. I'll deny the motion for a mistrial.
19 I find it -- I certainly don't think it rises to the level of
20 a mistrial, and I don't even believe it rises to the level of
21 a curative instruction at this point.

22 MR. FOX: Yes, sir. Thank you.

23 MR. HYMAN: Judge, can I approach?

24 THE COURT: Yep.

25 MR. GARDNER: And I object to him being in the courtroom,

1 Judge.

2 THE COURT: Absolutely. I would too.

3 [Laughter]

4 (Pause in the proceedings.)

5 (The jury entered the courtroom at 12:15 p.m.)

6 THE COURT: All right. Thank you very much. Hope you
7 enjoyed your break, and we'll continue with the witness.

8 MR. HOLFORD: Your Honor, I believe I said that concludes
9 my questions, but if I didn't, that does conclude my
10 questions.

11 THE COURT: And you put the evidence in, and I said over
12 the objection. All right.

13 MR. FOX: Thank you, Your Honor.

14 THE COURT: Mr. Fox?

15 CROSS-EXAMINATION

16 BY MR. FOX:

17 Q Ms. Parker, as you watched the video that was played just
18 a few minutes ago, was that you working that evening or was
19 that another clerk?

20 A No, sir. That was my lead CSR.

21 Q Okay. But, again, you're familiar because you're the
22 manager of that store?

23 A I was the store manager, yes, sir.

24 Q I understand.

25 How long have you worked at that store?

1 **A** I worked at that store from November of 2017 to July 10th
2 of 2020.

3 **Q** Okay. So --

4 **A** So about three years.

5 **Q** About three years?

6 **A** Yes, sir.

7 **Q** And you would work the register as well?

8 **A** I would work everywhere: The registers, outside,
9 changing trash, stocking coolers.

10 **Q** Gotcha.

11 **A** The whole store. Doing paperwork. Everything.

12 **Q** So you're familiar with the foot traffic --

13 **A** Yes, sir.

14 **Q** -- you know, the kind of typical foot traffic.

15 What would be -- from your experience doing that, what
16 would be your estimate of how many people are in and out
17 during a typical evening? What's an evening shift?

18 **A** 3:00 p.m. to 11:00 p.m. is second shift, and 11:00 to
19 7:00 is third.

20 **Q** Well, let's say the second shift, the 3:00 to 11:00.
21 During that eight-hour period -- and I know it's not going to
22 be precise, but -- and would vary even day-to-day. But would
23 it be ten people? Dozens of people? How many would you say
24 typically would be in and out?

25 **A** That store, at that time of year, about 200.

1 Q Okay. 200 people.

2 Fair to say that many of those, in cold weather, might
3 have jackets or hooded sweatshirts on, that type of clothing?

4 A Yes, sir.

5 Q Okay. You have had a chance to look, both prior to today
6 as well as today, at the video itself that was shown?

7 A I was -- oh, sorry..

8 Q Go ahead.

9 A I have seen the video for the first time today.

10 Q Okay. You had a chance to review it, and then it was
11 played again?

12 A That is correct.

13 Q And then the screen grabs from it -- do either of those
14 gentlemen appear to be 40-year-old men with heavy builds?

15 A You said how old?

16 Q Forty. With heavy builds?

17 A No, I wouldn't think they're -- no, sir.

18 Q Do you know Dlanor Tilton?

19 A I don't know -- I only know two people in that video.

20 Q Okay. Thank you.

21 CROSS-EXAMINATION

22 BY MR. GARDNER:

23 Q You look like you want to tell us who those two are.

24 A I only know two people. I'm sorry.

25 Q Go ahead and tell us. You look like you want to tell us.

1 **A** The older gentleman who was playing the lottery and the
2 person working in the store.

3 **Q** Okay.

4 **A** Like, I know who they are for a fact.

5 **Q** Well, I know, when I say to say something, I want to get
6 it out there, so I wanted you to get --

7 **A** I'm sorry.

8 **Q** No, I want you to get it out there.

9 **A** I'm nervous.

10 **Q** No, don't be nervous. Is there anything else you want to
11 tell us?

12 **A** No, I just...

13 **Q** Okay. So, working over there, you understand that the
14 avenues, when you talk about north avenues, as you go further
15 north, the avenues increase?

16 **A** That is correct.

17 **Q** Okay. All right.

18 Are you familiar with The Cloisters that's on
19 62nd Avenue? It's an apartment complex?

20 **A** I don't go that far. I'm sorry.

21 **Q** That's okay.

22 **A** I only went to work.

23 **Q** That's okay.

24 And your work is 65th; right?

25 **A** I was working at 65th at the time.

1 Q Are you familiar with 10th Avenue?

2 A Yes, sir.

3 Q It's not even on this picture, is it?

4 A No, sir.

5 Q That's way down here?

6 A Way down there. Way down there by Manny's Kitchen.

7 Q Is Ocala Street off of 10th Avenue?

8 A Yes.

9 Q Okay. All right. Way, way away from here.

10 Do you know Mazar Sturdivant?

11 A I know 62nd -- then go to 62nd on the highway side, to

12 that Circle K.

13 Q Okay.

14 A I know what's next door to 65th.

15 Q Okay. That's all right.

16 A There's some apartments behind 65th.

17 Q I think we have -- I think we're criss-crossing. I was

18 asking about a person, and I think you --

19 A Oh --

20 Q -- you thought I was asking about a street.

21 A I'm sorry.

22 Q No, that's my fault. If the question is not asked

23 clearly, it's my fault. I think I've asked some good

24 questions. Do you have anything you want to add?

25 A No, sir.

1 Q All right. Thank you for coming out here.

2 A You're welcome.

3 THE COURT: All right. Anything as a follow-up?

4 MR. HOLFORD: Nothing, Your Honor. I would ask that this
5 witness be excused.

6 MR. GARDNER: No objection.

7 MR. FOX: No objection.

8 THE COURT: All right.

9 Call your next witness.

10 MR. HOLFORD: Your Honor, the State calls Megan Lukacs.

11 THE CLERK: Please raise your right hand and place your
12 left hand on the Bible.

13 MR. FOX: Your Honor, I apologize. We do have a matter
14 of law before this witness starts -- I think we need to
15 address before she starts to testify.

16 THE COURT: All right. Come on up.

17 MR. FOX: Thank you.

18 BENCH CONFERENCE

19 (The following bench conference was held outside of the
20 hearing of the jury and others:)

21 MR. FOX: Judge, that's Mr. Tilton and that's my client,
22 or alleged to be my client. And part of the way he was
23 identified was that this photo from Grindr was submitted to
24 SLED. They did a facial recognition thing, so I believe this
25 witness will testify -- I don't know if she herself did it,

1 but how they got it. My understanding -- and I don't claim to
2 know much about it -- is the SLED employee -- the algorithm of
3 a program that was designed by an outside -- SLED doesn't
4 typically -- you know, what I mean? It's a computer program.

5 And so I don't expect that this person is going to be
6 familiar or be able to establish, under *Phillips* and *Counsel*,
7 you know, the scientific underpinnings, because that's what
8 we've got here. What they're saying is not just, "Hey, can
9 you compare these photos," but "Hey, we've got a computer
10 program that allows us to make a prediction."

11 So I think it's going to be have to be, at the very
12 least, a finding under *Phillips* about -- that it does, in
13 fact, meets the *Counsel* requirements.

14 THE COURT: Who does she work for?

15 MR. HOLFORD: Well, now, Charleston County. At the time,
16 SLED.

17 THE COURT: And what is she going to testify to?

18 MR. HOLFORD: She's going to testify that she was sent
19 those photos, that she ran the program, and that she came back
20 with a positive match. She submitted that to Myrtle Beach
21 Police, and Myrtle Beach Police used that possible match to
22 come up with a suspect.

23 THE COURT: All right. Set a foundation, and then I'll
24 make a determination. Okay? All right.

25 (Open court resumes as follows:)

1 THE COURT: All right. Swear the witness.

2 THE CLERK: Please raise your right hand and place your
3 left hand on the Bible.

4 MEGAN LUKACS,

5 after having been duly sworn, was examined and testified
6 to as follows:

7 THE CLERK: Please state your name and spell it for the
8 Court.

9 THE WITNESS: Megan Lukacs. M-e-g-a-n L-u-k-a-c-s.

10 THE COURT: Real quickly, while I'm considering the
11 determination, are you going to qualify her as an expert or
12 no?

13 MR. HOLFORD: I have not intended to at this point.

14 THE COURT: Okay. No problem. Continue.

15 DIRECT EXAMINATION

16 BY MR. HOLFORD:

17 Q Ms. Lukacs, where are you currently employed?

18 A Charleston County Sheriff's Office.

19 Q And what do you do for Charleston County Sheriff's
20 Office?

21 A I'm an analyst.

22 Q And where were you employed in 2018?

23 A The South Carolina Law Enforcement Division. SLED.

24 Q And how long had you been employed with SLED?

25 A In 2018? I started as an analyst in 2011. So, by 2018,

1 about seven years, I think.

2 Q Okay. And, as an analyst, what were your duties?

3 A We assisted on various requests with local, state, and
4 federal agencies, anything from photo lineups to facial
5 recognition.

6 Q What department were you in as an analyst?

7 A I was in the fusion center, the criminal analytical team.

8 Q And tell us about the fusion center. What does the
9 fusion center do? Who is there?

10 A We are staffed by other analysts that assist local,
11 state, and federal agencies with various requests. We kind of
12 filter through anything from trend analysis, pattern analysis.
13 We do photo lineups. When other local agencies don't have an
14 analysis, we kind of step in to assist.

15 Q And what's SLED's jurisdiction? Do you do that for a
16 limited area?

17 A No, statewide.

18 Q Do agencies have to go to SLED for certain things?

19 A They don't have to, but they do tend to contact us, since
20 we assist everybody and we specialize in intelligence.

21 Q Okay. Now, in this case, were you contacted by an
22 agency?

23 A Yes. Myrtle Beach PD.

24 Q All right. And what was the nature of Myrtle Beach PD's
25 request?

1 **A** They requested a photo that they submitted to be run in
2 our facial recognition program.

3 **Q** All right. Now, tell us about the facial recognition
4 program. How does that work?

5 **A** Yes, sir. It is SLED's facial recognition program,
6 DataWorks. What you do is, when a submitted photo -- we
7 upload it into the program, and it will run and bring back
8 possible matches, if there is any, with similar facial
9 characteristics.

10 **Q** Now, did you have to have special training or expertise
11 to work with that program?

12 **A** Yes, sir. When we got the program, we were trained on
13 how to use it.

14 **Q** All right. And describe to us, what's that training
15 entail?

16 **A** We actually did -- they kind of went through the process
17 of how the -- how to upload and how to search, and it would
18 bring back the possible matches. And we did kind of
19 practicals. We would run photos for practice.

20 **Q** But do you have to go to extensive schooling for
21 something like that?

22 **A** I did not, sir.

23 **Q** I don't mean to belittle or demean it, but were you doing
24 scientific work when it came to uploading a photo and --

25 **A** No, sir.

1 Q Okay. So this was not necessarily a scientific practice?

2 A No, sir.

3 Q But you were trained in it?

4 A Mm-hmm.

5 Q About how many times did you -- would you be able to tell
6 us about how many photos you have run through this system?

7 A Oh, my goodness. Presently? I have run quite a few. I
8 have had quite a few requests.

9 Q More than ten. More than 100?

10 A I would probably say more than a hundred.

11 Q And is that what you did in this case? Did you run that
12 photo through the system?

13 A Yes, sir.

14 Q And did you come back with a possible match?

15 A Yes, sir.

16 Q Now, tell us how that works. Could you have multiple
17 matches? no matches? one match?

18 A It does bring back multiple matches, but then we look
19 through and, if we have one that is very similar, then we will
20 send it to that requesting agency as a possible match.

21 Q Okay. Do you remember in this case if you had one match?
22 multiple matches? zero matches?

23 THE COURT: At this point in time, I need to make a
24 ruling. I'll allow her to testify.

25 MR. HOLFORD: Thank you.

1 **A** I'm sorry? Repeat that.

2 BY MR. HOLFORD:

3 **Q** Let me go back. Do you remember, in this case, did you
4 have multiple matches? one match? zero matches?

5 **A** I don't recall how many, but I know at least one came
6 back.

7 **Q** Okay. And would you have returned that to Myrtle Beach
8 Police Department?

9 **A** Yes, sir.

10 (State's Exhibit No. 17, Photograph, was marked for
11 identification.)

12 (State's Exhibit No. 18, Photograph, was marked for
13 identification.)

14 BY MR. HOLFORD:

15 **Q** I'm going to hand you what's been marked as State's 17
16 for ID. And it's actually stapled together; it's two pages.
17 Are you familiar with what State's 17 is?

18 **A** Yes, sir, I am.

19 **Q** And how are you familiar with that?

20 **A** This is the document that I sent to Investigator Gibson.

21 **Q** Okay. So this is -- is it your work product?

22 **A** Yes, sir.

23 **Q** And you returned it to Myrtle Beach Police?

24 **A** Yes, sir.

25 **Q** Okay. Now, two pages. Let's talk about the first page.

1 What are the differences in the two pages?

2 **A** The first page is going to be the subject's photo -- the
3 suspect's photo. And we put that on there so the requesting
4 agency knows that this is the photo that they submitted.

5 And then the second page is going to be the possible
6 match that we located.

7 **Q** I'm going to hand you what's been marked as State's 18.
8 Are you familiar with State's 18?

9 **A** Yes, sir.

10 **Q** And how are you familiar with that?

11 **A** This is the photo that was sent to SLED.

12 **Q** Okay. And can we see that 18 is a bigger photo of what's
13 in 17?

14 **A** Yes, sir.

15 **MR. HOLFORD:** Okay. Your Honor, at this time, the State
16 would seek to introduce State's 17 and 18 into evidence.

17 **THE COURT:** All right. Over the objection.

18 **MR. FOX:** Objection.

19 (State's Exhibit Nos. 17 and 18 were received into
20 evidence.)

21 **BY MR. HOLFORD:**

22 **Q** State's 18, this is a photo that was sent to you; is that
23 correct?

24 **A** Yes, sir.

25 **Q** And then 17, the first page, that's the photo you

1 submitted through the system?

2 A Yes, sir.

3 Q And then, the second page, what did the possible match
4 come back to?

5 A It came back to a booking photo of -- and I apologize;
6 let me get the name -- Dlanor Phillip Tilton.

7 Q Okay. So you sent back to Myrtle Beach Police Department
8 a possible match from Dlanor Tilton from the photo they
9 presented to you?

10 A Yes, sir.

11 Q And why do you do that? What's the purpose of returning
12 a possible match?

13 A It's a -- we send it as an investigative lead. It's a
14 possible match, not a positive identification, so it's given
15 to them as an investigative lead.

16 Q So you're not saying in this thing that that is
17 100 percent Dlanor Tilton?

18 A No, sir.

19 Q And that's not what you tell Myrtle Beach Police?

20 A No, sir.

21 Q But it's to assist them in their investigation?

22 A Yes, sir.

23 Q Was that the entirety of your involvement with this case?

24 A Yes, sir.

25 MR. HOLFORD: Your Honor, I have no further questions at

1 this time.

2 THE COURT: All right.

3 CROSS-EXAMINATION

4 BY MR. FOX:

5 Q Ms. Lukacs, State's No. 17 -- and I apologize. Have you
6 already had a chance to look at that?

7 A Yes, sir.

8 Q Okay. I want to direct your attention to the second
9 page. And you're familiar with that?

10 A Yes, sir.

11 Q And I imagine this language at the bottom is kind of
12 standard language?

13 A Yes, sir. That's our disclaimer.

14 Q Okay. Would you read the bottom?

15 A Yes, sir. "This is not a positive identification. It is
16 not probable cause to arrest. Further investigation is needed
17 to develop probable cause to arrest."

18 Q Okay. You're not a law enforcement -- I mean, SLED is a
19 law enforcement agency, but you're not a cop?

20 A No, sir. I'm a civilian.

21 Q Okay. Do you know what probable cause is?

22 A Yes, sir.

23 Q Basically, it's -- in very layman's terms, it's a reason
24 beyond a guess to arrest somebody; right?

25 A Yes, sir.

1 Q And what this language says is, don't use this as
2 probable cause to arrest anybody. Okay.

3 A Yes, sir.

4 Q Now, your training with this facial recognition software
5 was in its operation; correct?

6 A Yes, sir.

7 Q Okay. How, literally, to utilize it?

8 A Yes, sir.

9 Q So you had no training in the underlying -- and I use the
10 word "science" -- but the underlying -- it's a computer
11 program; correct?

12 A Yes, sir.

13 Q Okay. Did you have anything to do with designing the
14 computer program?

15 A No, sir.

16 Q Okay. Are you familiar in any way as to how it works
17 other than how you, you know, run the pictures?

18 A No, I don't know the background. That would be the
19 company that created it.

20 Q That would be DataWorks; correct?

21 A Yes, sir.

22 Q Okay. And they're located in the Upstate somewhere, I
23 believe? Are you familiar at all with DataWorks?

24 A I'm not sure exactly where they're located.

25 Q Okay. So you are -- and I don't mean this in any

1 derogatory way -- you're the technician that deploys that
2 tool?

3 **A** Yes, sir.

4 **Q** Okay.

5 MR. FOX: One moment, Your Honor.

6 BY MR. FOX:

7 **Q** Do you have any idea -- well, let me ask you this: the
8 qualification that I had you read on the second page, "don't
9 use this for probable cause," would it be fair to say that
10 that's because this is not foolproof?

11 **A** Yeah, we can't say it's 100 percent that that's the
12 individual. It's just a possible match.

13 **Q** Okay. Possible match. So there could be false positives
14 as well?

15 **A** It's possible.

16 **Q** Okay. Do you have any idea what the error rate is with
17 DataWorks' facial recognition software?

18 **A** I'm not sure, sir.

19 **Q** Thank you.

20 MR. GARDNER: No questions, Judge.

21 THE COURT: Anything as a follow-up?

22 MR. HOLFORD: No, thank you.

23 THE COURT: You may be excused. Drive safely.

24 THE WITNESS: Thank you, sir.

25 THE COURT: All right. Call your next witness.

1 MR. HOLFORD: Your Honor, the State calls Sergeant Bishop
2 Gibson.

3 SERGEANT BISHOP GIBSON,
4 after having been duly sworn, was examined and testified
5 to as follows:

6 THE CLERK: Please state your full name and spell it for
7 the Court.

8 THE WITNESS: First name is Bishop, B-i-s-h-o-p. Last
9 name, Gibson, G-i-b-s-o-n.

10 DIRECT EXAMINATION

11 BY MR. HOLFORD:

12 Q Sergeant Gibson, where are you currently employed?

13 A Myrtle Beach Police Department.

14 Q And I know you're a sergeant now, but back in 2018, what
15 was your assignment then?

16 A I was a detective assigned to Property Crimes with the
17 Myrtle Beach Police Department.

18 Q All right. And what do Property Crimes entail?

19 A Burglaries of residence, hotels, sometimes of cars.
20 Financial thefts. That was pretty much...

21 Q How long have you been a detective or an investigator
22 back in 2018?

23 A Not quite a year.

24 Q And how long have you been employed with the Myrtle Beach
25 Police Department now?

- 1 **A** Now? 23 years.
- 2 **Q** Okay. So, at the time, it would have been whatever --
- 3 18, 19?
- 4 **A** Right.
- 5 **Q** And did you have an occasion to investigate this case
- 6 with Tilton and Sturdivant?
- 7 **A** Yes.
- 8 **Q** And let's just follow up with this. Did you submit a
- 9 request to SLED in this case?
- 10 **A** Yes.
- 11 **Q** I'm going to hand you what's been entered as State's 17
- 12 and 18. Are you familiar with State's 17 and 18?
- 13 **A** Yes.
- 14 **Q** Okay. They're in evidence. State's 18, who submitted
- 15 this photo to SLED?
- 16 **A** I did.
- 17 **Q** And State's 17, who was this sent back to, the report
- 18 from SLED?
- 19 **A** To me.
- 20 **Q** Now, on State's 17 -- well, let me ask you this: Let me
- 21 back up. Why did you submit a photo to SLED in the first
- 22 place?
- 23 **A** Through my investigation, I was given that picture as a
- 24 possible offender for the armed robberies.
- 25 **Q** Okay. Were you looking for someone at the time?

1 **A** Yes.

2 **Q** Did you know his name at the time?

3 **A** No.

4 **Q** And what was the purpose of sending it to SLED then?

5 **A** For facial recognition. It was a pretty good photo, and
6 I submitted it to SLED to see if they could identify this
7 person.

8 **Q** And did they come back with a possible match?

9 **A** Yes.

10 **Q** Now, the bottom of this says, "This is not a positive
11 identification, it's not probable cause for arrest." Did you
12 take this from SLED and immediately go arrest that individual?

13 **A** No.

14 **Q** Okay. What did you do? What did you use it for?

15 **A** I took the information -- his name, date of birth -- and
16 I ran it through our South Carolina Department of Motor
17 Vehicle database that I have access to. And with that, it
18 indicated a match found in that photo from the DMV matched
19 that photo from Grindr.

20 (State's Exhibit Nos. 19 and 20, DMV Photographs, were
21 marked for identification.)

22 BY MR. HOLFORD:

23 **Q** I'm going to hand you what's been marked -- this is just
24 for ID -- State's 19. Are you familiar with that, what
25 State's 19 is?

1 **A** Yes.

2 **Q** And what is that?

3 **A** This is the report from the South Carolina Department of

4 Motor Vehicles, the three-year driving record.

5 **Q** All right. Let's not read of any of it for right now.

6 **A** Okay.

7 **Q** But is this the picture you pulled?

8 **A** Yes.

9 **Q** And did you compare that to what SLED had given you?

10 **A** Yes.

11 **Q** And did you compare that to the photo of the possible

12 suspect?

13 **A** Yes.

14 **Q** Now, I don't want you to tell me the purpose of anything

15 else, but do you have other systems that you can use?

16 **A** Yes.

17 **Q** And did you search another system?

18 **A** We have a system called Report Management System.

19 **Q** Let's just leave it at that, if we can. Did you search

20 that system?

21 **A** Yes.

22 **Q** And did you find a photo?

23 **A** Yes.

24 **Q** I'm going to hand you what's been marked as State's 20

25 for ID. We're not going to introduce this into evidence, but

1 can you tell me what State's 20 is?

2 A This is a photograph of Dlanor Phillips Tilton with his
3 date of birth.

4 Q Oh, I'm sorry. I don't mean to cut you off; I just don't
5 want to stray into anything that we don't need to --

6 A Okay.

7 Q -- at this point.

8 State's 20 -- did you use State's 20 in your
9 investigation of this case as well?

10 A Yes.

11 Q And was there a picture of Dlanor Tilton that you used
12 there?

13 A Yes.

14 Q So after you received it back from SLED, you checked with
15 DMV and another system as well, and you came back with
16 pictures?

17 A Yes.

18 Q Did you check any other sites? Did you compare any other
19 pictures you had?

20 A There were Instagram and, I believe, Facebook as well. I
21 was working with other detectives who had pictures of a
22 football roster, and that football roster had Mr. Tilton's
23 name on there.

24 Q And based on the totality of looking through these
25 systems and these photographs, was it your determination that

1 you could identify who this individual was?

2 **A** Yes.

3 **Q** And who did you identify him as?

4 **A** Dlanor Tilton.

5 **Q** Up until that point, had you gotten an arrest record or
6 arrest warrants for Dlanor Tilton before that, before you
7 identified him?

8 **A** No.

9 **Q** And so it wasn't until after you went through the other
10 procedures and process? You didn't -- I know I kind of asked
11 this before, and I'm sorry if I'm belaboring it, but you
12 didn't solely rely on SLED's possible match, did you?

13 **A** No.

14 **Q** Okay. Tell me about the nature of the robbery from
15 December 28th, 2018.

16 **A** Myself and Detective Rose were notified of a robbery that
17 occurred earlier that night, and we were told about the victim
18 and the location of the victim was now at a hotel -- it was
19 called DoubleTree -- and that the victim had used the Grindr
20 app to meet somebody up around Bryant Street just off 67th,
21 and during that meeting, he was robbed.

22 **Q** Tell me about the nature of the -- well, I don't even
23 think we have talked about it yet. On December 29th, 2018,
24 was there anything that occurred related to this case?

25 **A** There was another reported robbery from another separate,

1 different victim on the same street, Bryant Street, and that
2 same victim also used the Grindr app to meet somebody on that
3 street. He made arrangements to meet, and during that
4 meeting, he too was robbed.

5 Q So you're investigating two armed robberies at that
6 point?

7 A Yes.

8 Q I'm going to show you what's been entered as State's 1.
9 Are you familiar with this area on this map?

10 A Yes.

11 Q Okay. And this is -- we have got 67th Avenue here, 17,
12 65th. Bryant runs between those; is that correct?

13 A Yes.

14 Q Okay. And what was the location of the robbery of the
15 28th?

16 A Around Bryant Street.

17 Q Okay. And what about the 29th?

18 A Up in the same area.

19 Q Same area?

20 A Yes.

21 Q And you said that both used the Grindr app?

22 A Yes.

23 Q How did that come up? What is Grindr? Do you know?

24 A I did a research online for Grindr. It's a social media
25 app for gay and bisexual people to meet.

- 1 Q And it was used both nights?
- 2 A Yes.
- 3 Q After you developed Dlanor Tilton as a suspect, were you
- 4 looking for anyone else?
- 5 A Yes.
- 6 Q Was this -- were those robberies committed by one person?
- 7 Multiple people? Did you have any idea?
- 8 A Multiple.
- 9 Q How many?
- 10 A At least two.
- 11 Q Did you have a second suspect?
- 12 A Not at that time, not identified.
- 13 Q Not identified?
- 14 A No, sir.
- 15 Q Did you get arrest warrants for Dlanor Tilton?
- 16 A Yes.
- 17 Q And did you have an occasion to come into contact with
- 18 him?
- 19 A Yes.
- 20 Q And when was that?
- 21 A He was arrested on the 30th, transported to jail, and,
- 22 shortly after midnight, I believe on the 31st, Detective Rose
- 23 and myself interviewed him.
- 24 Q He was in custody at that time?
- 25 A Yes.

1 Q We have all heard about Miranda. Did you read him
2 Miranda rights?

3 A Yes.

4 Q Does Myrtle Beach Police have a form that they write
5 Miranda rights down on?

6 A Yes.

7 (State's Exhibit No. 21, Miranda Rights Form, was marked
8 for identification.)

9 BY MR. HOLFORD:

10 Q I'm going to hand you what's been marked as State's 21.
11 Are you familiar with State's 21?

12 A Yes.

13 Q How are you familiar with it?

14 A This is our standard Miranda rights form.

15 Q And did you sign that?

16 A Yes.

17 MR. HOLFORD: At this time, the State would seek to
18 introduce State's 21 into evidence.

19 THE COURT: All right. Any objection?

20 MR. FOX: No, Your Honor.

21 MR. GARDNER: No, Your Honor.

22 THE COURT: Without objection.

23 (State's Exhibit No. 21 was received into evidence.)

24 BY MR. HOLFORD:

25 Q So this form, State's 21, has the standard rights about

1 right to remain silent, have an attorney present, refuse to
2 answer questions, things of that nature?

3 **A** Yes.

4 **Q** Is there a spot to initial beside each one?

5 **A** Yes.

6 **Q** And who were you interviewing at this time?

7 **A** Dlanor Tilton.

8 **Q** Okay. Did he initial beside each of those?

9 **A** Yes.

10 **Q** And did he sign this form?

11 **A** Yes.

12 **Q** Did he agree to talk to you?

13 **A** Yes.

14 **Q** Did you force him to talk to you?

15 **A** No.

16 **Q** Did you taze him? Did you punch him? Did you threaten
17 him?

18 **A** No.

19 **Q** Did you promise him anything?

20 **A** No.

21 **Q** And he knew he was under arrest at that point?

22 **A** Yes.

23 **Q** And he spoke to you?

24 **A** Yes.

25 **Q** Did you ask him about December 28th of 2018?

1 **A** Yes.

2 **Q** And did he admit anything about that night?

3 **A** Yes.

4 **Q** And what was that?

5 **A** I asked him did he meet anybody through Grindr on that
6 night. I asked did he meet any white male with a New York or
7 New Jersey accent, and he said yes. He met him on Grindr and
8 made arrangements to meet on Bryant Street. And when he
9 showed up -- meaning the victim in this case -- was driving on
10 Bryant, he knows he's in the area. As he's driving by, the
11 victim slowed the car down. He said the guy slowed the car
12 down, had the windows rolled down, and he -- Dlanor approached
13 the car on the passenger side, with the windows rolled down.

14 He told him he meets people on Grindr with the hopes to
15 get food or money or drinks from them. He thinks that he can
16 have them believe it's going to be a hook-up and try to
17 take -- get food or meals, with the belief that they're going
18 to have sex with him. He doesn't admit to having sex with
19 anybody, but he just uses that to get what he wants from them.

20 So, as he's approaching the car, I can't remember if he
21 said he opened the door from the inside or out, but the door
22 was open, and he was about to get inside, but he changed his
23 mind because the guy was acting sketchy, was acting weird, so
24 he decides to leave.

25 **Q** Did you ask Dlanor Tilton about the night of the 29th --

1 December 29th, 2018?

2 **A** Yes.

3 **Q** And did he admit anything about that night?

4 **A** Yes.

5 **Q** And what did he admit about that night?

6 **A** He told me he met -- I asked him did he meet anybody on
7 that night through Grindr. He said yes. He said he met
8 another white male and made arrangements to meet on Bryant
9 Street. He saw the vehicle approach during the time that he
10 agreed upon, pull into a driveway near a green mailbox, and
11 stepped out the vehicle. The person he was going to meet
12 stepped out of the vehicle. And Dlanor told me he approached
13 that vehicle but then suddenly ran off.

14 **Q** Where was Dlanor Tilton living or staying in December of
15 2018?

16 **A** He was staying with an aunt at 6510 Bryant Street.

17 **Q** And is 6510 on State's 1, is that marked on here?

18 **A** Yes. He told me he was staying in Charleston for a
19 little while and decided to stay with his aunt here in Myrtle
20 Beach.

21 **Q** And that's what he told you during that interview?

22 **A** Yes.

23 **Q** That he was staying there?

24 **A** Yes.

25 **Q** Okay. During the course of your investigation, did you

1 get -- did Myrtle Beach Police get surveillance video from the
2 Circle K there on 65th?

3 A Yes.

4 Q I'm going to hand you what's been entered as State's 14.
5 Are you familiar with what State's 14 is?

6 A Yes.

7 Q And what is that?

8 A It's the surveillance video from the -- their camera
9 system, showing the cashier and customers.

10 Q Now, do you know who these customers are in State's 14?

11 A We determined that they were Tilton and Sturdivant.

12 Q Now, how do you determine that this is Tilton and
13 Sturdivant?

14 MR. GARDNER: Your Honor, I think this is the time to
15 take up a matter of law if he's going into identification.

16 THE COURT: Is he going to testify as to what his
17 investigation revealed?

18 MR. HOLFORD: That's my understanding, Your Honor.

19 MR. FOX: I think we need to perhaps address this outside
20 the jury's presence, but I think we're walking into an
21 opinion.

22 THE COURT: Right.

23 All right. Ladies and gentlemen of the jury, let's take
24 about a five-minute break, and I'll get you right back in.

25 (The jury exited the courtroom at 12:54 p.m.)

1 THE COURT: All right. What was going to be your answer?

2 THE WITNESS: I was going to say there's other photos
3 showing pictures of the defendants.

4 THE COURT: All right. And the next question was going
5 to be?

6 PROFFERED DIRECT EXAMINATION

7 BY MR. HOLFORD:

8 Q If you look through 11 through 16, are you able to
9 determine who those two individuals are?

10 A Sturdivant in the gray hoodie, and Tilton in the black
11 hoodie.

12 Q And how are you able to tell that?

13 A The clothing are matching what the victim provided us as
14 well, and their body type, the height, weight. The victim
15 said they were both male -- black males.

16 Q Did either -- well, let's ask this: Did either of
17 them -- did Tilton admit to going to that gas station ever?
18 Did you have information that he went there?

19 A Yes.

20 Q The jury is not in here. Tell the judge about that.

21 A He would do that practically as his daily routine, going
22 to the store each night.

23 THE COURT: Which is what we discussed earlier when he
24 says, "I can't remember because I do the same shit every day."

25 THE WITNESS: Yes.

1 THE COURT: All right.

2 BY MR. HOLFORD:

3 Q Did you interview Dlanor Tilton?

4 A Yes.

5 Q Do you know what he looks like?

6 A Yes.

7 Q Did you review all of the photos in this case?

8 A Yes.

9 Q Did you review the surveillance video in this case?

10 A Yes.

11 Q And is that your belief, that that is Dlanor Tilton?

12 A Yes.

13 THE COURT: All right. What's your objection?

14 MR. FOX: I believe he's offering an opinion.

15 THE COURT: Okay.

16 MR. FOX: That's the ultimate question. Identify is key.

17 He can, I think, testify to just about everything other than
18 his conclusion that it is, in fact -- that's for the jury to
19 determine.

20 THE COURT: I agree.

21 MR. FOX: He's not an expert, and that's opinion
22 testimony.

23 THE COURT: What's your position, Mr. Gardner?

24 MR. GARDNER: Same. Same objection as Mr. Fox, but also,
25 he's adding on to it some hearsay that he's used to make his

1 decision, not only from his personal interaction, but he's
2 also saying that the victims told him about clothing and
3 build. He's just building an opinion, which I think is not
4 allowed, and building it on hearsay evidence. I don't think
5 it's -- we object.

6 THE COURT: When you started doing it, y'all didn't
7 object to when he said that the victim told him. I just
8 assumed y'all were going object to hearsay and then we were
9 just going to have to hear what the victim said and they can
10 recall him, if that's what they wanted to do. But as to him
11 being able to testify as to his investigation and where he
12 received these photos and all that stuff, I'll allow it, but
13 obviously, as to his conclusion that that is definitively the
14 defendants in that picture, I will not allow.

15 MR. HOLFORD: Yes, sir.

16 THE COURT: Do you need to take a break?

17 MR. GARDNER: Yes, sir.

18 THE COURT: All right. Let's take five minutes.

19 (A brief recess was taken at 12:59 p.m. to 1:03 p.m.)

20 THE COURT: All right. Bring them out.

21 (The jury entered the courtroom at 1:04 p.m.)

22 THE COURT: All right. You may proceed.

23 CONTINUING DIRECT EXAMINATION

24 BY MR. HOLFORD:

25 Q Detective Gibson, I'm going to show you what's been

1 entered as State's 11, 12, 13, 14, 15, and 16. Just ask you
2 to flip through those really quickly.

3 A Okay.

4 Q And are those screen captures from the surveillance
5 videos you have seen?

6 A Yes.

7 Q Are those from the night of the December 28th, 2018?

8 A Yes.

9 Q And around what time was it?

10 A It was around 10:13 p.m.

11 Q Those pictures of those two men, can you point to, on the
12 map, where they came from?

13 A This store here (indicating).

14 Q That Circle K? Okay.

15 Does this have a legend on here about how many inches is
16 how many feet?

17 A 1 inch equals 50 feet.

18 Q What's that between that 6501 North Kings and that
19 6510 -- not exact. A couple of blocks?

20 A Yes.

21 Q And you told us that Mr. Tilton had said he was living
22 here at the 6510 Bryant?

23 A Correct.

24 MR. HOLFORD: Your Honor, I have no further questions at
25 this time.

1 THE COURT: All right.

2 CROSS-EXAMINATION

3 BY MR. FOX:

4 Q Officer Gibson, this interview of Mr. Tilton occurred
5 sometime after midnight at Myrtle Beach PD?

6 A Yes.

7 Q Do you know how long he had been in custody at that
8 point?

9 A A few hours.

10 Q Did you have any part in him being taken into custody?

11 A No.

12 Q Okay. But it's your recollection it was a few hours that
13 he was there?

14 A Yeah.

15 Q Do you recall where he was handcuffed during the
16 interview?

17 A He was handcuffed at that residence.

18 Q Okay. I don't mean to interrupt your answer. Was he
19 still handcuffed during the interview with you; do you recall?

20 A He might have been shackled, belly-chained to be escorted
21 from the jail to the interview room. And we, typically,
22 loosen these up.

23 Q By the time that you interviewed him -- were you the only
24 officer in there or was another officer with you?

25 A There was another detective. Detective Rose.

1 Q Okay. But, at this time -- and this would have been on
2 December 31st, I believe?

3 A Yes.

4 Q Okay. In the early morning hours of December 31st, by
5 that time, you had done further investigation, and you had
6 reason to believe that he may at least have knowledge, if not
7 be one of your suspects, in these two armed robberies;
8 correct?

9 A Yes.

10 Q Okay. And based on that investigation, did you have some
11 idea of the age of Mr. Tilton at that time?

12 A I have the age of him. I got the age through the DMV
13 reports.

14 Q And how old was he back in 2018?

15 A I believe, 19.

16 Q Okay. Not 30?

17 A No.

18 Q Not 40?

19 A No.

20 Q From your observation -- personal observation of him,
21 would you describe his build as slight? heavy? stocky?

22 A I'd say medium built.

23 Q Okay. And Mr. Tilton agreed to talk to you?

24 A Yes.

25 Q Okay. And, at that time, of course, he had been

1 handcuffed at his residence -- or his aunt's residence where
2 he was living and brought to the Myrtle Beach Police
3 Department. Is that where the Myrtle Beach jail is too in
4 that complex?

5 **A** Yes.

6 **Q** So he would have been taken to the jail and then you-all
7 interviewed him.

8 He was in custody at that point; correct?

9 **A** Yes.

10 **Q** In other words, he was not free to leave?

11 **A** No.

12 **Q** Okay. But you read him his Miranda rights, and he agreed
13 to speak with you and Detective Rose?

14 **A** Correct.

15 **Q** Okay. And he answered all of your questions?

16 **A** For the most part, yes.

17 **Q** And he told you what he had been doing on Grindr;
18 correct?

19 **A** Yes.

20 **Q** And, in fact, admitted that he would -- and I'm going to
21 put my own spin; tell me if you disagree with it -- but that
22 he would scam people that he met up with on Grindr out of
23 food -- mostly food, it sounded like. Maybe cigarettes. But
24 it would be something like, "Hey, we're going to meet up," and
25 he would say, "Yeah, but first, I would like to get a Big Mac"

1 or something like that?

2 **A** Yes.

3 **Q** And, quite often, people would give him the five dollars
4 for the Big Mac and then he would leave; correct?

5 **A** Yes.

6 **Q** Okay. And this is according to him. And he went to
7 great pains to let you-all know that he was not homosexual and
8 did not care to engage in any sexual activities with these
9 men; correct?

10 **A** Right.

11 **Q** All right. And denied of doing any of that?

12 **A** Yes.

13 **Q** But he very specifically and emphatically denied having a
14 weapon?

15 **A** Yes.

16 **Q** Or using anything that would be like a representation of
17 a weapon; a toy gun or a rubber knife or anything like that?

18 **A** Yes.

19 **Q** Okay. And he denied, with any of these people that he
20 had contact with through Grindr, he denied robbing them;
21 correct?

22 **A** Yes.

23 **Q** He scammed them out of food money. He admitted that;
24 correct?

25 **A** Yes.

1 Q Okay. And he also indicated, on these two robberies,
2 that there was another individual present; correct? Not the
3 person that he was going to meet with, but that there was
4 another individual on-scene?

5 MR. HOLFORD: Your Honor, may we approach?

6 THE COURT: Sure.

7 BENCH CONFERENCE

8 (The following bench conference was held outside the
9 hearing of the jury and others:)

10 MR. HOLFORD: I just want to make sure that he's
11 protected because he's been instructed not to say what Tilton
12 has told him regarding other individuals.

13 THE COURT: It's fine. He can answer it.

14 MR. HOLFORD: Okay. All right.

15 MR. FOX: Yeah, if we keep it to -- thanks, Josh.

16 (Open court resumes as follows:)

17 BY MR. FOX:

18 Q Are you aware, from your further involvement in the case,
19 whether -- and you got these photographs from the screen
20 grabs, State's 11, 12, etc., from Circle K. So there are
21 these screen grabs that showed two look like young men coming
22 in the store.

23 Have you been able to or are you aware whether Myrtle
24 Beach Police located any of that -- what appears to be the
25 clothing that those gentlemen are wearing?

1 **A** I know a search warrant was completed at 6510 Bryant
2 Street where Mr. Tilton stayed at, and I have seen pictures of
3 clothing there, of hoodies.

4 **Q** Any that you're aware of that would be in evidence today?

5 **A** I'm not aware of any in evidence.

6 **Q** But that would be -- thank you. No further questions.

7 THE COURT: All right.

8 MR. GARDNER: Very briefly, Your Honor.

9 CROSS-EXAMINATION

10 BY MR. GARDNER:

11 **Q** Good afternoon, Sergeant Gibson. You're very familiar
12 with Myrtle Beach, and you know that the avenues go up as you
13 go in a northerly direction. And let me get you oriented
14 here. I guess it would be like this. 65th, 67th, 68th, 64th,
15 63rd, so on and so forth.

16 10th Avenue is not even on here; right?

17 **A** No.

18 **Q** That's way down here.

19 And The Cloisters is an apartment complex -- that might
20 even be it. No, that's not.

21 **A** I think the Cloisters is further up.

22 **Q** Yeah. It would be up here somewhere.

23 Okay. All right. So we don't have The Cloisters, and we
24 don't have 10th Avenue on here.

25 All right. Thank you, sir. Appreciate it.

1 **A** Yes, sir.

2 MR. HOLFORD: No further questions, Your Honor.

3 THE COURT: All right. Thank you very much, Detective
4 Gibson.

5 Call your next witness.

6 MS. FARMER: Your Honor, the State would call Matthew
7 Beckoff.

8 MR. HOLFORD: Your Honor, I would ask that Detective
9 Gibson -- or Sergeant Gibson be released from his subpoena and
10 allowed to be present in court.

11 THE COURT: All right. Any objection?

12 MR. GARDNER: No, Your Honor.

13 MR. FOX: No, Your Honor.

14 THE COURT: All right. Thank you, sir.

15 THE CLERK: Please raise your right hand and place your
16 left hand on the Bible.

17 MATTHEW BECKOFF,

18 after having been duly sworn, was examined and testified
19 to as follows:

20 THE CLERK: Watch your step. State your name and spell
21 it for the Court.

22 THE WITNESS: Matthew Beckoff. M-a-t-t-h-e-w
23 B-e-c-k-o-f-f.

24 DIRECT EXAMINATION

25

1 BY MS. FARMER:

2 Q Mr. Beckoff, will you please tell this jury where you're
3 from?

4 A I traveled from Farewell (ph), New Jersey, to be here
5 today.

6 Q And where were you living in December of 18?

7 A Farewell (ph), New Jersey.

8 Q Mr. Beckoff, if you would just speak up a little bit. I
9 just want to make sure the court reporter can hear everything
10 you're saying.

11 A That's the first time I have ever heard that before but
12 I'll try.

13 THE COURT: You can step back from the mic and just speak
14 loudly.

15 THE WITNESS: Oh, okay. Sorry.

16 THE COURT: It's fine.

17 THE WITNESS: Nervous.

18 THE COURT: Don't be. You're fine.

19 BY MS. FARMER:

20 Q Mr. Beckoff, have you ever been to Myrtle Beach?

21 A Yes. I was born at Grand Strand Hospital.

22 Q Okay. So have you -- since moving to New Jersey, do you
23 come back to Myrtle Beach often?

24 A Yes. I was at adopted at birth, and I was raised in New
25 Jersey. At about seven years ago, I located my biological

1 family down here, yes.

2 Q And how many times would you say that you have been down
3 to Myrtle Beach since you were adopted and moved to New
4 Jersey?

5 A Oh, 20 times probably. Something like that.

6 Q And, Mr. Beckoff, were you in the Myrtle Beach area on
7 December 28th of 2018?

8 A Yes, unfortunately.

9 Q What were you doing down in Myrtle Beach?

10 A I was down here because a relative of mine was going
11 through a very hard time, and I was trying to get her into
12 rehab.

13 Q And did you go to meet anyone the night of December 28th
14 of 2018?

15 A Yes, I did.

16 Q Where did you meet this person?

17 A I was given an address in Myrtle Beach.

18 Q Let me -- sorry; I don't mean to interrupt you.

19 A Oh, I'm sorry.

20 Q I'm just going to go back a little bit.

21 I should have said when did you --

22 A The initial contact?

23 Q -- first start communicating with this person?

24 A It was on an app called Grindr.

25 Q And then where were you supposed to meet this person?

1 **A** I was given an address on -- I believe it's Brian or
2 Bryant Street.

3 **Q** And was this arranged on the Grindr app?

4 **A** Yes, ma'am.

5 **Q** Around what time did you begin your communications with
6 this person on the app?

7 **A** That evening. I think around -- a little after 9:00.
8 Something along those lines.

9 **Q** And, then, so what time would you have left your hotel to
10 meet this person?

11 **A** I was at my family's house, actually, in Conway. And
12 that's when I drove to Myrtle Beach. It was -- I ended up
13 around that address at around 10:30 that night, on the 28th.

14 **Q** Now, Mr. Beckoff, you did initially tell law enforcement
15 that you were on your way to see your sister, I believe, at
16 the Rainbow Golf Course in Myrtle Beach when you arrived; is
17 that correct?

18 **A** That is correct.

19 **Q** But it didn't actually happen that way; is that fair to
20 say?

21 **A** No, ma'am.

22 **Q** Can you tell me what did happen? What actually happened?

23 **A** Sure. I got to Krispy Kreme, and Mr. Tilton had messaged
24 me, told me to come to an address on Bryant Street. I went to
25 Bryant Street. Something didn't feel right, and I left.

1 He sent me another message: "Was that you? Come back."
2 I had a bad feeling in my gut, but for whatever crazy reason,
3 I decided to go back.

4 When I made the left onto Bryant Street, Mr. Sturdivant
5 was standing on the street corner, and Mr. Tilton was, I
6 believe, hiding behind the bushes of that house. All the
7 lights in that house were off. It wasn't their house; it was
8 somebody else's house.

9 As I pulled up, I decided not to pull into the driveway
10 because my instinct told me something was wrong. I wish I had
11 followed my instinct. Mr. Tilton walks across the front of my
12 car. He opens the passenger door, which I will never, for the
13 rest of my life, forget that sound and just how loud it was.

14 When that door opened, I knew right then and there that
15 something very bad was about to happen.

16 **Q** And then, Mr. Beckoff, after that door was opened, what
17 did happen?

18 **A** Mr. Tilton jumped into the car. He kneeled into the car,
19 put a gun to my head like this (indicating). I immediately
20 said to me [verbatim] I'm about to meet his friend that was
21 standing on the street corner, Mr. Sturdivant. Within a few
22 moments, another gun came into the driver's side window, and
23 they asked me for my phone, my wallet, and the dollar bills
24 that were in my cup holder there. And I just told them why I
25 was here. I said, "I don't have a weapon on me." I said,

1 "Take whatever you want. I'm here to see my family. Please
2 let me go."

3 Q Now, Mr. Beckoff, at the time, why didn't you tell law
4 enforcement what had actually happened to you?

5 A It's still very hard to talk about that night. There
6 were two things that night that I regret the most. One is
7 lying to the police officers. I'm sorry.

8 Q Take your time. Please. Just whenever you're ready.

9 A My father didn't know that I was gay, and I was afraid
10 that, if he had found out, he would disown me, like so many
11 other young LGBTQ youth across this country. So I regret that
12 very much.

13 And my other regret for that night was actually that my
14 father would disown me, because he didn't, and we're closer
15 than ever.

16 Q Now, Mr. Beckoff, how many people were you expecting to
17 meet on Bryant Street that night?

18 A Just Mr. Tilton.

19 Q And, again, I'm not sure if I have already asked this; I
20 apologize if I did. Where were the people who robbed you
21 standing at that time?

22 A Can I use that?

23 Q Absolutely.

24 MS. FARMER: Your Honor, may the witness step down?

25 THE COURT: Yeah. Feel free.

1 MS. FARMER: We're going to use this one. I think it's a
2 little closer view.

3 A So Mr. Sturdivant was standing over here, and Mr. Tilton
4 was over there.

5 BY MS. FARMER:

6 Q And, Mr. Beckoff, this is Bryant Street right here?

7 A Yes. I had pulled up and stopped right around this area
8 in front of the house.

9 Q Thank you. You can step back up.

10 Now, Mr. Beckoff, the people that robbed you, were they
11 standing close to you when this occurred?

12 A This close. This close (indicating).

13 Q At that time, were you able to tell what they looked
14 like?

15 A Absolutely. I go to bed almost every night thinking
16 about those faces. I have waited for this day for four years,
17 and I wish I could positively ID them in this courtroom.

18 Q Just one moment.

19 THE WITNESS: May I have some water?

20 THE COURT: Yep. Oh, there it is. Feel free.

21 MS. FARMER: Your Honor, may I approach?

22 THE COURT: Absolutely.

23 BY MR. HOLFORD:

24 Q Mr. Beckoff, I'm handing you what's already been entered
25 into evidence as State's 14, 15, 11, 12, and 13. A little out

1 of order there. If you'd take a look at those.

2 Now, Mr. Beckoff, what I just handed you are still shots
3 from some Circle K surveillance footage that's already been
4 entered into evidence as well. After looking at those
5 pictures, are you able to recognize the people in those
6 pictures?

7 A 100 percent absolutely. 100 percent.

8 Q And do those look like the same people who robbed you the
9 night of the 28th?

10 A Tilton, Sturdivant. Tilton was wearing that, that night.

11 Q Let me show the jury.

12 And, Mr. Beckoff, do you remember what items they ended
13 up taking from you that night?

14 A Yes. It was my cell phone, my wallet, and some loose
15 dollar bills that I had in the console/cup holder area.

16 Q And what happened after you handed over your belongings?

17 A They just said, "Get out of here," and I drove off.

18 Q Were you able to see where they went when you drove off?

19 A Yes. They were following my car, behind me, and I was
20 kind of ducking down because I was afraid they were going to
21 shoot me from the back. So as I was driving like this and had
22 my head down like that (indicating) -- it was more like
23 this -- I was going down the street, and I could see in my
24 rearview mirror they were coming in that direction.

25 I went to the left to go back towards I believe it's

1 Kings Highway, and they went to the right towards some -- I
2 believe there were apartment buildings over there. I'm not
3 saying that's where they were going, but that's the direction
4 they went.

5 Q And where did you go, Mr. Beckoff, after you left the
6 incident location?

7 A I mean, to say that I was in a state of shock is an
8 understatement. I didn't know where to go. I didn't have my
9 phone. I didn't know where the police department was. I
10 didn't know anyone's phone numbers. So I went to the only
11 place that I really was positive I knew I could get to, and I
12 went to my nephew Justin's house and spent some time with him
13 for a little while and just absorbed what had happened.

14 Q And then after you were at your nephew's house, what did
15 you do next?

16 A That was when I decided to call the Myrtle Beach Police
17 Department.

18 (State's Exhibit No. 22, Photo of Beckoff Vehicle, was
19 marked for identification.)

20 BY MS. FARMER:

21 Q Mr. Beckoff, I'm now going to show you what's been
22 premarked for ID purposes as State's 22. Don't want to show
23 the jury quite yet.

24 Do you recognize that picture?

25 A That's my former vehicle, yes.

1 Q And how are you able to recognize that?

2 A I drove it for over ten years.

3 Q Would that have been the vehicle that you drove down from
4 New Jersey?

5 A Yes, ma'am.

6 MS. FARMER: Your Honor, the State would seek to enter
7 State's 22 into evidence.

8 THE COURT: All right. Any objection?

9 MS. FARMER: Oh, I apologize.

10 MR. FOX: That's okay. Thank you.

11 No objection.

12 MR. GARDNER: No objection, Your Honor.

13 THE COURT: All right. Without objection.

14 (State's Exhibit No. 22 was received into evidence.)

15 BY MS. FARMER:

16 Q Now, Mr. Beckoff, this had been the vehicle that you
17 drove down from New Jersey? I believe you already answered
18 that?

19 A Yes, ma'am.

20 Q And this would have been the vehicle you were driving on
21 Bryant Street when you were robbed; is that --

22 A Yes, ma'am. Like I said, the passenger handlebar was --
23 it made a weird clicking sound. And like I said, that -- I
24 knew, the minute Tilton opened that door, that something bad
25 was -- it was a booming, loud sound. I actually thought he

1 might rip the door off. That's how forceful he was when he
2 opened it.

3 MS. FARMER: Your Honor, just Court's indulgence for a
4 moment.

5 BY MS. FARMER:

6 Q Mr. Beckoff, I'm actually going to show you that picture
7 one more time. Now, where was your vehicle parked when this
8 picture was taken?

9 A That was outside my hotel.

10 Q And where did you call the police to report this
11 incident?

12 A From the hotel.

13 Q Is that where law enforcement officers responded to?

14 A Yes, ma'am.

15 Q Now, Mr. Beckoff, initially, when the police officers
16 asked you to give descriptions of the subjects, what did you
17 initially tell them they looked like?

18 A I was very vague. They had my wallet. They had my ID.
19 They had my phone. They had my family's addresses all down
20 here, phone numbers. I was very afraid that, if I had them
21 caught, I might -- there might be some repercussions either
22 for myself or for my family. And I really regret that. I
23 regret that that night. I wish -- I wish I would have been
24 more honest that night.

25 Q So you did initially tell law enforcement officers that

1 one of the people who robbed you looked to be about 30?

2 A Correct.

3 Q And then you later told them that they looked like they
4 were teenager -- or a teen. What made you change your mind?

5 A I didn't want them to think that, because I'm gay, that
6 I'm an easy target. So I decided that I had to take a stand
7 for myself and for any other potential victims that may or may
8 not have been, so that's why I came forward.

9 MS. FARMER: No further questions, Your Honor.

10 THE COURT: All right.

11 CROSS-EXAMINATION

12 BY MR. FOX:

13 Q Mr. Beckoff, you weren't actually vague when you
14 described these gentlemen that you say robbed you to the
15 police. You were fairly specific.

16 A I was being vague, sir.

17 Q Well, you described --

18 A I was giving false information. To me, I call that vague
19 or just being dishonest. I regret --

20 Q Well, that was your word just now. "Vague" was the word
21 you used.

22 A Correct. Vague, dishonest, deceiving.

23 Q Yes.

24 You told the officers you could tell their race. You
25 told them you could tell one was 30. And you changed that

1 quickly to almost like teenagers, but 30. The other one you
2 described as being 40; correct?

3 A Yes.

4 Q In a big, puffy overcoat?

5 A Yes.

6 Q Okay. And you also said that, when asked by police, that
7 you didn't see the face very well. That's what you told the
8 police: "I didn't see the face very well."

9 A That, I don't recall, but I might have said that because
10 I was afraid.

11 Q You might have said that --

12 A I'm sure anybody would have been afraid.

13 Q Yes.

14 At the time you that were speaking to law enforcement,
15 whoever these gentlemen were, these men that you say robbed
16 you, they were long gone; correct?

17 A Correct.

18 Q Okay. And, in fact, it was some -- a good bit of time
19 had passed?

20 A About an hour and a half, correct.

21 Q Okay. And you mentioned you went to your nephew's place.

22 A Right.

23 Q Your nephew not in Myrtle Beach. Your nephew back in
24 Conway; right?

25 A Conway, yep. But right -- right off of 501 before you

1 even actually get into Conway. Right by where Spann Roofing
2 is.

3 Q Okay. So you say you have been to Myrtle Beach over the
4 years 20 times?

5 A Something along that, yeah.

6 Q Okay. So you're familiar with Kings Highway?

7 A Correct, but not what's --

8 Q And the bypass, 17?

9 A Correct. I don't know what's there, but correct.

10 Q Well, you would be aware, from being here 20 times, that
11 there are convenience stores, gas stations --

12 A Yep.

13 Q -- fast-food restaurants all up and down. Literally
14 multiple locations like that that would be open at that time
15 of night all up and down Myrtle Beach; correct?

16 A I was in an absolute state of shock, as anybody else
17 would have been if they had two guns shoved in their face,
18 sir.

19 Q And you managed, in that state of shock, to operate your
20 vehicle all the way back to Conway and --

21 A Was I supposed to stay in the area where I got robbed?

22 Q Well, this works -- the way this works, sir, is I ask the
23 questions and you answer the questions.

24 A So, my answer is, I was not going to stay in the area
25 that I got robbed, so I went to the closest place that I knew

1 where I would feel safe, yes.

2 Q I understand.

3 But you did not stop anywhere, did not call the police
4 when there might have been a chance to catch these gentlemen
5 within a short period of time?

6 A It's a huge regret of mine.

7 Q And you did not call the police from your nephew's in
8 Conway?

9 A No, I did not.

10 Q And so --

11 A I did not want him to get involved. I apologize for
12 interrupting.

13 Q And, actually, I don't mean to talk over you. It's hard
14 for the court reporter and it's hard for the jury.

15 A I apologize.

16 Q You're okay.

17 Now -- but you did eventually drive all the way back to
18 Myrtle Beach, and that's the point where you called the
19 police; correct?

20 A Yes, sir.

21 Q They asked you if you could describe the weapons that
22 were used. And, for one of them, you said it was definitely
23 silver on that gun. Do you recall that?

24 A I believe so, yes.

25 Q Okay. Like on the top part of the gun?

1 **A** In hindsight, it might have been a reflection. I
2 don't -- I don't know.

3 **Q** But what you told the police was definitely silver --
4 your word -- definitely silver on that gun.

5 **A** Correct. I did, in fact, say that.

6 **Q** And --

7 **A** I don't know much about guns, sir.

8 **Q** I understand. But you know about colors; right?

9 **A** I believe I do, yes, sir.

10 **Q** Okay. You wouldn't mistake silver for black, would you?

11 **A** Unless there was a reflection. Or, again, I was in a
12 state of shock.

13 **Q** I understand.

14 MR. FOX: Court's indulgence, Your Honor.

15 BY MR. FOX:

16 **Q** Now, this was the first time you had seen either of these
17 people, wasn't it?

18 **A** Correct.

19 **Q** Okay. And, yet, today you keep referring to them by
20 name?

21 **A** Yes. Mr. Tilton actually went to school with my niece,
22 so after I found out --

23 **Q** All right. You learned that when?

24 **A** Very soon after this whole thing went down. She was
25 actually Facebook friends with him at the time, shockingly

1 enough.

2 Q So --

3 A So there was no question about who was there that night.

4 Q Absolutely sure?

5 A 100 percent.

6 Q And, yet, your description doesn't match the photographs
7 that we have seen from that convenience store, does it?

8 A Correct. I have already -- I believe I've answered that
9 question, sir, yes.

10 Q Now, you would not have to -- you testified that you were
11 worried that your sexuality would come out if you were fully
12 honest with police, but you wouldn't have had to tell them
13 that to describe the robbers.

14 A If I met them on a gay app, wouldn't I have to describe
15 that to them, sir?

16 Q But their description has nothing to do with how you met
17 them, but you could certainly describe the people that you say
18 robbed you without having to reveal your sexual preference.

19 A Well, like I said, I was also afraid because they had my
20 license, they had my phone, everything was unlocked. They
21 could have done anything that they wanted to with that
22 information.

23 Q You also told the police that each person either pointed
24 or put a gun to you; correct?

25 A Yes, sir.

1 Q And do you recall telling the police you grabbed the
2 barrel of each gun?

3 A That is the absolute truth.

4 Q Okay. Like some crazy John Wayne stuff? Grabbed one of
5 each barrel?

6 A I pushed them out of my face.

7 Q Okay. But what you told the police was, "I grabbed on
8 the barrels."

9 A We're going back almost four years now, sir. Whether I
10 went like this (indicating) or went like that (indicating),
11 I'm not 100 percent sure at this point in time.

12 Q That's correct. Now --

13 A When you got robbed at gunpoint or when you feel like
14 your life might be over, it's amazing how the mind works and
15 the thousands and thousands and thousands of thoughts that
16 layers will run through your mind in 10, 15 seconds.

17 Q But you were -- today, you're absolutely sure and you
18 were absolutely sure when you talked to the police and
19 described one as 30 years old and tall and didn't see his face
20 very well, couldn't describe his clothes, and you were
21 absolutely sure when you described the second robber as being
22 40; stocky build; big, puffy overcoat. Right? You were
23 absolutely sure then?

24 A Once again, I have already answered that question, sir.
25 Yes.

1 Q All right. Thank you.

2 THE COURT: All right. Mr. Gardner?

3 MR. GARDNER: Yes, sir.

4 CROSS-EXAMINATION

5 BY MR. GARDNER:

6 Q Good afternoon, sir. I just have a few questions to ask
7 you.

8 A Sure.

9 Q Apparently, you have been doing some investigating on
10 this case. Have you done any investigating on testifying?

11 A No, sir.

12 Q I ask that question because I have been sitting over
13 there watching you, and most of the time, normally in a
14 conversation like you and I are having right now, you look at
15 each other. One speaks, the other one then speaks, and it
16 goes back and forth like that. Would you agree with that?

17 A I have social anxiety, but, yes, that's how it normally
18 does go for most people, sir, yes.

19 Q All right. So my question is -- I was watching you when
20 you were answering Mr. Fox's questions. Rather than, in a
21 dialogue with him, you looked at the jury like you were
22 playing a role in a play for the jury. Explain that to me.
23 Why didn't you look at the person you were talking to? Why
24 did you look at the jury?

25 A I would rather not look at the people that are defending

1 the people that put guns in my face that night, sir.

2 Q I didn't understand that. You'd rather not look at the
3 people --

4 A Yes.

5 Q That did what?

6 A Defending the actions of your clients.

7 Q Okay. Do you think he's defending the actions of
8 somebody who robbed you, or do you think he's defending the
9 Constitution?

10 A That, I wouldn't know, sir. But, to me, it feels very
11 personal.

12 Q All right. Well, we're going to get into some of this
13 stuff, and I want to ask a very basic question. All right?
14 You've done your investigation. You went on Facebook. You
15 found out about friends. You learned how to testify. They
16 teach that class in SLED at the police academy. Don't talk to
17 the -- don't look at the person that's asking you questions.
18 Look at the jury. So where did you get that from?

19 A Nowhere.

20 Q Okay. All right.

21 A I'm just trying to make a connection with people. That's
22 all.

23 Q Trying to make a connection with them?

24 A Everyone that's in this courtroom right now. I want
25 everyone to see my eyes and see how sincere I'm being today.

1 Q You started to say "honest" but you stopped yourself.

2 A Honest, sincere. Both the same to me.

3 Q But you stopped yourself about saying the word "honest."

4 A I swore on the Bible, sir, and I wouldn't have done that
5 if I wasn't telling you the absolute 100 percent truth.

6 Q Nobody's disputing that you swore on the Bible. Nobody
7 is disputing that you're here. We're trying to get down to
8 the closest version of what happened. All right?

9 A Sure.

10 Q And to do that -- you said it's been about four years?

11 A Yes, sir. In December, it will be four years.

12 Q Nobody is arguing with you. Okay? It might be three and
13 a half years. I said four years. Close to four years.

14 A I said, in December, it will be four years, yes, sir.

15 Q Okay. Whatever. It was when it was. All right?

16 Let me just move on to my point. Is that okay with you?

17 A Please.

18 Q All right. Most people remember things that happen
19 closer in time to when they happened. Okay? I remember what
20 I had for breakfast this morning because it was only a few
21 hours ago. I don't remember what I had for breakfast exactly
22 one year ago, and I have no clue what I had for breakfast four
23 years ago. Do you understand where I'm going?

24 A I wouldn't equate breakfast with being robbed at
25 gunpoint, sir, but, yes, I know where you're going.

1 Q You can use any analogy you want to. I'm not equating
2 eating breakfast with -- and now you're being silly, I think.

3 A I apologize; I'm not trying to be silly.

4 Q Okay. Do you think eating breakfast is the same as a
5 robbery?

6 A No, I don't.

7 Q Nobody is trying to equate that. We're just trying to
8 show that our memories are better closer in time than when
9 they are four years from now.

10 A Agree, sure.

11 Q That was very simple. All right.

12 So -- and it's important to tell what you saw when you
13 saw it closer in time because it's more accurate; right?

14 A Within a few days, yes.

15 Q So you told a lie to the investigators about what
16 happened to you that night?

17 A Yes, sir.

18 Q All right.

19 A I would have much rather have lied than have been
20 disowned potentially by my father. I would rather have been
21 shot in the head that night by Mr. Tilton and Mr. Sturdivant
22 than be disowned by my father. 100 percent, yes.

23 Q Anything else?

24 A Unless you have another question, sir.

25 Q And, again, like Mr. Fox says, that's the way this works.

1 I'm going to try to ask the questions and, hopefully, you'll
2 answer them. Okay? All right.

3 So you lied to the cops. Is that a yes?

4 **A** That would be a yes.

5 **Q** Okay. And I ask that because this lady is taking down
6 what we say.

7 **A** Yes, I understand.

8 **Q** Well, you shook your head. She can't take that down.

9 **A** I apologize for that.

10 **Q** And, again -- all right. I'm sorry. Let's just start
11 all over. Okay? Let's try to make something positive out
12 here.

13 The jury is going to try to decide what they think is
14 right to do with this case. You understand that; right?

15 **A** Yes, I do.

16 **Q** And when you tell a bunch of lies, it's harder to find
17 out what happened. It's harder to figure out what to do.
18 It's harder to do justice. Do you understand me?

19 **A** Correct.

20 **Q** All right. Do you agree with me?

21 **A** I agree that I lied that night, yes.

22 **Q** That wasn't my question, sir.

23 **A** I did lie, yes, sir.

24 **Q** Again, if you don't understand my question, that's fine.
25 I'll try to do better. All right.

1 We need to be clear when we're talking here so the jury
2 has a better way of understanding what's going on. Right?

3 **A** Yes, sir.

4 **Q** Okay. So that they can do that why think is right.

5 **A** Correct.

6 **Q** So they can do what they think is justice.

7 **A** Correct.

8 **Q** Correct.

9 So when you tell a bunch of lies, you don't come into the
10 courtroom with clean hands; right?

11 **A** Absolutely, correct.

12 **Q** And it's hard -- when you stop on the word "honesty,"
13 it's hard for us to think that you're being honest; right?

14 MR. HOLFORD: Objection, Your Honor.

15 MR. GARDNER: What's the objection?

16 MR. HOLFORD: It might be Mr. Gardner's opinion that he
17 stopped on the word "honesty." We're not even talking about
18 relevant points right now.

19 THE COURT: Let's continue with the examination.

20 MR. GARDNER: I'll move on, Your Honor.

21 BY MR. GARDNER:

22 **Q** Okay. So I do -- when you were talking about the two
23 individuals that came to the car and robbed you, you called
24 them by name like you knew them. Had you meet these people
25 before?

- 1 **A** No. No, sir.
- 2 **Q** Why were you calling them by names like you knew them?
- 3 **A** I know their names now.
- 4 **Q** Okay. I mean, that doesn't answer my question either.
- 5 Why were you calling them by their name? Most people say, "A
- 6 guy who robbed me." They don't call them by their names like
- 7 they know them. Why were you doing it like that?
- 8 **A** Sir, those are their names.
- 9 **Q** That's the name of the defendants, sir. That's not the
- 10 names of the people that robbed you. Why were you calling the
- 11 people that robbed you by the names of the defendants?
- 12 **A** Those are the people that robbed me that night, from what
- 13 I recall.
- 14 **Q** How do you think that that's the names of the people that
- 15 robbed you?
- 16 **A** I made a positive ID on both of their photographs.
- 17 **Q** When?
- 18 **A** Soon after.
- 19 **Q** Where?
- 20 **A** When I spoke to the detectives.
- 21 **Q** When you lied to them?
- 22 **A** On the follow-up.
- 23 **Q** Which detective?
- 24 **A** That, I don't recall, sir.
- 25 **Q** I don't recall that either.

1 **A** I spoke to many. I mean, that night was a very traumatic
2 experience, being put in a room with 10 to 15 different
3 officers.

4 **Q** Well, you would admit with me that, to try to find the
5 people that robbed you, it's good to give the cops accurate
6 information?

7 **A** Absolutely. And I believe I did that the second time
8 around.

9 **Q** The second time around? How many times have you been
10 around?

11 **A** With the detectives and things?

12 **Q** Anybody. How many times have you been around? How many
13 stories have you told?

14 **A** Whatever we have talked about here, that was it.

15 **Q** That was it?

16 **A** That was it.

17 **Q** Well, I don't know if that's it. Let me figure it out.
18 Okay? You told one lie when it happened; right?

19 **A** Correct.

20 **Q** That was closest in time to when it happened, so you
21 should have been able to tell the most accurate information.

22 **A** Correct.

23 **Q** You said it was somebody 40 or 30, heavy set, big boned,
24 other characteristics that don't match up with these two guys;
25 right?

1 **A** Correct.

2 **Q** You say you identified somebody at some point in time
3 that I don't know anything about. And then, today, you're
4 telling a story, and you're calling them by their names like
5 you know them. And you don't know if you grabbed the
6 pistolas, like somebody in a movies would do, or if you pushed
7 them away, like somebody in a comedy would do.

8 **A** I wanted to get them out of my face.

9 **Q** Out of your face.

10 **A** They were right at my temples.

11 **Q** All right. I don't have anything else for you.

12 **A** Thank you.

13 THE COURT: Anything as a follow-up?

14 MS. FARMER: Just briefly, Your Honor.

15 REDIRECT EXAMINATION

16 BY MS. FARMER:

17 **Q** Mr. Beckoff, how are you sure that the people that you
18 saw that night were Tilton and Sturdivant?

19 **A** I have thought about their faces for the last four years.
20 There is no question in my mind who robbed me that night
21 despite...

22 **Q** And would you have any reason to falsely accuse
23 Mr. Tilton today?

24 **A** No, absolutely not.

25 MR. HOLFORD: No further questions, Your Honor.

1 MR. FOX: I think it's -- absolutely, just like anybody.
2 Again, he's not a special category of witness. I don't,
3 honestly think, Judge, that's going to be a big issue from
4 what he touched in this case, but...

5 THE COURT: Yeah. I mean, obviously, credibility of the
6 witness is in the discretion of the jury, so I'll allow it.

7 All right. Bring them out.

8 (The jury entered the courtroom at 2:33 p.m.)

9 THE COURT: All right. I hope y'all enjoyed your lunch.
10 I'm not sure who is born in raised in Conway, but back
11 whenever I was a kid, they used to have Tuesday night buffets
12 at the Pizza Inn, and all the high school kids sat in the
13 back, and my sister made me sit in those booths next to the
14 jukebox and hide. [Laughter] So I have very fond memories of
15 that place. Hasn't scarred me at all; I just don't think
16 about it.

17 All right. Let's go. Call your next witness.

18 MR. HOLFORD: Your Honor, the State calls Bryan Levy.

19 THE CLERK: Please raise your right hand and place your
20 left hand on the Bible.

21 BRYAN LEVY,
22 after having been duly sworn, was examined and testified
23 to as follows:

24 THE CLERK: If you'd state your full name and spell it
25 for the Court.

1 THE WITNESS: Bryan William Levy. B-r-y-a-n. William,
2 common spelling. Levy, L-e-v-y.

3 DIRECT EXAMINATION

4 BY MR. HOLFORD:

5 **Q** Mr. Levy, where are you currently employed?

6 **A** With the Myrtle Beach Fire Department.

7 **Q** Back in December of 2018, where were you employed?

8 **A** With the Myrtle Beach Police Department.

9 **Q** And were you terminated from employment with the Myrtle
10 Beach Police Department?

11 **A** Yes, sir.

12 **Q** And when was that?

13 **A** That was in August of 2020.

14 **Q** And why were you terminated?

15 **A** When I initially applied to the police department in May
16 of 2017, I put on my application that I tried certain drugs in
17 college, and I was rejected. I applied again for the next
18 application period, and I just put "no" on those questions,
19 and I was hired. Two and a half years later, my first
20 application resurfaced, and I was terminated.

21 **Q** Did Internal Investigations or Internal Affairs have a
22 conversation with you about that discrepancy?

23 **A** They did. They called me in for an interview.

24 **Q** Did you lie to them at that point or were you honest with
25 them?

1 **A** I was honest with them.

2 **Q** But you still had your employment terminated?

3 **A** Yes, sir.

4 **Q** Let me ask you this, because the reason we bring all that
5 up is about credibility. Does the fact that you had
6 discrepancies on those applications and ultimately lost your
7 job, did that affect your reporting in this case in any way?

8 **A** No, sir.

9 **Q** Have you -- at any point in time during your career at
10 the police department, had you falsified any documents
11 relating to crimes or reports?

12 **A** No, sir.

13 **Q** And that was never an issue for you, was it?

14 **A** No. Even during my appeal, I was told I was a great
15 officer but just because of that discrepancy, I couldn't work
16 there any longer.

17 **Q** So it had nothing to do with your cases or your time as a
18 police officer?

19 **A** No, sir.

20 **Q** Just based on an application discrepancy?

21 **A** Yes, sir.

22 **Q** On December 29th, 2018, did you have an occasion to
23 respond to an incident?

24 **A** Yes.

25 **Q** Now, at that time, were you on the road?

1 **A** I was still in field training, so I was riding with a
2 training officer.

3 **Q** Okay. And what do you do in training?

4 **A** Typically, in training -- that was my fourth cycle, so
5 the training officer at that point -- I'm kind of doing things
6 on my own, and he's supervising me to make sure I'm doing them
7 properly and correctly by the policy and the standards and the
8 standards of the police department.

9 **Q** Okay. And where did you respond that night?

10 **A** We responded up to -- I believe the numeric was
11 6509 Somerset. I know it was on Somerset Avenue, was the
12 initial response address.

13 **Q** Did you generate a report in this case?

14 **A** Yes. I believe I took it over from another officer.
15 Typically, field training officers will have their trainees --
16 they go over their reports to approve and practice doing them
17 more efficiently.

18 **Q** And are you familiar with what I would refer to as a CAD
19 report?

20 **A** Yes.

21 **Q** Do those reports include exact times and dates and
22 locations?

23 **A** As dispatch answers them, yes, they do.

24 **Q** Is that done so we can remember exactly what time or what
25 place or what address --

1 **A** Absolutely.

2 **Q** -- years later?

3 **A** And arrival times, dispatch times.

4 **Q** Would it help refresh your recollection if I showed you a
5 copy of that report --

6 **A** Yes, sir.

7 **Q** -- to know the exact address?

8 **A** Yes, sir.

9 (State's Exhibit No. 23, CAD Report, was marked for
10 identification.)

11 BY MR. HOLFORD:

12 **Q** I'm going to hand you what's been marked for ID as
13 State's 23. Does that look familiar to you?

14 **A** Yes.

15 **Q** And what is that?

16 **A** This is the event report, which includes the CAD log, the
17 radio logs, the notes as to the call.

18 **Q** And if you look at that report and refresh your
19 recollection, can you tell what specific address you responded
20 to that night?

21 **A** The specific address was [REDACTED] Somerset Drive.

22 **Q** Okay. I'm going to show you State's 1. It's in
23 evidence. Are you familiar with this area of Myrtle Beach?

24 **A** Yes.

25 **Q** Okay. And can you point to where [REDACTED] Somerset Drive is?

- 1 **A** That would be right here (indicating).
- 2 **Q** How many streets over from Bryant is Somerset?
- 3 **A** It is one block.
- 4 **Q** And, on State's 2, is this kind of just a closer -- of
- 5 that area?
- 6 **A** Yes. So [REDACTED] Somerset would be here. Bryant Drive
- 7 [verbatim] is the street neighboring that one.
- 8 **Q** Now, why did you respond to [REDACTED] Somerset Drive?
- 9 **A** [REDACTED] Somerset Drive was where the victim in this case was
- 10 at the time of the call, and that's where we were told to
- 11 respond to, to assist the victim.
- 12 **Q** And what type of call were you responding to?
- 13 **A** I believe it initially came out as an armed robbery.
- 14 **Q** And who was the victim on the 29th?
- 15 **A** The victim was Mr. Christopher Ward.
- 16 **Q** Did you meet with him at that Somerset address?
- 17 **A** Yes, sir.
- 18 **Q** He was still on-scene when you arrived?
- 19 **A** Yes, sir.
- 20 **Q** So you get a call into dispatch. They send you out. You
- 21 met with the victim right there.
- 22 **A** Yes.
- 23 **Q** Let me ask you this: What time was it that you got
- 24 called out?
- 25 **A** It was about 8:15. On this CAD report, I am identified

1 as Unit 259, and I was dispatched to this call at 8:11.

2 Q P.M.?

3 A Yes, sir.

4 Q On the 29th?

5 A Yes, sir.

6 MR. HOLFORD: Court's indulgence.

7 BY MR. HOLFORD:

8 Q What was -- let me ask you this: What was the incident
9 location? I know you responded to █████ Somerset. Was there
10 another incident location that you responded to also?

11 A After speaking with the victim, it was discovered that
12 this actual crime took place a block over on Bryant Street.

13 Q And do you have that address?

14 A I just pointed it out on the board. It is in the CAD
15 notes here, because we did go over there during the course of
16 the call. It was 6509 Bryant Street.

17 Q And then -- so, on this board, is 6509 marked?

18 A There (indicating).

19 Q Okay. And you went over to 6509 Bryant?

20 A Yes, sir.

21 Q What did you find when you went there?

22 A The victim's car was in the driveway of that address with
23 the doors open, and that's where he stated he left his car
24 when he fled from the initial assault and robbery.

25 (State's Exhibit Nos. 24 through 28, Ward Vehicle

1 Photographs, were marked for identification.)

2 BY MR. HOLFORD:

3 Q I'm going to hand you what's been marked for ID at this
4 point as State's 24, 25, 26, and 27.

5 A Thank you.

6 Q Are you familiar with what those are -- exhibits are?

7 A Yes. This is the victim's vehicle.

8 Q Does that appear to be how you saw it that night?

9 A Yes, sir.

10 Q The night of the 29th?

11 A Yes, sir.

12 Q Do they appear to be fair and accurate depictions of the
13 vehicle as you found it?

14 A Yes.

15 MR. HOLFORD: Your Honor, at this time, the State would
16 seek to introduce State's 24, 25, 26 and 27 into evidence.

17 THE COURT: All right. Any objection?

18 MR FOX: No, Your Honor.

19 MR. GARDNER: No, Your Honor.

20 THE COURT: Without objection.

21 COURT REPORTER: Is 28 in there also?

22 MR. HOLFORD: It's not. I left it up there.

23 COURT REPORTER: Oh, okay.

24 (State's Exhibit Nos. 24 through 27 were received into
25 evidence.)

1 BY MR. HOLFORD:

2 Q In State's 24, there's a picture of a mailbox, and it's
3 got the address on it?

4 A Yes.

5 Q So we know that vehicle was at the 6509 address you're
6 talking about.

7 And then 25 and 26, are those pictures from different
8 angles of the vehicle?

9 A Yes.

10 Q And whose vehicle was that?

11 A Mr. Christopher Ward, the victim.

12 Q And then, 27, does that look like it's inside the same
13 vehicle?

14 A Yes.

15 Q So when you met with him, he had left his vehicle here in
16 this driveway at 6509?

17 A Yes.

18 Q And he had called police from [REDACTED] Somerset?

19 A I believe it was the resident of [REDACTED] Somerset. He
20 called on his behalf because he was in the backyard.

21 Q Okay. No further questions at this time.

22 THE COURT: All right.

23 MR. FOX: I don't have any questions of this witness.

24 THE COURT: All right.

25 MR. GARDNER: I do have two questions.

1 CROSS-EXAMINATION

2 BY MR. GARDNER:

3 Q Congratulations on the fireman gig.

4 A Thank you.

5 Q You're familiar with the streets out there in Myrtle
6 Beach?

7 A Yes, sir.

8 Q 10th Avenue, I think the jury knows now that -- I guess
9 it's like this. As you go north, the avenues increase in
10 numbers: 65, 66, 67 and so forth. And as you go south, they
11 decrease down.

12 10th Avenue is way down; right?

13 A Yes.

14 Q If ten blocks is approximately a mile, it would be five
15 miles away?

16 A From?

17 Q From 67th.

18 A Roughly, six and a half, yes.

19 Q And then The Cloisters, which is off of 67th, which is
20 closer to the bypass next to the funeral home --

21 A Yes, sir.

22 Q -- that's not even on here either; right?

23 A That is not pictured on this one.

24 Q All right, sir. Thank you very much.

25 MR. GARDNER: Nothing further, Your Honor.

1 THE COURT: All right. You may be excused.

2 THE WITNESS: Thank you.

3 THE COURT: You're welcome.

4 Call your next witness.

5 MS. FARMER: Your Honor, the State calls Vincent
6 Padavano.

7 THE CLERK: Please raise your right hand and place your
8 left hand on the Bible.

9 VINCENT PADAVANO,
10 after having been duly sworn, was examined and testified
11 to as follows:

12 THE CLERK: Please state your name and spell it for the
13 Court.

14 THE WITNESS: Vincent Padavano. That's V-i-n-c-e-n-t
15 P-a-d-a-v-a-n-o.

16 DIRECT EXAMINATION

17 BY MS. FARMER:

18 Q Mr. Padavano, will you please tell this jury where you're
19 currently employed?

20 A The City of Myrtle Beach Police Department.

21 Q And how long have you been with the Myrtle Beach Police
22 Department?

23 A About four years.

24 Q What is your current title?

25 A I'm a police officer, but I work in the traffic division,

1 so I mostly do, like, traffic enforcement, work wrecks, DUIs,
2 stuff like that.

3 Q So you would have been an officer with Myrtle Beach
4 Police Department in 2018; is that correct?

5 A I was.

6 Q And what would your duties have been then?

7 A I worked patrol, night shift. So, basically, just
8 respond to calls for service, patrol the areas.

9 Q And were you working the night of December 29th of 2018?

10 A I was.

11 Q Did you respond to any calls for service that night?

12 A I did.

13 Q What was the nature of that call?

14 A It came out -- the one on Bryant Street -- 6509 Bryant
15 Street came out as an armed robbery, I believe, initially.

16 Q After responding to 6509 Bryant Street, what did you
17 learn had happened?

18 A We had a victim who had some injuries from the armed
19 robbery.

20 (State's Exhibit No. 29, Photograph, was marked for
21 identification.)

22 BY MS. FARMER:

23 Q Mr. Padavano, I'm handing you what's been marked for ID
24 purposes as State's 29. Don't show that to the jury yet.

25 Do you recognize that?

1 **A** I do.

2 **Q** How are you able to recognize that?

3 **A** I took the picture with a camera issued by the City.

4 **Q** Is that a true and accurate reflection of what you would
5 have taken the picture of that night?

6 **A** Yes.

7 **Q** Does it appear to have been materially altered or changed
8 or were there any deletions made to that picture?

9 **A** No.

10 MS. FARMER: Your Honor, the State would seek to enter
11 State's 29 into evidence at this time.

12 THE COURT: All right. Any objection?

13 MR. FOX: No, Your Honor.

14 MR. GARDNER: No, sir.

15 THE COURT: Without objection.

16 (State's Exhibit No. 29 was received into evidence.)

17 BY MS. FARMER:

18 **Q** Now, Officer Padavano, can you please tell the jury what
19 this is a picture of?

20 **A** This is a picture of the victim's injuries from being hit
21 in the side of the head with a pistol.

22 **Q** And can you please tell this jury how you learned the
23 victim sustained this injury?

24 **A** He had said that the --

25 MR. FOX: Objection, Your Honor. That's hearsay.

1 THE COURT: It's hearsay. You can't say what someone
2 else said. Just say what you did based on the information you
3 received through your investigation.

4 BY MS. FARMER:

5 Q Through your investigation, how did you learn this injury
6 was sustained?

7 A By pistol whipping.

8 Q Through your investigation, did you learn who
9 pistol-whipped this victim?

10 A Yes, I did.

11 Q And who would that have been?

12 A The defendant.

13 Q And Officer Padavano, what did you do after you took this
14 picture of the victim's injury?

15 A I entered it into evidence. We have, like, a drive on
16 our computers where we can enter in all pictures we take with
17 our patrol cameras. We save it, and it goes under a report
18 number into that file.

19 MS. FARMER: Court's indulgence for just a moment, Your
20 Honor.

21 No further questions, Your Honor.

22 THE COURT: All right.

23 CROSS-EXAMINATION

24 BY MR. FOX:

25 Q Officer, that area that's on the large photograph that

1 you identified, the Bryant Street, 65 Avenue North area is a
2 residential area; correct?

3 A Correct.

4 Q It's all houses and apartment buildings?

5 A Correct.

6 Q And that extends for blocks in each direction; does it
7 not?

8 A Mm-hmm, yes, sir.

9 Q Okay. So probably thousands of people live in that
10 general area?

11 A Yes, sir.

12 Q Okay. And 65th and 67th are kind of throughways between
13 Kings Highway and Bypass 17?

14 A Yes, sir.

15 Q That's a good way to cut through because they connect
16 both of those major roads?

17 A They do.

18 Q So lots of traffic up and down both of those roads pretty
19 continuously; correct?

20 A Correct.

21 Q Now, the picture you took, fair to say no blood in that
22 picture?

23 A Correct.

24 Q And you were -- this would have been within a short
25 period of time after the call came in?

1 **A** Correct. I don't know the exact time, but yes.

2 **Q** But you would have responded within -- it wasn't an hour
3 or two hours later that you were able to get there; correct?

4 **A** Correct.

5 **Q** Okay. And no indication that anything had changed during
6 that time with regard to this fellow's head?

7 **A** Correct.

8 **Q** As far as you knew; right?

9 **A** Mm-hmm.

10 **Q** And I think your answer, if you know -- let me step on
11 back -- if you know, was Mr. Tilton ever charged with any kind
12 of assault in connection with that injury?

13 **A** I don't know for sure, no.

14 **Q** Okay. And in response to the solicitor's question as far
15 as who would have inflicted that red area on that gentleman's
16 head, you answered in the singular: The defendant. Right?

17 **A** Correct.

18 **Q** Do you know who the defendant is in this case?

19 **A** I don't. I don't remember, no.

20 **Q** Thank you. No further questions.

21 CROSS-EXAMINATION

22 BY MR. GARDNER:

23 **Q** Two questions. I don't know if ever I looked at -- what
24 was that first address you said? Somerset? Yeah, Somerset.
25 I don't think I ever looked at it.

1 What I want to talk about is 10th Avenue. It's not on
2 here, but it would be somewhere way down here.

3 **A** 10th Avenue?

4 **Q** Yeah. This is 65th. That's 67th.

5 **A** 10th Avenue North.

6 **Q** 10th Avenue North?

7 **A** Correct.

8 **Q** It would be about 55 [verbatim] blocks that way.

9 **A** Correct.

10 **Q** About five miles.

11 And then The Cloisters -- are you familiar with The
12 Cloisters next to the funeral home?

13 **A** I am. Off of 67th North.

14 **Q** 67th North. That's not on here either; correct?

15 **A** Correct.

16 **Q** So I have all this -- Somerset and Bryant and everything
17 else -- those two addresses would not be in this area; is that
18 correct?

19 **A** Correct.

20 **Q** Thank you, sir.

21 MR. GARDNER: Thank you, Your Honor, nothing further.

22 THE COURT: Anything as a follow-up?

23 MS. FARMER: No, Your Honor.

24 THE COURT: All right. You may be excused.

25 Call your next witness.

1 MS. FARMER: Your Honor, the State would call Don Heeren
2 to the stand, please.

3 THE CLERK: Please raise your right hand and place your
4 left hand on the Bible.

5 OFFICER DON HEEREN,
6 after having been duly sworn, was examined and testified
7 to as follows:

8 THE CLERK: Please state your name and spell it for the
9 Court.

10 THE WITNESS: Officer Heeren. H-e-e-r-e-n.

11 DIRECT EXAMINATION

12 BY MS. FARMER:

13 Q Officer Heeren, can you please tell this jury where
14 you're currently employed?

15 A City of Myrtle Beach Police Department.

16 Q How long have you worked there?

17 A I was hired in 2014. I have working patrol for about six
18 years.

19 Q And working in patrol, what do your duties include?

20 A I respond to calls for service, enforcing laws to the
21 municipal codes and state charges.

22 Q And what would your duties have been back in December of
23 2018?

24 A Same thing. I was on patrol. So, in that time, I was on
25 the power shift working in a small unit kind of just working

1 in high-crime areas.

2 Q And, Officer Heeren, were you working in an undercover
3 capacity on December 30th of 2018?

4 A I was.

5 Q And what area were you working undercover?

6 A 65th Avenue North and Bryant Street.

7 Q I'm going to show you what's been entered into evidence
8 as State's 2. Can you point to the general area you were
9 patrolling that night?

10 A We were patrolling the whole area. At one specific
11 point, we actually came and parked on Bryant Street in an
12 undercover car in, I believe, this driveway or that driveway.
13 Just kind of surveilling the area.

14 Q And what led you to patrol Bryant Street?

15 A I don't -- that, I don't know. I wasn't part of that
16 investigation.

17 Q Were you looking for someone?

18 A Yeah. We were looking for the defendant suspect for an
19 armed robbery who was seen in that area.

20 Q Were you given a description of the person that you were
21 to look for?

22 A Yeah. There was, I believe, a BOLO put out with a
23 picture of him.

24 Q And when you got to Bryant Street, were you able to
25 observe anyone as you were patrolling?

1 **A** We backed into a driveway there. After only a couple of
2 minutes, we observed the defendant walk out on the driveway on
3 Bryant Street. So we identified him using the BOLO picture
4 that we had for him.

5 **Q** Do you know the address of the home that the suspect
6 walked out of?

7 **A** Yeah. It was 6510 Bryant Street, is where we observed
8 him in the driveway.

9 **Q** And did this person match the description of the person
10 you were looking for?

11 **A** He did.

12 **Q** Now, when you made contact with the suspect or before you
13 made contact with him, rather, did you identify yourself as a
14 police officer?

15 **A** So when we saw him in the driveway and confirmed it was
16 him, we exited the vehicle and announced ourselves as police.
17 So, yeah, we identified ourselves as police.

18 **Q** And what happened after you announced yourself as a
19 police officer?

20 **A** The defendant took flight and ran into the residence of
21 6510 Bryant Street.

22 **Q** And do you know who lived at that address, 6510 Bryant
23 Street?

24 **A** At the time, I didn't know. I don't know who -- I mean,
25 I would assume it's his address, that he resides there.

1 Q And did you run after the suspect?

2 A Myself and my partner pursued him into the residence,
3 where we made contact with him in the living room.

4 Q And what happened after you made contact with this
5 person?

6 A We gave several commands to lay down. He complied to
7 "lay down." My partner was able to place him in handcuffs,
8 and we removed him from the residence.

9 Q Now, before December 30th, had you tried to locate the
10 suspect before?

11 A I think that was my only involvement in doing any
12 undercover surveillance in the area.

13 MS. FARMER: Court's indulgence for just a moment, Your
14 Honor.

15 BY MS. FARMER:

16 Q Officer Heeren, on that same Bryant Street, the address,
17 6509 Bryant Street, do you know who lived at that address?

18 A To my understanding, it's an abandoned residence, I
19 think.

20 MS. FARMER: Court's indulgence for just a moment, Your
21 Honor.

22 THE COURT: Okay.

23 BY MS. FARMER:

24 Q Officer Heeren, after you made contact with the suspect
25 and you detained him, were you able to identify who that was?

1 **A** Yeah. He identified himself, gave us his first and last
2 name, date of birth. We ran him through the system, and he
3 came back with a warrant out of our jurisdiction.

4 **Q** And who was this person?

5 **A** I'm not sure how to pronounce the first name. Defendant
6 Tilton. Last name Tilton.

7 **Q** Dlanor Tilton?

8 **A** That's correct, yeah.

9 MS. FARMER: No further questions, Your Honor.

10 CROSS-EXAMINATION

11 BY MR. FOX:

12 **Q** Officer, so Mr. Tilton, when you pursued him into the --
13 or ran into his -- the home, you instructed him or gave
14 commands for him to lay down, to stop, lay down. He did that
15 and complied with your commands. He gave you no resistance in
16 placing him in handcuffs?

17 **A** Mm-hmm.

18 **Q** He provided you with his proper and correct name?

19 **A** Mm-hmm.

20 **Q** You need to answer out loud for the court reporter,
21 please.

22 **A** Yes. Yes.

23 **Q** Thank you.

24 So -- and he was in -- when you-all approached, you were
25 not in the uniform you're wearing today; right?

1 **A** We were in an undercover vehicle. I was in a Myrtle
2 Beach City uniform.

3 **Q** Okay. It was dark out, though. This was after sunset?

4 **A** Yes, sir.

5 **Q** And Bryant Street, pretty much on both sides, is it
6 pretty dark?

7 **A** It was lit. I mean, 'there was house lights on and street
8 lights on.

9 **Q** But he was in the driveway. He wasn't out on the public
10 roadway; correct?

11 **A** He was standing in the driveway, at the end of the
12 driveway.

13 **Q** Right. And when you approached, announced yourself, he
14 turned and went back -- he ran into the house. You say he ran
15 into the house, but he went into the house.

16 **A** He ran into a house, yes, sir.

17 **Q** Okay. But, at that point, he had every right to do so?

18 **A** Well, we were announcing "Police," so...

19 **Q** Yes.

20 **A** And he's running from us.

21 **Q** Yes. But that's actually not a crime.

22 **A** Running from the police when you're yelling, "Police,
23 stop"?

24 **Q** Yep.

25 **A** Okay.

1 Q This was not.

2 So, now, if I understand correctly, you have an actual
3 warrant at that time?

4 A Yes, sir.

5 Q Okay. So that was what allowed you to follow and
6 apprehend him?

7 A A warrant, I believe, for armed robbery.

8 Q Right. An arrest warrant. A warrant to take him into
9 custody.

10 A Yep.

11 Q Okay. And, in fact, he allowed you-all to do that
12 without further ado.

13 Now, how long had you worked -- you were a patrol officer
14 in that area of 65th and Bryant?

15 A I'm familiar with the area.

16 Q You're familiar with the area. Okay.

17 How long had you been working that area in 2018?

18 A I was working citywide in that time, but, you know, I'd
19 respond up there for calls. I have taken several calls
20 throughout the city, so I'm familiar with that area.

21 Q In your experience, a robbery is very uncommon in the
22 city limits of Myrtle Beach?

23 A Yeah, I would say it's not the most common crime in the
24 City of Myrtle Beach.

25 Q Well, I didn't ask if it was the most common.

1 **A** Are they uncommon?

2 **Q** Yeah.

3 **A** I don't know. I don't know.

4 **Q** Is this the first time you have ever responded to a
5 robbery in your career?

6 **A** I don't believe so, but I don't know.

7 **Q** Okay. Now -- thank you, no further questions.

8 MR. GARDNER: Briefly Your Honor.

9 CROSS-EXAMINATION

10 BY MR. GARDNER:

11 **Q** Good afternoon, sir. You were working that area of
12 Bryant Street/65th Avenue, and you were given instructions to
13 go work that area; is that right?

14 **A** Yes, sir.

15 **Q** Did any of the instructions ever include the area of The
16 Cloisters? It's apartments. Are you familiar with The
17 Cloisters on 67th?

18 **A** No.

19 **Q** No? And you were not told anything about 10th Avenue;
20 right?

21 **A** 10th Avenue?

22 **Q** Yeah.

23 **A** No.

24 **Q** It wasn't on the radar, as they say; right?

25 So 67, 65, and -- are you familiar, if you took 67 all

1 the way out to the bypass -- actually, at the bypass, there's
2 a funeral home in that area?

3 A Mm-hmm.

4 Q As you come back, funeral home, AA, church, Cloisters
5 apartments. Was The Cloisters apartments ever part of this
6 surveillance?

7 A I don't recall if it was for me. I don't recall.

8 Q And it's not even on the map; right?

9 A It's not on that map, no.

10 Q Okay. Thank you, sir.

11 MR. GARDNER: Nothing further, Your Honor.

12 THE COURT: Anything in follow-up?

13 MS. FARMER: Just a few questions, Your Honor.

14 REDIRECT EXAMINATION

15 BY MS. FARMER:

16 Q Officer Heeren, did you have any cause to patrol around
17 the Circle K gas station around that area?

18 A At 65th and Kings?

19 Q Yes.

20 MR. GARDNER: Your Honor, I'm sorry; I object. I think
21 that's improper redirect.

22 THE COURT: I'll allow it.

23 You can answer the question.

24 BY MS. FARMER:

25 Q Did you go to the Circle K gas station?

1 **A** I don't recall if we went there. I do recall it being
2 reported by one of the clerks that she observed the defendant,
3 Mr. Tilton, at the gas station --

4 MR. FOX: Objection. Objection. That's hearsay.

5 THE COURT: You can't say what someone else said.

6 BY MS. FARMER:

7 **Q** Through the course of your investigation, what led you to
8 go to the Circle K gas station?

9 **A** The defendant was observed at that gas station.

10 MR. GARDNER: Same objection, Your Honor.

11 MR. FOX: Same objection.

12 THE COURT: All right. Hold on. Well, he's not saying
13 what someone else said. He said through his investigation.
14 Just move on. I'll sustain the objection. Move on.

15 MR. FOX: Thank you.

16 BY MS. FARMER:

17 **Q** Officer Heeren, were you patrolling that area between
18 65th Street, 67th Street, and Bryant Street?

19 **A** I was.

20 **Q** What led you to patrol that area?

21 **A** I believe it -- the armed robberies were occurring in
22 that area. There was also -- the defendant was observed in
23 that area at the gas station on 65th and Kings, so that's what
24 led us to, I believe, patrol that area.

25 **Q** No further questions, Your Honor.

1 THE COURT: All right. You can be excused.

2 THE WITNESS: Thank you.

3 THE COURT: Call your next witness.

4 MR. HOLFORD: Your Honor, the State calls Tony Humes.

5 INVESTIGATOR ANTHONY HUMES,

6 after having been duly sworn, was examined and testified
7 to as follows:

8 THE CLERK: Please state your name and spell it for the
9 Court.

10 THE WITNESS: Anthony Humes. A-n-t-h-o-n-y H-u-m as in
11 "Mary"-e-s.

12 MR. HOLFORD: Court's indulgence, Your Honor. I just
13 handed the court reporter a stack of photos.

14 (State's Exhibit Nos. 30 through 71, Photograph, was
15 marked for identification.)

16 DIRECT EXAMINATION

17 BY MR. HOLFORD:

18 Q Investigator Humes, where are you currently employed?

19 A The City of Myrtle Beach Police Department.

20 Q And how long have you been employed there?

21 A A little over 14 years.

22 Q What's your job description or job title? What do you do
23 there?

24 A I'm a crime scene specialist.

25 Q What do you do as a crime scene specialist?

1 **A** It respond to wide variety of calls. It could be as
2 simple as like a broken vending machine to shootings,
3 homicides, stabbings, things of that nature.

4 **Q** And what do you do when you respond to the scene?

5 **A** Every scene is different, but, typically, take pictures,
6 collect evidence, preserve evidence.

7 **Q** Like CSI?

8 **A** Yes.

9 **Q** You solve cases in an hour?

10 **A** I wish.

11 **Q** In December of 2018, you were an investigator with the
12 Crime Scene Unit?

13 **A** Yes, sir.

14 **Q** And did you have an occasion to respond in this case?

15 **A** Yes.

16 **Q** And did you respond on the 29th to a location?

17 **A** Yes.

18 **Q** Did you take pictures there?

19 **A** Yes.

20 **Q** I'm going to show you what has been introduced as
21 State's 25, 26 -- well, let me back up. 24, 25, 26, and 27
22 first.

23 **A** Okay.

24 **Q** Are you familiar with those pictures?

25 **A** Yes.

1 Q Okay. Did you take those pictures?

2 A Yes, I did.

3 Q Can you see that?

4 A No -- can I slide over a hair? I can kind of see it.

5 There you go.

6 Q All right. So we're looking at State's 24. What's that

7 a picture of?

8 A That's a picture of the back of a vehicle and the mailbox

9 behind it.

10 Q And what's the -- it's kind of hard to see with the

11 glare. Do you remember the address of where this vehicle was?

12 A 6509.

13 Q And what street?

14 A Bryant.

15 Q In State's 25, what are we looking at there?

16 A A vehicle with the driver's door open.

17 Q Did you open the door?

18 A No.

19 Q Is that how it appeared when you arrived?

20 A Yes.

21 Q State's 26?

22 A Same vehicle but from the front.

23 Q State's 27?

24 A That's the interior of the vehicle with the glove box

25 open.

1 Q Did you open the glove box?

2 A No.

3 Q That's how it was when you showed up?

4 A That's right.

5 Q I'm going to show you what's been -- this is just for ID
6 at this point -- State's 28. Are you familiar with
7 State's 28?

8 A Yes. That's the registration of the vehicle.

9 Q And did you take that picture?

10 A Yes.

11 Q Where did you find that?

12 A That, I don't recall, off the top of my head.

13 Q Was it with the vehicle?

14 A Yes. It would have been -- yeah.

15 MR. HOLFORD: At this time, the State would seek to
16 introduce State's 28 into evidence.

17 THE COURT: How many photos are there he's going to
18 testify to?

19 MR. HOLFORD: After this, there will be 30 through 66.

20 THE COURT: How many?

21 MR. HOLFORD: So 36 more.

22 THE COURT: All right. Any objection as to any of the
23 pictures?

24 MR. GARDNER: No, Your Honor.

25 MR. FOX: No, Your Honor.

1 THE COURT: All right. They're in without objection.

2 (State's Exhibit No. 28 and 30 through 66, received into
3 evidence.)

4 BY MR. HOLFORD:

5 Q So, State's 28, that's the registration for the white
6 vehicle you took pictures of?

7 A Yes.

8 Q And it contains the name Christopher Ward?

9 A Yes.

10 Q He was the owner of that vehicle?

11 A Yes.

12 Q According to the registration found in the vehicle.

13 A Right.

14 Q All right. Let's move to the next night, on the early
15 morning of the 31st. Did you respond to another location?

16 A Yes.

17 Q And where was that?

18 A 6510 Bryant.

19 Q Where is that in relation to 6509?

20 A Diagonal.

21 Q Same street?

22 A Yes.

23 Q Did you take pictures of that location?

24 A Yes, sir.

25 Q And what was the nature of the pictures you took at that

1 location?

2 **A** Just to establish the incident location of where I was.

3 **Q** Okay. Did you have a search warrant at that point? Did
4 the officers have a search warrant when you were taking
5 pictures of inside the residence at 6510 Bryant Street?

6 **A** Yes.

7 **Q** You did. Okay.

8 And were you collecting items as well?

9 **A** Yes. That's why I was called there.

10 **Q** State's 31, what are we looking at?

11 **A** That's the interior living room area.

12 **Q** 32?

13 **A** Same.

14 **Q** 33?

15 **A** That's a kitchen cabinet inside the kitchen.

16 **Q** 34?

17 **A** A wallet that was on the top shelf inside the kitchen in
18 that cabinet.

19 **Q** 35?

20 **A** That same wallet.

21 **Q** 36?

22 **A** That same wallet.

23 **Q** What's inside that wallet?

24 **A** Some cash money. An Amazon card.

25 **Q** Did you collect that wallet?

1 **A** Yes.

2 **Q** I'm going to hand you what's been marked as State's 70
3 for ID.

4 **A** Okay.

5 **Q** Are you familiar with what is State's 70?

6 **A** Yes.

7 **Q** And what is that?

8 **A** It's a black bifold wallet from the kitchen cabinet.

9 **Q** How do you know that?

10 **A** It's what's on that envelope there.

11 **Q** Would you have submitted it into evidence like that?

12 **A** Yes.

13 MR. HOLFORD: Your Honor, the State would seek to
14 introduce 70 into evidence.

15 THE COURT: All right. Any objection?

16 (Mr. Holford opens the evidence envelope.)

17 MR. FOX: No objection from Mr. Tilton, Your Honor.

18 MR. GARDNER: No objection, Your Honor.

19 THE COURT: All right. Without objection.

20 (State's Exhibit No. 70 was received into evidence.)

21 BY MR. HOLFORD:

22 **Q** Is there a distinct pattern inside that?

23 **A** Yes.

24 **Q** And the cash is gone; right?

25 **A** Yes.

- 1 Q Where did that cash go?
- 2 A It was separated for Property and Evidence.
- 3 Q You still have it logged in Property and Evidence, don't
- 4 you?
- 5 A Yes, sir.
- 6 Q You don't get to just deposit it into your bank account?
- 7 A No, sir.
- 8 Q State's 37, what's this a picture of?
- 9 A A bedroom.
- 10 Q How many bedrooms were there; do you remember?
- 11 A There were three bedrooms in that residence.
- 12 Q State's 38?
- 13 A That's the bed underneath in the first bedroom.
- 14 Q State's 39?
- 15 A It's a wallet underneath that same bed.
- 16 Q State's 40?
- 17 A That same wallet.
- 18 Q Are we progressing through how you found it and how it's
- 19 open a little bit?
- 20 A Yes.
- 21 Q So do you take pictures kind of in order? It's closed
- 22 but then you open it, and you're photographing the process?
- 23 A That's correct.
- 24 Q State's 41?
- 25 A It's that same wallet, opened, with the ID card.

1 Q It's kind of a glare there. Can you tell whose ID is in
2 that wallet?

3 A Mr. Ward.

4 Q Chris Ward.

5 And his wallet was found in 6510 Bryant?

6 A Yes.

7 Q Under the bed?

8 A Under the bed.

9 Q State's 42?

10 A That same wallet. It's a Bank of America card from that
11 wallet.

12 Q And does it have the owner's name on it?

13 A Yes. Mr. Ward.

14 Q State's 44?

15 A That's the next bedroom. Or it might be the same
16 bedroom, actually. Yeah, it's the same bedroom. That's a
17 dresser in that room.

18 Q I might have these out of order. Let's go back to 45.

19 A That's the contents of that same wallet.

20 Q Okay. From the first bedroom?

21 A Yes.

22 Q Now, if we look at State's 46, is that the same bedroom?

23 A That's another bedroom.

24 Q Okay. And then in relation to 46, 44?

25 A That's the first bedroom.

1 Q State's 47?

2 A That's Bedroom 2, which would be the back left bedroom.

3 Q 48?

4 A I believe that's the same room. Yeah, that's the same
5 room.

6 Q And what do we see of importance in this video or in
7 this?

8 A On the cabinet, there is a black-in-color pistol,
9 BB pistol.

10 Q 49?

11 A That's that same pistol.

12 Q Now, you said that's a BB pistol. How do you know that's
13 a BB pistol?

14 A It says it on it.

15 Q Okay. Did you know, when you were taking the pictures --
16 as you were walking in, did you know what kind of pistol it
17 was?

18 A No.

19 Q I'm going to hand you 67 and 69 for ID.

20 A Okay.

21 Q Are you able to identify what those are?

22 A Yes.

23 Q And what are those? Sorry, let me be more specific.
24 What is State's 67?

25 A A BB gun pistol, Responder 911. It was on the top

1 dresser in Bedroom No. 2.

2 Q So what we're seeing in 49 is what's in State's 67?

3 A That's correct.

4 Q What about State's 69?

5 A That's two magazines -- or three magazines to the
6 BB pistol.

7 Q And did you collect those and log them into evidence?

8 A Yes.

9 MR. HOLFORD: Your Honor, the State would seek to
10 introduce State's 67 and 69 in evidence.

11 THE COURT: All right. Any objection?

12 MR. FOX: No, Your Honor.

13 MR. GARDNER: No, Your Honor.

14 THE COURT: Without objection.

15 (State's Exhibit No. 67 and 69 was received into
16 evidence.)

17 MR. HOLFORD: And, Your Honor, it is a -- for the record,
18 it is a BB pistol. There are no cartridges or casings or BBs
19 in it.

20 THE COURT: All right.

21 MR. HOLFORD: I don't believe we need a gun lock.

22 BY MR. HOLFORD:

23 Q State's 69, do those -- where do these magazines go?

24 A In the handle of that pistol.

25 Q Now, the very end of this tip is orange; is that right?

- 1 **A** Yes.
- 2 **Q** Does that appear to be anything else distinct about that
- 3 tip?
- 4 **A** It's been painted with a marker or some type of black
- 5 coloring.
- 6 **Q** It wouldn't have come like that?
- 7 **A** Typically, no.
- 8 **Q** Does this appear to be a real gun?
- 9 **A** It's very close, yes. It mimics it.
- 10 **Q** State's 50?
- 11 **A** That's a closer picture of that same...
- 12 **Q** What's the 9mm times 19?
- 13 **A** That, I'm not sure. Typically, that would be on a normal
- 14 handgun, I believe. It would be a 9 by 19 round.
- 15 **Q** So this BB pistol is mimicking a 9mm?
- 16 **A** Yes.
- 17 **Q** With 19 rounds?
- 18 **A** Yes.
- 19 **Q** 51?
- 20 **A** That's that same handgun. Just BB pistol on the other
- 21 side.
- 22 **Q** And you document the markings -- well, why would you
- 23 document the markings as you're taking a picture of it and
- 24 then log something into evidence?
- 25 **A** Just to log it in as to what it is, like, the model or

1 make.

2 Q So we can look at this and see the markings on it,
3 Responder 911 match, 9mm, 9 by 19, and know that this is
4 actually what you took pictures of in the house?

5 A Yes.

6 Q State's 52?

7 A That's that same pistol with the slide racked back a
8 little bit to show that the tip is orange and black.

9 Q So with the slide racked back -- as we see it right here
10 in the courtroom, it doesn't have that much orange on it; is
11 that correct?

12 A That's correct.

13 Q But you slid it back. And what was the purpose of
14 documenting that picture?

15 A Just to show that it looked like somebody was trying to
16 cover up the orange tip on it.

17 Q 53?

18 A That's the three magazines.

19 Q 54?

20 A That's the bed in Bedroom No. 2.

21 Q 55? Can you see that?

22 A That's underneath that same bed.

23 Q And what is that under there?

24 A I can't tell. That's another pistol.

25 Q 56?

- 1 **A** That pistol was removed from that bed.
- 2 **Q** 57?
- 3 **A** That same pistol.
- 4 **Q** And 58?
- 5 **A** That same pistol.
- 6 **Q** Did you collect that pistol as well?
- 7 **A** Yes.
- 8 **Q** I'm going to hand you what's been marked as State's 68.
- 9 Are you familiar with what State's 68 is?
- 10 **A** Yes.
- 11 **Q** And what is that?
- 12 **A** That's a BB gun pistol, 1911 found from under Bed No. 2.
- 13 **Q** And that's the same one that we have just identified on
- 14 the pictures?
- 15 **A** Yes.
- 16 MR. HOLFORD: Your Honor, the State would move 68 into
- 17 evidence.
- 18 THE COURT: All right. Any objection?
- 19 MR. FOX: No, Your Honor.
- 20 MR. GARDNER: No, Your Honor.
- 21 THE COURT: Without objection.
- 22 (State's Exhibit No. 68 was received into evidence.)
- 23 (Mr. Holford opens the evidence envelope.)
- 24 BY MR. HOLFORD:
- 25 **Q** Are there any rounds in that?

1 **A** Not that I'm aware of, no. There shouldn't be.

2 **Q** Does it appear that the clip is gone?

3 **A** Yes.

4 **Q** I just want to make sure.

5 **A** Yeah. There might be a CO2 cartridge in there. I don't

6 know if that's the term, but...

7 MR. HOLFORD: Your Honor, it is a BB pistol, and there

8 appears to be no clip and no BBs actually in it.

9 THE COURT: All right.

10 MR. HOLFORD: Just for the record.

11 BY MR. HOLFORD:

12 **Q** This is what you pulled out from under the bed?

13 **A** Yes, sir.

14 **Q** Is there any way to tell if this is a BB pistol from

15 here?

16 **A** No, sir.

17 **Q** How long have you been in law enforcement?

18 **A** Fourteen years.

19 **Q** How close to this gun do you have to get to be able to

20 tell that this is not a real pistol?

21 **A** You'd have to look at the markings on it or see the

22 bottom of it, the little CO2 cartridge.

23 **Q** Is there any orange on this one?

24 **A** No, sir.

25 **Q** As a police officer, if someone presented either one of

1 those guns to you, would you respond in the manner as if it
2 was a BB pistol?

3 MR. GARDNER: Your Honor, I don't know if we laid a
4 foundation that he's an expert in answering some kind of
5 hypothetical.

6 THE COURT: Well, he's not an expert so he can't give his
7 opinion. I'll allow him to testify as to what he believes,
8 based on his experience, to be the believability of the
9 weapon. Fair enough?

10 MR. GARDNER: Sure.

11 THE COURT: Ask it.

12 BY MR. HOLFORD:

13 Q How many firearms have you seized over the course of your
14 career?

15 A Quite a bit.

16 Q How many have you taken pictures of?

17 A Hundreds.

18 Q All right. And were you able to tell, without being up
19 close to those, that those were BB pistols?

20 A Not initially, no.

21 Q State's 59?

22 A That's Bedroom No. 2. That's a hamper and a Nike box and
23 a backpack.

24 Q Same bedroom where the pistols were found?

25 A Yes, sir.

1 Q 60?

2 A That's a backpack.

3 Q 61?

4 A That was contents that were found inside that backpack.

5 Q And so the backpack was closed, you opened it, and now
6 we're seeing the contents there?

7 A I don't recall if I was the one that specifically opened
8 it, but yes, those were removed from the backpack.

9 Q 62?

10 A That's a social security card and a BB&T Bank card.

11 Q And who did those belong to?

12 A The social security card is to a Tilton, and the BB&T
13 card, I believe, is to a Gardner. Monica Gardner, I believe.

14 Q 63?

15 A That's that same bedroom.

16 Q 64?

17 A That's that same bedroom. That's a piece of paper on the
18 wall with some names or emails or something like that on them.

19 Q 65?

20 A That's the third bedroom, I believe.

21 Q All right. And 66?

22 A That's just a cell phone.

23 Q Did you take that cell phone?

24 A I don't believe so, no.

25 Q State's 71?

1 **A** Mm-hmm.

2 **Q** What are those? I'm sorry?

3 **A** I didn't hear you.

4 **Q** State's 71, are you familiar with what those items are?

5 **A** Yes.

6 **Q** And how you are familiar with them?

7 **A** That's a Social Security card and BB&T card. Or that's
8 the Social Security card to Mr. Tilton.

9 **Q** We don't need to introduce these into evidence. We have
10 the picture of his Social Security card and BB&T card.

11 **A** The BB&T card was to a Monica Gardner, but yes.

12 **Q** And was the BB&T card released?

13 **A** It should be in evidence.

14 MR. HOLFORD: Court's indulgence.

15 THE COURT: Take your time.

16 MR. HOLFORD: Your Honor, I have no further questions at
17 this time.

18 THE COURT: All right.

19 CROSS-EXAMINATION

20 BY MR. FOX:

21 **Q** Good afternoon, Officer. So your job was to -- I'll use
22 the word process the house, 6510, where the search warrant was
23 being executed; correct?

24 **A** Yes.

25 **Q** Okay. And so, in this case, it involved a lot of

1 picture-taking as we have seen?

2 A Yes.

3 Q Did you actually take these other items, the wallet and
4 BB pistols and things into evidence yourself?

5 A Yes, I collected them.

6 Q Okay. You collected them because you were on-scene?

7 A Yes, sir.

8 Q Do you have any idea -- talk about the one with the
9 orange tip.

10 A Uh-huh.

11 Q And I see where you're thinking it's this end around
12 where there's something perhaps colored or marked on it, in
13 your opinion?

14 A Yes.

15 Q The very end, though, is bright orange. It doesn't
16 appear that anything was done at the very end there, around
17 the rim?

18 A That's true, yes.

19 Q Okay. And would you agree that this one, with the orange
20 tip --

21 A Yes, sir.

22 Q -- that it is all black in color, other than the tip
23 right there?

24 A Yes, sir.

25 Q And would you agree the same with this other one, that it

1 is all black?

2 A Yes.

3 Q Okay. Do you have any idea, of your own knowledge or
4 through the course of your involvement at 6510, how many
5 people live in that house?

6 A No, sir.

7 Q Any idea who, on a regular basis, occupies the different
8 bedrooms?

9 A No, sir.

10 Q Any idea about visitors who were maybe in that house?
11 Friends, relatives, neighbors, etc.?

12 A Did you say "visitors"?

13 Q Yeah.

14 A No, I don't know.

15 Q All right. Did you attempt to -- one of the jobs or
16 skills you have is fingerprinting of items; correct?

17 A Yes.

18 Q Did you attempt to get any fingerprints from any of these
19 items that are in court today?

20 A No, sir.

21 Q Is it conceivable that there may be fingerprints on some
22 of these?

23 A It could be.

24 Q It could be.

25 Who would make that decision? Would that be your call or

1 an on-scene investigator, you know, whether to even attempt to
2 get a fingerprint?

3 A It could be both.

4 Q Okay. But, in this case, it wasn't done; correct?

5 A No, it was not.

6 Q Okay. Same with swabbing for DNA. It's possible to get
7 DNA off of some type of wood or cigarette butts --

8 A Yes.

9 Q -- or glass rims or things?

10 A Yes.

11 Q Many surfaces?

12 A Yes.

13 Q Was that attempted on any of these items?

14 A The pistols were, yes.

15 Q Okay. Any results?

16 A They were not sent.

17 Q Not sent or not --

18 A Not sent --

19 Q Why weren't they sent; do you know?

20 A -- for analysis.

21 Q I'm sorry; what was the last part?

22 A They were not sent for analysis.

23 Q Okay. Again, do you know whose decision that would be?

24 A Typically, it would be the detective.

25 Q Okay. So -- thank you, no further questions.

1 THE COURT: All right.

2 MR. GARDNER: Briefly.

3 CROSS-EXAMINATION

4 BY MR. GARDNER:

5 Q All this stuff that y'all just talked about, all of that
6 came out of 6510 Bryant Street; is that right?

7 A Yes, sir.

8 Q Okay. Did you go up to Unit ■, Apartment ■ of
9 The Cloisters?

10 A No, sir.

11 Q Do you know who did, from Myrtle Beach?

12 A No, sir.

13 Q Do you know if anybody did at all?

14 A I don't know anything about The Cloisters, sir.

15 Q Okay. Do you know anything about going down to
16 10th Avenue for any kind of CSI stuff?

17 A In reference to this case?

18 Q Yes, sir, in reference to this case.

19 A No, sir.

20 Q I'm okay with 10th Avenue, but The Cloisters -- are you
21 sure that nobody from Myrtle Beach went up there?

22 A That, I don't know. I don't believe I did.

23 Q Is it possible that somebody else from CSI went up there?

24 A It could be. There are seven of us on our unit.

25 Q All right. Thank you, sir.

1 MR. GARDNER: Nothing further, Your Honor.

2 THE COURT: All right. Anything as a follow-up?

3 MR. HOLFORD: Nothing further, Your Honor.

4 THE COURT: All right. You may be excused. Thank you
5 very much.

6 THE WITNESS: Thank you.

7 MR. HOLFORD: The State calls Mike Hearon.

8 THE COURT: Anybody need a break?

9 THE CLERK: Please raise your right hand and place your
10 left hand on the Bible.

11 OFFICER MICHAEL HEARON,
12 after having been duly sworn, was examined and testified
13 to as follows:

14 THE CLERK: Please state your name and spell it for the
15 Court.

16 THE WITNESS: My name is Michael Hearon. M-i-c-h-a-e-l.
17 Last name, H-e-a-r-o-n.

18 DIRECT EXAMINATION

19 BY MR. HOLFORD:

20 Q Officer Hearon, where are you currently employed?

21 A With the City of Myrtle Beach Police Department.

22 Q And how long have you been employed there?

23 A Nine and a half years.

24 Q Back in December of 2018, did you have an occasion to
25 attempt a search warrant related to this case?

- 1 **A** I did.
- 2 **Q** And do you remember the address of that search warrant?
- 3 **A** I don't remember the exact address, no.
- 4 **Q** Okay. Would it be fair to say it was 6510 Bryant?
- 5 **A** Yes.
- 6 **Q** And did you find items while you were doing that search?
- 7 **A** I did.
- 8 **Q** When you locate an item that might be relevant to the
- 9 investigation, what would you do at that point?
- 10 **A** Typically, leave it in its place. I believe Officer Tony
- 11 Humes was on-scene, let him photograph it in its original
- 12 position before it's moved.
- 13 **Q** I'm going to show you what's been entered as State's 48,
- 14 49, and 55. Are you familiar with those photographs?
- 15 **A** Yes.
- 16 **Q** Okay.
- 17 **A** Yes.
- 18 **Q** And how are you familiar with them?
- 19 **A** I located them during the execution of the search
- 20 warrant.
- 21 **Q** So State's 48 and 49, they show a gun. Is that in the
- 22 position that you located it that night?
- 23 **A** Yes.
- 24 **Q** Did you move it at all?
- 25 **A** I did not. Not until after it was photographed, at

1 least.

2 **Q** Did you place it there? Did you take it out of a bag?

3 **A** I did not.

4 **Q** This is how it was?

5 **A** Yes.

6 **Q** And you told CSI Humes to come take pictures of it?

7 **A** Correct.

8 **Q** And then State's 55, is that how you located it?

9 **A** Yes.

10 **Q** Did you throw it under the bed yourself?

11 **A** I did not.

12 **Q** Did you move it at all?

13 **A** No.

14 **Q** And you notified the investigator to come take a picture

15 of it, and that's how it was found?

16 **A** Correct.

17 **Q** We have got pictures of Chris Ward's wallet. Did you

18 find that as well?

19 **A** I did.

20 **Q** Did you move it?

21 **A** Not until after it was photographed. And I believe Tony

22 Humes actually picked it up.

23 **Q** Did you place it there?

24 **A** No.

25 **Q** When you first observed that wallet, did you have any

1 idea whose it was -- the black wallet?

2 **A** I did not.

3 MR. HOLFORD: No further questions at this time.

4 THE COURT: All right.

5 MR. FOX: No questions of this witness, Your Honor.

6 MR. GARDNER: I do have one.

7 CROSS-EXAMINATION

8 BY MR. GARDNER:

9 **Q** Did anybody go to The Cloisters, Unit ■, to do a search
10 warrant or investigation or CSI or anything like that?

11 **A** I'm not familiar with that address, no.

12 **Q** Okay. Let me ask you a different way. It's not a trick
13 question; I'm just trying to find out. Do you know of any
14 other residence or address that anybody went to in connection
15 with these allegations?

16 **A** I'm not familiar with any.

17 **Q** Have you heard of anybody living at The Cloisters?

18 **A** Not in relation to this, I haven't.

19 **Q** All right. Did we leave anything out, as far as your
20 part of this investigation?

21 **A** No, sir.

22 **Q** Thank you, sir.

23 MR. GARDNER: Nothing further.

24 THE COURT: Anything in follow-up?

25 MR. HOLFORD: No, Your Honor.

1 up tomorrow morning.

2 THE COURT: Sure.

3 (Pause in the proceedings.)

4 THE COURT: All right. Bring them out.

5 (The jury entered the courtroom at 4:00 p.m.)

6 MR. HOLFORD: Your Honor, may I approach?

7 THE COURT: Sure.

8 (Handed documents to judge to sign.)

9 MR. HOLFORD: Thank you.

10 THE COURT: Thank you.

11 All right. Call your next witness.

12 MR. HOLFORD: Your Honor, the State calls Chad Rose.

13 THE CLERK: Please raise your right hand and place your
14 left hand on the Bible.

15 CORPORAL CHAD ROSE,

16 after having been duly sworn, was examined and testified
17 to as follows:

18 THE CLERK: Please state your full name and spell it for
19 the Court.

20 THE WITNESS: My name is Chad Rose. C-h-a-d. Last name,
21 R-o-s-e.

22 DIRECT EXAMINATION

23 BY MR. HOLFORD:

24 Q Corporal Rose, where are you currently employed?

25 A City of Myrtle Beach Police Department.

1 Q And how long have you been employed there?

2 A Twenty-three years.

3 Q All right. Back in 2018, December, what was your
4 assignment?

5 A I was in investigations, and I assigned to the Violent
6 Crimes Unit.

7 Q What did your job entail as an investigator with the
8 Violent Crimes Unit?

9 A Basically, any violent crime that came out, if I was on
10 duty, I would respond. Sexual assaults, robberies. Any kind
11 of assault, basically.

12 Q Did you have an occasion to respond in this case on the
13 28th or 29th of December in 2018?

14 A Yes.

15 Q And were you involved in this investigation?

16 A Yes.

17 Q Who did you work with?

18 A Sergeant Gibson.

19 Q Were you guys kind of paired up?

20 A Yes.

21 Q As a team?

22 A Yes.

23 Q Did you do a lot of the same things together?

24 A Yes.

25 Q On the night of December 30th, 2020, were you looking for

1 a suspect at that time based on the robberies?

2 **A** Yes.

3 **Q** And who was that suspect you were looking for?

4 **A** Dlanor Tilton.

5 **Q** And did you locate him?

6 **A** Yes.

7 **Q** Were you with other officers when he was located?

8 **A** Yes.

9 **Q** Where was he located?

10 **A** He was located at a street -- I think it was 6710 Bryant

11 Street. I think that's the address.

12 **Q** If I showed you what's been entered as State's 2...

13 And what's that address?

14 **A** Sorry. 6510.

15 **Q** 6510 Bryant Street. And that's where you located Tilton?

16 **A** Yes.

17 **Q** And where did he go when you located him?

18 **A** Well, I was in an undercover car, parked to the south of

19 that address. I was in the passenger seat with my car backed

20 in, so I was on the opposite side of him. When we determined

21 that he was the person we were looking for, I pointed out to

22 the other officer in the car with me, that's him. They got

23 out of the car. They ran after him. I stayed with the car in

24 that area, to make sure there was no one else around,

25 basically making sure that everything was secure. The other

1 two officers went inside after the defendant.

2 Q Who owns this 6510 Bryant Street? Whose house is that?

3 A Honestly, I don't know. I don't remember the name.

4 Q Do you know who owns the 6509 Bryant?

5 A No.

6 Q Did you interview the defendant, Tilton?

7 A I was present at the time, yes.

8 Q So you interviewed him with Gibson?

9 A Correct.

10 Q During that interview, do you remember where he claimed
11 to be staying at the time?

12 A I think he said he was staying at that address, if I
13 remember correctly, with -- I think it was his aunt or
14 something like that.

15 Q Okay. So the address where you found him, that's where
16 he claims his address was at the time?

17 A Correct.

18 Q Did you interview a Christopher Ward in this case?

19 A Yes.

20 Q I'm not going to ask you what he said.

21 You did meet with him and spoke with him?

22 A Correct.

23 Q The robbery that occurred on the 28th and the robbery
24 that occurred on the 29th, was there a similarity in location
25 where they occurred?

1 **A** Yes.

2 **Q** And what was that?

3 **A** Basically, the same street, within half a block of one
4 another. I think -- honestly, I think one of them was across
5 the street from -- it was 6509, I guess it is, to where it
6 actually occurred. I can't remember what date that was.

7 **Q** And was there a similarity in the way the victims were
8 contacted initially?

9 **A** Yes.

10 **Q** And what was that similarity?

11 **A** I think it was on an app, Grindr. For better words, a
12 hook-up app.

13 **Q** And was there a similarity about the number of people who
14 committed the robbery?

15 **A** Yes.

16 **Q** And what was that?

17 **A** The number of people?

18 **Q** Yes.

19 **A** The victims or --

20 **Q** For the robbery on the 28th, how many people committed
21 the robbery?

22 **A** Two.

23 **Q** For the robbery on the 29th, how many people committed
24 the robbery?

25 **A** Two.

1 Q We discussed a lot of this with Detective Gibson, so
2 forgive me if I don't go into the full breadth of your
3 investigation. You worked a couple of days, the 28th and 29th
4 and into the 30th and 31st on this case, didn't you?

5 A Yes.

6 Q You did a lot of investigation; is that correct?

7 A Yes.

8 Q Ultimately culminates to this product?

9 A Yes.

10 Q Was another individual other than Tilton arrested?

11 A No, not by me and Detective Gibson at the time.

12 Q Okay. Were there other detectives assigned to this case?

13 A Yes.

14 Q Is that common practice, to have multiple detectives
15 working together?

16 A Just matters if you catch the case, to be honest with
17 you, but yes.

18 Q And is it common practice for multiple road officers to
19 respond to locations?

20 A Yes.

21 Q With regards to the 28th and 29th, would that conclude
22 your involvement?

23 A No. I was there for the 30th, when we actually got the
24 defendant into custody.

25 Q That's correct. And we have kind of gone over this

1 before, but did you threaten Tilton in any way to give a
2 statement?

3 A No.

4 Q Did you coerce him?

5 A No.

6 Q Did you promise him anything?

7 A No.

8 Q Were you there when he signed this Miranda form,
9 State's 21?

10 A Yes.

11 Q That's Gibson's signature that appears on it, but were
12 you present?

13 A Yes.

14 Q So you were present during that interview?

15 A Yes.

16 Q Were you present for the search warrant --

17 A No, I was not.

18 Q -- of the 6510? Okay.

19 And did you meet with the -- Chris Ward on the 29th?

20 A Yes.

21 Q And so are you familiar with State's 26 and 29?

22 A Yes.

23 Q And what are those showing us?

24 A That's a picture of the victim's car and the victim's
25 back -- left ear and head.

1 Q And these have been introduced into evidence already.

2 And this is -- who is in 29? What's that a picture of?

3 A Ward, I think. Charlie Ward, I think is his first name.

4 MR. HOLFORD: Your Honor, I have no further questions at
5 this time.

6 THE COURT: All right.

7 CROSS-EXAMINATION

8 BY MR. FOX:

9 Q Officer, referencing that last picture of Mr. Ward -- the
10 back of Mr. Ward's head, are you aware of whether anybody
11 that's been accused in this -- these robberies was ever also
12 charged with an assault of any kind?

13 A An assault? Not that I'm aware of.

14 Q You would be aware, as one of the investigators?

15 A For the most part, yes.

16 Q Either that decision would have come from you or someone
17 who was also working on this case with you, perhaps Officer
18 Gibson?

19 A Yes.

20 Q And you say you did]not personally -- were not
21 personally involved in the arrest of anyone else other than
22 Mr. Tilton.

23 A Correct.

24 Q Are you aware of any other arrests with regard to either
25 or both of these robberies?

1 **A** No, sir.

2 **Q** Okay. Are you aware of an individual being arrested in
3 that general area carrying a backpack with a silver and black
4 BB pistol in it?

5 **A** No, sir.

6 **Q** Thank you, no further questions.

7 CROSS-EXAMINATION

8 BY MR. GARDNER:

9 **Q** Good afternoon, sir.

10 **A** How are you doing?

11 **Q** You were patrolling that area or helping with the patrol
12 of the area, 65th Avenue, 67th Avenue. Did anybody -- do you
13 know of anybody that did go up to The Cloisters and look at
14 Unit ■?

15 **A** Not that I'm aware. I don't remember.

16 **Q** But it could have happened? Somebody from the Myrtle
17 Beach Police Department?

18 **A** I'm not aware of it.

19 **Q** Are you aware of where The Cloisters are?

20 **A** The Cloisters?

21 **Q** I'm going to help you out. This thing should be like
22 this. Anyway, that's north. This is 67th. That's the
23 bypass.

24 **A** Okay.

25 **Q** At the corner of the 67th and the bypass is the funeral

1 home. Coming back this way, it's the AA building and then the
2 church.

3 **A** Okay.

4 **Q** And then some old apartment buildings. And those are The
5 Cloisters. And that's not even on this picture, but that's
6 where Mazar lived. But you don't know anything about that?
7 Actually, he lived at 10th Avenue. That's where his great
8 aunt lived, but it's not even on this picture. And you know
9 where 10th Avenue is; right? Like five and a half miles away?

10 **A** Correct.

11 **Q** Thank you, sir.

12 MR. GARDNER: Nothing further, Your Honor.

13 THE COURT: Anything in follow-up?

14 MR. HOLFORD: Nothing further, Your Honor.

15 THE COURT: All right. You may be excused.

16 Call your next witness.

17 MR. HOLFORD: The State calls Sergeant Amos.

18 THE COURT: How long do you think? Because we have two
19 jurors that need to pick up children.

20 MR. HOLFORD: 30 minutes.

21 THE COURT: How long do you think you'll need?

22 MR. FOX: I don't think it will be any longer than the
23 last witness, roughly. I don't expect it to be significantly
24 different than the last witness.

25 THE COURT: All right. Let's do this. Let's beat the

1 MR. HOLFORD: No, Your Honor.

2 THE COURT: Okay. Give me one second, because I don't
3 know how much time that they need to eat.

4 What about the verdict form? Are y'all okay with that?

5 MR. HOLFORD: Actually, there was one -- can I pull it
6 up? There was one warrant that was added to the top that I
7 don't think was included.

8 THE COURT: All right. Just clarify that with Amy and
9 she'll fix it.

10 MR. HOLFORD: And then there was a "D" in Dlanor's name
11 that should not be --

12 THE COURT: Oh, way to go, Amy.

13 THE CLERK: Oh, no.

14 MR. HOLFORD: Minor stuff.

15 MR. GARDNER: Mistrial.

16 [Laughter]

17 (A brief recess was taken from 9:36 a.m. to 9:40 a.m.)

18 (The jury entered the courtroom at 9:40 a.m.)

19 THE COURT: All right. Thank you so very much for being
20 on time. I hope you enjoyed breakfast and your evening. We
21 will resume the trial.

22 Detective if you'll come up, please, to be sworn.

23 SERGEANT JUSTIN AMOS,

24 after having been duly sworn, was examined and testified
25 to as follows:

1 THE CLERK: Please state your name and spell it for the
2 Court.

3 THE WITNESS: Justin Amos. J-u-s-t-i-n A-m-o-s.

4 (Pause in the proceedings while the clerk hands out
5 notepads to jurors.)

6 DIRECT EXAMINATION

7 BY MR. HOLFORD:

8 Q Sergeant Amos, where are you currently employed?

9 A Myrtle Beach Police Department.

10 Q And how long have you been with the Myrtle Beach Police
11 Department?

12 A About 15 years.

13 Q Back in 2018, December, what was your assignment then?

14 A I was a Violent Crimes investigator with Myrtle Beach.

15 Q And how long had you been a Violent Crimes investigator
16 with Myrtle Beach?

17 A About one year at that point.

18 Q Investigator, detective, those are interchangeable words?

19 A Same, detective, investigator.

20 Q Did you have occasion to become involved in the
21 investigation of this case with Tilton and Sturdivant?

22 A I did.

23 Q And how did that come about for you?

24 A So, on the 29th of December, 2018, was -- I don't know if
25 I was on vacation before or if it was just my scheduled days

1 off, but that was my first day back, and I became involved,
2 along with Detectives Bishop, Gibson, and Chad Rose, who were
3 already working this case.

4 Q Did you go to 6510 Bryant Street for a search warrant?

5 A I did.

6 Q We have seen the map.

7 When you got to 6510 Bryant, who did you encounter?

8 A There were three adults at the residence and two young
9 children. That would be -- sorry, go ahead.

10 Q No, go ahead.

11 A That would be Tonya, Kori, Mr. Sturdivant, and then two
12 children. Five and two, I believe they were.

13 Q Okay. So by the time you got to the residence, Tonya --
14 who is Tonya?

15 A Tonya is Mr. Tilton's aunt, as is Kori. He had two aunts
16 staying there.

17 Q So Kori is also Tilton's aunt?

18 A That's right.

19 Q You said there were two younger individuals. What's
20 their ages?

21 A Five and two, and they were Kori's children.

22 Q And then you said Sturdivant was there?

23 A Sturdivant was there, yes, sir.

24 Q He was at the 6510 Bryant Street?

25 A He was.

1 Q You didn't find him on 10th Avenue?

2 A No.

3 Q Or in the Cloisters?

4 A No.

5 Q Did you speak to him while you were there?

6 A I did.

7 Q And did you take him into custody at that time?

8 A No, sir.

9 Q Was he a suspect at the first time you encountered him?

10 A The first time we encountered, we were not actively
11 looking at him as a suspect.

12 Q Even though you didn't arrest him, did you provide him
13 with what's commonly known as Miranda?

14 A I did.

15 Q If you get forms, do you sometimes log them into evidence
16 and seal them up?

17 A Yes, sir.

18 (State's Exhibit No. 72, Sturdivant Miranda Rights Form,
19 was marked for identification.)

20 (State's Exhibit No. 73, Sturdivant Miranda Rights Form,
21 was marked for identification.)

22 MR. HOLFORD: May I approach, Your Honor?

23 BY MR. HOLFORD:

24 Q I'm going to hand you what's been marked for ID at this
25 point as State's 72 and 73. Are you familiar with those

1 documents?

2 **A** I am.

3 **Q** And how are you familiar with them?

4 **A** So this is a standard Miranda rights form that we use for
5 all of our interviews. And my name is signed and printed at
6 the bottom left of each one.

7 **Q** Are those true and accurate copies or are they originals?

8 **A** These are the originals.

9 MR. HOLFORD: Your Honor, at this time, the State would
10 seek to introduce State's 72 and 73 into evidence.

11 THE COURT: All right. Any objection?

12 MR. GARDNER: No, Your Honor.

13 MR. FOX: No, Your Honor.

14 (State's Exhibit Nos. 72 and 73 were received into
15 evidence.)

16 BY MR. HOLFORD:

17 **Q** Now, if we're looking at State's 72 and 73, they look
18 nearly identical?

19 **A** That's right.

20 **Q** Why would you do two different Miranda forms?

21 **A** Mr. Sturdivant was interviewed two different times at two
22 different locations.

23 **Q** Okay. So let's talk about the first interview. Can you
24 tell me, by looking at these, which one you used in the first
25 interview?

1 **A** In the first interview, I would have used State's 72.

2 **Q** And how do you know that?

3 **A** Because, in the second interview, it took place on the
4 night or the evening of the 31st of December, and it occurred
5 about 6:07 p.m., and I noted in the top right of this Miranda
6 form "607" so I could differentiate the two.

7 **Q** So we know that State's 72 was when you first encountered
8 him at that 6510 Bryant Street and had a conversation?

9 **A** That's right.

10 **Q** Did he -- well, he wasn't under arrest at the time?

11 **A** He was not.

12 **Q** So was he free to leave?

13 **A** He would -- he was under investigative detention from the
14 officers who arrived prior to me getting there.

15 **Q** Did you tell him he had the right to remain silent?

16 **A** I did.

17 **Q** Did he check off that he understood that?

18 **A** I did those check marks, but I did ask him and get some
19 sort of affirmative answer from him for each one.

20 **Q** Did he speak to you freely and voluntarily?

21 **A** He did.

22 **Q** Did he say he wanted to leave?

23 **A** No.

24 **Q** Did he say he wanted to talk to an attorney?

25 **A** No.

- 1 Q Did he actually sign this form?
- 2 A He did.
- 3 Q And did he, in fact, talk to you?
- 4 A He did.
- 5 Q And that was at 6510 Bryant?
- 6 A That's right.
- 7 Q Where he was with a Tonya Walker, Kori Walker, and two
8 minor children?
- 9 A That's right.
- 10 Q When you spoke to him, did he say he had anything in that
11 house?
- 12 A He did.
- 13 Q And what did he tell you he had in that house at
14 6510 Bryant?
- 15 A He had a wallet that he had found a couple of days
16 earlier that had an Amazon card in it, like a gift card when
17 he found it, and he had put \$30 of his own money in it that, I
18 believe, his father had given to him for selling a cell phone
19 or something.
- 20 Q Did he describe the wallet at all?
- 21 A I believe he described it as black with some sort of blue
22 stripe in it or on it.
- 23 Q And do you know, during that search of the residence, was
24 a similar wallet found?
- 25 A It was.

1 Q I'm going to hand you what's been entered as State's 70.

2 Are you familiar with State's 70?

3 A I am.

4 Q And what can you tell us about that?

5 A So this wallet was found during the execution of the
6 search warrant at 6510 Bryant Street on the night of
7 December -- I think it was the nighttime of December 31st.
8 And this wallet was located in the kitchen on a -- like a
9 kitchen counter or a kitchen cabinet.

10 Q I'm going to hand you State's 34, 35, and 36, which are
11 in evidence. And we have already had Crime Scene testify
12 about those, but is that what State's 70 is?

13 A Yes.

14 Q Are those pictures of that?

15 A That's right.

16 Q And on the inside of this wallet, what's the pattern in
17 there?

18 A There's blue and white stripes.

19 Q And what was the contents of the wallet before it was
20 placed in evidence?

21 A It would have been an Amazon gift card and \$30 cash.

22 Q Does that match what Mazar Sturdivant told you was his
23 wallet that was in that residence?

24 A It does.

25 Q Again, you didn't find that wallet on 10th Avenue or in

1 the Cloisters?

2 **A** No.

3 **Q** You found that at 6510 Bryant?

4 **A** That's right.

5 **Q** When you talked to him, did he admit to you that he had

6 been over at 6510 Bryant?

7 **A** He did.

8 **Q** How often would he go over there?

9 **A** Around weekly.

10 **Q** Okay. For about how long, do you know?

11 **A** For awhile. His uncle was friends -- still friends, I

12 imagine, with Tanya Walker. So his uncle is friends with

13 Mr. Tilton's aunt.

14 **Q** And he would go over to that house --

15 **A** To visit.

16 **Q** -- to visit.

17 Now, let's talk about -- that was your first interview?

18 **A** That's right.

19 **Q** Now, you said you had a second interview. And we have

20 got State's 73. It has the 607 up there. So that's sometime

21 later; right?

22 **A** That's later that evening. Same day.

23 **Q** Why would you do a second interview and where were you at

24 that time?

25 **A** So, I had been asleep during the day. I was working the

1 night rotation, evening rotation, and when I got in,
2 Mr. Sturdivant had been placed under arrest, and he was in our
3 jail, so we actually conducted a second interview with him at
4 the Myrtle Beach Police Department in an interview room.

5 Q So, after your first interview, he was placed under
6 arrest, and you did the second interview?

7 A He was placed under arrest sometime during the day of the
8 31st, during the daylight hours, not directly after that first
9 interview, just to be clear.

10 Q Okay. Understood.

11 During that second interview, did you talk to him about
12 December 29th, 2018?

13 A I did.

14 Q And what did he admit to you about December 29th, 2018?
15 Where was he?

16 A He admitted that he was at Tonya's house and that he saw
17 a white car or a white -- I call it a white SUV. I believe he
18 said it was a white car and that he saw it in the driveway, he
19 said.

20 Q And on State's 2, Tonya's house is....

21 A Tonya's house is 6510 Bryant Street.

22 Q Okay. Which happens to be on this map?

23 A That's right.

24 Q That's where Mr. Sturdivant said he was the night Chris
25 Ward was robbed?

- 1 **A** That's right.
- 2 **Q** And he saw the white car?
- 3 **A** He did.
- 4 **Q** In State's 25, we have a picture of a white SUV.
- 5 **A** That's right. White Buick Enclave, I believe it was.
- 6 **Q** And does that match the prescription of the car that
- 7 Sturdivant told you he saw that night of the robbery?
- 8 **A** It is a white car parked in their driveway.
- 9 **Q** So Sturdivant himself told you he was there at Bryant
- 10 Street when the robbery occurred?
- 11 **A** I don't know that he specified the time, but he did put
- 12 himself on-scene or at the 6510 Bryant address during the time
- 13 the robbery occurred. I just don't know if I made it clear to
- 14 him what time the robbery occurred.
- 15 **Q** Understood.
- 16 You had a couple of conversations with Mr. Sturdivant;
- 17 did you not?
- 18 **A** I did.
- 19 (State's Exhibit No. 74, Sturdivant Photo, was marked for
- 20 identification.)
- 21 BY MR. HOLFORD:
- 22 **Q** Would you recognize him if I showed you a picture of him
- 23 at the time?
- 24 **A** I would.
- 25 **Q** I'm going to hand you what's marked as State's 74 for ID.

1 Are you familiar with who is in that picture?

2 A That's a picture of Mazar Sturdivant.

3 Q Is that how he appeared at the time when you had a
4 conversation with him?

5 A Yes, sir.

6 MR. HOLFORD: Your Honor, at this time, the State would
7 seek to introduce State's 74 into evidence.

8 THE COURT: Any objection?

9 MR. GARDNER: Let me see it again, Your Honor. I'm
10 sorry.

11 No objection, Your Honor.

12 THE COURT: Without objection.

13 (State's Exhibit No. 74 was received into evidence.)

14 BY MR. HOLFORD:

15 Q So this is how he appeared at the time, December 31st,
16 2018?

17 A Yes, sir.

18 Q So this is what Mazar Sturdivant looks like?

19 A Yes, sir.

20 Q You've met with him. You have seen him. You know what
21 he looks like but the jury may not. This picture gives them a
22 view of what he looked like at the time?

23 A Yes, sir. That's what he looked like on December 31st,
24 2018.

25 Q Have you had a chance to review the surveillance footage

1 from the night before the 29th -- the December 28th, 2019
2 [verbatim]?

3 **A** I have reviewed it.

4 **Q** I'm going to hand you what's been entered as State's 12,
5 13, 14, 15, and 16. Just tell me first if you're familiar
6 with those photographs.

7 **A** Yes, sir, I am.

8 **Q** And do you see an individual who appears to be Mazar
9 Sturdivant in these photographs?

10 **A** I do.

11 MR. GARDNER: Your Honor, I'm going to object to the
12 opinion.

13 THE COURT: Let me see the pictures.

14 (Pause in the proceedings while the Court reviews
15 documents.)

16 THE COURT: I mean, the jury can give it whatever weight
17 his testimony will provide, so I'll allow it.

18 **A** I do.

19 BY MR. HOLFORD:

20 **Q** And which one of the two?

21 **A** So, one is in a lighter gray hoodie. One is in a darker
22 black or blue sweatshirt. And it's the lighter gray hoodie.

23 **Q** In State's 16, the gentleman at the counter?

24 **A** That's right.

25 **Q** But that's the night before the 29th. This is on

1 December 28th of 2018.

2 A That's right.

3 Q And these surveillance photos, where were they from?

4 A That's from a Circle K located at the intersection of
5 65th Avenue and North Kings Highway.

6 Q On State's 1, is that location on this map? If this
7 is -- sorry -- 17, 65th, 67th.

8 A It would be right here (indicating).

9 MR. HOLFORD: Your Honor, I have no further questions at
10 this time.

11 CROSS-EXAMINATION

12 BY MR. FOX:

13 Q Detective, the wallet that was found at 6510, that was in
14 the kitchen?

15 A That's right.

16 Q Not in one of the bedrooms?

17 A No. That was in the kitchen.

18 Q And up on the shelf or cabinet?

19 A That's right.

20 Q Okay. And Mr. Sturdivant indicated that he had been
21 going to 6510 for some period of time; correct?

22 A That's right.

23 Q And he also told you that -- you asked him how long or if
24 he knew -- that's okay.

25 Do you know, from your investigation, who was living in

1 that house at the time?

2 **A** I do.

3 **Q** Okay. And, in fact, my client, Mr. Tilton, was a recent
4 addition to that household; correct?

5 **A** That's right.

6 **Q** So Mr. Sturdivant would have been going there longer than
7 Mr. Tilton had been residing there?

8 **A** That is my understanding.

9 **Q** And by "recent," I mean within a few weeks, that same
10 month, in December 2018?

11 **A** Yes, sir.

12 **Q** So, who was it -- and Mr. Sturdivant was going with his
13 father, Dennis, correct, to visit 6510?

14 **A** I thought it was an uncle. It could have been father. A
15 relative -- male relative of his.

16 **Q** Because that relative was sweet on Ms. Latanya [verbatim]
17 Walker, they had some kind of relationship. It might have
18 just been friends, but he would go specifically to see
19 Ms. Walker, as far as your understanding?

20 **A** That's right.

21 **Q** Okay. Now, do you have -- from your knowledge of this
22 case, it's true that Mr. Dennis is somewhere in the age of 40,
23 early 40s?

24 **A** I believe so.

25 **Q** Are you aware, at 6510, in addition to other items that

1 were found, that the search warrant -- that there was also a
2 small amount of crack cocaine found in one of the bedrooms?

3 A I'm aware of that, yes, sir.

4 Q Was Mr. Tilton ever charged with possession of crack
5 cocaine?

6 A I don't know.

7 Q You didn't charge him with possession of crack cocaine?

8 A I didn't charge him.

9 Q Mr. Sturdivant talked to you, when you were asking him
10 about that neighborhood, talked about the trap house next
11 door. What's a trap house?

12 A A trap house is a slang term for, like, a dope house, a
13 place where drugs are sold and bought.

14 Q Is it your experience, with trap houses in Myrtle Beach,
15 that related crimes followed the crime of consuming and
16 selling illegal substances, but is it your experience, as a
17 police officer, that around the trap house, you then find
18 thefts and robberies and kind of related illegal activity?

19 A There are often other illegal activities occurring around
20 a trap house.

21 Q The photograph that was submitted to SLED of my client,
22 you're familiar with that?

23 A I'm familiar that it occurred. I didn't have anything to
24 do with that.

25 Q Okay. So -- and you're aware that SLED qualifies any

1 possible matches, specifically says in big ol' letters, this
2 might be match, it's nonconclusive, and don't use this for
3 probable cause; you're aware of that?

4 **A** That's right.

5 **Q** Okay. And probable cause -- you're familiar with that
6 phrase as a law enforcement officer. What does that relate
7 to?

8 **A** It's -- we describe it as more probable than not.
9 51 percent of -- if you're weighing evidence out, 51 percent
10 would be probable cause.

11 **Q** Probable cause is the standard -- well, it applies in
12 many areas, but to get an arrest warrant; correct?

13 **A** That's right.

14 **Q** Okay. And perhaps to start an investigation, perhaps if
15 there's a traffic stop for a speeding ticket and maybe there's
16 things that -- evidence of illegal activity that may allow the
17 officer to go further; correct?

18 **A** That's right.

19 **Q** Okay. But it is not the same standard as reasonable
20 doubt.

21 **A** It's not.

22 **Q** Okay. It's a much lower standard.

23 Now, are you aware of whether any other pictures were
24 submitted to SLED to run through their -- this facial
25 recognition program?

1 **A** I'm not aware of any others.

2 **Q** Okay. None of Mr. Sturdivant, that you're aware of?

3 **A** As far as I know.

4 **Q** Okay. And none of -- other than this one of Mr. Tilton.

5 Do you have any knowledge about how that program works,
6 the facial recognition software?

7 **A** No, sir, I don't know how it works.

8 **Q** So you're not aware that it is less -- it is less
9 accurate in identifying people of color than Caucasian
10 persons?

11 MR. HOLFORD: Objection, Your Honor. I believe he said
12 he has no knowledge about that.

13 THE COURT: He can answer the question. He'll just
14 answer how he -- that he has no knowledge of it.

15 You can ask the question -- or you can answer the
16 question.

17 **A** I have no knowledge of how that program works.

18 BY MR. FOX:

19 **Q** Okay. Now, are you aware --

20 MR. GARDNER: Can we approach the bench, Judge?

21 THE COURT: Sure.

22 BENCH CONFERENCE

23 (The following bench conference occurred outside the
24 hearing of the jury and others:)

25 MR. GARDNER: I believe Mazar is here. I didn't want to

1 bring him in, in the middle of testimony.

2 THE COURT: Okay.

3 MR. GARDNER: I'll just bring him in at the next break.

4 THE COURT: I'll tell Myra.

5 Myra, come up, please.

6 (Deputy approaches the bench.)

7 MR. GARDNER: He's here on his own, is what I think. I
8 think.

9 THE COURT: The defendant showed up, so just make sure he
10 doesn't come in. You don't have to detain him. Just make
11 sure somebody sits next to him. And I'll deal with him
12 whenever we take a break.

13 THE DEPUTY: He's not coming in here?

14 THE COURT: No.

15 THE DEPUTY: Okay.

16 THE COURT: Just make sure he doesn't go anywhere, and
17 make sure somebody stays with him.

18 (Open court resumes as follows:)

19 MR. FOX: I'll give Mr. Gardner a moment here.

20 MR. GARDNER: Thank you, Judge.

21 THE COURT: All right. Are y'all ready to proceed?

22 MR. GARDNER: Yes, sir.

23 THE COURT: All right.

24 Mr. Fox?

25 MR. FOX: Thank you.

1 (Pause in the proceedings.)

2 BY MR. FOX:

3 Q All right. Detective Amos, you have heard this week that
4 you and other detectives and law enforcement personnel were
5 investigating two robberies in the area of Bryant Street and
6 65th Avenue. In connection with that, are you aware of
7 another individual that was stopped in the area -- I think
8 right on Bryant Street close by to 6510?

9 A I'm aware of at least one that was stopped.

10 Q And, in fact, arrested?

11 A Yes, sir.

12 Q Okay. Mr. Holmes?

13 A That's right.

14 MR. HOLFORD: Your Honor, may we approach?

15 THE COURT: Sure.

16 BENCH CONFERENCE

17 (The following bench conference was held outside hearing
18 the jury and others:)

19 MR. HOLFORD: Your Honor, not only did the previous judge
20 sever Holmes's case from this trial, which was argued by the
21 defense to be done, but also, that's not the case that's on
22 trial. Mr. Holmes was arrested for a robbery from the 27th.

23 THE COURT: Correct.

24 MR. HOLFORD: And it's confusing to the jury.

25 THE COURT: What was the last question?

1 MR. FOX: What I want to get into -- the fact is that,
2 when he was stopped, he was in possession of a BB pistol that
3 was silver and black which matches what Mr. Beckoff described
4 to police. I mean, at least that general description; I don't
5 know if it's the same weapon or not.

6 MR. HOLFORD: Holmes was the one who was arrested. He's
7 talking about a guy who was arrested for a different armed
8 robbery than we're on trial for, for a defendant that was
9 severed from the trial.

10 MR. FOX: But in possession of a weapon that's been
11 described as being used.

12 THE COURT: No, I'm not allowing that. All right?
13 (Open court resumes as follows:)

14 MR. HOLFORD: Your Honor, I'd ask that that be stricken
15 from the record.

16 THE COURT: I don't strike things from the record just
17 for the purposes of appeal, but we'll move on.

18 MR. HOLFORD: Understood. Thank you.

19 MR. FOX: I have no further questions.

20 THE COURT: All right.

21 Mr. Gardner?

22 MR. GARDNER: Thank you, Judge.

23 CROSS-EXAMINATION

24 BY MR. GARDNER:

25 Q Good morning, sir.

1 **A** Good morning.

2 **Q** I just want to get a couple of things out of the way that
3 follow up from Mr. Fox.

4 Mazar was not arrested for the drugs that y'all found in
5 the house?

6 **A** Not as far as I know.

7 **Q** And he was not arrested for possession of any stolen
8 property that was found in the house?

9 **A** He was not.

10 **Q** And he was not arrested for any type of assault on
11 anybody?

12 **A** He was not.

13 **Q** Now, Mazar's father -- and like the judge said earlier,
14 if you don't know, just say you don't know. Mazar's father is
15 Dennis Washington, and he was dating or seeing one of those
16 witnesses that were living at 6510 Bryant, but I don't know
17 which one it is. Do you know which one it was?

18 **A** My understanding was he was dating or friends with Tonya.

19 **Q** Tonya. Okay. And Tonya was Tilton's aunt?

20 **A** That's right.

21 **Q** But Tonya had no relationship with Mazar?

22 **A** That's right.

23 **Q** Mazar's dad was seeing her in a romantic-type
24 relationship?

25 **A** Yes, sir.

- 1 Q And Mazar's dad, at that time, was staying with his aunt
2 up at the Cloisters?
- 3 A That's -- yes, sir, that's my understanding.
- 4 Q Mazar was 17 years old?
- 5 A That's right.
- 6 Q Mazar was in the 11th grade at Myrtle Beach High School?
- 7 A I don't know which grade.
- 8 Q But he was 17?
- 9 A He was 17.
- 10 Q And he was going to Myrtle Beach High School?
- 11 A He was. I just don't know which grade.
- 12 Q And it was Christmas break?
- 13 A That's right.
- 14 Q And he lives off of 10th Avenue. I can't remember the
15 name of the street. It's Canal or one of those type of
16 streets?
- 17 A He lived at [REDACTED] Canal Street.
- 18 Q And that is off of 10th Avenue?
- 19 A It is off of 10th.
- 20 Q So if I say somebody lives on 10th Avenue, if they
21 technically live on Canal Street, that wouldn't be too far
22 fetched?
- 23 A It's very close.
- 24 Q Very close. Okay.
- 25 You can't get to Canal Street without going to 10th

1 Avenue; right?

2 **A** There's a couple of ways in, but that's the main route.

3 **Q** But you have to know how to do it.

4 **A** That's the main route.

5 **Q** Okay. All right. Okay.

6 And the evidence that you talked about earlier, you
7 interviewed Mazar twice, and you told the solicitor about the
8 wallet, was in the first interview. And then, later that
9 night, you had a second interview with Mazar; is that right?

10 **A** So the first interview occurred around, I believe, just
11 before 2:00 a.m. --

12 **Q** Okay.

13 **A** -- on the 31st. The second interview started at about
14 6:07 p.m.

15 **Q** Same day, just later?

16 **A** That afternoon or that evening.

17 **Q** I didn't mean to talk over --

18 **A** No, I was correcting myself. Afternoon, evening.

19 **Q** All right. And do you have anything that would dispute
20 Mazar's story that he was visiting Tilton because his dad was
21 seeing -- I can't remember her name -- Tonya?

22 **A** Tonya.

23 No.

24 **Q** Thank you, sir.

25 **A** Yes, sir.

1 THE COURT: All right. Anything as a follow-up?

2 REDIRECT EXAMINATION

3 BY MR. HOLFORD:

4 Q Sergeant Amos, was anyone arrested for the drugs in the
5 house?

6 A I don't know. Just to clarify, my team -- my
7 investigations team generally didn't make drug charges. If we
8 encountered drugs, a drug unit officer would often come and
9 take over that for me. And I don't know if that happened or
10 not.

11 Q And did anyone get arrested for assault in this case?

12 A No.

13 Q Just armed robbery.

14 A Just armed robbery and possession of a weapon during a
15 violent crime. Those are the two charges that we charged.

16 Q Now, Mr. Gardner asked you if Mr. Sturdivant lived off of
17 Canal Street. Did you try and find him at that residence he
18 lived at?

19 A After an arrest warrant was issued on -- sometime during
20 the day of the 31st, our state law enforcement and one of our
21 U.S. Marshals and some Myrtle Beach patrol officers went to
22 that address to try to locate and apprehend him.

23 Q And did you find him there?

24 A He was not found there.

25 Q Where was he found?

1 **A** He was found at the Cloisters, which is 902 67th Avenue
2 North, and he was in -- I believe it was Apartment ■.

3 **Q** This is 67th Avenue here?

4 **A** I'm sorry? That is 67th, yes, sir.

5 **Q** So he was found off 67th Avenue?

6 **A** Higher up, yes, sir.

7 **Q** And during your interview with him, did he, in fact,
8 admit that he goes to the Circle K at 65th?

9 MR. GARDNER: Your Honor, objection. Improper redirect.
10 We didn't talk about any of that on cross-examination. For
11 him to re-go into this, it's improper under the rules.

12 THE COURT: All right. I'll sustain the objection.

13 Ask the next question.

14 BY MR. HOLFORD:

15 **Q** We have talked a lot about the fact that he lives or said
16 he lives on 10th Avenue and stayed at the Cloisters. Where
17 did you find him on December 30 of 2018?

18 **A** At Tonya's house. 6510 Bryant Street.

19 MR. HOLFORD: I have no further questions.

20 THE COURT: All right. You may be excused.

21 Call your next witness.

22 MR. HOLFORD: Your Honor, the State calls Christopher
23 Ward.

24 THE COURT: Wait, we need to do something.

25 Ladies and gentlemen of the jury, I need a quick

1 second to see if -- I need to ask some questions. So give me
2 a couple of minutes, and I'll bring you right back in. Grab
3 some more coffee and stretch your legs.

4 (The jury exited the courtroom at 10:16 a.m.)

5 THE COURT: Is he here?

6 THE DEPUTY: Yes, sir.

7 THE COURT: Well, I mean, we may need to go ahead and
8 bring him in right now, because if he's going to testify, he
9 may want to ID him.

10 MR. GARDNER: That puts me in a pickle, Judge.

11 THE COURT: That's my point. But he's here now.

12 MR. GARDNER: He's here.

13 THE COURT: I'm not saying it doesn't, but I mean, that's
14 the rules.

15 MR. GARDNER: Can I consult with him and see if he wants
16 to waive his presence at the trial and just sit out there in
17 that little room until you deal with him for missing
18 yesterday?

19 THE COURT: Can a defendant waive their right to miss a
20 trial? I guess they can.

21 MR. GARDNER: I think they have in the past. I mean, I
22 think he waived his right to be present.

23 THE COURT: No, he didn't. He just can't find his
24 client. Hmm.

25 MR. GARDNER: And I think right now, Judge, in all

1 seriousness, I think it would be too prejudicial for him to
2 come in at the last minute when they don't know where he's
3 been and what the circumstances are. And they know that
4 something was afoot, and I tried to be as quiet about it as I
5 could, but I wanted you to know as soon as I found out what I
6 found out. If I was the prosecutor, I'd want him brought in
7 and I want him brought in in shackles, but if I'm his lawyer,
8 I want him to wait out in the hallway until this trial is
9 over. We just have one more witness.

10 MR. HOLFORD: Your Honor, all I know -- I don't know,
11 procedurally. All I know is there's a bench warrant for his
12 arrest to be brought to court. That's all I'm aware of at
13 this time. I technically don't know if he has the right to
14 sit out in the hallway or not.

15 THE COURT: I'm not worried about that. I'm worried
16 about the fact that, if he is here at trial -- and the last
17 victim indicated that he wanted to positively identify him and
18 now you have another victim that may potentially be able to do
19 the same.

20 MR. GARDNER: Well, then we open up a whole new can of
21 worms about in-court identification.

22 THE COURT: That's true.

23 MR. GARDNER: He's here on his own. Nobody had to go get
24 him. He did say yesterday that he was having transportation
25 problems.

1 THE COURT: If he's taken into custody where do y'all
2 take him?

3 THE DEPUTY: Back here and then we'll take him downstairs
4 into holding, but we have holding cells up here too.

5 THE COURT: Who is with him now?

6 THE DEPUTY: Our constable.

7 THE COURT: All right. Bring him in.

8 MR. HOLFORD: And, Your Honor, I would just say I think
9 the client himself has the right to determine whether he's
10 going to be present or not for his trial.

11 THE COURT: I'm going to bring him in.

12 (Defendant Sturdivant entered the courtroom at
13 10:20 a.m.)

14 THE COURT: All right, Mr. Sturdivant. Where have you
15 been?

16 DEFENDANT STURDIVANT: I just rode the bus.

17 THE COURT: I know, but where were you yesterday?

18 DEFENDANT STURDIVANT: I couldn't --

19 THE COURT: Well, you weren't home when we sent the
20 sheriffs for you.

21 DEFENDANT STURDIVANT: I was at my mother's house.

22 THE COURT: Where is that?

23 DEFENDANT STURDIVANT: Socastee. And, you know, I wasn't
24 walking from Socastee from Myrtle Beach to catch the bus. My
25 mother, she just -- like she was -- it was some family stuff

1 going on, and she couldn't take me. She couldn't bring me. I
2 wouldn't have show up for the first couple of days and then
3 not show up one day and then come today. Obviously, I don't
4 have the transportation myself to make it up here like that.

5 THE COURT: Well, if you would have told me, I would have
6 sent a sheriff to pick you up every day.

7 DEFENDANT STURDIVANT: That's fine. I mean, I didn't
8 know it was going to be like that, because if I would have
9 known then, you know, it would have been -- not, you know --

10 THE COURT: Well, you have made the trial awkward at this
11 point in time, so I'm going to give you about five minutes to
12 talk to your attorney to see what you want to do, but I'm
13 going to take you into custody. I'm not going to put you in
14 the holding cell, but you're going to have to sit with the
15 constables and deputies. But I think you have a right to talk
16 to your attorney about how you want to proceed, so I'm going
17 to give you about five minutes. All right?

18 MR. GARDNER: Thank you, Judge.

19 (A brief recess was taken from 10:21 a.m. to 10:31 a.m.)

20 THE COURT: All right. So here's my decision. You have
21 Option A. Option A is you cannot argue to the jury that
22 Mr. Sturdivant was not at the location and that he was at an
23 alternative location during the robberies, if that is going to
24 be your defense. If your defense is that he wasn't there and
25 he cannot be identified, he will stay in the courtroom. If he

1 is going to say that -- any other defense, then he wants to
2 waive his right to be present here, then he can stay here.

3 If the defense is going to be "I can't be identified by
4 anyone," then, of course, the whole defense is "I wasn't there
5 so nobody is going to be able to identify me." So he can sit
6 right there, and see if they can identify him.

7 MR. GARDNER: I'm not sure I followed every bit of that,
8 Judge.

9 THE COURT: Option A is, if he wants to waive his right,
10 you don't get to argue that he wasn't there.

11 DEFENDANT STURDIVANT: So if I don't sit in the
12 courtroom, he can't defend that I wasn't there, but the
13 witnesses get a chance to identify me though?

14 THE COURT: Correct. The defense of "I wasn't there" is
15 over.

16 MR. GARDNER: Well, that's been our defense this entire
17 trial.

18 THE COURT: That's right. So he stays there.

19 MR. GARDNER: Do you understand what's going on?

20 DEFENDANT STURDIVANT: No.

21 THE COURT: If that's going to continue to maintain the
22 defense --

23 MR. GARDNER: Well, if he wants me to change it, I --

24 THE COURT: I mean, I don't know if you're going to be
25 able to change it now.

1 DEFENDANT STURDIVANT: Oh, no.

2 THE COURT: All right. Bring them out.

3 MR. GARDNER: Can I have one minute, Your Honor?

4 (Mr. Gardner and Defendant Sturdivant confer off the
5 record.)

6 (Mr. Fox and Mr. Gardner exit the courtroom.)

7 (Pause in the proceedings.)

8 THE COURT: Yep, bring them out.

9 MR. GARDNER: And I'll want to do a *Neal v. Biggers* at
10 some point in time, if it gets that far.

11 (The jury entered the courtroom at 10:35 a.m.)

12 THE COURT: The good news is you're getting your steps
13 in. That's a benefit.

14 Call your next witness --

15 Oh, I let him go use the restroom. They asked if they
16 could use the restroom and I said yes, and then I told them to
17 bring y'all out at the same time, so sorry.

18 Off the record.

19 (Pause in the proceedings.)

20 THE COURT: Call your next witness.

21 MR. HOLFORD: Your Honor, the State calls Christopher
22 Ward.

23 MR. GARDNER: Can we approach while he's going around,
24 Your Honor?

25 THE COURT: Sure.

1 BENCH CONFERENCE

2 (The following bench conference was held outside the
3 hearing of the jury and others:)

4 MR. GARDNER: This is going to be a true showup because
5 this witness has never identified my client, and he's been in
6 the courtroom the whole time we have been talking about the
7 law and options and A and B of the defense.

8 THE COURT: If he accidentally says it --

9 MR. FOX: Just read that caption for the record.

10 MR. GARDNER: That's what I'll put on the record at the
11 appropriate time.

12 THE COURT: Okay.

13 (Open court resumes as follows:)

14 THE COURT: All right. Swear the witness.

15 CHRISTOPHER WARD,

16 after having been duly sworn, was examined and testified
17 to as follows:

18 THE CLERK: Please state your name and spell it for the
19 Court.

20 THE WITNESS: Christopher Ward. C-h-r-i-s-t-o-p-h-e-r
21 W-a-r-d.

22 DIRECT EXAMINATION

23 BY MR. HOLFORD:

24 Q I apologize. Mr. Ward, will you tell the jury a little
25 bit about yourself. Where do you live? Not your exact

1 address but where do you live and what do you do?

2 **A** I live in Walterboro, and I'm a regional account manager
3 for commercial buildings. I hire the independent contractors.

4 **Q** Have you visited Myrtle Beach before?

5 **A** Yes.

6 **Q** Many times? A couple of times?

7 **A** A few times.

8 **Q** Back in December of 2018, were you in Walterboro or were
9 you here in Myrtle Beach?

10 **A** I was in Myrtle Beach.

11 **Q** We're in Conway now technically.

12 And what were you doing in the Myrtle Beach area?

13 **A** Well, I actually thought -- I decided to take a little
14 bit of time off from a stressful job, thinking that I'll come
15 and stay down at the beach and just kind of take a little
16 vacation.

17 **Q** Now, on December 29th, 2018, did you make a plan to meet
18 with somebody?

19 **A** Yes, I did.

20 **Q** And how did you do that?

21 **A** On the Grindr app.

22 **Q** All right. And on the Grindr app, were you
23 communicating -- were you planning to meet one individual?
24 Multiple individuals?

25 **A** One.

1 Q And who was that?

2 A I'm not really sure of his name. I just know that I met
3 him on the Grindr from, you know, a picture that was given to
4 me.

5 Q Do you always use your full name in this app?

6 A No.

7 Q I don't know. Explain to us how it works.

8 A Sometimes you don't have to give your name. You use an
9 alias name.

10 Q But did you make a plan to meet with someone on Grindr?

11 A Yes, I did.

12 Q And where were you supposed to meet?

13 A I don't know the exact address, but it was given to me in
14 the app, and I GPSed it.

15 Q Well, let me ask you this. Let me back up. I'm going to
16 show you what's been entered as State's 24, 25, 26, 27, 28,
17 and 29.

18 MR. GARDNER: Josh, I don't remember what those were. Is
19 that the -- okay. All right. Thank you.

20 MR. HOLFORD: They're in evidence.

21 MR. GARDNER: Yeah. I just didn't remember which number
22 it was.

23 MR. HOLFORD: I was just telling him.

24 BY MR. HOLFORD:

25 Q Are you familiar with those pictures?

- 1 **A** Yes.
- 2 **Q** State's 26, 25, 24, whose vehicle is that?
- 3 **A** Mine. It was mine.
- 4 **Q** And where is that vehicle parked?
- 5 **A** In the driveway of the address that was given to me.
- 6 **Q** That's the address that was given to you to meet?
- 7 **A** Yes.
- 8 **Q** Did you have any family on Bryant Street?
- 9 **A** No.
- 10 **Q** Did you know anyone else at 6509 Bryant Street?
- 11 **A** No. I didn't know anybody in Myrtle Beach.
- 12 **Q** Okay. So the person you were communicating with told you
- 13 to come to 6509 Bryant Street?
- 14 **A** Yes.
- 15 **Q** And that's where you went?
- 16 **A** That's correct.
- 17 **Q** Now, State's 28, is that your registration?
- 18 **A** Yes.
- 19 **Q** With your vehicle, so we know --
- 20 **A** That is my vehicle.
- 21 **Q** -- it is your vehicle.
- 22 You have told us that but also we have the registration
- 23 to show that.
- 24 State's 27, is that a picture of inside your vehicle?
- 25 **A** Yes.

1 Q Let me ask you this: Did you leave the glove box open?

2 A No.

3 Q So it was closed when you got there?

4 A Yes, it was.

5 Q And State's 29, who is that a picture of?

6 A That's the back of my head.

7 Q The back of your head.

8 All right. So you drive your vehicle to 6509 Bryant
9 Street. The vehicle is left there. What happened?

10 A I drove into the driveway. Two guys come out of the
11 bushes and -- with guns and ordered me to get out of the car.
12 One of them grabbed me with a gun. The other one, he kind of
13 just ran off. And the other one chased me down the road,
14 because I wasn't going to participate.

15 Q Let me ask you this: The guy who ran off, was that the
16 guy you were communicating with on Grindr or another
17 individual?

18 A Well, after arriving -- there's two individuals there.
19 Honestly, I'm not sure who I was communicating with, so I
20 would say I don't know.

21 Q Okay. You said one of them chased you down. Tell me
22 about that.

23 A Yeah. The one that had the gun, he's the one that hit me
24 in the head with the gun. The other gentleman ran off. The
25 other gentleman grabbed ahold of me and stopped me, and then,

1 finally, I got away from him again. He wanted my keys to my
2 car, and I wouldn't give them to him.

3 Q Where did you run?

4 A Behind the -- this was maybe a couple of houses from
5 where I was -- where the vehicle was left. And I jumped the
6 fence.

7 Q Did you call the police?

8 A The person that lived in the house called the police for
9 me.

10 Q Okay.

11 A She had two small children, and I was banging on the
12 window and bleeding, and I asked her to call, and that's what
13 she did.

14 Q And did the police show up to that residence? Did they
15 come to meet you there?

16 A Yes, they did.

17 Q I'm going to show you a slightly zoomed-in map,
18 State's 2. This is 6509 Bryant. Do you remember where you
19 would have run?

20 A Honestly, I don't. I don't really remember. I know it
21 was very, very close.

22 Q But if the police responded and met you here at [REDACTED]
23 Somerset, would that have been the --

24 A There's a possibility, because I know I jumped the fence
25 to get to where -- to try to get someone to call the police.

1 Q Wherever the police arrived and met you, that's where you
2 went and that's where the lady called?

3 A Yes.

4 Q You didn't know her either, though, did you?

5 A No, I didn't.

6 Q Let's back up. You went there to meet one person.

7 A Yes.

8 Q Did you say one or both -- two individuals show up. Was
9 that a surprise to you?

10 A Yes, it was. There was two that just jumped out of
11 nowhere.

12 Q Did one or both have guns?

13 A I just know the gun that was hit -- the one that had the
14 gun in his hand hit me in the head. The other one, I don't
15 really -- I just know that he was running and...

16 Q Do you remember --

17 A They're coming at me, I mean, but I don't know. It
18 happened so quick, I don't know if he had a gun or not.

19 Q Okay. Do you remember what the gun looked like? Are you
20 able to describe it? Could you see it? Tell me about that
21 situation.

22 A All I know, is it was black, and it was a handgun. It
23 looked a little larger than a normal, you know, like a play
24 toy.

25 Q Did it seem like a toy gun?

1 **A** No. It felt like a real gun when it hit my head, so...

2 And it looked like a real gun to me.

3 **Q** Do you know if it was a real gun or not now today?

4 **A** I don't know that.

5 **Q** Do you know who the individual is that struck you?

6 **A** Yes, I do.

7 **Q** And who is that?

8 **A** The gentleman that's sitting right there.

9 **Q** Do you know his name?

10 **A** No, I don't.

11 MR. GARDNER: Your Honor, I have an objection under
12 *Biggers* and some other cases, and also object to this question
13 because the testimony earlier, if I understood it right, is he
14 didn't know -- two guys came out of the bushes, and he didn't
15 know who they were. Now, we're in court. He's not going to
16 point to me because he knows I wasn't there, so it only leaves
17 him to point to this one.

18 THE COURT: All right. I'll sustain the objection.

19 Let's move on.

20 MR. HOLFORD: Your Honor --

21 THE COURT: He's already answered -- he's asked and
22 answered the question. It will stand.

23 MR. HOLFORD: I'm sorry; did you stay sustained or it
24 will stand?

25 THE COURT: Well, it will stand. I mean, he's objecting

1 that he's now identified him, but he can clean it up on
2 cross-examination.

3 BY MR. HOLFORD:

4 Q You don't know him by name?

5 A But I do know him by his face because he was in my face
6 with a gun.

7 Q Have you seen him -- but between that time and now, have
8 you seen him?

9 A No.

10 Q So this is your first opportunity to see him?

11 A Absolutely.

12 Q How certain are you that that's the one who struck you in
13 the head?

14 A I just wished he didn't come. That's how certain I am.

15 Q You weren't able to identify him to police because you
16 didn't know who he was at the time; is that correct?

17 A Absolutely. I mean, I just knew he was a black
18 gentleman. I mean, that's all I could describe him. How else
19 could I describe him? We had nothing else to go by other than
20 two guys jumped out of the bushes.

21 Q Did police show you a photograph of a suspect they were
22 looking for?

23 MR. GARDNER: I'm going to object to this. He said he
24 couldn't identify anybody --

25 THE COURT: Hold on. Don't say what he said.

1 All right. Ask him the question.

2 Don't answer it.

3 Ask him the question.

4 BY MR. HOLFORD:

5 Q Did police show you a photograph of the suspect they were
6 looking for?

7 A No.

8 Q Okay. Did they show you a photograph of -- and ask you
9 if that was the person you were contacting on Grindr?

10 A They did show me a picture of what they -- what was
11 pulled up on -- they had -- yeah, on the -- on the Grindr
12 account that they were able to pull up, they showed me a
13 picture of -- a picture that they were using on Grindr.

14 Q Okay. Tell me about that. What did they do? Because
15 I'm unclear. They showed you a picture of someone they pulled
16 up on Grindr?

17 A It might have been on a phone or something like that. I
18 mean, they were try to pull up my Grindr account because my
19 phone was stolen, so we had no access to my phone.

20 Q And did they find a picture of someone on Grindr?

21 A Yes.

22 Q And did ask they you if that's the person who struck you?

23 A No.

24 Q They did not?

25 A No.

1 Q Okay. Let me ask you this. I'm trying not to be
2 confusing, but were you able to identify the person they
3 showed you on Grindr as the person who hit you?

4 A No.

5 Q Okay. So the picture that they showed you of the person
6 on Grindr, you told them that's not the person who hit you?

7 MR. GARDNER: Leading, Your Honor. Objection.

8 THE COURT: I'll sustain the objection.

9 Ask an open-ended question.

10 A The picture that was on Grindr that was given to me, no,
11 it was not -- that was not the gentleman that hit me.

12 BY MR. HOLFORD:

13 Q It was another gentleman that hit you?

14 A Absolutely.

15 Q And who are you saying is that gentleman that hit you?

16 A I just stated earlier: That gentleman there. He's the
17 one who struck me with the gun. He's the one that chased me
18 down the road.

19 Q Did you ever go inside 6510 Bryant Street?

20 A No.

21 Q Did you ever go inside 6509 Bryant?

22 A No. I went in nobody's house.

23 Q I'm going to show you what's been entered as State's 41,
24 42, and 45.

25 A Yeah, that's my wallet that was left in the car.

1 Q Where did you leave this wallet? I'm sorry.

2 A I left it in one of the glove compartments.

3 Q Did you ever -- I know I have asked this, but I just want
4 to be sure. Did you ever take this yourself into this house
5 at 6510 Bryant Street?

6 A No.

7 Q What else was taken from you other than your wallet?

8 A My phone. My phone was taken at gunpoint. The wallet
9 was left in the car. And he demanded the keys to the car, and
10 I wouldn't give them to him.

11 MR. HOLFORD: Your Honor, I have no further questions.

12 THE COURT: All right.

13 CROSS-EXAMINATION

14 BY MR. FOX:

15 Q Just a couple, Mr. Ward. And I only ask this because, if
16 you know, on Grindr, was this -- the meeting that you set up
17 that you have testified to, was that the first time you had
18 used the Grindr app?

19 A No.

20 Q Okay. And I only ask that so I can ask --

21 A That's fine.

22 Q Oh, no. I only ask because of this question. It doesn't
23 bother me in the bit, don't care, but is it your experience --
24 and this could be any social media, not just Grindr -- that
25 people try sometimes to maybe post an altered picture of

1 themselves to make them look better, more attractive, more
2 interesting?

3 **A** Well, I mean, I assume that they do.

4 **Q** Okay. In other words, there's nothing to prevent someone
5 from putting up --

6 **A** Someone else's picture.

7 **Q** -- someone else's picture. Exactly.

8 MR. FOX: Thank you. Those are the only questions I had.

9 THE COURT: All right. Mr. Gardner?

10 MR. GARDNER: Thank you, Judge.

11 CROSS-EXAMINATION

12 BY MR. GARDNER:

13 **Q** Good morning, sir. Sorry you went through this. I'm
14 sorry you're having to come here today to get this over with,
15 but it will be over with soon.

16 I have just a few questions to ask you, more so to clear
17 up some of the confusion that I had. This case has been
18 confusing for me.

19 If I understood your testimony, earlier on, you said that
20 two guys came out of the bushes but you don't know -- you
21 didn't know who you were dealing with; is that right? I know
22 that contrasts with what you said at the end, but at the
23 beginning -- I want to just cover it all.

24 At the beginning of your testimony, if I understood you
25 right, you said two guys came out of the bushes, and you

1 didn't know who they were.

2 **A** Right.

3 **Q** Okay. So let me now jump forward to today. This
4 happened about almost four years ago, December of '18. So
5 three and a half years ago. Have you had any kind of photo
6 lineups with suspects with the police since then?

7 **A** No.

8 **Q** Have you had any kind of communication with the police to
9 try to suggest who the person was since then?

10 **A** No.

11 **Q** Did they do an artist rendering or a drawing or anything
12 like you may have seen on television, "This is who we think it
13 might be. Do you think that's him?"

14 **A** I think it was talked about, but I don't really recall.
15 I mean, I moved. They couldn't find me, so...

16 **Q** That's okay. What I'm just trying to figure out is, we
17 have a three-and-a-half-year period between the time that
18 you -- that this happened to you, and then today, you saying
19 that's the guy. And during that three-and-a-half-year period,
20 we didn't have any kind of identification whatsoever; right?

21 **A** Right.

22 **Q** Okay. So -- and you may know what the next question is
23 because I kind of was incorporating it in my objection to your
24 testimony is that, in a courtroom, just like on television
25 when they say, "Can you identify the person who did it?", they

1 never pick out the guy with the tie; they always pick out the
2 guy sitting next to him.

3 So that's what you did; right? You picked out the guy
4 sitting next to me.

5 **A** Because that's the gentleman that held the gun -- the one
6 that had very close contact, right in my face. The other
7 gentleman had a hoodie on, so I couldn't see him. But this
8 gentleman was right there, clear as day, so I knew it was him.

9 **Q** Thank you for that answer. The other guy had a hoodie
10 on.

11 Anything else you want to add?

12 **A** No.

13 **Q** That's it. Thank you.

14 THE COURT: All right. Anything in follow-up?

15 MR. HOLFORD: Nothing, Your Honor.

16 THE COURT: All right. You may be excused, sir.

17 Call your next witness.

18 MR. HOLFORD: Your Honor, the State rests.

19 THE COURT: All right. Ladies and gentlemen of the jury,
20 I'm going to give you the opportunity to get a couple more
21 steps in. There are some matters of law that I need to take
22 up with the State since they have rested their case.

23 (The jury exited the courtroom at 10:57 a.m.)

24 MOTIONS/MATTERS OF LAW

25 THE COURT: All right. Any motions?

1 MR. GARDNER: Before I go into my motion, I'd like to
2 make, on the record, to try to make a record that, for my
3 objection that we had at the bench conference, the case that I
4 showed to the Court was *United States vs. Deshawn Greene*.
5 It's a 2013 case. It's 704 F.3rd 298. And that was in
6 support of my motion to not allow an in-court identification.
7 And the questions -- and that's a *Biggers*, and then the cases
8 that go with that. But the questions for the record, when I
9 asked this fellow on cross-examination, basically cleared
10 up -- it's uncontroverted that this incident occurred three
11 and a half years ago. There's been nothing done in three and
12 a half years. He didn't identify him then. He hasn't
13 identified him until it's time -- for this time period. He
14 did identify him today because he's the only defendant in the
15 courtroom, and the victim was in the courtroom during the
16 entire time that we discussed what the defendant's rights were
17 with regard to coming in, in the middle of the trial, whether
18 or not Option A or B would limit his defenses, and I would ask
19 Your Honor that the victim's identification of my client be
20 struck and that the jury not be allowed to consider it.

21 THE COURT: Mr. Gardner, I agree with you wholeheartedly
22 to the extent that the victim should have never been in here.
23 I didn't know who that was.

24 MR. HOLFORD: Your Honor, may I respond to that?

25 THE COURT: Sure.

1 MR. HOLFORD: The victim has a statutory right to attend
2 the trial. He's not subject to witness exclusion.

3 THE COURT: Yeah, but during that time, I probably should
4 have excluded him. I mean, that's not the portion of the
5 trial. I mean, that's -- that's legal information that I
6 should have excluded him from. I didn't know he was -- I had
7 no idea who that person was. I mean, I don't know who those
8 two young ladies back there are.

9 MR. HOLFORD: Yes, Your Honor, but I did call him to the
10 stand as a witness.

11 THE COURT: No, I'm talking about I would have excluded
12 him when I gave out the options had I known that was the
13 victim.

14 MR. HOLFORD: I guess the State's position would be that
15 he has a statutory right to be present, Your Honor.

16 THE COURT: But he doesn't get to hear the defense's game
17 plan either.

18 The problem is, of course, is that Mr. Gardner can't say
19 to them -- I mean, he can make all the arguments that he
20 wants, if they picked out somebody, he obviously has not --
21 has any identification of the defendant prior to six minutes
22 ago. He can bring that up and raise cane about it, but that
23 does not cure the fact that the jury is never going to know
24 that the victim was in here during the options that I gave
25 out.

1 So there was no indication that he ever was shown a photo
2 lineup? Any other type of identification photos? Nothing?

3 MR. GARDNER: No, Your Honor.

4 THE COURT: Well, it's tough to shove the cat back in the
5 bag. I mean, I can give them a curative instruction to say
6 that they're not to consider that in-court identification,
7 but, you know, the cat is still out of the bag.

8 MR. GARDNER: Yeah, it's going to ring. I mean, that
9 bell is ringing.

10 THE COURT: Right.

11 MR. GARDNER: I think, after listening to everything
12 while I'm sitting here, I think I have to ask for a mistrial
13 at this juncture.

14 MR. HOLFORD: Your Honor, may I be heard?

15 THE COURT: Sure.

16 MR. HOLFORD: The defendant does not have a
17 constitutional right to be absent from trial in order to
18 prevent an in-court identification by a State's witness.

19 THE COURT: Well, that's what I talked about in the back.
20 I mean, it's a sword and shield. Yeah, I mean, he used it
21 yesterday. He would have received a benefit had he not been
22 in here, from not attending his trial, and he should not
23 receive a benefit by missing the trial because, of course,
24 everybody would just miss it.

25 MR. HOLFORD: So I don't think he had the right to opt

1 whether he was in here or not.

2 MR. GARDNER: We're past that. We're talking now about
3 the --

4 MR. HOLFORD: Right. So I -- but we're not past that,
5 because if the question is whether he had a right to be
6 present or not and that somehow has a determination on the
7 witness's ability to identify him, then we're not past that.
8 And what the State's argument is, he doesn't have a right to
9 not be present. He had to be here. He was in here.

10 THE COURT: In other trials, I mean, when we talk about
11 some of these motions in limine about excluding opportunity by
12 the victim to identify, they're here and they're usually here
13 for the entire trial. So it's just a little bit unique that
14 he was in here on the back end as opposed to the front end, as
15 the victim.

16 All right. I'm going to deny the motion for a mistrial,
17 and I'm going to instruct the jury they can give his testimony
18 whatever weight they want to give it. I mean, and I'm going
19 to let you have free reign as much as you want to argue that
20 to the jury. Obviously, he is here today and pointed at the
21 guy, like you said, sitting next to the person that doesn't
22 have a tie on. So I think it's an issue of credibility for
23 the witness -- I mean, for the jury to consider, so I'll allow
24 it.

25 All right. What other motions do you have?

1 MR. GARDNER: Do you want to go first on directed
2 verdict?

3 MR. FOX: I'll let you go.

4 MR. GARDNER: Okay. Then I would just make the standard
5 directed verdict motion. But I do have some peculiarity or
6 some specific ones. This is not a generic one.

7 In other words, as to Count 1, if it is Count 1, the
8 first armed robbery, I don't know if we have enough evidence
9 in the record to send that one to the jury, and I would ask
10 specifically that case be a directed verdict on that.

11 THE COURT: All right. And what specifically are you
12 indicating that's lacking from that case?

13 MR. GARDNER: Well, I don't think they put him -- I don't
14 think that the witness identified him in particular. And if
15 I'm wrong, I'm wrong, but I was going through this in my head
16 last night. I don't remember -- I remember him saying the
17 names, but that's not identification. That's just something
18 he learned through his investigation after the fact. I know
19 the police did talk with him and all these things did go
20 forward, but I don't think there was identification enough to
21 send it to the jury that he was one of the two people that
22 robbed him -- he being Mazar, my client.

23 THE COURT: All right. They're talking about the
24 December 28th with the prior victim. What's y'all's position
25 as to that?

1 MR. HOLFORD: As to Mazar Sturdivant?

2 THE COURT: As to the evidence that would be in the
3 record that would put Mr. Sturdivant at the scene of the
4 crime.

5 MR. HOLFORD: Your Honor, the evidence in the record is
6 that Beckoff testified that Tilton and Sturdivant were the
7 ones who committed the robberies. I think it was gone through
8 in defense about him doing his own investigation.

9 There's evidence also in the record of him identifying
10 the photographs from the 12/28/2018 surveillance video which
11 have been identified as Sturdivant, at a minimum -- possibly
12 Tilton too; I would have to go back in the record and
13 remember. He was identified by Sergeant Amos as Sturdivant,
14 and Beckoff has identified that those are the two that robbed
15 him.

16 There's also substantial circumstantial evidence in the
17 record to support that the individuals that appear in these
18 surveillance videos on 12/28/2018 are, in fact, the
19 defendants, Tilton and Sturdivant, based on the fact that the
20 police were investigating because they had been at that
21 Circle K. That's where the surveillance was pulled. The
22 photo of -- I'll get to Tilton, but all the photos of the DMV,
23 RMS, Grindr match the description of Tilton, but I think
24 there's direct evidence in the record that Sturdivant is that
25 individual from 12/28, and he was identified by name for the

1 victim for the 12/28 robbery. I think that's at least enough
2 to get us past DV at a minimum.

3 THE COURT: All right. I find that there's enough
4 substantial evidence in the record to deny the motion for
5 directed verdict as to the December 28th robbery, and I
6 will -- and, again, I agree that any of this is for the jury
7 to determine the credibility of which they want to give the
8 witnesses. I think that's basically what this entire trial is
9 about, so...

10 MR. GARDNER: Thank you, Judge. And, for the record, I
11 would make that direct verdict motion on Count 2.

12 THE COURT: All right. Mr. Fox?

13 MR. FOX: Thank you, Your Honor. I would, of course,
14 renew all previous objections that have been made both before
15 the pretrial with Judge Holt on Monday of this week as well as
16 during the trial itself. I would ask for a directed verdict
17 on each indictment of armed robbery.

18 With regard to the first one where Mr. Beckoff was
19 robbed, I do not believe -- although he, again, used names and
20 he said, "Well, my niece went to -- I know the name, because
21 my niece went to school with Mr. Tilton," that's not the same
22 as saying this is the guy that robbed me. So I'm not sure,
23 again, there's any direct identification of Mr. Tilton. Yes,
24 there are social media and other things and certainly pictures
25 of Mr. Tilton, but I don't think the photographs from Circle K

1 are very clear with regard to one person, who I think they're
2 alleging is Mr. Tilton; his face is more down.

3 Mr. Ward specifically was unable to identify Mr. Tilton
4 aside from his presence or not presence in the courtroom. He
5 was unable because he said that person had a hood on. So
6 whoever the second person was, he simply could not identify.

7 And other than being across the street from where
8 Mr. Tilton's aunt was living and where he was living, there is
9 nothing that directly connects him to the second incident. So
10 we would ask for directed verdicts on each.

11 THE COURT: All right. What's the State's --

12 MR. HOLFORD: Your Honor, in addition to the argument
13 previously made during Sturdivant's DV motion, there's
14 substantial evidence in the record that Tilton lived at that
15 6510 Bryant. The victim's wallet was located at 6510 Bryant.
16 There's circumstantial evidence in the record to support the
17 fact, I believe, he was directly identified by name by
18 Beckoff. He's been identified as the individual in this
19 Grindr photo. He has been identified as, at a minimum,
20 matching the description of the person in the surveillance
21 video from 12/28, and I think there's substantial evidence to
22 tie him to both of these -- both of these crimes as the
23 similarities in the Grindr app was used in both cases. I
24 think that would be most of it, Your Honor.

25 THE COURT: All right. I find there's sufficient

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1 evidence in the record to present to the jury for their
2 consideration, so I'll deny the motion for summary judgment.

3 Anything else?

4 MR. GARDNER: I don't think so, Your Honor.

5 MR. FOX: No, Your Honor.

6 THE COURT: Mr. Sturdivant, stand up.

7 DEFENDANT'S RIGHTS

8 THE COURT: All right, Mr. Sturdivant. At this point in
9 time, it's your opportunity to put up a defense. You have no
10 obligation whatsoever to put up a defense. As you are fully
11 aware, the State must prove you guilty beyond a reasonable
12 doubt, and that you have no obligation to put up a defense on
13 your behalf. And in doing so, you must discuss your right,
14 which you have a constitutional right to testify. All right?
15 And it's your right. No one else has it. Your lawyer can't
16 make you do it. Nobody can make you do it. So it's
17 completely up to you. All right?

18 I'm going to give you about five or ten minutes to think
19 about it. You can talk to your family, you can talk to your
20 friends, you can talk to your lawyer. You can talk to anybody
21 that's inside this courtroom, but at the end, it is your sole
22 decision as to whether you put up a defense and testify. Do
23 you understand?

24 DEFENDANT STURDIVANT: Yes, sir.

25 THE COURT: All right. We'll be back in five.

1 MR. GARDNER: Thank you, Judge.

2 (A brief recess was taken from 11:10 a.m. to 11:16 a.m.)

3 THE COURT: All right, Mr. Sturdivant. Have you had
4 enough time to consider whether you want to put up a defense
5 or testify on your own behalf?

6 DEFENDANT STURDIVANT: I'll testify on my own behalf.

7 THE COURT: You wish to?

8 DEFENDANT STURDIVANT: Yes, sir.

9 THE COURT: All right. Bring them out.
10 You can sit.

11 (The jury entered the courtroom at 11:18 a.m.)

12 THE COURT: All right. Mr. Gardner, Mr. Fox,
13 understanding that the burden rests solely on the shoulders of
14 the State, that they must prove both of your clients guilty
15 beyond a reasonable doubt and that you have no obligation
16 whatsoever to put on a defense. Do you wish to put up a
17 defense?

18 MR. FOX: Your Honor, Mr. Tilton rests.

19 THE COURT: Mr. Tilton will rest.

20 Mr. Gardner?

21 MR. GARDNER: Your Honor, the defendant, Mazar, is ready
22 to go forward.

23 THE COURT: Let's go.

24 MR. GARDNER: We'll call him as a witness.

25 THE COURT: All right. Call your first witness.

1 MR. GARDNER: Go up there and listen to the clerk.

2 MAZAR STURDIVANT,

3 after having been duly sworn, was examined and testified
4 to as follows:

5 THE COURT: All right, Mr. Sturdivant. If you'll speak
6 up for us so the court reporter can take everything down.
7 Okay?

8 THE WITNESS: Yes, sir.

9 THE COURT: State your name and spell it for the Court.

10 THE WITNESS: My name is Mazar Sturdivant. M-a-z-a-r,
11 S-t-u-r-d-i-v-a-n-t. My middle name is Nathaniel. And, you
12 know, I don't usually write my middle name.

13 THE COURT: That's fine. Nathaniel is fine.

14 THE WITNESS: Yes, sir. I testified --

15 THE COURT: Hold on.

16 DIRECT EXAMINATION

17 BY MR. GARDNER:

18 Q There's a way -- there's a format we have to use.

19 A Okay.

20 Q I'm going to ask you a question. If you understand that
21 question, you answer that question. Okay?

22 A Yes, sir.

23 Q If you don't understand it, you let me know. All right?

24 A All right.

25 Q And when I finish asking you a question, one of the

1 prosecutors -- and maybe Mr. Fox -- is going to ask you a
2 question. If you understand that question, you answer that
3 question. Do you understand?

4 **A** Yes.

5 **Q** And it's common -- it's human tendency to shake our heads
6 yes and no, but you need to say yes or no if it's a yes or no.
7 If you need to explain it, you can explain it. But the lady
8 in the center of the courtroom is the court reporter. She's
9 taking down everything that I say and everything you say.

10 **A** All right.

11 **Q** Ready to go?

12 **A** Yes, sir.

13 **Q** Do you mind if I call you Mazar?

14 **A** No, I don't mind.

15 **Q** Okay. You can leave that thing alone. You can just
16 listen and talk into it. Okay? If we don't hear you, one of
17 us will let you know that you need to talk a little louder.
18 Okay?

19 **A** Thank you, Johnny.

20 **Q** Okay. All right. Mazar, I met you about three and a
21 half years ago right after this happened; is that right?

22 **A** Yes, sir.

23 **Q** With your granddad and your mom?

24 **A** Right.

25 **Q** Anybody else?

1 **A** No.

2 **Q** All right. Back about three and a half years ago, you
3 were 17 years old?

4 **A** Yes, sir.

5 **Q** Okay. Were you -- where were you living at?

6 **A** I was living on [REDACTED] Canal Street.

7 **Q** Is that off of 10th Avenue?

8 **A** Yes, sir. On Joe White.

9 **Q** Is Joe White and 10th Avenue basically the same road?

10 **A** Yeah.

11 **Q** All right. And you lived there with your mother? Is
12 that what you just said?

13 **A** She has a residence, like, down the road from there.
14 That's my grandfather's house. That's, like, everybody --
15 like, that's the permanent residence for, like, everybody in
16 the family, like, everybody's mail comes there, like, type of
17 stuff, like, his kids and stuff.

18 **Q** Just trying to figure out where you lived. Okay?

19 **A** [REDACTED] Canal Street.

20 **Q** Okay. Thank you, sir.

21 **A** I actually lived there though.

22 **Q** What?

23 THE COURT: Say that again. You've got to speak up.

24 **A** I actually lived there, though, but, like, that's the
25 permanent address for, like, everyone in our family.

1 BY MR. GARDNER:

2 Q We're talking about you right now. Okay? And I think
3 there's more confusion. I'm trying to take away confusion.
4 We have been confused for a week now. Okay? Where did you
5 live at?

6 A [REDACTED] Canal Street.

7 Q And that is off of 10th Avenue?

8 A [REDACTED] Canal Street.

9 THE COURT: Just say yes or no.

10 THE WITNESS: That's off of 10th Avenue.

11 THE COURT: Say yes or no.

12 THE WITNESS: Yes.

13 BY MR. GARDNER:

14 Q All right. At this time, during this time frame,
15 Christmas, you were on Christmas break from Myrtle Beach High
16 School; is that right?

17 A Yes.

18 Q And you were in the 11th grade? I don't know. I thought
19 you were in the 11th grade. If you were in a different grade,
20 you can tell me.

21 A Yes, I was in the 11th grade.

22 Q Okay. All right. And, during the Christmas break, did
23 you have the occasion to visit with your father?

24 A Yes.

25 Q Where was he staying?

1 **A** Cloisters.

2 **Q** Was that Unit [REDACTED]?

3 **A** [REDACTED], yes.

4 **Q** In the Cloisters. Is that off of 67th Avenue?

5 **A** Yes.

6 **Q** I'm going to show you this picture. Well, it's not on
7 the picture. Well, let me show you anyway part of this
8 picture.

9 Okay. So this is 67th Avenue. Okay? And this is 65th
10 Avenue. And it as the -- as you go north, the avenues
11 increase. 65 -- I don't know where 66 is -- 67, 68, and so
12 forth. And as you go south, they decrease all the way, for
13 you, would be down to 10th Avenue, which would be down by my
14 feet somewhere.

15 **A** Mm-hmm.

16 **Q** Okay? So the Cloisters, is it going towards the bypass
17 that's up there by the church; is that right?

18 **A** Yes.

19 **Q** All right. And that's where your father stayed? Who did
20 he stay with?

21 **A** My aunt.

22 **Q** All right. During this time frame, were you staying
23 there also?

24 **A** Visiting.

25 **Q** All right. You were visiting your father at your aunt's

1 house because it was Christmas break?

2 **A** Yes.

3 **Q** So was your father seeing anybody romantically at that

4 time?

5 **A** He was trying to see Tonya -- Latonya Walker.

6 **Q** Where did she live?

7 **A** I don't know her address, but that Bryant Street address.

8 **Q** The Bryant Street address.

9 Who else lived there?

10 **A** Mr. Tilton, a little kid named Junior, another woman, and

11 her two kids.

12 **Q** So at least two adults?

13 **A** Mm-hmm.

14 **Q** That's the females. And then Tilton?

15 **A** Yes.

16 **Q** Three adults.

17 **A** Yes.

18 **Q** Three-bedroom house?

19 **A** Yes.

20 **Q** And two minor children?

21 **A** Three minor children.

22 **Q** Okay. Around two years old and five years old?

23 **A** Only two minor children like that.

24 **Q** What were you talking about the third one?

25 **A** There's the junior. There's, like -- I don't know. I

1 guess he's 12, 13, 14.

2 Q Okay. All right. He stayed there too?

3 A Yeah.

4 Q All right. But you didn't stay there; right?

5 A No.

6 Q All right. So did you ever go over there?

7 A My father, like, he was helping pay their bills and
8 stuff, so, you know, when I visited on Christmas break and
9 stuff, he introduced me to her as the woman that he was trying
10 to talk to. I visited over there.

11 Q When you say "the woman he was trying to talk to," what
12 does that mean?

13 A You know, like, this could possibly be like -- this is
14 the woman that, you know, I have been spending my time with
15 or, like, spending my money with and stuff. We drink and
16 stuff and chill and hang out.

17 Q Your new stepmom?

18 A Possibly.

19 Q Okay. All right. So you would go over and visit with
20 him when he visited her?

21 A Not all the time.

22 Q All right. Did you have any other reason to go there
23 other than go with your dad?

24 A Nope.

25 Q If your dad had not tried to make time with this lady,

1 would you have ever gone to -- I believe it's 6510 Bryant
2 Street?

3 **A** Nope. That's the first time -- like, I didn't even know
4 nothing about who lived there, like, the house, none of that.

5 **Q** So when you went there with your dad, you met these other
6 adults --

7 **A** Yeah.

8 **Q** -- that you just talked about.
9 And one of them was Tilton?

10 **A** Yeah.

11 **Q** About what day was this?

12 **A** I wouldn't be able to recall.

13 **Q** Okay. It was during -- or was it during Christmas break?

14 **A** Yes.

15 **Q** All right. Was it before Christmas or after Christmas?

16 **A** After Christmas.

17 **Q** After Christmas?

18 **A** Yes, sir.

19 **Q** All right. So Christmas would have been on the 25th?

20 **A** Yes.

21 **Q** All right. And so you would have met him sometime after
22 that. All right.

23 Had you ever met him or seen him before this Christmas
24 break?

25 **A** He used to play football for, like, my high school.

1 Q Myrtle Beach?

2 A I have seen of him.

3 Q And I probably didn't ask a good question. I'm going to
4 try again.

5 When I say "see him," I didn't mean see him on television
6 or see him driving down the road. I meant, like, did y'all
7 have any interaction?

8 A No, sir.

9 Q Any connection?

10 A No, sir.

11 Q Do anything together?

12 A No, sir.

13 Q All right. So when you were visiting on 6510 Bryant
14 Street with your dad, did you and Tilton do anything while you
15 were there?

16 A Because, like, I have been visiting over there, like,
17 before Tilton was even -- like before Tilton showed up, I have
18 been visiting my father on multiple occasions. So, like, I
19 actually know a lot of people over there.

20 Q Okay.

21 A So, yeah. I mean, after I met him or whatever and they
22 introduced me to him and she was, like, "Oh, this is my
23 nephew" or whatever, whatever, and then it was like, you know,
24 the basketball court is down the road or whatever, I'll show
25 you.

- 1 Q Did you play basketball?
- 2 A Yeah, I played basketball.
- 3 Q Okay. What else did y'all do?
- 4 A Other than that, you know, I smoked marijuana.
- 5 Q With Tilton or by yourself?
- 6 A Most of the time by myself. Tilton will try to be like,
- 7 "Oh, I got some gas."
- 8 Q All right. Now, this whole case, the reason we're here
- 9 is the State of South Carolina has accused you of actually two
- 10 armed robberies. All right? So the short answer [verbatim]
- 11 is: Did you do an armed robbery?
- 12 A No, sir.
- 13 Q I'm sorry; the short question is: Did you do an armed
- 14 robbery?
- 15 A No, sir.
- 16 Q All right. Did you do an armed robbery with Tilton?
- 17 A No, sir.
- 18 Q Were you with Tilton when he did an armed robbery?
- 19 A No.
- 20 Q And that was a bad question, too, because that assumes
- 21 that he did one. I'm not assuming anybody did anything
- 22 between you and Tilton.
- 23 The question is: Did you do anything?
- 24 A No.
- 25 Q Okay. All right. When the police found you and took you

1 into custody, you were at Unit [REDACTED] in the Cloisters?

2 A Yes, sir.

3 Q And that's -- you said earlier that's where you stayed;
4 right?

5 A Visiting.

6 Q Okay. And I don't want to get into an argument with you
7 about what the word means.

8 A You know, I just -- like I told you in the office, I just
9 want everything to be accurate because I was staying, like,
10 living at, like, [REDACTED] Canal Street. I visited over there
11 after Christmas.

12 Q After Christmas, you visited at -- when you say "over
13 there," do you mean the Cloisters?

14 A Yes, sir.

15 Q Did you spend the night there?

16 A Yes, sir.

17 Q Because it was Christmas break?

18 A I spent -- every night I was visiting over there, I
19 stayed. I slept at the Cloisters, yes, sir.

20 Q All right. I'm not trying to trick you. Okay. You and
21 I just disagree on what the word "visiting" means.

22 A Oh, no, you're, like -- you're asking me a question. I'm
23 just answering it, like -- I'm just answering the question.

24 Q When I go to see my parents or my grandma or whoever for
25 the Christmas break, I spend the week with them and I spend

1 the night with them and say I stayed with them during the
2 Christmas break. Is that kind of like what you do with your
3 dad?

4 **A** Yes, sir.

5 **Q** Okay. All right. Did you ever spend the night on Bryant
6 Street?

7 **A** No.

8 **Q** 6510 Bryant Street?

9 **A** No.

10 **Q** Did you ever -- I mean, you never used that as your --
11 where you would spend the night or visit or any of those
12 words?

13 **A** I have never spent the night there.

14 **Q** Okay.

15 **A** And because of, like, she would try to play hard to get
16 with my father, so he couldn't stay the night there. I
17 wouldn't never even, like, you know, attempt to stay the night
18 there.

19 **Q** Did you have a curfew with your aunt?

20 **A** No, sir.

21 **Q** Okay. Was it your aunt or great aunt?

22 **A** She's my great aunt.

23 **Q** All right. At the Cloisters, she stayed there, your dad
24 was staying there with her, and you were visiting with them.
25 Anybody else staying at the Cloisters?

1 **A** No, sir.

2 **Q** When the cops came and got you from there, did they
3 search that house; do you know?

4 **A** They didn't.

5 **Q** They didn't search? They just came and got you?

6 **A** Mm-hmm. Well, they took, like -- because, you know, I
7 had to bring, like, a bookbag, over there. Like, bring my
8 clothes and stuff.

9 **Q** Because you were visiting? When you said "there," are
10 you talking about the Cloisters?

11 **A** The Cloisters.

12 **Q** All right. So tell me about one of your days. You said
13 you smoked some marijuana and played some basketball. Did you
14 watch videotapes or listen to music? Anything like that?

15 **A** I have been, like, making music and stuff. So, like, I
16 do make music. I play basketball. I know a bunch of people
17 over there or whatever, so it's, like, Bryant Street, I have
18 been over there, like, a couple of times, but that's not the
19 only place that I would hang out in that area, like, when I
20 visit over there.

21 **Q** Okay. And then, walking around, you walked to the store?

22 **A** Mm-hmm. There's, like, probably four stores in that area
23 that I can go to.

24 **Q** Did you ever walk to any of them?

25 **A** All of them.

1 Q All four of them?

2 A All four.

3 Q Okay. Did you ever go by yourself?

4 A Yes, sir.

5 Q Did you ever go with anybody else?

6 A Yes, sir.

7 Q Do you know -- do you remember who you went with?

8 A Shoot, I go with my dad. I have been to the store with

9 Tilton before. I have been to store with Tonya. I have been

10 to the store with probably, like, everyone.

11 Q All right. Did you -- and I asked you earlier, I think.

12 Did you participate in any robbery with Tilton?

13 A No, sir. You asked me. You did.

14 Q Okay. Did you have a gun?

15 A No.

16 Q They found some guns at Bryant Street, if I understood

17 the testimony right. Was any of those guns yours?

18 A No.

19 Q Did you have a Grindr account?

20 A No.

21 Q Did you ever go on Grindr?

22 A No. No, I, like -- I have been on there before.

23 Q How long ago?

24 A I was, like, in a relationship. Probably, like, three

25 years.

1 Q Was it before this Christmas break or after?

2 A This Christmas break, like, in between.

3 Q Well, what I'm trying to do is narrow down a time frame,
4 and I don't know. The reason we're here, the date and time
5 or time frame we're here for is Christmas break of 2018.

6 A It was about, like, a whole two-year relationship before
7 this -- this thing. And then it was another year or whatever.

8 Q Okay. And I'm confused again. I'm just trying to
9 establish if you had a Grindr account during December of 2018.

10 A No, sir.

11 Q Okay. But you had a Grindr account. Was it before
12 December of 2018 or was it after?

13 A Before.

14 Q Before. All right.

15 Did you keep it current or did you end it?

16 A After you get into a relationship, it ain't no dating
17 sites staying on your phone.

18 THE COURT: I'm sorry. You've got to speak up. I
19 couldn't hear you.

20 A After you get into a relationship with somebody, it ain't
21 no dating sites going to stay on your phone.

22 BY MR. GARDNER:

23 Q Okay. Thank you. Because I was having a hard time
24 following you.

25 So tell me if I got it right. You're saying that you had

1 a Grindr app two years before December of 2018 but you got in
2 a relationship so you got off the dating site?

3 A Yeah. You know, I dabble on both sides of the fence.

4 Q I'm just -- one step at a time. Okay?

5 The Grindr application, I'm talking about. You had a
6 relationship so you weren't on a dating site anymore; right?

7 A Right.

8 Q Because that's what Grindr is. It's a dating site; is
9 that right?

10 A Right.

11 Q We've heard testimony this week from two people that were
12 on Grindr that had Grindr accounts, and they said that they
13 hooked up or tried to hook up with somebody on a Grindr
14 account. Was that you?

15 A No.

16 Q Okay. I don't think it was, because I think the State
17 said it was somebody else's Grindr account.

18 A Right.

19 Q And the first fellow -- and I don't remember where he
20 said that he was at, but he was on Grindr and he went to meet
21 somebody to hook up with him. When they say they're meeting
22 somebody to hook up with on Grindr, what are they talking
23 about?

24 A If you say "hook up," like, they're planning on doing,
25 like, sexual acts, intercourse, oral --

1 Q And that's what Grindr is about? What?

2 A Nothing.

3 Q If you say something, you need to say it, because they
4 want to hear it and I want to hear it.

5 A I got you. I got you. I'm trying to get it together and
6 state it. Like, you know, I have to recall everything. It's
7 been, like, three years.

8 Q It's actually been longer than that. Right now, I'm just
9 asking you about the Grindr app.

10 A Right.

11 Q The Grindr app was for dating. And my question was, When
12 people say, "I was on the Grindr app and I connected" -- and I
13 don't know what the words are; I've never been on it, but I
14 connected with so-and-so to hook up, you're telling me, if I
15 understood you right, that "hook up" means you're going to see
16 that person for sex?

17 A Right.

18 Q Okay. During Christmas of 2018, did you hook up with
19 anybody on Grindr?

20 A I was in a relationship, so if I would hook up with
21 anyone, it would be the person that I was in a relationship
22 with. And they were actually supposed to, you know, come and
23 testify, the person that I was in a relationship with, because
24 I have had them visit, you know, in that area at that time.

25 Q Okay. If you can answer the question with a yes or no,

1 that will be great.

2 **A** I'm up here to defend myself, Johnny.

3 **Q** Sir?

4 **A** I'm up here to defend myself.

5 **Q** I can't hear what you're saying.

6 **A** I'm up here to defend myself. I am defending myself.

7 THE COURT: All right, Mr. Sturdivant.

8 BY MR. GARDNER:

9 **Q** I appreciate that. You don't have to yell. That mic can

10 pick you.

11 **A** You know, I apologize.

12 **Q** It's not necessary. I'm trying to help you communicate.

13 Okay? So when I ask you a question, if the question can be

14 answered with a yes or a no, answer with a yes or a no, and

15 then if you feel like you have to explain it, then explain it.

16 Don't go off on this explanation and what we're waiting for is

17 that a yes or a no. Okay?

18 **A** Yes.

19 **Q** Okay. All right. So -- I have lost my train of thought.

20 I'm just trying to tell the complete story to the jury so they

21 can make a decision.

22 If I understood it right, you didn't hook up with the two

23 fellows that testified today on Grindr?

24 **A** No.

25 **Q** Did you hook up with them ever in any way?

1 **A** No.

2 **Q** Okay. Leave that microphone alone. All right.

3 Did you have a gun?

4 **A** No.

5 **Q** Did you go with Tilton or anybody else to rob these two
6 guys?

7 **A** Nope.

8 **Q** Were you there when -- they said they were robbed. Were
9 you anywhere around the two of them when they were robbed?

10 **A** No.

11 **Q** All right. The fellow that just testified said it was
12 you, and you were in the courtroom when that happened. Had
13 you ever met with that fellow before?

14 **A** I have never seen that -- no.

15 **Q** Okay. All right. Is there anything that I left out?

16 **A** No.

17 **Q** Please listen to the questions and answer them if you
18 understand them. Okay? ✓

19 **A** Okay.

20 MR. GARDNER: Thank you, Your Honor.

21 THE COURT: All right. Anything, Mr. Fox?

22 MR. FOX: No, Your Honor.

23 THE COURT: All right. Mr. Holford?

24 MR. HOLFORD: Thank you, Your Honor.

25 CROSS-EXAMINATION

1 BY MR. HOLFORD:

2 Q Mr. Sturdivant --

3 MR. HOLFORD: Your Honor, may I approach?

4 THE COURT: Absolutely.

5 BY MR. HOLFORD:

6 Q I'm going to hand you what's been entered as State's 14,
7 15, and 16. Do you know who those guys are?

8 A Yes.

9 Q And who are they?

10 A It looks like Holmes and myself.

11 Q Okay. What are you wearing in there?

12 A A beige hoodie.

13 Q Okay. So that is you?

14 A Yes. You can probably go to all them stores and find
15 pictures like that of me and multiple people.

16 Q Because you do go to this Circle K right here at
17 6501 North Kings?

18 A Yeah.

19 Q You have been around there. You told the police that.

20 A Yeah.

21 Q You visited the 6510 Bryant Street, Tonya's house?

22 A Yeah.

23 Q You told the police you had been over there about once a
24 week for a while; right?

25 A Once a week?

1 Q That's about what you said. If it's more or less --

2 A We can agree with that, yeah.

3 Q The police asked you about a wallet you had left in the
4 house at that 6510 Bryant. Do you remember them asking you
5 about that?

6 A Yes.

7 Q Do you remember telling them what it looked like?

8 A Yes.

9 Q What it had in it?

10 A Yeah. Containing \$22. And there was a card in there
11 but, you know, they was taking slips of paper out of it and
12 stuff. And I put that in my statement too.

13 Q State's 70 is this black wallet with, like, the blue in
14 it. Is that the one you were talking about?

15 A I really don't remember, like, how it looks. Like, I
16 just know I don't see my money in there, so I don't care about
17 that wallet.

18 Q Okay. But you did say you left a wallet in that
19 6510 Bryant Street?

20 A Yes.

21 Q And you described it as black, having blue on the inside
22 with some cash in it and an Amazon card?

23 A I don't recall remembering the description of the wallet
24 because, like Johnny said, it's been over three years. So
25 really I put the dollar sign under my eye, you know, because I

1 have made so much more money than what has been left in that
2 wallet. I basically forgot about that wallet. And my money
3 is not in there. You're not showing me my money.

4 (State's Exhibit No. 75, Cash in Envelope, was marked for
5 identification.)

6 BY MR. HOLFORD:

7 Q I'm going to show you what's been marked as State's 55.
8 [Verbatim]. It says \$22 cash money from a wallet in the
9 kitchen.

10 A Thank you.

11 Q Is that --

12 A You know, I was 17 at that time.

13 Q Would this be the money you were talking about?

14 A You know, shoot, that's -- it was Christmas too. So I'm
15 sure it was like that. Y'all took my money. Y'all robbed me.

16 Q And put it into evidence.

17 A And it's right there though. That's not right.

18 Q Okay. So no one took your money from you.

19 I'm going to hand you State's 18. Do you know who that
20 is?

21 A Tilton.

22 Q Tilton? So the guy in State's 18 on the Grindr app,
23 Grindr photo, that is, in fact, Dlanor Tilton?

24 A Yes.

25 Q Because he was meeting these guys on Grindr?

1 **A** Yes.

2 **Q** You saw -- on December 29th, 2018, you saw that white car
3 come up across the street?

4 **A** No.

5 **Q** You didn't tell police that you saw the white car?

6 **A** No.

7 **Q** Do you remember when they interviewed you?

8 **A** Yes.

9 **Q** Do you remember signing the Miranda forms and the --
10 saying you waived your rights?

11 **A** Yes.

12 **Q** And you agreed to talk to them; right?

13 **A** The police?

14 **Q** Yeah.

15 **A** Yes. I was stopped by the police, like, two times before
16 they actually -- and I was let go, like, twice before they
17 actually came to my door and arrested me.

18 **Q** Yes. So the first night, they talked to you out here at
19 this 6510 -- at Tonya's house; right?

20 **A** Yes.

21 **Q** Okay. But they didn't arrest you?

22 **A** Right.

23 **Q** They came back --

24 **A** No, that was the second -- actually, at that Bryant
25 Street, that was the second time that they ran into me.

1 Q Okay. When you did talk to them, didn't you say, "I know
2 I saw a white car in that driveway because I was at Tonya's
3 house"?

4 A No.

5 Q And you're telling the jury you didn't have a gun either;
6 right?

7 A Right.

8 Q And you want to tell the jury that you weren't involved
9 in the robberies?

10 A Yes. Because, according to you, I have only been over
11 there once: A week. Christmas break is only one week.

12 Q I don't know how often you've been there. That's what
13 you told the police.

14 A That's not what I told them though. I just agreed with
15 you. I said uh, and agreed with you.

16 Q All right. Well, how often were you over at 6510 Bryant?

17 A My daddy, you know, he tried to -- you know, he was
18 basically trying to be in a relationship with that woman. So,
19 you know, like, probably -- probably twice. Like, but you
20 know, it's like dang. It was like pop-ups, like, okay, let me
21 check for you, because, you know, he's -- well, you don't
22 know, but my father is an alcoholic, but he likes to get drunk
23 and, you know, he overspends his money and stuff. So, you
24 know, I check up on him, and then go about my day. And, then,
25 you know, if he's like that, I just -- like, he gave me that

1 money.

2 Q So you're telling us you were over there a couple of
3 times but you weren't participating in the robberies. That
4 was someone else?

5 A Right.

6 Q Did you tell police who was doing those robberies?

7 A No, because really, like I say, I just do pop-ups and
8 stuff. It really wasn't -- it wasn't none of my concern.

9 THE COURT: What did you say? I didn't understand you.
10 Say it again.

11 THE WITNESS: I do pop-ups. Like I would pop up, check
12 on my father, and then, you know, leave and go do something
13 else. It was really, like -- like Tilton and Dang [verbatim],
14 you know, what they had going on, I mean, I don't know. It
15 wasn't discussed with me. There was no planning involving me.
16 If I had, like, only been over there, like, twice out of that,
17 you know...

18 BY MR. HOLFORD:

19 Q So you weren't involved in the planning of the robberies?

20 A I didn't know nothing about no robberies prior to, you
21 know, everything going down and, like, blue and white lights.
22 Well, no. When I got stopped by the police, they informed me,
23 that, you know, that robberies were going on, but no, no
24 planning.

25 Q You had met Dlanor, it looks like, a little bit before

1 Christmas; is that right? Tilton?

2 **A** No. Because I didn't appear at the Cloisters until after
3 Christmas.

4 **Q** Okay. So when did you meet Tilton?

5 **A** The 26th.

6 **Q** The 26th. Okay.

7 Do you remember when detectives were asking you about the
8 robbery on the 28th and you said, "I have seen the white
9 car -- just the white car in the driveway. That's it."
10 That's a different time from when you said the white car
11 earlier.

12 **A** What white car? No, I don't recall.

13 **Q** Did you tell police this was always your wallet or you
14 found it?

15 **A** That was always my wallet. Like, I keep wallets. I
16 think I have a wallet on me -- no, I left my wallet at the
17 house. I have, like, two wallets at the house. I keep
18 wallets, so...

19 I have wallets. I'm a wallet man.

20 **Q** You didn't tell them you found the wallet walking on
21 Bryant Street?

22 **A** No.

23 **Q** And you didn't say it was a couple of days ago that you
24 had found that wallet?

25 **A** No.

1 Q And you didn't say, "I didn't know whose wallet it was, I
2 don't have a wallet, and I was walking around and found a
3 wallet"?

4 A How, if I claim that that's my wallet? No.

5 Q But you never told police that?

6 A No.

7 Q And then, when they asked you about the robbery on the
8 29th, you told police, "I don't know much about that one. I
9 just saw the white car out there."

10 A I don't recall saying anything about a white car.
11 Anything.

12 Q But, again, you talked with them three and a half years
13 ago; right?

14 A Give or take.

15 Q So you're telling the jury now that you never saw a white
16 car out there?

17 A I don't recall anything about a white car, the jury.

18 Q Is that because the white car is the gentleman who just
19 testified that he was robbed by you?

20 A That's what I was just about to ask you: Is that his
21 car? Is that what you're talking about? Because I don't
22 remember saying anything. I don't even know -- I have never
23 even seen that man. So him having a white car or whatever, I
24 don't recall seeing no -- like -- and that's, like, before I
25 just asked you if that was him or you just stated that that

1 was him. I don't recall saying anything about a white car.

2 Q And you're telling the jury that now because that man
3 with the white car said you're the one who robbed him?

4 A Is that Amos? Ask Amos. I was not -- he tried to tell
5 me I was noncompliant because -- ain't nobody say nothing
6 about no white car.

7 Q You didn't rob anyone? You didn't have a gun? You don't
8 know how that wallet got in the house?

9 A Which wallet? My wallet?

10 Q The victim's wallet.

11 A Yeah. No, I don't know nothing about how his wallet got
12 in that house. I didn't rob anyone. I don't -- I didn't have
13 any gun. None of that.

14 Q I have no further questions.

15 THE COURT: All right. Anything as a follow-up?

16 MR. GARDNER: No, Your Honor.

17 THE COURT: All right. Sir, you may step down.

18 Call your next witness.

19 MR. GARDNER: If I can consult with my client when he
20 gets here.

21 THE COURT: Absolutely.

22 (Mr. Gardner and Defendant Sturdivant confer off the
23 record.)

24 MR. GARDNER: Judge, that's going to do it for us. We're
25 going to rest.

1 THE COURT: All right. Ladies and gentlemen, the
2 defense -- Mr. Sturdivant has rested as well, so that will
3 conclude the trial apart from I'm going to allow the
4 attorneys -- are y'all ready to proceed forward with the
5 closing arguments, or do y'all want a couple of seconds?

6 MR. HOLFORD: Can I have a minute?

7 THE COURT: All right. They're going to set up for the
8 closing arguments. As I've indicated yesterday in the morning
9 and in the afternoon, that I'm going to give them the
10 opportunity to now give a closing argument, which, again, is
11 not to be considered evidence whatsoever by yourself. It's
12 simply just what they are going to argue that the evidence has
13 now shown. All right?

14 At the close of that, I am going to charge you on the
15 law, and then I will give you your instruction following that,
16 and I will give Madam Forelady her instructions, and I'll
17 allow you to begin your deliberations. Okay?

18 All right. Grab some steps, and we'll get you right back
19 in.

20 (The jury exited the courtroom at 11:55 a.m.)

21 THE COURT: All right. Anything from the State?

22 MR. HOLFORD: Your Honor, just to make sure the procedure
23 is right, since the defense has put a witness up, the State
24 will open in full, defense will -- or, sorry, close in full.
25 The defense will close in whatever order is determined and

1 then the State will have a chance for rebuttal to things
2 mentioned?

3 THE COURT: Correct.

4 MR. HOLFORD: Then, since I'm going first, can I set the
5 TV up, please?

6 THE COURT: Yes. All right. We'll take a five-minute
7 break. And, again, Mr. Sturdivant is to stay in the
8 courtroom. Okay?

9 And, for the record, I added identification to the jury
10 charges.

11 MR. HOLFORD: Yes, Your Honor.

12 MR. FOX: Yes, sir.

13 MR. HOLFORD: And defendant failure to testify is still
14 in there --

15 THE COURT: Oh, you know what?

16 MR. FOX: Yes. Thank you.

17 THE COURT: That's why I didn't throw it away. I put it
18 right there.

19 (A brief recess was taken from 11:56 a.m. to 12:04 p.m.)

20 THE COURT: All right. Y'all ready to roll? All right.
21 Bring them out.

22 (The jury entered the courtroom at 12:04 p.m.)

23 THE COURT: All right. Thank you very much, ladies and
24 gentlemen. At this point in time, we will proceed with
25 closing arguments. Much like you have seen in most of the

CLOSING ARGUMENT ON BEHALF OF THE STATE

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1 trial, the State will have the opportunity to go first and
2 then either defendants may give a closing argument as well,
3 and the State will have the opportunity to rebut.

4 All right. Mr. Holford?

5 MR. HOLFORD: May it please the Court?

6 CLOSING ARGUMENT ON BEHALF OF THE STATE

7 MR. HOLFORD: Ladies and gentlemen of the jury, what
8 we're here talking about is two armed robberies. Now, armed
9 robbery is the taking by force or intimidation with the use of
10 a deadly weapon or something that appears to be a deadly
11 weapon or something that an individual thought was a deadly
12 weapon. That deadly weapon could be a knife, it could be a
13 pistol, it could be dirks, or it could be metal knuckles.

14 What we have in this case are two BB guns. Now, what I
15 think you'll find interesting -- and I did it this way on
16 purpose -- is that the victims as they sat there, when they
17 testified to you, they thought they were real guns. That's
18 important. They don't know that they're BB guns. We know
19 they're BB guns because we have actually looked at the gun
20 itself.

21 These appear to be deadly weapons. They appear to be
22 deadly weapons to both of the victims. That's why, when both
23 victims testified to you, they said, "I had a gun pointed at
24 my head. I thought that I could die."

25 That is a reasonable belief based on the fact that these

1 two guns look like real guns. One has got a slight orange
2 tip; it was colored in black. The only reason you do that is
3 to try and disguise a BB gun as a real gun. The purpose of
4 these guns is to appear as if they're real guns, as if they're
5 deadly weapons.

6 When a person robs someone with one of these, that's an
7 armed robbery. They believed it was a deadly weapon. They
8 appear to be deadly weapons. That's what we have in this
9 case.

10 You heard from both of the victims. They thought they
11 were getting robbed at gunpoint. Why else would they hand
12 over cash, wallets.

13 The other thing about armed robbery is that items have to
14 be taken from immediate presence of a person. What did they
15 take? Well, they took phones in both cases. You heard from
16 both of the victims -- Beckoff and Ward -- that phones were
17 taken. Why can't Beckoff call anyone immediately? Because
18 they just stole his phone, at gunpoint.

19 Where's the cash? There's little bits of cash. You can
20 watch the surveillance video. You can see them digging in
21 their socks for little bits out of cash, pulling out cash, a
22 little bit of cash in the wallet. The police didn't take the
23 cash, by the way. It was seized. It's in evidence. No one
24 is out here taking someone's cash.

25 Wallets, money, cards, IDs, social security cards,

1 phones, that was all taken at gunpoint. That's what an armed
2 robbery is.

3 So what I want to spend most of my time talking about and
4 what we've had to spend most of our time this week talking
5 about is who did it. You know, up until today, the State's
6 jumping around hoops trying to figure out who are these guys.
7 We know who they are. We have got to show you who it is by
8 testimony, by people who knew them. Turns out that's
9 Sturdivant the whole time. That's what we told you. That's
10 what we knew to be true. He's admitted it.

11 So all this back and forth about who is where or even
12 around 65th Avenue, "I live at the Cloisters, I live off the
13 map." Sure, whatever. But, on December 28th, 2018, who is
14 right here on video? Sturdivant is.

15 You know, we have to go through this whole process
16 because that's what the law requires. I have to prove beyond
17 a reasonable doubt. I don't get to just get up here and tell
18 you how it happened. I have to call witnesses. I have to
19 call the police who investigated it. We went to that Circle K
20 to get the surveillance video because that's where the
21 defendants were seen, and now bring it in here and show it to
22 you. And I have got to jump through all the hoops of who are
23 these guys? Well, I think it's them. I don't know.
24 Objection. It may not be them. The State can't prove that
25 it's them until he gets on the stand and says, "Yep, that's

1 me." Okay. Well, there we go. When I told you the whole
2 time -- what our witnesses were telling you the whole time is
3 true.

4 So when Beckoff takes the stand and says that's the guys
5 who robbed me, that's Sturdivant, that's Tilton, he was
6 telling the truth.

7 His story about the 30-year-old, 40-year-old male, he
8 told you about that. It seems weird. I get it. I had some
9 issues with that too. Hey, why did you tell them it was a 30-
10 or 40-year-old? He gets beat up about it. You can't possibly
11 know it's them. How do you know it was Tilton? How do you
12 know it was Sturdivant? How do you know? You're just naming
13 them. You did your own investigation.

14 He points to this. That's them. No, can't be. You can't
15 believe him, until Sturdivant himself says, "Yep, that's me."

16 All right. So we can believe Beckoff. Sturdivant has
17 confirmed what Beckoff has said.

18 Who is this guy? We send it to SLED. We do a facial
19 recognition. Facial recognition may not work. It's pretty
20 inaccurate. Can you be sure? It's not probable cause. Sure,
21 they say it's Dlanor Tilton but can we really trust them?
22 That's not a positive match. It's only probable cause.

23 You go through RMS, you go through DMV, you go through
24 the pictures. That's Dlanor Tilton. But is it? That's the
25 whole question. Is it? Do we know that's Tilton?

1 Well, guess what? Sturdivant himself says, "That's
2 Tilton. That's the guy I know." So this whole time we have
3 been jumping around this "you can't believe the witnesses,"
4 worrying about their credibility, they can't say who it is for
5 sure, you know what? These two guys didn't know Tilton and
6 Sturdivant those nights. They knew they were meeting one guy
7 off of Grindr. And what happened when they got there? Two
8 guys, both times. Two guys. Not one holding two guns. Two
9 guys came up, armed, and robbed them. Both nights.

10 I mean, Tilton -- who we know now that's Tilton. He's
11 been identified. Up until Sturdivant took the stand, we would
12 have had to say circumstantial evidence, please believe the
13 police, please believe what they're telling you, please
14 believe the victims. And the defense would have said, Well, I
15 don't know. We can't really be sure. Facial recognition
16 isn't that good. The police may be wrong. They probably
17 misidentified someone. The victims -- it was dark at night.
18 They probably misidentified. They don't know who robbed them.

19 Well, now we know that's Tilton. So we're past all of
20 that.

21 This man, Dlanor Tilton, met both of them on Grindr for
22 food, for money, for whatever. But that's not what happened.
23 You know why? Because it was a setup the whole time. He was
24 never there to meet them for food or money. He was there to
25 rob them. And he got his buddy, Mazar Sturdivant, to help

1 him.

2 Sturdivant gives an interview to the police, and you'll
3 remember what the police said. Remember during that interview
4 how they talked about the wallet that was found and the blue
5 and white stripes. You know, why did we go through this? Why
6 did I go on about the little bitty details that you're
7 probably thinking, gosh, get over it already. Well, the whole
8 time I'm trying to show you that he's at this place. You
9 know, he's where the robberies are occurring. The whole time
10 I'm having to fight this argument that he lives on
11 10th Avenue, he stays at the Cloisters, and, you know, it
12 couldn't have been him because he's not around. Well, his
13 wallet is in the cabinet there.

14 He's stopped right on the -- at the house. He's
15 interviewed at the house when they come up there. Now, he
16 comes up and tells you he's over there a couple of times, he's
17 met Tilton before, right after Christmas. He said the 26th.
18 So he meets Tilton the 26th. The 28th, Beckoff gets robbed
19 right here. The 29th, Chris Ward gets robbed right here.

20 You know, during his interview, he told Amos and Amos
21 told you what he said about the distinctness of the wallet,
22 the blue and white stripes and the cash and the Amazon card.
23 You know, we show you these pictures so that you can be sure
24 Amos isn't making something up. That's what he said. And
25 here it is.

1 Amos told you, when he interviewed him -- Sturdivant,
2 that is -- he denied the robberies. No question about that.
3 He's not going to put a gun in his hand. He said, "I just saw
4 the white car." Well, after the victim comes up and says,
5 "That's my white car," all of a sudden, the story is changed.
6 Amos told you what he told him during the interview. "I
7 didn't rob anyone, but I did see the white car."

8 Now, "I don't know anything about a white car." Why?
9 Because the victim says, "That's the guy who hit me with the
10 gun, and I'm driving this white car." Now, the white car is
11 connected to the victim, and so, now, he's saying, "I don't
12 know anything about a white car, I never saw it." That's not
13 what he told the police that night.

14 We go through this monotony of 6509 Bryant. Why is that
15 important? Because that's where Tilton told Chris Ward to
16 show up. He drove his vehicle to this empty house at
17 6509 Bryant because they were waiting in the bushes right
18 across the street from where they stayed, where Tilton lived,
19 where Sturdivant visited, where he met Tilton, where they hung
20 out, where they walked around this neighborhood together.

21 You know, why did we go through calling the officers
22 initially to talk about this Somerset address? That's where
23 the police responded because that's where the 911 call came
24 from. Can we believe Chris Ward? Is he telling the truth?

25 You know, we get pictures from that night. The glare is

1 terrible -- and you'll have these back there -- of a red mark
2 on his head -- on the side of his head where he says he was
3 struck. The reason we do this is to show to you that you can
4 believe what he says up here. He said he was struck. You
5 have a picture of a red mark on his head where he was struck.
6 He ran, hopped the fence right here, goes into the backyard
7 and is banging, scared for his life because he just got held
8 and pistol-whipped. His phone is gone. His money is gone.
9 He leaves his glove box shut. But the time the police arrive,
10 the glove box is open. No wallet in the car. Where do we
11 find the wallet? Not surprisingly, we find the wallet at
12 6510 Bryant, where Dlanor Tilton lives, where his aunt's house
13 is.

14 You know, I want to just briefly touch on this, but
15 there's no mention of any females robbing either of these
16 victims. It was always two males. It wasn't a little
17 five-year-old kid, and it wasn't Tonya or Kori, the adult
18 females in the house.

19 Where is Chris Ward's wallet found? It's found here at
20 6510 Bryant where we find Mr. Sturdivant and where Tilton is.
21 It's thrown under a bed. That's his ID. That's his wallet.

22 You know what else is thrown under a bed in another room?
23 One of those guns.

24 The same room where one gun is under the bed, there's
25 another gun on the dresser that you can see there, and those

1 are both the guns that I have shown you that are in evidence.
2 In that same room, there's a bag, and that bag has got
3 Tilton's social security card. Why do we go through all that
4 process? Well, if we don't find anything in the house, then,
5 we're going to have to fight an argument. He never lived
6 there, he never stayed there, and then he stayed somewhere
7 else. Well, all his stuff is there. He did live there.
8 That's where he is.

9 Tonya and Kori didn't rob anyone. The little five- or
10 two-year-old kid didn't rob anyone. So why is the wallet in
11 the house? Because the defendants, who met these guys on
12 Grindr, robbed them. That's what happened. That's the only
13 thing that makes sense in this case. Nothing else makes
14 sense.

15 The guy who is sitting over here, Sturdivant, who is
16 friends -- not friends -- meets Tilton a couple of days
17 before, who is seen around the neighborhood with him, who is
18 found out in the same place where the victim's stuff is, who
19 keeps his wallet inside the house, he wants to distance
20 himself as much from this as possible. That's why he's
21 telling you now, "I didn't even mention a white car." He
22 wants to get himself as far away as possible. Why? Because
23 he robbed these guys.

24 You know, the question is: Who are you going to believe?
25 Can you believe Matthew Beckoff? Absolutely. Why? Because

1 Beckoff has told you that it's Tilton and Sturdivant. Through
2 the course of the investigation, we have not only proven that,
3 but now that Sturdivant has identified himself in the
4 pictures, we can believe what Beckoff said. When he
5 identifies Tilton as the one on Bryant, we can believe what
6 Beckoff said. That's what he said the whole time.

7 Can we believe Chris Ward that that man right over there
8 hit him in the back with a pistol? Yes. Why can we believe
9 Chris Ward? Because everything else he's told you is true.
10 You know that based on the evidence. You know that based on
11 the facts of the case. You know that based on the
12 investigation. You know that based on parts of Sturdivant's
13 own testimony.

14 So, at the end of the day, when two individuals come in
15 here and they say, "I was supposed to meet a guy on Grindr and
16 I was ambushed by two males and robbed at gunpoint," you can
17 be rest assured that's exactly what happened.

18 Now, after this, the defense will have a chance to get up
19 and speak with you. They're going to have a chance to do the
20 same thing that I have just done, go through the evidence, how
21 does it show -- what it's prove? What's it not prove? At the
22 end of that, I'm going to have the opportunity to get up and
23 address you briefly again on things that I may agree or
24 disagree with that they've shown.

25 But I think that, when you view the evidence, when you go

1 through all of it, when you look at what was done in this
2 case, and you look at what you've heard in this courtroom and
3 what you can believe, that there's only one verdict in this
4 case: It's that Dlanor Tilton acted with Mazar Sturdivant,
5 and they both robbed both Matthew Beckoff on December 28th,
6 2018, and Christopher Ward the next night on December 29th,
7 2018.

8 Now, I'm going to move this out of the way so they have
9 free range to speak with you as well.

10 THE COURT: All right. Who would like to go first?

11 MR. FOX: We'll continue, I guess, with our practice
12 during the trial, Judge. If it please the Court?

13 THE COURT: Yes, sir.

14 CLOSING ARGUMENT ON BEHALF OF DEFENDANT TILTON

15 MR. FOX: Gentlemen, my dad's favorite author was Mark
16 Twain, and Mark Twain one time said, "It's a horrible death to
17 be talked to death." So you're going to hear from three
18 lawyers -- really four, because Mr. Holford will get another
19 crack, and then you'll have to listen or need to listen to the
20 judge for the instructions.

21 I will try very hard not to belabor things, but I do have
22 to talk about everything I have to talk about. The judge will
23 give you the instruction on the law that applies, and I may
24 comment on a couple of those things.

25 They have got to leave you firmly convinced, with regard

1 to Mr. Tilton, that he is guilty beyond a reasonable doubt on
2 both of these charges. And as I explained to you at the
3 beginning of the trial or urged you, there needs to be a
4 separate decision and a separate verdict both for each
5 defendant and for each charge.

6 As you have seen this week, Mr. Sturdivant does not need
7 my help. He has got an outstanding lawyer who has done an
8 outstanding job for him. So I'm not really going to deal with
9 Mr. Sturdivant other than I may touch with Mr. Tilton from
10 time to time.

11 So I take these -- it ain't going away. You take these
12 as -- in order, one at a time. So Mr. Beckoff, on the 28th,
13 first, the judge will tell you that, in evaluating the
14 truthfulness and the believability of any witness's
15 testimony -- not just Mr. Beckoff and not just Mr. Sturdivant,
16 any witness -- that you can look at things as you do in your
17 everyday life. What's their demeanor like? How consistent
18 are they? How certain are they? And I won't belabor it.
19 Mr. Beckoff's demeanor, I think, speaks for itself.

20 He is sure, sure, sure absolutely about everything, But
21 he's demonstrably proven, at least in some things, to be
22 wrong. He was absolutely positive who robbed him. He kept
23 calling him by name. He didn't know the names at the time; he
24 was just repeating what he's been understandably -- right?
25 I'm not suggesting anyone improperly told him, "Hey, these are

1 the guys that we've arrested and we think robbed you,
2 Sturdivant and Tilton." So he kept emphasizing those names.

3 They showed him the pictures from Circle K. "Do you see
4 the people that robbed you in there?"

5 "I'm positive that that's Sturdivant and Tilton."

6 What did Mr. Sturdivant say today without hesitation,
7 showing him that same picture from Circle K? He admitted it
8 was him. Right? Yeah. That's me and -- didn't say Tilton,
9 did he? That's me and Holmes. Don't know who Holmes is.

10 If he was trying to deflect and avoid that and lie about
11 it, he sure as heck wouldn't have named himself; right? He
12 could have said that's Tilton and Holmes. But he said,
13 "That's me." And here's somebody else. Mr. Beckoff was sure,
14 positive that it was Mr. Tilton. We know he's wrong.

15 Do I think he lied? No. That would imply intent on his
16 part. But he's wrong.

17 He also, although he tried to give an explanation for it,
18 was very definite in his description to the police of the
19 people that robbed him. And he estimated their ages at 40 and
20 30. 40 and stocky. I think he said "in a big, puffy coat."
21 30. He didn't say teenager. I don't know how you mistake a
22 30-year-old for a teenager? I guess you could, but most
23 30-year-olds don't look like most teenagers.

24 And he said, "Well, that's because I didn't want my daddy
25 to disown me because I'm gay." And I understand that. But

1 you could -- if that's your goal, if that's the purpose of
2 lying -- and that's what he did, lying to the police -- then
3 you could lie about the circumstances, how you were there.
4 You could say nothing about Grindr, hoping they wouldn't find
5 that angle out. They did, of course. They were going to.
6 But you don't need to lie about the description. All right?
7 Unnecessary lie, from what he says was his purpose.

8 Mr. Ward -- the other thing Mr. Beckoff said I thought
9 was interesting -- and the judge will tell you, you can
10 believe everything a witness testifies to, you can believe
11 nothing that a witness testifies to, you can believe some and
12 not others. I don't doubt that Mr. Beckoff was robbed. I
13 don't have any question about that. I don't doubt he was very
14 afraid. I'm not sure I buy that he grabbed the weapon by the
15 barrels like John Wayne but maybe he did.

16 But he could describe the guns, and he's sure they were,
17 and he was clear in his mind that he saw silver on one of
18 them -- I think he said there's one gun -- on the top. He was
19 very specific. Neither of these guns that were taken from
20 Bryant Street have silver on the top.

21 So, now, Mr. Ward. Again, I don't have any doubt that
22 Mr. Ward was robbed. He was very open about the
23 circumstances. He can provide details. And what's very
24 interesting, in contrast to Mr. Beckoff, rather than saying
25 I'm sure, I'm positive, no doubt at all, four years later,

1 absolutely 100 percent, he's several times, "I'm not sure, I
2 don't know, I don't remember." To me, he's a little bit more
3 believable in that regard. But he says he's sure who hit him,
4 and he's also sure that the person that hit him is not the
5 person in that Grindr photograph.

6 In fact, he was given a chance. "Is this the guy."

7 "No. That guy in that Grindr picture, that's not the guy
8 that hit and chased me."

9 "Can you describe the other fellow?"

10 "No, I really can't. Couldn't see. Hoodie on."

11 So, in other words, he could not identify and put on the
12 scene Mr. Tilton. Nobody can. There's been no testimony, no
13 evidence offered to you that puts Mr. Tilton on the scene of
14 the robbery on Bryant Street, despite the fact that it may
15 been across the street from where he was staying.

16 There's no evidence that you have that puts Mr. Tilton
17 there. Nobody that says it's him. Not him saying it was him.
18 No photographs. Nothing. One thing you cannot do, whatever
19 your verdict is, is guess. Your verdict must be based on the
20 evidence that's been presented. You cannot guess and say it
21 might have been like that, it could have been like that. No.
22 That's exactly what you're not to be doing. And so you could
23 have to guess and assume in order to put Mr. Tilton on the
24 scene at 6509 Bryant Street on the day of this robbery because
25 you have been given absolutely no evidence otherwise.

1 All this talk about location -- I mean, I don't know.
2 People can move, people can walk. You know, where you live,
3 to me, this has been kind of a sideshow all around. The
4 phrase that applies to a lot of situations I usually hear, you
5 know, don't mess in your own litter box.

6 People do stupid things all the time but, man, do you
7 really believe that, if you were setting up a robbery, that
8 you would bring the person to your front door.

9 Now -- and there's reason to believe that maybe, just
10 maybe the weapon that was used -- at least with Mr. Beckoff --
11 was not one of these. It was nearby. Detective Rose
12 testified that he was aware that on -- I think he said Bryant
13 Street but in that neighborhood on the same day that
14 Mr. Tilton was arrested, when they went in and served the
15 search warrant on 6510 Bryant, that an individual was stopped
16 and arrested nearby with a backpack, and, in that backpack,
17 was a BB gun that was silver and black.

18 We could have some more definite answers about the
19 importance of some of this evidence and its connection,
20 specifically the BB guns. No human being is perfect. The
21 police are not expected to be perfect. I do not expect the
22 police to conduct a perfect investigation every time.
23 However, I expect them to do things that are reasonable to
24 expect and that are doable.

25 I forget which officer -- Officer Humes, the crime scene

1 specialist, said yes, we could have tested for fingerprints on
2 the gun or the wallet. No, we didn't do that.

3 Maybe they would get a print. Maybe they wouldn't. No
4 guarantee, but you're not going to get a print and the
5 possibility of a match to someone without actually trying it.
6 And the same thing with DNA. You can get DNA off of a pen,
7 off of a surface that was touched, off of a gun grip. I mean,
8 the science now with DNA -- they call it touch DNA. You need
9 very small trace amounts. Does that mean you always will find
10 it? You won't, but people shed skin cells, they sweat, and
11 they leave traces all around. I guarantee you every one of
12 you has left a trace of yourself this week just from being
13 here. They could have tried. It's nothing. It's a swab.
14 It's literally taking a thing that looks like a Q-tip and
15 swabbing then gun and then getting something to compare it to
16 and then you send it to SLED, and that's what they do. That's
17 what they exist for, the State Law Enforcement Division. This
18 is their entire purpose in life is to test. They have a lab.
19 In fact, they're pretty much the primary crime -- forensic
20 crime lab in the state. Very doable. They do it all the
21 time.

22 Would it definitely give an answer? No. But they didn't
23 even try. They're more than happy to run a computer program
24 and, you know, scan a picture. And Mr. Holford is right; that
25 really became much less of an issue. I kicked and fussed

1 about that, about the facial recognition thing because I find
2 that dangerous and creepy to use unchallenged science and
3 accuse them of crimes. But, you know, it is what it is. It's
4 in evidence, and it has nothing -- frankly, it doesn't change
5 anything in this case, the fact that he's got a Grindr app and
6 a picture on Grindr. So did about half the witnesses here,
7 apparently, including Mr. Sturdivant. And that's fine. I
8 don't care one way or the other.

9 It also doesn't mean anything about Mr. Tilton robbing
10 anybody, because, again, Mr. Beckoff is demonstrably wrong
11 about his identification of the second person that was there,
12 and Mr. Ward can't identify Mr. Tilton as being someone who
13 robbed him.

14 So the last thing I'm going to talk about is the property
15 that was found at 6510: Mr. Ward's wallet, the BB guns, and
16 the other wallet. I would agree that's circumstantial
17 evidence that Mr. Tilton -- well, actually, I won't even agree
18 with that. What has been offered to you that shows or
19 establishes that Mr. Tilton knew those items were there? The
20 only thing they can give you is the fact that there is a bag
21 with his social security card in it in one of the bedrooms.
22 There's been no evidence offered, testimony from his aunt --
23 two aunts -- or anybody -- Mr. Sturdivant, Mr. Sturdivant's
24 father -- anybody who was there as to where Mr. Tilton slept
25 at night, which bedroom -- any of the bedrooms or did he sleep

1 on the couch? There's other children in the home. Nothing
2 other than a bag with an identification in it.

3 The wallet wasn't in that bag. The wallet was tossed
4 under the bed. Gun, under the bed. Nothing that establishes
5 that Dlanor Tilton had any idea that any of that stuff was
6 there other than the fact that he lived there. And I believe
7 the State's got to prove to you that he had actual knowledge
8 of that. There's a charge of receiving stolen goods in this
9 state. Well, you've got to know the goods are stolen. You
10 have got to have knowledge; right.

11 They presented no testimony that Mr. Tilton had any idea
12 that that was there. No one can say they saw him with these
13 items. No one can say they saw him throw the gun under the
14 bed or the wallet under the bed. Didn't test those things.
15 Maybe they could have shown that him or somebody else had, in
16 fact, touched them. That would be the reason to do DNA or
17 fingerprint testing.

18 So just simply being in the presence of stolen property
19 isn't enough. Guess what? We're all in the presence of
20 stolen property. You know, that's not enough. Those things
21 matter. They seem like nitpicky little points, but those are
22 the kind of things is create doubt, and I think those are all
23 reasonable doubts, and I believe those are all things that
24 should cause you-all to hesitate to act and return verdicts of
25 not guilty. Thank you.

1 THE COURT: All right. Mr. Gardner?

2 MR. GARDNER: Thank you. May Your Honor please?

3 CLOSING ARGUMENT ON BEHALF OF DEFENDANT STURDIVANT

4 MR. GARDNER: Y'all probably thought I was nuts. I spent
5 all week talking about 10th Avenue and the Cloisters, and
6 everybody kept saying it had nothing to do with this case,
7 except for this morning when the detective testified, "Where
8 did you find Mazar?" Unit ■, Apartment ■ in the Cloisters of
9 62nd Avenue, because that's where he was staying and was
10 spending the Christmas break with his dad. But where does he
11 live? He lives down on 10th Avenue. So that's why I said
12 that's been the whole story about our case.

13 If I was to tell you the story about their case, I would
14 say close only counts in hand grenades and horseshoes. What I
15 mean by that is -- I've heard that when I was a little kid. I
16 did not know what it meant. And y'all probably do. I didn't
17 learn what it meant until much later, and I haven't heard it
18 in decades, but what it means is -- I never play horseshoes,
19 but you get some kind of credit if your horseshoe is close to
20 the pin if it doesn't ring around it.

21 And spending time in the 82nd, I know what a hand grenade
22 is. You don't have to hit the person; you just got to get it
23 close to them. Or like my neurosurgeon told me, you can't
24 even get it to close to them.

25 But the point is, close only counts in that. It's never

1 allowed in a criminal case. The burden of proof, you were
2 told earlier this week, is beyond a reasonable doubt. Close
3 is not enough to get you there. Being in the area, being
4 close to where something happened is not enough to get a
5 conviction. Being at a convenience store is not enough to get
6 a conviction. Visiting somebody that your dad took you to,
7 meeting somebody for the first time, going to the store with
8 them is not enough for a conviction. You can't convict
9 anybody for a crime just for that. Okay?

10 I have some notes that I have to refer to. I apologize
11 because this thing has been -- this case has been going pretty
12 fast today.

13 I will tell you what the solicitor said. Up until today,
14 I thought he was going to talk about the Cloisters. Up until
15 today, we haven't heard anything about the Cloisters except
16 for Johnny Gardner is talking about the Cloisters. Well, up
17 until today, we have heard from the detective that that's
18 where my man Mazar was.

19 Also, up until today, we have never heard of an
20 identification from Mr. Ward, period, up until today. And I
21 thought also that Josh was going to say, up until today, we
22 were under the impression that Tilton did the robbery -- and
23 I'm not saying he did, but I'm saying that was their theme --
24 is, up until today, they thought Tilton did the robbery, and
25 there was somebody else that did it with him.

1 We have a video of Mazar going to the store. That's
2 close. Will close be enough to get the conviction? Let's
3 throw it up there and see if it sticks. Let's see if it's a
4 leaner for a point. It's not. I tell you that. It's not.
5 But that's something they tried to show you. And that's why
6 we contest these matters, because we can't get steamrolled by
7 being close. It has to be beyond a reasonable doubt.

8 So, up until today, we thought that Tilton was the one --
9 I don't doubt these guys were robbed; I just doubt that they
10 were robbed by these two guys. So, up until today, the theory
11 was that Tilton chased Mr. Ward down the street and hit him in
12 the back of the head. I think it surprised everybody in this
13 room when he said it was Mazar. Except for it didn't surprise
14 anybody who's tried these cases before or watched them on
15 television because, imagine, who are they going to point to if
16 somebody says, "I want you to get on the witness stand and the
17 guy that robbed you is sitting in the courtroom; I just want
18 you to point him out." I'm not saying that's what happened
19 but that's what you can -- to process the scenario of how it
20 happens.

21 He's not going to pick out Mr. Fox with the tie on. He's
22 not going to pick out me. He's going to pick out the guy
23 sitting next to the guy with the tie on, especially since he's
24 the only one over there. So that did not surprise me, but I
25 thought he might say, "The guy with the Grindr. I didn't see

1 the other guy."

2 His testimony is not enough to convict anybody of
3 anything because he starts out in this booth, after putting
4 his hand on the Bible, saying he went to meet one guy but two
5 guys came out, and he couldn't identify either one of them.
6 He was confused and everything happened so fast. That's the
7 brunt of his testimony.

8 But then, later, his testimony develops and develops, and
9 surprise, surprise, surprise: It's the guy in the room. Now,
10 close doesn't get it. Close won't do it for beyond a
11 reasonable doubt.

12 Solicitor and Mazar got into a little argument about the
13 testimony, and that happens. Mazar -- I don't know this for
14 true. I mean, yeah, he's never testified at all. The boy was
15 17 years old when he got arrested. These cops testify for a
16 living. That's their job. They know how to testify. The
17 solicitor's office, they go to training. They try cases for a
18 living. They know how to ask the questions.

19 So Mazar is not going to be polished, but you can observe
20 the way he answered it, and you can attach credibility to it.
21 The judge will tell you that. And he did the best he could.
22 And it's a credible answer.

23 Now, this argument about the white car -- to say that you
24 told a cop, you told a cop, you told a cop. That doesn't do
25 any good in a criminal case, because I guarantee you they got

1 audio or a video or both of any of those interrogations. They
2 could have easily said -- easily said, "Didn't you say the
3 light was red?" "No, I said the light was green." Play the
4 video. Play the audio. Let's hear it. Let's get the truth
5 out of this thing. Because, guess what? In a criminal case,
6 close is not enough. Close is only good in hand grenades and
7 horseshoes. It's not good enough to send somebody off,
8 especially when you know the burden of proof is beyond a
9 reasonable doubt. No tape, no audio, no video, no
10 fingerprints.

11 Who had these guns? I don't know who had these guns.
12 Fingerprint test might tell us, might not. You pass none of
13 the tests that you don't take. All they had to do was get it
14 tested. Then you would know. DNA -- DNA is a strong tool
15 nowadays. Anybody who's watched any television in the last
16 couple of years knows that DNA is a strong tool.

17 The first DNA case that I remember in my career was in
18 that old courthouse right there. People said DNA is a fad, it
19 won't prove nothing. Well, it did. It got better and better.
20 That was 31 years ago. It gets better and better every year.
21 The science improves it. And they didn't even check on that.

22 You know, I don't want to beat up the witness that
23 testified earlier today, Mr. Ward, but it should not surprise
24 anybody that he pointed to the fellow that doesn't have a tie
25 on, sitting at the table. Black, young boy sitting at the

1 table. It's eyewitness testimony. It's very unreliable. We
2 don't have an expert, so I really can't get into it. I wish
3 the State would have brought an expert who could have
4 testified about reliability. The problem with that is,
5 expert -- identification, the expert will generally tell you
6 it's not very reliable, especially if it's something three and
7 a half years later and especially if it's cross-race. White
8 people have a hard time picking out black people, especially
9 three and a half years later. Black people have a hard time
10 picking out white people, especially if it's three and a half
11 years later, and so on and so forth. So maybe that's why.

12 But that's not my burden. I don't have to prove that,
13 because the judge will tell you, I don't have to prove
14 anything because the system is designed that the State has to
15 do it. They have all this money. They have all these
16 experts. They have all this stuff that they can do.

17 SLED in Columbia, the preeminent police force in South
18 Carolina, they have tons and tons of people that their job is
19 to do nothing but analyze different pieces of evidence, DNA,
20 forensics, tool marking, pistols, fingerprints, so on and so
21 forth. It goes on and on. All you have to do is test it, and
22 they didn't do that.

23 When you get back in your jury room, if you start
24 deliberating and if you start thinking what if we had, that is
25 what we call reasonable doubt. Okay? It might just be one.

1 It might just be a little one, but it's a reasonable doubt.

2 And if you want to convict anybody in this trial or any
3 criminal trial in South Carolina, you have to resolve away all
4 the reasonable doubts, and you're not going to do that in this
5 case because there's just so many of them. And there's just
6 so many of them, and it's not on the defense to do that
7 because we can't. It's not set up that way. We just can't do
8 that.

9 Eyewitness testimony. You can't rely on that. I feel
10 for this fellow for lots of reasons. Mr. Ward, I'm talking
11 about, the victim that testified today. I feel for him for
12 lots of reasons, and they're obvious; I'm not going to belabor
13 that. I will tell you the ones that are relevant.

14 What's relevant is he was -- no doubt, he was robbed or
15 whatever. Okay? His motives are not relevant for us today.
16 I don't care -- I mean, y'all know what sexual whatever,
17 that's what it is. It doesn't have anything to do with guilt
18 or innocence.

19 But he was robbed. I do believe that. And he did want
20 to tell his story. He wanted to tell his story. I feel sorry
21 for him for having to get up here. It's not easy to sit
22 behind this microphone and talk to 12 strangers with some
23 lawyer you don't really know and tell your story.

24 But what I don't feel sorry for him about is what did you
25 expect him to do? What did you expect him to say? Who did

1 you expect him to point to? Did you expect him to continue
2 with what he stared out by saying, "It happened so fast, I
3 really don't know. I didn't know the people. I can't
4 identify them"? No.

5 As his testimony grew, he got bolder and bolder, and he
6 wanted to blame somebody for what happened to him, and he's
7 got to blame somebody. He's got to point to somebody, and
8 he'll point to the kid sitting at the table.

9 Contrast that with Mr. Beckoff. Mr. Beckoff, who did his
10 investigation, who -- I don't know if he's a theater major or
11 what he was. But it was very apparent to me, when he was
12 answering questions, he wasn't communicating with anybody
13 here. He was trying to communicate with y'all. This was his
14 15 minutes. And for him to say it was this person and that
15 person, same scenario. He wasn't going to say anything
16 different.

17 But that's not enough to convict these guys.
18 Identification, especially in a courtroom, if you relied on
19 that, we would never have a not guilty -- we would never, ever
20 have a not guilty. Because why? For two reasons. Why put a
21 witness up to say, "It's not him"? Why put a witness up to
22 say, "I don't know"? The only reason you want to put a
23 witness up is because you know he's going to point to whoever
24 sits at that table.

25 When you start talking about this case, if you say this

1 is -- I have to tell you this because this is a true -- this
2 has happened to me. Most of the time, the defense doesn't
3 testify, and the reason is, as the judge will tell you, they
4 don't have to prove anything, and I told you at the beginning,
5 a lot of times you can't prove anything. So most of the time,
6 they don't. Okay?

7 But when they do, one of the mistakes that people make --
8 and it's human nature -- is to say something like this: "You
9 know what? I believe Mazar. I believe that he wasn't there.
10 I believe he was at his dad's house or I believe that he was
11 walking to the store" or whatever it is that you believe. I
12 believe all that, but, you know, he really didn't prove it to
13 me. He really didn't prove that he was innocent.

14 Don't go down that road, because that's the wrong road to
15 go down. That's an impermissible road. It's -- you can't do
16 that. It's against the law for y'all to do that. That would
17 be just as bad as the people that robbed this guy. Why I say
18 that, when somebody testifies, all they're doing is telling
19 their version.

20 Remember I got in the argument with the first witness,
21 and I said, "I'm just trying to find out what happened to get
22 to justice so the jury can figure out what was the best step
23 to do, what's the next step to do." That's all Mazar was
24 doing. He wants to tell his story. He told his story. To
25 say to him, you didn't prove anything, you didn't bring in

1 evidence, you didn't bring in the forensic people, you didn't
2 bring in -- or whatever it is. That's the wrong answer, and
3 we can't do that. He's just telling you his side of the story
4 so you'll have the full story to decide on.

5 Likewise, if you get back there and you say, "Well, I
6 have listened to everything, I saw everything, I watched
7 everything. It could be" -- you know, "it might be," "what do
8 you think," "I think," "sorta." If you're having those
9 conversations, if you're having those thoughts, you already
10 decided the case, and the only verdict that you can come back
11 with that is not guilty, because that's the way the system is
12 set up.

13 For you to entertain a guilty verdict, you have to
14 process away all of those doubts, all of those doubts. And
15 once you have decided that, if you go beyond that, then you
16 can entertain a guilty verdict.

17 But, prior to that, if you're talking about "maybe" or
18 "should have" or "could have," then you have already found out
19 the case, and the case is not guilty. And that's what I
20 expect will be the case because close is not enough for a
21 guilty verdict.

22 I do want to spend a little bit of time on what the
23 burden means. Usually, in an opening statement, I tell the
24 jury about the scales of justice, and I think Eric talked
25 about that a little bit. I did a little different opening

1 with y'all that I have never done before. I said, "You better
2 prove it." And he said that. He came and got on the stand
3 and basically said to them, y'all better prove it. And I
4 submit they didn't prove it.

5 But I do want to talk to you about that burden of proof.
6 The easiest way to explain a criminal burden of proof is to
7 compare it to a civil burden of proof, which is what most
8 people have been through or experienced in their life. If
9 you've ever gone to court for a car wreck or a divorce or
10 things like that, it's a civil case. You put all the evidence
11 on one side on one scale, and all the evidence from the other
12 side on the other scale. And whichever one tilts it
13 ever-so-slightly would win their case.

14 If it's a breach of contract, this guy would win, if it
15 was a custody case or a car wreck case or whatever. You can't
16 do that in a criminal case because, in a criminal case, the
17 burden of proof is much higher. It's not 100 percent, but
18 it's beyond a reasonable doubt and it goes way deeper than
19 preponderance.

20 Also, the scales of justice, ironically, don't work well
21 in analyzing a criminal case, because the scales -- you would
22 put weight on something on one side -- presumably the
23 testimony -- and then, the other side, the testimony. The
24 reason it doesn't work good in a criminal case is because a
25 criminal defendant doesn't have to put anything on the scale.

1 So it would just be empty. And it's that way on purpose.

2 I guess if you're going to use the scales, you would
3 weigh it down at the beginning and then have the State put all
4 their stuff there and see if they could slam it up like that.
5 That's a thought that just came to me, and I don't know how
6 you'd ever do that.

7 How does that help y'all? Let me tell you some other
8 court systems that apply.

9 You heard talk about probable cause. Well, before you
10 get to probable cause, there's a thing called a scintilla of
11 evidence. That's a word that the Supreme Court likes to use.
12 And what it means is nothing. It literally means no evidence.
13 I have not a scintilla of evidence that so-and-so did it.
14 Okay?

15 So, scintilla, it would be the lowest. If I had a board,
16 I would draw it up here for you, but I know y'all can follow
17 me. Scintilla would be down at the bottom.

18 Reasonable suspicion is the next burden. And that is
19 just what it sounds like. You have a suspicion that somebody
20 is doing something wrong. Driving down the road, you see a
21 guy weaving, that's reasonable suspicion he might be impaired,
22 so you can pull him over. Okay?

23 If you see him commit a violation, that's probable cause,
24 and you can pull him over for that. Probable cause is you can
25 go and get an arrest warrant for somebody. If you were having

1 a preliminary hearing, you can get somebody bound over if
2 there was probably cause.

3 I heard somebody say 50 percent or 51 percent. I don't
4 know if I'd put a formula on that. It just means a -- it's a
5 little bit higher than suspicion but not enough to be 51
6 percent. Because we know that 51 percent is the preponderance
7 of the evidence that you use in a civil case. Okay?

8 Now, the next level is clear and convincing. Clear and
9 convincing is somewhere between preponderance, as used in a
10 civil case, and beyond a reasonable doubt that we use in a
11 criminal case.

12 Clear and convincing is what they use if they take your
13 children away from you. Okay? That's what they do in a DSS
14 case. They have to prove clear and convincing evidence.

15 If you had to take somebody's child away from them, you
16 better prove it; right? And that burden of proof is only
17 clear and convincing. Beyond a reasonable doubt is much
18 higher than that, and it's got to be beyond it. And that's
19 not what we have here.

20 I didn't mean to talk so long, but this case was so
21 unorganized and it had so many moving parties, and I had a
22 theme that made sense from day one -- I feel like I have been
23 here five days; it's only been two -- that was consistent with
24 the truth of the matter, and the only verdict you can come
25 back with based on this is not guilty.

1 Thank you for your attention.

2 THE COURT: Very briefly.

3 MR. HOLFORD: Yes, Your Honor.

4 FINAL CLOSING ARGUMENT BY THE STATE

5 MR. HOLFORD: Ladies and gentlemen, you know how you can
6 believe Beckoff? We've talked about that already.

7 If you remember Detective Gibson's testimony about when
8 he asked Dlanor Tilton -- there was some comment about there's
9 no direct evidence that Tilton's involved, only circumstantial
10 he's got his stuff there where the guns are and where the
11 victim's wallet is, but that's just circumstantial, that's not
12 direct.

13 Tilton himself said, "I approached that passenger side
14 car -- passenger side of the weird guy's car," talking about
15 Beckoff, when asked about what he did on December 28th. He
16 himself told detectives he approached the car.

17 Beckoff told you Tilton approached the passenger side
18 car, leaned in. He's the one with the gun that night.

19 He also said, when questioned about the 29th, he told
20 Detective Gibson, "I saw that car, but then I ran." That is
21 consistent with the entire theory of the State.

22 No one here is surprised that Mazar is the one that held
23 the gun at the second victim and Tilton is the one that held
24 the gun at the first. They both came up with guns both
25 nights. That is corroborated not only by the evidence but by

1 the defendant's own statements. Both Sturdivant's statement
2 and Tilton's statements match together with what the victims
3 have told you.

4 THE COURT: All right. Anybody want to stand up and
5 shake your legs off a little bit.

6 JURY INSTRUCTIONS

7 THE COURT: All right. Ladies and gentlemen, at this
8 time, it's my duty to charge you on the law. As I indicated
9 at the beginning, I am the sole judge of the law, and so, as I
10 have indicated, I have had to ask y'all to leave a couple of
11 times because I have to take up matters of law, obviously,
12 because y'all are the sole judge of the facts. All right?
13 Y'all are to determine credibility, what facts and evidence
14 you want to take into consideration, and I charge you on the
15 law. Obviously, when you go back there to deliberate, it is
16 your duty to meld the two together. You have to meld the
17 facts with the law. All right?

18 All right. I remind you that, during this trial, you and
19 I have certain duties to perform. As the trial judge, it is
20 my responsibility to preside over the trial of this case, and
21 I also have the duty to rule on the admissibility of the
22 evidence offered during this trial. You are to consider only
23 the competent evidence before you.

24 During this trial, you must disregard any testimony that was
25 stricken from the record. You are to consider only the

1 testimony which has been presented from this witness stand,
2 any exhibits which have been made a part of the record in this
3 case, and any stipulations of counsel.

4 I have the additional duty to charge you the law
5 applicable to this case. As the presiding judge, I am the
6 sole judge of the law of this case, and it is your duty as
7 jurors to accept and apply the law as I now state it to you.
8 If you already have any idea as to what the law is or what the
9 law ought to be and it does not agree with what I now tell you
10 the law is, you must abandon this, because you are sworn to
11 accept the law and apply the law exactly as I state it to you.

12 In every case tried in this court before a jury, the jury
13 becomes the sole and exclusive judge of the facts in a case.
14 A trial judge cannot intimate, state, comment on, or make any
15 statement to a trial jury about the facts in a case.

16 Since you, the jury, are the sole judge of the facts in
17 this case, you are not to infer from what I have said during
18 the progress of this trial in ruling upon the admissibility of
19 evidence or otherwise or anything that I say now during the
20 course of this instruction to you that I have any opinion
21 about the facts of this case. The law does not allow me to
22 have any opinion about the facts in this case. This is a
23 matter solely for you, the jury, to determine as jurors. It
24 is your duty to determine the effect, the value, the weight,
25 and the truth of the evidence that was presented here during

1 this trial.

2 There are two types of evidence generally presented
3 during a trial: Direct evidence and circumstantial evidence.
4 Direct evidence directly proves the existence of a fact, and
5 it does not require deduction. Direct evidence is the
6 testimony of a person who claims to have actual knowledge of a
7 fact, such as an eyewitness. It is evidence which immediately
8 establishes the main fact to be proven.

9 Circumstantial evidence is proof of a chain of facts and
10 circumstances indicating the existence of a certain fact. It
11 is evidence which immediately establishes collateral facts
12 from which the main fact may be inferred.

13 Circumstantial evidence is based on inference and not on
14 personal knowledge or observation. It is proof that does not
15 actually establish the fact in question but that is searched
16 or describes something else from which you may either
17 reasonably infer the truth of the fact or at least reasonably
18 infer an increase in the probability that the fact is true.

19 For circumstantial evidence to be sufficient to warrant
20 the finding of a fact, the circumstances must lead to that
21 fact with reasonable certainty. The facts and circumstances
22 should be considered in light of ordinary experience and
23 common sense. The existence of a fact cannot be based on
24 speculation, surmise, or conjecture.

25 The law makes absolutely no distinction between the

1 weight or value to be given to either direct or circumstantial
2 evidence. All of the circumstances must be consistent with
3 each other, and when taken together, point conclusively to the
4 guilt of the accused beyond a reasonable doubt. If these
5 circumstances merely portray the defendant's behavior as
6 suspicious, the proof has failed.

7 Nor is a greater degree of certainty required of
8 circumstantial evidence than of direct evidence. The State
9 has the burden of proving the defendant guilty beyond a
10 reasonable doubt. This burden rests with the State regardless
11 of whether the State relies on direct evidence, circumstantial
12 evidence, or some combination of the two.

13 What is reasonable doubt in the law? A reasonable doubt
14 is the kind of doubt that would cause a reasonable person to
15 hesitate to act. Proof beyond a reasonable doubt is proof
16 that leaves you firmly convinced of the defendant's guilt. We
17 know very few things in this world with absolutely certainty,
18 and in criminal cases, the law does not require proof that
19 overcomes every possible doubt.

20 If, based on your consideration of the evidence, you are
21 firmly convinced that the defendant is guilty of the crime
22 charged, you must find the defendant guilty. On the other
23 hand, if you think a real possibility exists that the
24 defendant is not guilty, you must give the defendant the
25 benefit of that doubt and find him not guilty.

1 The defendants have plead not guilty to these
2 indictments, and that plea puts the burden on the State to
3 prove the defendants guilty. A person charged with committing
4 a criminal offense in South Carolina is never required to
5 prove him or herself innocent. I charge you that it is an
6 important rule of law that the defendants in criminal trials,
7 no matter what the seriousness of the charge may be, will
8 always be presumed to be innocent of the crime for which the
9 indictments were issued unless guilt has been proven by
10 evidence satisfying you of that guilt beyond a reasonable
11 doubt.

12 This presumption of innocence not does end when you begin
13 your deliberations, but it accompanies the defendant
14 throughout the trial until you reach a verdict of guilt based
15 on evidence satisfying you of that guilt beyond a reasonable
16 doubt.

17 The presumption is innocence is like a robe of
18 righteousness placed about the shoulders of the defendant,
19 which remains with the defendant until it has been stripped
20 from the defendant by evidence satisfying you of the
21 defendant's guilt beyond a reasonable doubt. The presumption
22 of innocence is not a mere legal theory. It is not just a
23 legal phrase. It is a substantial right to which every
24 defendant is entitled unless you, the jury, are satisfied from
25 the evidence of the defendants' guilt beyond a reasonable

1 doubt.

2 The indictment charges each defendant with armed robbery.
3 I remind you that the fact that the defendant was arrested,
4 charged, and indicted in this case is not evidence in this
5 case and cannot be considered by you as evidence of guilt in
6 this case, nor does it create any presumption or inference of
7 guilt. This document is simply the formal written instrument
8 which contains the charges made against each defendant. It is
9 the formal document by which the case is brought into this
10 court.

11 I also charge you that there are two defendants in this
12 case, each of whom is charged with armed robbery. The case of
13 each defendant and the evidence and the law concerning that
14 defendant should be considered separately and individually.
15 Your verdict does not have to be the same for both defendants.
16 The fact that you may find one defendant guilty or not guilty
17 should not control your verdict as to the other defendant.

18 Where more than one person is charged with a crime, if
19 the evidence warrants it, you may convict one and acquit the
20 other, or you may acquit both or you may convict both. It
21 will depend upon your view of the testimony and the evidence.
22 You must take each defendant and consider the evidence as to
23 that defendant and my instructions to you on the law. You
24 will then...

25 Under the laws of the State of South Carolina, a

1 defendant may be tried even if the defendant does not attend
2 the trial, but the fact that the defendant is not present may
3 not be considered against that defendant in any manner
4 whatsoever during your deliberations.

5 I also instruct you and emphasize that the fact that a
6 defendant did not testify is not a factor to be considered by
7 you in any way in your deliberation and your consideration on
8 the question of the guilt or the innocence of the defendant.
9 It must not be considered by you in any manner whatsoever.

10 A defendant has the constitutional right to remain
11 silent, and the assertion of this right must not be considered
12 by you in your deliberations. I repeat: Under your oath, you
13 are to draw no conclusion whatsoever from the fact that the
14 defendant -- one of the defendants in this case did not
15 testify. The fact that one of these defendants did not
16 testify should not even be discussed in the jury room.

17 The burden of proof, as I have stated to you, is on the
18 state. The defendant is not required to prove his innocence.
19 The burden of proof remains on the State to prove guilt beyond
20 a reasonable doubt.

21 I also charge you that you must determine the credibility
22 of the witnesses who have testified in this case. Credibility
23 simply means believability. It becomes your duty as jurors to
24 analyze and to evaluate the evidence and determine which
25 evidence convinces of its truth. And in determining the

1 believability of witnesses who have testified in this case,
2 you may believe one witness over several witnesses or several
3 witnesses over one witness. You may believe a part of the
4 testimony of a witness and reject the remaining part of that
5 testimony of that same witness. You may believe the testimony
6 of a witness in its entirety, or you may reject the testimony
7 of a witness in its entirety. You may consider whether any
8 witness has exhibited to you any interest, bias, prejudice, or
9 other motive in this case. You may also consider the
10 appearance and manner of the witness while they were on the
11 witness stand.

12 An issue in this case is the identification of a
13 defendant as the person who committed the crime charged. The
14 State has the burden of proving identity beyond a reasonable
15 doubt. You must be satisfied beyond a reasonable doubt of the
16 accuracy of the identification of the defendant before you may
17 convict the defendant.

18 Identification testimony is an expression of belief or
19 impression by a witness. You must determine the accuracy of
20 the identification of the defendant. You must consider the
21 believability of each identification witness in the same
22 weight as any other witnesses.

23 You may consider whether the witness had an adequate
24 opportunity to observe the offender at the time of the
25 offense. This will be affected by things like how long or

1 short a time was available, how far or close the witness was,
2 the lighting conditions, and whether the witness had a chance
3 to see or know the person in the past.

4 Once again, I instruct you, the burden of proof is on the
5 State as to every element of the crime charged, and this
6 specifically includes the burden of proving, beyond a
7 reasonable doubt, the identity of the defendant as the person
8 who committed the crime. If, after examining the testimony,
9 you have a reasonable doubt as to the accuracy of the
10 identification, you must find the defendant not guilty.

11 If the defendant is found possessing recently stolen
12 goods, this may be used as evidence that the defendant stole
13 the goods. This will simply be an evidentiary fact to be
14 taken into conversation by you, along with the other evidence
15 in the case, and you may give it the weight you decide that it
16 should be given.

17 The defendant does not have to present any evidence
18 whatsoever explaining how he came to be in possession of this
19 recently stolen property. The burden of proving remains on
20 the State to prove the defendant guilty beyond a reasonable
21 doubt.

22 In order to establish criminal liability in this case,
23 criminal intent is required. For example, the mental state
24 required to be proven by the State for a particular crime
25 might be purpose, intent, knowledge, recklessness, or criminal

1 negligence. Criminal intent must be proven by the State
2 beyond a reasonable doubt. Criminal intent is always a matter
3 that must be determined by the jury from the circumstances
4 surrounding the situation. There is no way to prove intent to
5 a mathematical certainty. There is no way medical science can
6 dissect a person's brain and determine what the person had in
7 mind. So the law says that criminal intent may be inferred
8 from the circumstances shown to have existed. This is how you
9 make a determination of whether or not the element requiring
10 intent was present. It is not necessary to establish intent
11 by direct and positive evidence, but intent may be established
12 by inference in the same way as any other fact, by taking into
13 consideration the acts of the parties and all the facts and
14 circumstances of the case.

15 Criminal intent is a mental state, a conscious
16 wrongdoing. It is up to you to determine what the defendant
17 intended to do based on the circumstances shown to have
18 existed. Criminal intent can arise from actions or a failure
19 to act. It may arise from negligence, recklessness, or an
20 indifference to duty or to consequences that is considered by
21 law to be the equivalent of criminal intent.

22 Each defendant in this case is charged with armed
23 robbery. In order to prove this offense, the State first must
24 prove beyond a reasonable doubt that the defendant took
25 personal property from the person or presence of another

1 person. Property is in the presence of a person if it is
2 within the person's reach, inspection, observation, or control
3 so that the person could, if not overcome with violence or
4 prevented by fear, keep possession of the property.

5 The State must also prove beyond a reasonable doubt that
6 the defendant carried the property away, intending to
7 permanently deprive the owner of the property, and to keep the
8 property for the defendant's own use. The slightest removal
9 of the property or the complete possession of the property,
10 even for an instant, by the defendant is sufficient to show a
11 taking and carrying away of that property.

12 The taking and carrying away of the property must have
13 been done with violence or by putting the owner of the
14 property in fear in violence.

15 Finally, the State must prove beyond a reasonable doubt
16 that the defendant was armed with a deadly weapon during the
17 robbery. A deadly weapon is any article, instrument, or
18 substance which is likely to cause death or great bodily harm.
19 Whether an instrument has been used as a deadly weapon depends
20 on the facts and circumstances of each case.

21 The following are examples of instruments which may be
22 deadly weapons: pistol, shotgun, rifle, dirk, dagger, knife,
23 slingshot, metal knuckles, razor, gasoline, fire bomb, or
24 Molotov cocktail, and lighter fluid or any object which a
25 person present during the commission of the robbery reasonably

1 believes to be a deadly weapon. A gun may be a deadly weapon
2 even if it's nonoperable.

3 All right. If your ears aren't bleeding by now, you're
4 better than me.

5 Madame Foreman, I instruct you now on the remaining
6 balance of your duties. This is the verdict form and the
7 indictments in this case. Okay? The verdict form reads: "As
8 to the charge of armed robbery, on December 28th, we, the
9 jury, unanimously find the defendant, Mazar Nathaniel
10 Sturdivant, not guilty or guilty." And it has it for both
11 defendants for both robberies. All right? So it's one, two,
12 three, four. Obviously, you have to say guilty or not guilty
13 as to all four charges.

14 All right. In doing so, once you have a verdict, there
15 is a place for your signature and for the date. Also, once
16 you have a verdict, the same will be need to be written on the
17 indictment. You'll simply just see -- right there on the
18 indictment, it says, "Verdict." You just write what the
19 verdict is -- all right? -- as to each indictment.

20 Also, I charge you this: That this has to be a unanimous
21 vote. All 12 have to agree. All right? I know that's
22 difficult to some extent, but it's your job to control that to
23 some extent. What I mean by that is this: It's for everyone
24 to participate in the deliberation. All right? You're going
25 to find that some people are going to participate a lot. You

1 may even find that some don't want to participate really at
2 all. And that's fine. Okay? That's the manner in which the
3 deliberation is held. However, you have to ensure that
4 everyone has the opportunity to participate in the
5 deliberations.

6 If someone needs to take a break or they remove
7 themselves from the deliberations, please stop everyone and
8 wait for them to return so this will be a unanimous vote and
9 everybody will be able to hear everyone's opinion as to the
10 case. All right? Fair enough?

11 If you have any questions or concerns from any of the
12 jurors, it's your role and responsibility to reduce that to
13 writing, simply sign it, knock on the door. Bobby will get
14 it, he'll come and get me, and I will answer the question. I
15 tell every juror this and it is so true: I will answer every
16 single question you ask me, but I'm not going to guarantee
17 you're going to like the answer. All right? That's just the
18 way this goes sometimes. All right?

19 So, in a couple of moments, what I'm going to do is ask
20 you to go ahead and go back. Do not begin deliberating
21 because we have to send the evidence back. So I'm going to
22 have to attorneys go through and make sure all the evidence
23 that was submitted in this case is accounted for. I'm
24 actually going to give you this charge that I just read so
25 you'll have that to kind of go by. Obviously, you didn't

1 memorize all that as I read it that quickly.

2 And once I have Bobby bring back all the evidence, I will
3 ask y'all to go ahead and begin deliberations.

4 I didn't expect this to go this long, and so it's 1:15.
5 I'm just going to kind of gauge -- and y'all, obviously, let
6 Bobby know if there as an issue, but if we need to order
7 lunch, we can do it within about 25 to 30 minutes, is what the
8 clerk is telling me. All right? So hopefully the biscuits
9 held everybody over for a little bit, but if we need
10 something -- if we need to get lunch, just let me know; I'll
11 be happy to accommodate.

12 All right. If you'll please retire to the jury room, and
13 once you get back there, if the two alternates will grab their
14 belongings and come back. All right? I'll instruct you on
15 your duties. You can leave the pads.

16 (The jury exited the courtroom at 1:18 p.m.)

17 THE COURT: All right. Any objection to the charge from
18 the State?

19 MR. HOLFORD: No, Your Honor.

20 THE COURT: From the defense?

21 MR. FOX: Your Honor, just one. On the request that I
22 had made for the additional charge on recently stolen
23 property, you did read the first, Judge Anderson's language.
24 I also submitted the second paragraph, and my understanding
25 was the State had no objection to it, regarding the mere

1 presence of the defendant, that something more was required.

2 And I would also, just -- I believe that is in Your
3 Honor's possession -- the last sentence: "The defendant must
4 have knowledge of the presence of the property," and I would
5 add "and being shown to be in possession thereof." I would
6 request that that second paragraph be charged as well.

7 THE COURT: Oh, I didn't know that that wasn't in there.
8 All right.

9 Do you have any objection?

10 MR. HOLFORD: I think the charge covered it, but no, not
11 necessarily.

12 THE COURT: All right. Do you want me to bring them back
13 out?

14 MR. FOX: I would.

15 THE COURT: All right. Bring them out.

16 Any objection from Mr. Gardner?

17 MR. GARDNER: No, Your Honor.

18 THE COURT: All right. What's the addition to the last
19 sentence?

20 MR. FOX: The last sentence I would request: "The
21 defendant must have knowledge of the presence of the property
22 and be shown to be in possession thereof."

23 MR. GARDNER: Judge, do I mind if I step out in a minute?

24 THE COURT: Perfectly fine. I'm just going to read that
25 one sentence or that one charge. That will be fine.

1 (The jury entered the courtroom at 1:21 p.m.)

2 THE COURT: All right. As much as this is going to let
3 y'all down, I'm not perfect. I missed a sentence, so I have
4 to recharge you on it. Okay?

5 In the charge I read, "The defendant does not have to
6 present any evidence whatsoever explaining how he came to be
7 in possession of this recently stolen property. The burden of
8 proof remains on the State to prove the defendant is guilty
9 beyond a reasonable doubt."

10 What I failed to you charge you on was: "In this
11 context, possession means something more than the mere
12 presence of the defendant -- of Defendant or items belonging
13 to him in the vicinity of the stolen property. Mere presence
14 is not enough in and of itself to establish possession of the
15 stolen property. The defendant must have knowledge of the
16 presence of the property and be shown to be in possession
17 thereof."

18 All right. And, again, that will come back there with
19 you. All right. It shouldn't take us but about five minutes
20 to get everything together and get it back to you.

21 (The jury exited the courtroom at 1:23 p.m.)

22 THE COURT: All right. Anything for the record?

23 MR. HOLFORD: No, Your Honor.

24 MR. FOX: No, Your Honor.

25 THE COURT: All right.

1 (At 1:28 p.m., a recess was taken, awaiting the jury
2 verdict.)

3 JURY QUESTION

4 THE COURT: All right. I don't know how to answer this
5 question. It has nothing to do with the case. It says, "Can
6 we get the transcripts from today and yesterday?" No. Just
7 answer no.

8 MR. GARDNER: Yeah, answer no.

9 THE COURT: I wouldn't know how else to answer it anyway.
10 Bring them out.

11 MR. HOLFORD: Judge, I think if they -- they would have
12 to listen to the recorded testimony. There's not a transcript
13 that the court reporter does live.

14 THE COURT: Well, the problem that begs is then I'm going
15 to have to ask them a question.

16 MR. GARDNER: Yeah, I don't want to -- just answer their
17 question. I don't want to keep going.

18 THE COURT: Because there's no way -- the video or
19 anything that they can rewatch. It's just testimony.

20 MR. GARDNER: Judge, I am concerned about the lunch. I
21 don't want any of them being hangry or --

22 THE COURT: Oh, they already asked for lunch. We already
23 got that coming.

24 MR. GARDNER: Okay. Thank you, Judge.

25 Oh, I need my guy up here.

1 THE COURT: I told them they didn't need to bring him up
2 for that question.

3 MR. GARDNER: Okay. All right.

4 THE COURT: I mean, it's just a transcript question.

5 MR. GARDNER: No, no, no, that's fine. I didn't want him
6 to think, because he was --

7 THE COURT: No, no.

8 MR. GARDNER: He wasn't here yesterday.

9 I don't have an objection to you sending a note to them
10 saying no.

11 THE COURT: I mean, I sometimes just go back there and
12 just tell them.

13 MR. GARDNER: Yeah, that's fine. Just go back there and
14 tell them.

15 MR. HOLFORD: I don't have an objection to that either.

16 THE COURT: Just tell her to hold them.

17 COURT REPORTER: Am I marking that?

18 THE COURT: Oh, yeah.

19 (Court's Exhibit No. 1, Jury Question, was marked for
20 identification.)

21 (A brief recess was taken at 2:40 p.m. to 3:33 p.m. while
22 the jury deliberated.)

23 THE COURT: Thank you very much. Please be seated.

24 (Defendant now present in the courtroom.)

25 THE COURT: All right. Bring them out, please.

1 (The jury entered the courtroom at 3:38 p.m.)

2 VERDICT

3 THE COURT: All right. My understanding is you have a
4 verdict, Madam Forelady?

5 MADAM FORELADY: Yes.

6 THE COURT: All right. Go ahead and hand it to the
7 bailiff.

8 Thank you.

9 All right. Mr. Sturdivant, if you'll please stand.

10 All right. This is the State of South Carolina versus
11 Mazar Sturdivant and Dlanor Tilton, Indictment No. 2019 --
12 well, as to the charge of armed robbery on December 28th,
13 2018, we, the jury, unanimously find the defendant, Mazar
14 Nathaniel Sturdivant, guilty.

15 As to the charge of armed robbery on December 28th, 2018,
16 we, the jury, unanimously find the defendant, Dlanor Tilton,
17 guilty.

18 As to the charge of armed robbery on December 29th, we,
19 the jury, unanimously find the defendant, Mazar Nathaniel
20 Sturdivant, guilty.

21 As to the charge of armed robbery on December 29th, 2018,
22 we, the jury, unanimously find the defendant, Dlanor Philip
23 Tilton, guilty.

24 Signed, Madam Forelady, July 21st, 2022.

25 Madam Forelady, is this your-all's verdict?

1 MADAM FORELADY: Yes, sir.

2 THE COURT: Was it a unanimous one?

3 MADAM FORELADY: Yes, sir.

4 THE COURT: Would you like the jury polled?

5 MR. GARDNER: Yes, Your Honor.

6 THE COURT: All right. Madam Clerk?

7 THE CLERK: Please stand when I call your number. I will
8 ask you two questions. After you answer them, please be
9 seated.

10 Juror No. 108.

11 THE COURT: Just call them by their name. Oh, you don't
12 have it on there.

13 THE CLERK: It's the foreperson.

14 Is this your verdict?

15 JUROR NO. 108: Yes.

16 THE CLERK: Is this still your verdict?

17 JUROR NO. 108: Yes, ma'am.

18 THE CLERK: Juror No. 152. Is this your verdict?

19 JUROR NO. 152: Yes.

20 THE CLERK: Is this still your verdict?

21 JUROR NO. 152: Yes.

22 THE CLERK: Juror No. 150. Is this your verdict?

23 JUROR NO. 150: Yes.

24 THE CLERK: Is this still your verdict?

25 JUROR NO. 150: Yes.

1 THE CLERK: Thank you.
2 Juror No. 269. Is this your verdict?
3 JUROR NO. 269: Yes.
4 THE CLERK: Is this still your verdict?
5 JUROR NO. 269: Yes.
6 THE CLERK: Juror No. 116. Is this your verdict?
7 JUROR NO. 116: Yes.
8 THE CLERK: Is this still your verdict?
9 JUROR NO. 116: Yes.
10 THE CLERK: Juror No. 65. Is this your verdict?
11 JUROR NO. 65: Yes.
12 THE CLERK: Is this still your verdict?
13 JUROR NO. 65: Yes.
14 THE CLERK: Thank you.
15 Juror No. 211. Is this your verdict?
16 JUROR NO. 211: Yes.
17 THE CLERK: Is it still your verdict?
18 JUROR NO. 211: Yes.
19 THE CLERK: Thank you.
20 Juror No. 260. Is this your verdict?
21 JUROR NO. 260: Yes.
22 THE CLERK: Is this still your verdict?
23 JUROR NO. 260: Yes.
24 THE CLERK: Thank you.
25 Juror No. 115. Is this your verdict?

1 JUROR NO. 115: Yes.

2 THE CLERK: Is this still your verdict?

3 JUROR NO. 115: Yes.

4 THE CLERK: Thank you.

5 Juror No. 1. Is this your verdict?

6 JUROR NO. 1: Yes.

7 THE CLERK: Is this still your verdict?

8 JUROR NO. 1: Yes.

9 THE CLERK: Juror No. 353. Is this your verdict?

10 JUROR NO. 353: Yes.

11 THE CLERK: Is this still your verdict?

12 JUROR NO. 353: Yes.

13 THE CLERK: Juror No. 172. Is this your verdict?

14 JUROR NO. 172: Yes.

15 THE CLERK: Is this still your verdict?

16 JUROR NO. 172: Yes.

17 THE CLERK: Thank you.

18 THE COURT: All right. The jury has been polled, and the

19 verdict stands.

20 All right. Y'all can have a seat for the time being.

21 Mr. Holford, what would you like to tell me about

22 sentencing.

23 MR. HOLFORD: Your Honor, my assistant just went to get

24 the sentencing sheets. Obviously, armed robbery carries a

25 minimum of ten, up to 30 years. It's a violent charge. It's

1 a most serious charge. It's a no parole, which means it
2 carries at least 85 percent.

3 I will tell you, for both for Mr. Sturdivant and
4 Mr. Tilton, they were young at the time in 2018 and did not
5 have prior records at that time. I will also tell the Court
6 that, as you are aware, there was a -- I do have a letter from
7 the victim, whom you heard extensively from, but there is a
8 letter he would like me to hand up to the Court.

9 I will tell the Court that, based on the verdict today,
10 the State will be dismissing the December 27th armed robbery
11 charge for which both Tilton and Sturdivant and then the other
12 individual who was severed from this trial were charged with,
13 which happened the same area the night before, but I will
14 dismiss that charge. So neither Tilton nor Sturdivant will
15 face the enhancement --

16 THE COURT: Of two armed robberies.

17 MR. HOLFORD: -- of going forward to trial on another
18 armed robbery.

19 Your Honor, the Court heard all the evidence. In
20 addition to the evidence that the Court did not hear were the
21 statements of both defendants implicating each other.
22 Obviously, we couldn't do that during the process of the trial
23 because they have a right to -- I'm not allowed to play their
24 statements against each other.

25 But, in this case, they both implicated each other in

1 these armed robberies. I believe that the jury's verdict
2 speaks for itself, and that's what I would tell the Court as
3 way of sentencing.

4 I will hand up, from Mr. Beckoff -- he had an illness and
5 has gone back to New Jersey. He asked the Court to consider
6 his statement. I'll hand a copy to Mr. Fox and Mr. Gardner as
7 well. But Your Honor has heard from both victims. You know,
8 this was a traumatic incident for both of them. No one likes
9 being called in to court to testify, but they did so, and they
10 did so because I compelled their presence here.

11 THE COURT: All right.

12 (Pause in the proceedings while the Court reviews
13 documents.)

14 THE COURT: All right. Yes, sir, Mr. Gardner.

15 MR. GARDNER: Thank you, Your Honor. May Your Honor,
16 please?

17 THE COURT: Yes, sir.

18 MR. GARDNER: I would disagree with one of the things
19 that my friend, Josh, said about the statements. In my
20 client's statement, he says he witnessed a drug deal on the
21 first incident. He denies it being a robbery at all. Doesn't
22 point the finger at him at all. Statement 2 and 3 are a
23 little different. But you have heard the case. You know the
24 case. If you've tried as many cases as we have, you know
25 what's going on.

1 He was 17 at the time. The one thing that we all know is
2 true is he was living off of 10th Avenue with his mother. He
3 was trying to spend time with his dad. His dad did hook up
4 with the lady on Bryant Street. He had never met Tilton until
5 the 26th of December, and one day later, they were involved in
6 this -- these bad incidents.

7 Judge, I know that you have got to give him at least ten
8 years. I know there's no parole with that. I know that it's
9 going to be harsh. I know what he did was bad and we're not
10 making light of it, but based on his age and the fact he has
11 no criminal record, he had no -- as my dad would say, no
12 learnings to try to get out of that situation -- I would ask
13 you to consider the minimum sentence for him, Judge.

14 THE COURT: All right. Thank you, sir.

15 Yes, sir, Mr. Fox.

16 MR. FOX: Your Honor, first, for the record, I believe I
17 need to renew the previous motions and request a new trial
18 based on my belief that there is error, number one, in trying
19 these defendants and these charges together, but basically,
20 just renew all previous motions and request a new trial as a
21 result. I think I need to make a record for that going
22 forward to Columbia.

23 Judge, Mr. Tilton, I have been in contact with him from
24 representation early in 2019 all the way up through about
25 three weeks ago. Always available. Always in court when

1 needed to be. Always involved in his case. I do not know the
2 circumstances. I hope everything is okay with him.

3 I'll tell you, he is now 22 years old. He was 19 at the
4 time, also very young. The only record that I show are
5 misdemeanors: A shoplifting in 2017 and an entry on lands of
6 another. And nothing in the three/
7 going-on-four-year-sentence. No arrests. Nothing. I know
8 that he graduated Myrtle Beach High School where he played
9 football. He went on to play junior college football, was
10 pursuing an education, and seemed to be doing very well after
11 these things.

12 Again, Your Honor has heard all the specifics around this
13 case. I agree with Mr. Gardner; I think, given their age and
14 all things considered and really the severity of even a
15 ten-year sentence, that's a seven -- eight and a half years at
16 a minimum out of this very young man's life, and I think
17 that's a very significant punishment. We'd ask Your Honor to
18 consider that.

19 THE COURT: Thank you very much.

20 Anything further?

21 MR. GARDNER: Judge, I don't know if I need to put on the
22 record, for, like Eric said, all the motions and everything at
23 the end of the case for recordkeeping.

24 THE COURT: All right. Mr. Sturdivant, stand up.
25

SENTENCING

1
2 THE COURT: All right. So, as you're fully aware, this
3 carries up to 30 years in prison. I will take your young age
4 at 17 into consideration based on these crimes that you have
5 been convicted of, and I'll also take into account that you
6 had no prior record, you were currently in school. Obviously,
7 these are very heinous acts that you have been convicted of,
8 and so I'll take all that into consideration.

9 But I submit you to the State Department of Corrections
10 for a term of ten years. Good luck to you, sir.

11 MR. GARDNER: Thank you, Your Honor.

12 THE COURT: All right. As to Dlanor Philip Tilton, as
13 the Court is aware, I will sentence him under a sealed
14 sentence. It will be placed in an envelope that has been
15 submitted here. It will be submitted to the clerk's office.
16 It will remain with the file.

17 Once Mr. Tilton is brought into custody per my bench
18 warrant, I will, at that time, read Mr. Tilton's sentence in
19 which I have imposed now.

20 MR. HOLFORD: One question: Mr. Sturdivant's sentences,
21 are those concurrent?

22 THE COURT: Yes.

23 MR. HOLFORD: Thank you, Your Honor.

24 THE COURT: Good luck to you.

25 Ladies and gentlemen of the jury, that will conclude the

1 jury trial for this week. I can't thank you enough.
2 Obviously, we have tried to work as hard as we could,
3 understanding that there was a couple of hiccups here and
4 there.

5 But, again, I hope you found it to be a somewhat of a
6 rewarding experience, participating and serving on a jury. I
7 know it's not an easy process. None of these are. But,
8 again, I appreciate your kind attention to everything, being
9 on time, and if there's nothing else, the lunch thing was not
10 our fault nor the clerk's office; it was a hiccup at the
11 place. So sorry it took so long, but it is here and you're
12 welcome to take it. So y'all can retire to the jury room, get
13 all your stuff. If you want to take one with you, please do.
14 If you want stay, you're more than welcome to.

15 At this point in time, you're excused, and I can't thank
16 you enough. Have a wonderful rest of you week.

17 And also remember that your loved ones and your employer
18 have no idea that the trial concluded today. Okay?

19 [Laughter]

20 (The jury exited the courtroom at 3:50 p.m.)

21 THE COURT: All right. Ladies and gentlemen, thank you
22 all so very much. It was a pleasure to be able to come and
23 try the case with y'all. Everyone did an excellent job, and
24 that will conclude it. If you need anything else, just let me
25 know.

1 STATE OF SOUTH CAROLINA) **TRANSCRIPT OF RECORD**
2 COUNTY OF HORRY) CASE NO.: 2019-GS-26-01895
3 2019-GS-26-01896

4 **ORIGINAL (SENTENCING)**

5 -----
6 January 12, 2023

7 **BEFORE:** The Honorable Bentley Price
8 -----

9 THE STATE OF SOUTH CAROLINA,

10 Plaintiff,

11 vs.

12 DELANOR P. TILTON,

13 Defendant.
14 -----

15
16 **APPEARANCES:**

17
18 Joshua Holford, Esq.
19 Appearing for the Plaintiff State.

20 Eric Fox, Esq.
21 Appearing for the Defendant.

22
23
24 Official Court Reporter
25 Natalie Dahl, RPR

1 NOTE: Pursuant to Rule 607 (h)(1)(B), SCACR "A
2 COURT REPORTER SHALL RECEIVE THE FEE OF \$1.00 PER PAGE
3 FOR FURNISHING A COPY OF A PREVIOUSLY PREPARED
TRANSCRIPT." All requests for a copy of the enclosed
transcript shall be sent to: Natalie Dahl, RPR

4 P.O. Box 762
Conway, SC 29526

5 P-R-O-C-E-E-D-I-N-G-S

6 MR. HOLFORD: Okay. Motions docket. This is
7 Delanor Tilton, State of South Carolina versus Delanor
8 Tilton, true bill Indictment 2019-GS-26-01895 and
9 01896 for armed robbery. Your Honor presided over
10 this trial back in July, the week of July 18, 2022.
11 Mr. Tilton failed to appear. It is a sealed sentence
12 that Your Honor did. He was in Utah, extradited, and
13 he got to J. Reuben Long just this past weekend, so we
14 scheduled it. It worked out very well that Your Honor
15 was here.

16 THE COURT: You know I'll be here once a month
17 from now until June, so if anything comes up, I'll be
18 here every single month.

19 MR. HOLFORD: I did not know that, but look
20 forward to it.

21 THE COURT: Wait, there is one month. I'm
22 missing next month, but after that all the way to
23 July.

24 MR. HOLFORD: Okay.

25 One of the two victims -- Mr. Tilton was

1 convicted by a jury of two counts of armed robbery.
2 One of the two victims is present, Matthew Beckoff,
3 and would like to address the Court at the appropriate
4 time.

5 THE COURT: Well, there is not a whole lot to
6 address. I've already sentenced him, but I'm happy to
7 hear from him.

8 MR. BECKOFF: Hello, Your Honor, I just want to
9 start by thanking Josh and his wonderful people. I'm
10 very nervous talking in front of people. I realize at
11 an early age that if I wanted to be an actor, I have
12 to get over this. It's kind of like someone who wants
13 to be a swimmer, but they're afraid of water.

14 I stand before you today knowing that this is
15 for, lack of a better term, kind of for show. I know
16 that the sentence has already been handed down,
17 whatever it is. Whatever it is, it won't be enough.
18 Obviously, the defendants have showed a lack of
19 remorse, lack of respect for the Court and, really,
20 it's a very cowardly thing. I know I'm supposed to
21 deliver a victim impact statement here today, but I
22 don't like to think of myself as a victim. I think
23 there is a stigma around that word. Virility,
24 weakness, vulnerability, I don't think of myself as
25 any of those. I think of myself as a victor, and I

1 like to take back that word "victim."

2 I just thought it was very cowardly what the
3 defendants did trying to pray upon people that would
4 be weak and not speak up for themselves. I'll admit,
5 the night it all happened, I would say for a good hour
6 or two, I debated, Am I going to call the police. You
7 know, it wasn't -- as I said on the witness stand, I
8 wasn't out of the closet at that point. A part of me
9 was, like, do I really want to tell the world I'm gay
10 because I got robbed off of Grinder? But I decided if
11 I didn't speak up, they would get away with what they
12 set out to do, so I decided to, you know, go full
13 force and come out here and call the police. What a
14 nightmare.

15 I should have prepared something because I go off
16 on a tangent, so I apologize. I'll try to wrap this
17 up. I just want to, again, thank everyone for all of
18 the work they put into this. I'm happy that this game
19 of cat and mouse is over. I do -- I do want to
20 acknowledge that what a cowardly thing to run to Utah,
21 but what an even stupider thing to post things on
22 Facebook so that your victim can find you and report
23 you. What a stupid thing. But then again, most
24 criminals are pretty stupid.

25 Anyway, this has been a fun game of cat and

1 mouse. It's been a very long journey to get here from
2 New Jersey. Salt Lake City is much farther, so my
3 journey was much easier, but I digress. I hope the
4 defendants have a wonderful, wonderful day for the
5 next, oh, few thousands days and think of all of their
6 wonderful victims that put the nail in their coffin.
7 Thank you kindly.

8 THE COURT: Thank you, sir.

9 All right. Are you Mr. Tilton?

10 MR. TILTON: Yes, sir.

11 THE COURT: You were tried in your absence. The
12 trial began on Indictment 2019-GS-26-1895 and 1896 on
13 July 18, 2022, and you were convicted on July 21st
14 of 2022 in your absence. I sealed your sentence, and
15 I will make this part of the court record. You were
16 found guilty and were submitted to the State
17 Department of corrections for 12 years, given credit
18 for no time served. Good luck to you.

19 MR. FOX: I assume those are concurrent?

20 THE COURT: Correct.

21 MR. HOLFORD: I'll prepare an order lifting the
22 bench warrant.

23 THE COURT: Okay.

24 (Whereupon, the proceedings concluded.)
25

WITNESSES

Justin E Amos Myrtle Beach Police Department

Conner Wren

The State of South Carolina

County of Horry

Joshua D. Holford

19H00346

COURT OF GENERAL SESSIONS

April, 2019 TERM

RECEIVED

JAN 18 2023

SC Court of Appeals

ARREST WARRANT NUMBER

2018A2620604287

CDR: 0139 16-11-0330(A)

DOA: 12/31/2018

THE STATE

vs.

Dianor Phillip Tilton
B / MDOB:
SSN:

ATTORNEY: J. Eric Fox

Indictment for

ARMED ROBBERY

Jimmy A. Richardson, II, Solicitor

ACTION OF GRAND JURY

APR 10 2019

TRUE BILL

Drew Wren

Foreperson of Grand Jury

Date:

VERDICT

*Guilty**[Signature]*
Foreperson of Petit Jury
Date:

ORIGINAL

FILED
2019 APR 11 AM 11:29
RENEE N. ELYS
CLERK OF COURT
HORRY COUNTY, SC
DATE RECEIVED FROM
GRAND JURYCERTIFIED COPY
RENEE N. ELYS
CLERK OF COURT
HORRY COUNTY, SC

STATE OF SOUTH CAROLINA)
)
 COUNTY OF HORRY)

INDICTMENT

At a Court of General Sessions, convened on April 10, 2019, the Grand Jurors of Horry County present upon their oath:

ARMED ROBBERY

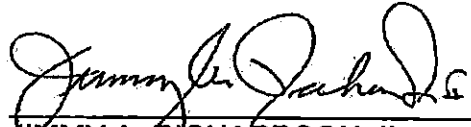
CDR: 0139 16-11-0330(A)

RENEE N. ELVIS
 CLERK OF COURT
 HORRY COUNTY, SC

CERTIFIED COPY

That Dianor Phillip Tilton did, while acting in concert with another, in Horry County on or about December 28, 2018, while armed with a deadly weapon and/or while alleging, either by action or words, to be armed by using a representative of a deadly weapon or any object which a person present during the commission of the robbery reasonably believed to be a deadly weapon, take and carry away personal property of Matthew Beckoff from or in the immediate presence of Matthew Beckoff with intent to deprive Matthew Beckoff of possession by use of force, threats or intimidation; to wit: Dianor Tilton did act in concert with and/or aid, abet, or assist Mazar Sturdivant in robbing the victim, Matthew Beckoff, of his wallet, money, and cellphone while using a deadly weapon or what appeared to the victim to be a deadly weapon, in violation of Section 16-11-0330(A), 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.


 JIMMY A. RICHARDSON, II
 FIFTEENTH CIRCUIT SOLICITOR

WITNESSES

Bishop L' Gibson Myrtle Beach Police Department

C. Omeron Wynn

The State of South Carolina

County of Horry

Joshua D. Holford

19H00346

COURT OF GENERAL SESSIONS

April 2019 TERM

ARREST WARRANT NUMBER

2018A2620604286

CDR: 0139 16-11-0330(A)

DOA: [REDACTED]

ACTION OF GRAND JURY

APR 10 2019

TRUE BILL

Drew Larsen

Foreperson of Grand Jury
Date:

VERDICT

Guilty

Foreperson of Petit Jury
Date:

THE STATE

vs.

Dianor Phillip Tilton

ATTORNEY: J. Eric Fox

Indictment for

ARMED ROBBERY

Jimmy A. Richardson, II, Solicitor

ORIGINAL

RECEIVED

JAN 18 2023

SC Court of Appeals

FILED
2019 APR 11 AM 11:29
RENEE N. ELVIS
CLERK OF COURT
HORRY COUNTY, SC
DATE RECEIVED FROM
GRAND JURYCERTIFIED COPY
RENEE N. ELVIS
CLERK OF COURT
HORRY COUNTY, SC

STATE OF SOUTH CAROLINA)
)
 COUNTY OF HORRY)

INDICTMENT

At a Court of General Sessions, convened on April 10, 2019, the Grand Jurors of Horry County present upon their oath:

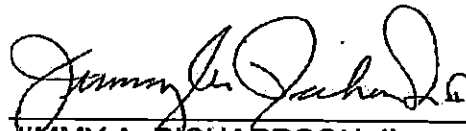
ARMED ROBBERY

CDR: 0139 16-11-0330(A)

CERTIFIED COPY
 RENE E. ELVIS
 CLERK OF COURT
 HORRY COUNTY, SC

That Dianor Phillip Tilton did, while acting in concert with another, in Horry County on or about December 29, 2018, while armed with a deadly weapon and/or while alleging, either by action or words, to be armed by using a representative of a deadly weapon or any object which a person present during the commission of the robbery reasonably believed to be a deadly weapon, take and carry away personal property of Christopher Ward from or in the immediate presence of Christopher Ward with intent to deprive Christopher Ward of possession by use of force, threats or intimidation; to wit: Dianor Tilton did act in concert with and/or aid, abet, or assist Mazar Sturdivant in robbing the victim, Christopher Ward, of his wallet and cellphone while using a deadly weapon or what appeared to the victim to be a deadly weapon, in violation of Section 16-11-0330(A), 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.



JIMMY A. RICHARDSON, II
 FIFTEENTH CIRCUIT SOLICITOR

ARREST WARRANT

2018A2620604286

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of

Myrtle Beach

THE STATE

18-026066

against

Dianor Philip Tilton

Address:

Phone:

Sex:

Race:

Height:

SSN:

Weight:

DL State:

DL #:

DOB:

Agency ORI #: SC0260600

Prosecuting Agency:

Myrtle Beach Police Department

Prosecuting Officer:

Bishop L. Gibson - S00606

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

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

Signature of Judge

(L.S.)

Date:

RETURN

A copy of this arrest warrant was delivered to defendant Dianor Philip Tilton on 12/31/18

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

General Sessions

PO Box 677

1301 2nd Avenue

Conway, SC 29528

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of

Myrtle Beach

AFFIDAVIT

ORIGINAL

Form Approved by
S.C. Attorney General
April 21, 2003
SCCA 518

Personally appeared before me the affiant

Bishop L. Gibson

J. Gibson

who

being duly sworn, deposes and says that defendant

Dianor Philip Tilton

violates the criminal laws of the

State of South Carolina on or about

12/28/2018

Myrtle Beach

in the following particulars:

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

CLERK OF COURT

HORRY COUNTY, SC

HORRY COUNTY, SC

HORRY COUNTY, SC

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:

See Attached

Signature of Affiant

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of

Myrtle Beach

Affiant's Address

1101 Oak Street

Myrtle Beach, SC 29577

Affiant's Telephone

ARREST WARRANT

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

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

on or about 12/28/2018

defendant Dianor Philip Tilton

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

☐ County/ ☒ Municipality of Myrtle Beach

) 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 12/31/2018

Signature of Issuing Judge

(L.S.)

Judge's Address

1101 Oak Street

Judge's Telephone

(843) 918-1356

Christine Lamparter

Judge Code: 6869

Issuing Court:

☐ Magistrate ☒ Municipal ☐ Circuit

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

BAIL set by

WITNESSES

Judge _____
on _____

Name: _____
Address: _____
Telephone: _____

Type and Amount: _____

Name: _____
Address: _____
Telephone: _____

Name of Surety: _____

Name: _____
Address: _____
Telephone: _____

PRELIMINARY HEARING held by

Judge _____

Name: _____
Address: _____
Telephone: _____

on _____

Name: _____
Address: _____
Telephone: _____

Defendant Attorney: _____

Name: _____
Address: _____
Telephone: _____

Decision: _____

Name: _____
Address: _____
Telephone: _____

DISPOSITION before

Judge _____

Name: _____
Address: _____
Telephone: _____

on _____

Name: _____
Address: _____
Telephone: _____

by _____

Name: _____
Address: _____
Telephone: _____

(indicate jury trial, bench trial, plea, not, pros., etc.)

Disposition: _____

Name: _____
Address: _____
Telephone: _____

Sentence: _____

Name: _____
Address: _____
Telephone: _____

JURORS

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

CODEFENDANTS



CERTIFIED COPY

RENEE N. ELVIS
CLERK OF COURT
Horry County, SC

STATE OF SOUTH CAROLINA

RECEIVED

COUNTY OF HORRY

JAN 18, 2023

AFFIDAVIT
2018A262060428RENEE N. ELYS
CLERK OF COURT
HORRY COUNTY, SC

CERTIFIED COPY

MUNICIPALITY OF MYRTLE BEACH SC Court of Appeals

Vs. Dlanor Phillip Tilton

The affiant states that there is probable cause to believe that the defendant named above did commit the crime(s) set forth and that such probable cause is based on the following facts:

On 12/28/2018 at approx. 2344hrs, a victim contacted the Myrtle Beach Police Department to report an armed robbery that occurred on this same date at approx. 2200hrs while in the area of 67th Ave N. and Bryant St, which is located within the City limits of Myrtle Beach. Officers responded to 3200 S. Ocean Blvd to speak to the victim about the incident. Further investigation revealed the victim was driving on Bryant St from 67th Ave N. at a slow rate of speed when two unknown suspects approached the vehicle. Victim was sitting on the driver's seat when the first taller suspect, later identified as the defendant, pulled open the passenger side door and leaned inside the vehicle while holding a black handgun pointing towards the right side of the victim's head. The second suspect, later identified as the co-defendant, approached the driver's side window and pointing a black handgun towards the left side of the victim's head while at the same time demanding money from the victim. Victim gave the Co-defendant a wallet containing credit cards and approx. \$80 in cash while the first suspect, Defendant, took away the victim's iPhone from the center console. Victim drove away after the robbery and later arrived at a hotel to report the incident to the police.

2019 JAN 15 11:56 AM
FILED
HORRY COUNTY

On 12/30/2018, the defendant was arrested for another Armed Robbery incident where the Defendant used a social media app called Grinder to lure another victim on 12/27/2018 at a nearby apartment complex called Sea Path located on 67th Ave N, which is also within the city limits of Myrtle Beach. In a post Miranda interview, the defendant admitted to using the Grinder app to communicate to three different people in the past three days and all three people have been identified as victims of armed robbery in the city including this victim on 12/28/18. Defendant placed himself in the area and time of the armed robbery reported by the victim. Furthermore, the Defendant positively identified the Grinder photo as himself when presented with the same photo that a victim had provided as the suspect to law enforcement on 12/27/2018.

Based upon the stated facts, that the defendant did participate in concert with a co-defendant in a robbery with a deadly weapon, there is probable cause to believe the defendant did commit the offense of Armed Robbery, 16-11-330.

Sworn to and subscribed before me this 31st day of December, 20 18

Signature of the Judge

(L.S.)

Signature of the Affiant

ARREST WARRANT

2018A2620604287

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of

Myrtle Beach

THE STATE

18-026097

against

Dianor Phillip Tilton

Address:

Phone:

Sex:

Race:

Height:

Weight:

SSN:

DL State:

SC

DL #:

Agency ORI #:

SC0260600

Prosecuting Agency:

Myrtle Beach Police Department

Prosecuting Officer:

Justin E Amos - S00379

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

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

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to defendant Dianor Phillip Tilton on 12/31/18

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

General Sessions

PO Box 677

1301 2nd Avenue

Conway, SC 29528

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of

Myrtle Beach

Personally appeared before me, Justin E Amos, being duly sworn, deposes and says that defendant Dianor Phillip Tilton did within this county and says that defendant Dianor Phillip Tilton State of South Carolina (or ordinance of Myrtle Beach) in the following particulars: Robbery / Armed Robbery, robbery while armed or allegedly armed with a deadly weaponon or about 12/29/2018 at Myrtle BeachState of South Carolina (or ordinance of Myrtle Beach)

Myrtle Beach

violate the criminal laws of the

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

FILED

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

See Attached

Signature of Affiant

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of

Myrtle Beach

Affiant's Address

1101 Oak Street

Myrtle Beach, SC 29577-

Affiant's Telephone

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 12/29/2018defendant Dianor Phillip Tilton

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

☐ County/ ☒ Municipality of Myrtle Beach) as set forth below.DESCRIPTION OF OFFENSE: Robbery / Armed Robbery, robbery while armed or allegedly armed with a deadly weaponHaving 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 12/31/2018

Signature of Judge

(L.S.)

Judge's Address

1101 Oak Street

Myrtle Beach, SC 29577-3599

Judge's Telephone

(843)918-1356

Issuing Court:

Magistrate

Municipal

Circuit

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

BAIL set by

WITNESSES

Judge _____
on _____
Type and Amount _____
Name of Surety _____

Name: _____
Address: _____
Telephone: _____

PRELIMINARY HEARING held by

Judge _____
on _____

Name: _____
Address: _____
Telephone: _____

Defendant Attorney: _____

Name: _____
Address: _____
Telephone: _____

Decision: _____

Name: _____
Address: _____
Telephone: _____

DISPOSITION before

Judge _____

Name: _____
Address: _____
Telephone: _____

on _____

Name: _____
Address: _____
Telephone: _____

by _____
(Indicate jury trial, bench trial, plea, nol. pro., etc.)

Name: _____
Address: _____
Telephone: _____

Disposition: _____

Name: _____
Address: _____
Telephone: _____

Sentence: _____

Name: _____
Address: _____
Telephone: _____

JURORS

Name: _____
Address: _____
Telephone: _____

CODEFENDANTS



CERTIFIED COPY

RENEE N. ELVIS
CLERK OF COURT
Horry County, SC

RECEIVED

STATE OF SOUTH CAROLINA JAN 18 2023

COUNTY OF HORRY

SC Court of Appeals AFFIDAVIT

2018A2620604287

MUNICIPALITY OF MYRTLE BEACH)

Vs Dlanor Phillip Tilton

The affiant states that there is probable cause to believe that the defendant named above did commit the crime(s) set forth and that such probable cause is based on the following facts:

On 12/29/2018 officers of the Myrtle Beach Police Department opened an investigation into an Armed Robbery that occurred on this date in the area of 6509 Bryant St. which is located within the city limits of Myrtle Beach. The victim used a social media app called Grindr to meet with the Defendant at the incident location. When the victim arrived at the location he was approached by the Defendant and a Co-Defendant who pointed what appeared to be handguns at him while demanding that he surrender his personal property. The victim was shown a photograph from the Grindr profile of the Defendant and did identify it as the same photograph that he saw on the app. A SLED Facial recognition indicated the Grindr photo as a possible match for the Defendant and a SC DMV photo confirmed the Defendant's identity.

On 12/30/2018, the Defendant was arrested for another Armed Robbery incident where he used the social media app called Grindr to lure another victim on 12/27/2018 at a nearby apartment complex called Sea Path located on 67th Ave N, which is also within the city limits of Myrtle Beach. In a post Miranda interview, the Defendant admitted to using the Grindr app to communicate to three different people in the past three days and all three people have been identified as victims of Armed Robberies in the City of Myrtle Beach including this victim on 12/29/18. The Defendant placed himself and the Co-Defendant in the area and time of the Armed Robbery reported by the victim and admitted to knowing that the Armed Robbery took place. Furthermore, the Defendant identified the Grindr photo as himself when presented with the same photo that the victim viewed on the app.

Based upon the stated facts, that the Defendant did participate in a robbery with what appeared to be a deadly weapon, there is probable cause to believe the Defendant did commit the offense of Armed Robbery, 16-11-330.

Sworn to and subscribed before me this 31st day of Dec, 20 18

[Signature]
Signature of the Judge

(L.S.)

[Signature]
Signature of the Affiant

CERTIFIED COPY

FILED
HORRY COUNTY
2019 JAN 15

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Horry**RECEIVED**

STATE

JAN 18 2023

INDICTMENT/CASE#: 2019GS2601896

VS.

SC Court of Appeals

Dlanor Phillip Tilton

A/W#: 2018A2620604287

AKA:

Date of Offense: [REDACTED]Race: [REDACTED]Sex: [REDACTED]Age: [REDACTED]S.C. Code §: 16-11-0330(A)DOB: [REDACTED]SS#: [REDACTED]CDR Code #: 0139Address: [REDACTED]City, State, Zip: [REDACTED]DL#: [REDACTED]SID#: [REDACTED]

CERTIFIED COPY
 Horry County, SC
 JANE N. ELVIS
 CLERK OF COURT
 SENTENCE SHEET

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

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

☒ CONVICTED OF ☐ PLEADSTO: Armed Robbery(10-30 years)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 CSC w/minor 3rd)

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

ATTEST

SCB80071

Holford, Joshua D. SC Bar # _____ Defendant

SC Bar# _____

WHEREFORE, the Defendant is committed to the ☒ State Department of Correction, ☐ County Detention Center,for a determinate term of 12 days/months/years/Time Served ☐ Youthful Offender Act not to exceed _____ years

and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years/Time Served 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.

The sentence shall run

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDoc. _____ days/months☐ To include time spent on monitored house arrest prior to trial and sentencing.☐ The Defendant Shall be Released from County Detention Center.

Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

2023 JAN 12 2:48
 Horry County
 JANE N. ELVIS
 CLERK OF COURT
 Horry County, SC

SPECIAL CONDITIONS:

☐ PTUP after _____ months/years

And Other Terms Listed Below:

- ☐ Substance Abuse Counseling ☐ Completion of GED ☐ Random Drug/Alcohol Testing
- ☐ Attend Voc. Rehab. or Job Corp ☐ No Contact with Victim ☐ Domestic Violence Intervention Program
- ☐ Mental Health Counseling ☐ May serve W/E beginning: _____

☐ Sex Offender Registry pursuant to S.C. Code § 23-3-430 ☐ Public Service Employment _____ days/hours☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.☐ Other: _____☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

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

Payment Terms: _____ ☐ Set by SCDPPPS

Recipient: _____

*Fine:

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

\$ 25.00 Beginning 2/12/35

§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)

§14-1-212 (Law Enforce. Funding)

§14-1-213 (Drug Court Surcharge)

§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)

§50-21-114(BUI Breath Test Fee)

§56-5-2942(J) (Vehicle Assessment)

3% to County (if paid in installments)

☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees.☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender FundClerk of Court/ Deputy Clerk:
Court Reporter:Renée Elvis
Natalie DahlPresiding Judge:
Judge Code:
Sentence Date:TOTAL \$128.75
2760
7-21-22

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Horry

STATE

VS.

JAN 18 2023

INDICTMENT/CASE#: 2019GS2601895

Dianor Phillip Tilton

SC Court of Appeals

2018A2620604286

AKA: _____
 Race: _____ Sex: _____ Age: _____
 DOB: _____ SS#: _____
 Address: _____
 City, State, Zip: _____
 DL#: _____ SID#: _____

Date of Offense: _____
 S.C. Code §: 16-11-0330(A)
 CDR Code #: 0139

SENTENCE SHEET

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

In disposition of the above indictment comes now the Defendant who was ☒ CONVICTED OF ☐ PLEADS

TO: Armed Robbery(10-30 years)

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 CSC w/minor 3rd)

The charge is: ☐ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. _____ (def.'s initials)

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

ATTEST:

SCB80071

Holford, Joshua D. SC Bar # Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Correction, ☐ County Detention Center,

for a determinate term of 12 days/months/years/Time Served ☐ Youthful Offender Act not to exceed _____ years

and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years/Time Served 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.

B.P.

The sentence shall run

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 2019 GS 26 1896

☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDoc. _____ days/months

☐ To include time spent on monitored house arrest prior to trial and sentencing

☐ The Defendant Shall be Released from County Detention Center.

Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

RENEE N. ELVIS
 CLERK OF COURT
 HORRY COUNTY, SC
 2023 JAN 2 P 2:48
 HORRY COUNTY

SPECIAL CONDITIONS:

☐ PTUP after _____ months/years

And Other Terms Listed Below:

- ☐ Substance Abuse Counseling ☐ Completion of GED ☐ Random Drug/Alcohol Testing
- ☐ Attend Voc. Rehab. or Job Corp ☐ No Contact with Victim ☐ Domestic Violence Intervention Program
- ☐ Mental Health Counseling ☐ May serve W/E beginning: _____

☐ Sex Offender Registry pursuant to S.C. Code § 23-3-430 ☐ Public Service Employment _____ days/hours☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.☐ Other: _____☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

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

Payment Terms: _____ ☐ Set by SCDPPPS

Recipient: _____

*Fine:

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ 25.00 Beginning 2/12/35

§14-1-206 (Assessments 107.5 %)	\$	
§14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ <u>100.00</u>
§14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§56-5-2995 (DUI Assessment)	\$12	\$
§56-1-286 (DUI Breath Test)	\$25	\$
§14-1-212 (Law Enforce. Funding)	\$25	\$ <u>25.00</u>
§14-1-213 (Drug Court Surcharge)	\$150	\$
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)	\$41	\$
§50-21-114(BUI Breath Test Fee)	\$50	\$
§56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
3% to County (if paid in installments)	TBD	\$ <u>3.75</u>

☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees.☒ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender FundClerk of Court/ Deputy Clerk: _____
Court Reporter: _____Renee Elvis
Natalie Paul

Presiding Judge: _____

Judge Code: _____

Sentence Date: _____

TOTAL

\$ 168.75

CERTIFICATE OF COUNSEL FOR APPELLANT

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

Respectfully Submitted,

RECEIVED

Feb 23 2024

SC Court of Appeals



Lara M. Caudy
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

ATTORNEY FOR APPELLANT

This 23rd day of February, 2024.

RECEIVED

Feb 23 2024

SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Horry County

Honorable Bentley Price, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

DLANOR P. TILTON,

APPELLANT

APPELLATE CASE NO. 2023-000075

CERTIFICATE OF SERVICE

I certify that a copy of the Record on Appeal in the above-referenced case has been served upon Mark Farthing, Esquire, at the primary email address listed in the Attorney Information System (AIS), this 23rd day of February, 2024.



Lara M. Caudy
Appellate Defender

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

ATTORNEY FOR APPELLANT