THE STATE OF SOUTH CAROLINA
In The Supreme Court

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S.C. SUPREME COURT

APPEAL FROM DORCHESTER COUNTY
Court of Common Pleas
Post Conviction Relief

Honorable Robert J. Bonds, Circuit Court Judge

App. Case No.: 2023-001432

Tyrone D. Ellison, Petitioner,

vs.

State of South Carolina, Respondent.

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Tricia A. Blanchette
S.C. Bar No. 74904
PO Box 2147
Leesville, SC 29070
(803) 908-3266
Attorney for Petitioner

Alan Wilson
Attorney General

Danielle Dixon
Assistant Attorney General

Post Office Box 11549
Columbia, SC 29211
(803) 734-3737
Attorneys for Respondent

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STATE OF SOUTH CAROLINA — COURT OF GENERAL SESSIONS

COUNTY OF DORCHESTER — CASE NO. 2013-GS-18-01271
2014-GS-18-00325

STATE OF SOUTH CAROLINA)
)
vs.) TRANSCRIPT OF RECORD
)
TYRONE ELLISON)

OCTOBER 20-24, 2014
ST. GEORGE, SC

B E F O R E:

HONORABLE D. CRAIG BROWN, JUDGE, AND A JURY

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

DON SORENSON, ESQUIRE
PHIL GIESE, ESQUIRE
Attorneys for the State

JAMES FALK, ESQUIRE
Attorney for the Defendant

Ruth L. Mott, RPR, CRR
Official Court Reporter

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THE COURT: We're here on the case the State of South Carolina versus Mr. Tyrone Ellison. Mr. Ellison is now in the courtroom with his attorney on indictment 2014-GS-18-325 and -- on both of these indictments, Mr. Sorenson? On the 2013 indictment as well.

MR. SORENSON: Yes, sir.

THE COURT: GS-18-1271. It is my understanding -- it's approximately 12:00, noon. It's my understanding that the jury's coming in at 1:30 this afternoon.

MR. SORENSON: Yes, sir.

THE COURT: What I would like to do is deal with whatever pretrial matters that we can deal with over the next several minutes before the jury comes in at 1:30. All right?

Mr. Falk, I'll be happy to hear from you.

MR. FALK: Excuse me. My witness is out. Let me just get my witness.

THE COURT: Okay. All right. For the record, let me say this: There was discussion back in chambers this morning with myself; Mr. Sorenson, on behalf of the State; and Mr. Falk, on behalf of Defendant. It was brought to my attention a pretrial matter pertaining to testing of an item of evidence regarding DNA. Is that what we're going to deal with at this time?

MR. FALK: Yes, Your Honor. It is going to be our motion to ask that the Court suppress the introduction of

that evidence.

THE COURT: Okay.

MR. FALK: And the basis of our motion --

THE COURT: Well, let me ask this question: Mr. Sorenson, is your expert here?

MR. SORENSON: I do not have anybody here. I have the SLED expert on standby if I need to get them here this afternoon. I never got a written motion from Mr. Falk knowing exactly what -- it's my understanding he still doesn't have a report from his expert. So I don't exactly know entirely what the issue is, to be honest with you.

THE COURT: Based upon what was discussed back in chambers, Mr. Falk conveyed in your presence that there was an attempt by his expert, who appears to be standing beside him back there, to test an item of evidence.

Is that right, Mr. Falk?

MR. FALK: That's correct, Your Honor.

THE COURT: And your expert, Mr. Falk, tell me his name.

MR. FALK: Dr. Bennett.

THE COURT: Dr. Bennett conveyed to you that he was unable -- unable to test the item of evidence due to it not having -- I guess the correct wording is adequate material, so to speak; is that right?

MR. FALK: Yes, Your Honor.

THE COURT: Dr. Bennett, tell me, just state for the

record, I just want it on the record right now. I'm not going to take testimony from you, but it's my understanding you couldn't test the item of evidence; is that right, Dr. Bennett?

THE WITNESS: I could test the item of evidence. I did test the item of evidence. There was an insufficient amount of DNA to be detected.

THE COURT: Okay.

THE WITNESS: The item was testable, but no DNA was found.

THE COURT: All right. And that was what was conveyed to me back in chambers. I just needed the correct wording, so to speak, from Dr. Bennett to make that clear for the record.

Now, in chambers, each of the attorneys, Mr. Sorenson and Mr. Falk, each referenced the case *State v. MABE*, which is 412 S.E.2d 386; as well as *State v. Cheeseboro*, 346 S.C. 526; and *Arizona v. Youngblood*, which is a US Supreme Court case, 109 S.Ct. 333.

It's my understanding, and I've glanced at these cases, but there is essentially a two-part test here or a test to determine whether or not such evidence should be suppressed. And it would necessitate a defendant demonstrating either, one, that the State destroyed such evidence in bad faith, or that the State destroyed evidence that possessed an

exculpatory value that is apparent before the evidence was destroyed and the defendant cannot obtain other evidence of comparable value by other means.

Are the attorneys in agreement with that, Mr. Falk?

MR. FALK: Yes, Your Honor.

THE COURT: That's what you've got to show?

MR. FALK: Yes, Your Honor.

THE COURT: Mr. Sorenson?

MR. SORENSON: I would agree with that, Your Honor, yes, sir.

THE COURT: All right. How --

MR. FALK: If I could summarize what my argument would be.

THE COURT: Well, my question is whether or not the State needs to put up their expert in the testing of this item of evidence to determine what took place so the Court can make an adequate determination of, one, whether or not such item of evidence -- or whether or not the State destroyed evidence in bad faith, or whether such possessed an exculpatory value as to your client.

You all disagree with that? Mr. Sorenson?

MR. SORENSON: I think, to be honest with you, from their expert's prior testimony in a hearing here, I mean, I think he would almost be able to answer those questions in the State's favor from his prior testimony.

THE COURT: Okay. Well, I mean --

MR. FALK: If he did -- I'm sorry, Your Honor.

THE COURT: Go ahead. Go ahead.

MR. FALK: If he would be able to rely on what was represented to him by the State's expert as far as the testing procedure, I mean, I don't want to get bogged down with these things, you know, when she said, "We followed this protocol and we did this," and then have that be a hearsay objection.

MR. SORENSON: We can start with that. I guess that's what -- part of this, I talked to the DNA analyst on Friday when I got the initial, kind of, email from Mr. Falk saying he might be challenging this. But then I never got a report, never got any kind of clarification of what prong he was challenging; so I just put her on standby.

I didn't want her driving all the way from Columbia to get here, us not need her, bring her back, and then I've got to -- I'd honestly rather have her come back probably on Wednesday again. She is on standby if ultimately -- if I need to get her here.

THE COURT: Well, why don't we do this: I mean, I think the proper way to do it to protect this young man's rights and protect his interests is to hear testimony from the stand rather than by virtue of simply argument, okay?

Now, if the State has an objection to anything that

Dr. Bennett says, then that may necessitate us from dropping back, so to speak.

MR. SORENSON: Yes, sir.

THE COURT: And you having to get your expert here.

MR. SORENSON: Yes, sir.

THE COURT: Depending upon what his testimony is to testify to that issue, okay? But I'll be happy for you -- for Dr. Bennett to take the stand, and I'll be happy to hear what testimony is proffered from the stand pertaining to this issue and then let you make the decision, Mr. Sorenson, on behalf of the State whether or not you believe you need to get the State's expert here to testify on this issue, all right?

MR. SORENSON: Yes, sir.

MR. FALK: Thank you, Your Honor.

THE COURT: All right. If you will call your witness, Mr. Falk.

MR. FALK: I'd like to call Dr. Bennett to the stand.

THE COURT: Sir, if you will come around here.

ROBERT BENNETT, PH.D.,

being first duly sworn, testified as follows:

THE COURT: Before we go any further, without necessity of you having to go through Dr. Bennett's qualifications, is there any objection to his qualifications from the State?

MR. SORENSON: For the purposes of this hearing, no,

sir.

THE COURT: All right. And let's --

MR. FALK: Your Honor, I realize an oversight on my part, but I think it's certainly time to cure it. I submitted a witness list. Dr. Bennett's name wasn't on that witness list.

THE COURT: Okay. I've got it right here.

MR. FALK: He's listed as one of my fact witnesses, but --

THE COURT: Dr. Bennett, would you please tell me your full name.

THE WITNESS: Robert M. Bennett.

THE COURT: All right. He has been added to your witness list, Mr. Falk.

You're recognized. Any questioning.

DIRECT EXAMINATION BY MR. FALK:

Q. Dr. Bennett, could you just tell me your current occupation.

A. I am a forensic scientist, practicing that profession full-time in Charleston, South Carolina.

Q. Thank you. You've had an opportunity to review any of the evidence that is in Mr. Ellison's case?

A. Yes, I have.

Q. Can you tell me what items of evidence that was?

A. It was an item consisting of a black synthetic wig and a

black visor.
Q. Okay. And when you initially evaluated that, can you tell us what your result was?
A. I initially contacted the forensic assistant at SLED that performed the initial DNA testing and had a very cooperative conversation with her, Ms. Betty Butler, as to the procedure she used to collect the DNA evidence from both of those evidence items. She gave me her procedure in detail. My attempt was to repeat that exact procedure.
Q. Okay. And so she told you her procedure. Was that your understanding that it was a SLED procedure?
A. Correct.
Q. Did she give you any chapter and verse kind of what part of the SLED manual she was going from, or did she just say that was a SLED procedure?
A. She just stated it was SLED's standard procedure.
Q. And can you tell us -- can you summarize or could you tell us what that procedure is?
A. Yes. As far as the wig, the consistency of the wig on the inside is a headband. This is the portion of the wig that is in contact with the circumference of the head. This is the section of the wig that would be in contact with the DNA of the wearer.
The agent at SLED reported to me that the entire headband circumference was swabbed thoroughly with cotton

swabs dipped in distilled water, and also scraped very thoroughly from one end of the headband circumferentially around to the other end.

Q. If you were conducting -- if you were conducting this, would you have followed the same procedure? Would you have used the cotton swab first?

A. Yes.

Q. And then you would have scraped the headband; is that correct?

A. Yes.

Q. So that was a procedure that would have been the same one you would have adopted?

A. Well, I typically would swab a portion of the evidence item, because my understanding of forensic science is to attempt, if at all possible, maintain some forensic evidence for future testing, if necessary. So I would have swabbed and scraped a third to a half, for example, of the item in attempt to create a DNA profile from that.

Q. Is it your understanding that that's what she did?

A. No. She stated she swabbed and scraped the entire circumference of the headband.

Q. And did she explain why she did that?

A. She did not.

Q. Do you know what her initial findings were?

A. Yes. I was provided with a report of the findings

and -- which I have with me that I can refer to if necessary, but it did, according to the SLED report, show the presence of Mr. Tyrone Ellison's DNA, along with a mixture of other persons.

Q. So there was other -- there was more than one person identified, yet DNA of more than one person was noted on there although not identified?

A. I believe the DNA was identified on some individual. I'd have to refer to the report.

Q. You said you had an opportunity to look at her report?

A. Yes.

Q. And we are talking about her initial report. Did you have an opportunity to look at her report dated March 28, 2014?

A. Yes.

Q. Okay. And I think what we're concerned about here is on the front page of that report, Item 1.1. What item was -- what piece of evidence was that, on the front page, on the cover letter?

MR. FALK: May I approach, Your Honor.

THE COURT: Yes, sir.

Can you do this: I want that, please, marked for identification purposes only for purposes of this hearing so it's clear for the record what you're referring to and what you're questioning Dr. Bennett about, please.

MR. FALK: I'm showing Dr. Bennett a letter from Lisa Kubicsko from the North Charleston Police Department dated March 28th, 2014 under a heading that says DNA Analysis, and --

THE COURT: Dr. Bennett, do you have a copy of that letter?

MR. SORENSON: Is that a letter or a SLED report?

THE COURT: SLED report.

THE WITNESS: SLED report.

MR. FALK: Well, it's on letterhead; so I guess it's a -- well, yes.

THE COURT: Can you please show that to Mr. Sorenson so he knows what you're referring to.

MR. SORENSON: Yes.

THE COURT: I want that, please, marked for identification purposes only to be retained with the court reporter for purposes of this hearing only.

(Defendant's Exhibit 1 marked for identification only.)

THE WITNESS: I have a copy of the report with the same date, which essentially provides the same information.

THE COURT: Go ahead, Mr. Falk.

Q. On the report that you have, is anything identified as Item 1.1?

A. Yes, a black visor.

Q. Okay. Thank you.

And on the report that you have, is there anything that's identified as Item 2.1?

A. Yes, a black wig.

Q. Are those the two items that you did an analysis on?

A. Correct.

Q. And on the report that you -- do you know what her results on the DNA from 1.1?

A. Although this letter does provide the actual DNA laboratory results, this letter from SLED does not provide her final interpretation of those results.

THE COURT: Hold on a minute now. You've got a letter. I want to see what you all -- I want the record clear on what's being looked at. You're referring to one report.

MR. FALK: Yes, Your Honor.

THE COURT: And it appears that he has a different report that he is looking at. I want it to be clear for the purposes of the record that you all are looking at the same thing, okay? And if there's a discrepancy between one report that he may have versus the report that's been marked as Exhibit 1, I want that cleared up for purposes of the record.

MR. SORENSON: Yes, sir. What he's marked as Defendant's Exhibit No. 1 I'm aware of. I'm not sure what the doctor's looking at that's different.

THE COURT: (Indicating).

MR. SORENSON: That's a different report that he's

looking at.

THE COURT: Have you had that report Mr. Sorenson?

MR. SORENSON: Yes. This actually is the DNA report from the other bank robbery; so he's looking at entirely the wrong report right now.

THE COURT: Let's get on the same page here now.

THE WITNESS: Agreed.

MR. FALK: Referring back to my Exhibit No. 1.

THE COURT: Put that one up, Dr. Bennett, that you were looking at.

MR. SORENSON: It just happens to have the same date at the top I guess is where -- when you first saw that.

THE COURT: Okay.

MR. SORENSON: But it's a totally -- it's the other bank robbery.

THE COURT: All right. I want you looking at Defendant's Exhibit No. 1.

And, Mr. Falk, keep your questions pertaining to that particular report relating to this particular bank robbery --

MR. FALK: Yes, Your Honor.

THE COURT: -- that he is going to be tried for over the next few days here, okay?

Please take a minute to look at that if you need to, sir.

THE WITNESS: Yes. Since the dates were the same, that

was the cause of the confusion.

This report does provide --

Q. Well, let me ask you a question first. Can you just look over the results on that report.

A. Sure.

Okay. I've looked over this report.

Q. And does that -- does that report -- is that consistent with your conversations with the SLED person who you testified earlier that you spoke with?

A. Yes.

Q. And does that show that on Item 1.1, DNA from more than one individual was located?

A. Yes.

Q. Was identified?

A. Yes.

Q. And can you tell me what it shows for Item 2.1?

A. A mixture of at least two individuals were found.

Q. Again, so there's more than one person's DNA on that item?

A. Correct.

Q. Thank you.

All right. Now, going back, you had testified -- let me just get back on track here. So you had testified her procedure was to fully scrape the headband of the wig?

A. That is the procedure that she reported to me that she

performed.
Q. And did she do a similar procedure on the visor?
A. Yes, using the entire circumference of the visor, the portion that would come in contact with the head.
Q. Based on her description of the procedure and based on your understanding of recovering forensic evidence, do you think -- would you have expected to have found any more DNA on the headband of the wig?
A. Well, when I performed the initial analysis, repeating the same procedure that SLED had performed, I was unable to find any DNA present.
Q. Okay. And that was both on the wig and then on the --
A. Visor.
Q. -- visor?
A. Correct.
Q. So what you are saying is you're not saying that Mr. -- you didn't find -- you're saying you found no DNA evidence?
A. That's correct.
Q. So there was three people -- there was more than one person's -- there was more than two people's DNA originally on the wig?
A. According to the SLED report, yes.
Q. And according to the SLED report, there was at least two people's DNA on the visor?
A. According to the SLED report, yes.

Q. And when you had an opportunity to do this, there was no DNA left?
A. No DNA present when I repeated the procedure that SLED had performed.
Q. Now, did you have an opportunity then to conduct an additional analysis?
A. Yes.
Q. Can you explain what that analysis was or what your procedure was?
A. Yes. Pursuant to the Court's authorization to perform extended DNA analysis that was somewhat destructive in nature, I took a portion of the visor and made a cutting. Also did the same thing with the wig at the headband portion in attempt to determine if any DNA was embedded into the fabric of the DNA, as opposed to the DNA obtained from the surface by swabbing and scraping.
Q. And why did you -- and why did you think that might yield some benefits?
A. Well, since the swabbing and the scraping did not reveal any DNA, then by default, the next type of DNA extraction to perform is to do an actual cutting to determine if DNA was embedded further in the fabric that was not on the surface.
Q. Let's say if there's a baseball player who wears a hat every day, would you expect some of his DNA to have gotten more embedded into the surface?

A. Absolutely.
Q. Okay. So that's why you conducted this experiment?
A. Correct.
Q. Okay. And when you conducted that experiment, did that yield any results?
A. The results of that DNA testing was that no DNA was found.
Q. And that was the same result that you got originally?
A. Correct. Neither of these items had any type of stain or any evidence that the items were worn repeatedly.
Q. And you conducted these types of analysis in the past, have you not?
A. Many times, yes.
Q. How much DNA do you need?
A. Because of the technology of DNA today, we can start with a very small amount and amplify that to a sufficient amount for analysis, but we do have to have a minimum initial amount to start with.
Q. Well, let's say that a visor is -- let's say we go back to my baseball hat, totally impregnated with sweat.
A. Correct.
Q. How much of the circumference would you have needed? Two inches to swab or --
A. As small as a quarter of an inch would produce sufficient DNA.

Q. Okay. Now, in that example I used, I think we were talking about the baseball hat that's worn every day, but what if somebody just wore it one day?

A. Then there would be very little DNA deposited.

Q. How much would you have needed to swab?

A. Since we cannot see DNA, we have to go to the areas on the evidence item where DNA is most likely to be.

Q. Okay.

A. And, for example, in a hat or a visor and a wig, it would be along the headband. Now, if a DNA analyst wants to maximize the extraction of DNA from the item, that DNA analyst would swab the entire circumference of the item and go one step further and do scraping of the item in an attempt to maximize any DNA present. However, using that procedure essentially removes all the DNA present.

Q. One moment, please.

Have you ever had the opportunity to follow behind SLED on a DNA analysis?

A. I have not. They typically do not allow that.

Q. Would there have been any other way to determine if there was DNA on the headband or the wig other than by the analysis that you performed? Is there an alternative method to have recovered the DNA?

A. As far as extraction, I performed a swabbing, a scraping and a cutting.

Q. Okay.
A. As far as analysis itself, the standard number of loci tested is 16, to coincide with CODIS. When I did the final analysis on the cutting, I did an extended analysis of over 40 different loci, using loci of shorter length, because they're less likely to be damaged by age and the environment, and thus serves a greater chance of detecting any DNA that's present, and even with the extended analysis of 40 different loci was unable to identify any DNA present.
Q. And, again, could you explain what loci is or locus, I guess?
A. A definitive segment of DNA that is used as a unique identifier to an individual.
Q. Okay. Well, my question is, as far as extracting DNA, would there be any other way to extract the DNA other than by the swabbing and the scraping and then your further cutting?
A. Those are the standard procedures. There could be another method of using an extraction using a liquid method to submerse the evidence item into the liquid extraction solvent to try to pull any DNA out using that method rather than a mechanical method.
Q. Is that something that would have been -- is it your opinion that that would have been more likely to be successful on an item that was worn frequently as opposed to an item worn one time?

A. Yes.
Q. So on a one time -- on an item that's believed to have been worn once or twice, the scraping and the swabbing and then possibly the further cutting are the only ways of extracting any DNA evidence?
A. Correct.
MR. FALK: No further questions.
THE COURT: Cross-examination.
MR. SORENSON: May it please the Court, Your Honor.
THE COURT: Yes, sir.
CROSS-EXAMINATION BY MR. SORENSON:
Q. Good afternoon, Dr. Bennett.
A. Good afternoon.
Q. All right. A couple questions. So it's your testimony that SLED, in processing these items, but specifically right now we're talking about the wig and the visor; is that correct?
A. Correct.
Q. That they did a -- in your testimony, I believe your description -- a very thorough job of processing those two items; is that correct?
A. Yes. Their procedure was to maximize DNA extraction from the item.
Q. And, of course, it's also your testimony that when you looked at the items, there were no stains that were present;

is that correct?
A. Correct.
Q. So obviously if you had a blood stain or something, that would -- you'd be able to focus where you were collecting from on an item; is that correct?
A. Correct. Blood or sweat.
Q. In only looking at them visually, no visible stains that would have targeted, you know, I need to be processing and collecting from this spot; is that correct?
A. Correct.
Q. No indication on either of these items that they had been worn repeatedly? Like Mr. Falk indicated to you, I've got a softball hat that I wear. It probably hasn't been washed in the last ten years. And, I mean, I wear that thing every time I play softball, and it's pretty readily apparent that it's got sweat stains and all of that on it.

But there was nothing readily apparent to your eye in looking at these items on either one of them that would suggest that?
A. That's correct.
Q. And your testimony is that SLED did a very thorough job, and you would have done, if you were processing those same items, would have done -- would have processed them the same way they did; is that correct -- as far as what you did? With the only caveat, I believe you said, is that you may

have only scraped and swabbed a half to a third of the item instead of the entire item; is that correct?

A. Right. I would have done a DNA analysis on a portion of that, in order to have a remaining portion for any subsequent analysis. However, if my initial extraction produced no DNA results, then I may proceed further with the remaining portion allowable for DNA extraction.

Q. So you may have conceivably ended up doing exactly what they did also; is that correct?

A. Yes.

Q. Especially given the fact that there was no spot on either one of those items that was readily apparent that that's where I need to be swabbing, that's where I need to be scraping from; is that correct?

A. Correct.

Q. And I believe you have testified and have said in the past that when dealing with -- we're not dealing with blood stains or semen stains, but in this case, when you're just dealing with skin cells that have been shed, that, first of all, it's not always easy to get DNA from that; is that correct?

A. That's correct, because skin cells have lost their nucleus, and it's the nucleus of the cell where we get our DNA. So it is one of the most difficult sources of extracting DNA.

Q. And when you're dealing with an item of clothing, so to speak, in this case, a wig and a visor, those skin cells are just basically from having come into contact with the person that's worn them; is that correct?
A. Correct. Touch DNA.
Q. Okay. So they're going to be pretty easy as far as scraping and swabbing to basically collect off of there anything that's there and potentially not leave anything behind?
A. Correct.
Q. Okay. And ultimately -- and, Dr. Bennett, in your testing these two items then, you initially, prior to in August, you remember testifying back at a hearing we had back on August 4th; is that correct?
A. Yes.
Q. And prior to that point in time, you had attempted to basically go through on those two items and recreate what SLED did as far as scraping -- swabbing, scraping and then seeing if you could also then basically go behind them and try to get the same results or any results; is that correct?
A. Correct. And that's normal forensic procedure for confirmation of testing is to repeat the experiment in the exact same fashion.
Q. And prior to do doing that, you were provided with all of SLED's paperwork dealing with these items; is that

correct?
A. Correct.
Q. You had an opportunity to call out there and speak with not only the evidence processing technician but also the DNA analyst on this case, Ms. Catherine Leisy; is that correct?
A. Correct.
Q. They were cooperative with you?
A. Very.
Q. And they didn't appear to be hiding anything from you; is that correct?
A. Correct.
Q. And, in fact, prior then to doing these tests, obviously you needed to get those items, you met with myself and my investigator over at North Charleston Police Department and had those items turned over to you; is that correct?
A. That is correct.
Q. At that point in time, you could basically have access to whatever items that you wanted to in this case; is that correct?
A. That is correct.
Q. And ultimately, then, your findings, as I said, back on August 4th when you testified at that hearing was that you were unable to develop a DNA profile from those scrapings and swabs that you did on those two items; is that correct?
A. Correct.

Q. You also at that point in time -- I mean, I'll get to that in a second.

And at that point in time, you indicated to the Court, I believe it was Judge McMahon we had at that point in time, that there was some additional testing you wanted to do, and that is basically why the case got continued and we're here two months later; is that correct?

A. That's to my understanding, yes.

Q. And part of that you testified about was that you wanted to take some cuttings from basically -- the way you described it to me in looking at the items, from the interior of the headband of the wig and the interior of the headband of the visor; is that correct?

A. Correct.

Q. And I assume did you take the cutting all the way around of each of those?

A. Well, that was one procedure we could use. In my attempt to do that, I had too much material to work with; so I only could take a portion of that. I didn't do the entire circumference.

Q. So there's still more of it that could be tested; is that correct?

A. Correct.

Q. But you haven't done that?

A. Correct.

Q. Even though it was offered to you -- basically, I mean, nobody objected to you from the State's standpoint doing whatever you wanted to do; is that correct?
A. That is correct.
Q. So that limited cutting that you took, you were then also not able to get a DNA profile from that cutting from those items; is that correct?
A. Correct.
Q. I believe it's your testimony that, yet again, if we're dealing with items that may have only been worn one time for a short period of time for a disguise in a bank robbery, that you're not necessarily going to have the sweat and stuff soaking into the material; is that correct?
A. That's correct.
Q. And let me ask you, in the items you got also, there's also a latex glove. You're aware of that being tested and some DNA allegedly matching the defendant being found on a latex glove?
A. It's my understanding, yes.
Q. But you haven't done anything with that glove or any of the swabs taken from that latex glove; is that correct?
A. That's correct.
Q. Even though those items were provided to you; is that correct?
A. Correct.

Q. And then in addition to the -- let me ask you, is that all the testing that you've done up to this point?
A. No.
Q. What else have you done?
A. I was also provided with the original swabs that were used to swab the items. And on those swabs, there was some cotton material still remaining.
Q. Okay.
A. I was able to perform DNA testing on those swabs as well.
Q. Okay.
A. But the portion of the swabs that I tested did not contain any DNA.
Q. Okay. Now, let me ask you this: Were you aware, and have you been provided basically all the evidence inventories and things of that nature relating to this case as far as what was collected?
A. Yes.
Q. So you were aware that not only in those swabs that you were provided were the swabs when SLED does their evidence processing, let's say, on the wig? They scrape it, swab it, then kind of all that stuff is put together; is that correct -- to then be processed for DNA?
A. Well, they could combine it, or they could do individual DNA tests on the scraping versus the swabs.

Q. Okay.
A. But I believe in this case, when I spoke with the technician, she had made a swabbing, did a scraping and did a swabbing of the scraping material that had come off.
Q. So all creating then, as you said, so when they do their DNA testing, there's a little bit of that Q-tip swab left over?
A. Yes. But it was the back half of the Q-tip, not the portion that she used to do the swabbing. But I still tested the back half anyway in an attempt to hope that some DNA may be still residual.
Q. Gotcha. But let me ask you this: Were you also aware that prior to those two items, that visor and that wig, getting sent to the state law enforcement division, that the initial evidence person at North Charleston Police Department had swabbed those items and those items are in evidence and were not sent up to SLED; so they still exist, the initial swabs done by the crime scene technician for North Charleston Police Department?
A. I'm not sure what your question is.
Q. Are you aware that there are additional swabs that were taken from those two items, that were taken from that visor and from the wig by the crime scene technician that collected the items on April 1st of 2013?
A. I was --

Q. Those are sealed in evidence?
A. I was not aware of that.
Q. So you weren't offered those items when you met with myself and Investigator O'Neill?
A. I do not recall.
Q. So you may have been; you just don't recall?
A. Correct.
Q. It's my understanding back then what you were most concerned about was just trying to recreate what SLED did with the items, not necessarily doing anything with any swabs that anybody else had taken, but you wanted the actual items yourself?
A. That's correct.
Q. So it's your testimony that in your review of these items from everything that State law enforcement did, that they appeared to do a thorough job in processing the items?
A. From my conversations with SLED and the reporting, I have no evidence to believe that they did not do a thorough job.
Q. And anything in the stuff that you reviewed or in your conversations with the state law enforcement division to suggest that they did anything inappropriate in processing these and analyzing these items?
A. I have no evidence that they did anything inappropriate.
Q. No evidence that they were acting in bad faith at all or

doing anything improper?
A. No evidence.
Q. And it's your testimony that when looking at an item such as this that it is not readily apparent where you may get DNA off of the item; is that correct?
A. Correct.
Q. And just to make sure I summarize this correct, so your only fault, necessarily, with what they did is that they were too thorough in processing the items; is that correct?
A. Essentially, yes. They left no remaining items to be further processed.
Q. And, of course, when they did that -- when she is processing those items, I mean, that's not apparent to her that she's -- I mean, there's no way for that evidence technician to know that she's potentially removing all the DNA off of an item, right?
A. I would think that she would know that she's removing all the DNA available, and that would be the reason why she's doing it, to maximize DNA extraction.
Q. But it's your testimony that that's a mistake on her part to do that?
A. I didn't say it was a mistake. It was an attempt to maximize any and all DNA present.
Q. And that would be, if you were doing these tests, I mean, what you would be trying to do also is to maximize the

chance of you getting results and not having to keep going back and back and back and trying to redo the same thing?
A. Correct. There is a economic factor in this in that if there's minimal DNA to work with to begin with, and if only a partial extraction is done in an effort to save evidence for any future extractions, then if DNA is not obtained, then you would have to go back and do additional extraction, additional DNA testing, which would consume resources and time.
Q. And, of course, Dr. Bennett, you just made the comment a few moments ago that you thought it should have been apparent to her that she was removing all the DNA off of the items; you made that comment?
A. Correct.
Q. Of course, at the same time, you attempted to get DNA off of those items, right?
A. Correct.
Q. I mean, was it readily apparent to you that there was not going to be any DNA on there?
A. Not until I performed the testing.
Q. But it was supposed to be readily apparent to her that she removed it all?
A. She would not be -- it would not be readily apparent to her where the DNA would be on the item. So logistically thinking, to maximize DNA extraction, one would remove by

swabbing and additionally remove by scraping as much DNA as possibly could be obtained.

Q. And that's what she did in this case?

A. Correct.

Q. And you fault her for doing that or not? That's why I'm a little confused now. You're saying that's what she should do but then saying that she did, basically, you said too much?

A. Well, you used the words "faulting" and "mistake," and I don't agree that those apply in this case. She simply did a procedure that would maximize her ability to extract DNA from the items. Unfortunately, that procedure does not leave any remaining evidence item for any future testing. It's not necessarily a right or wrong or a mistake or a fault. It's just the procedure that was implemented on this particular evidence item.

Q. And I guess -- and I had asked you this question also, and I think I've gotten -- I'm not quite sure I understood your answer, then. Would it then be readily apparent to her that she had removed all the DNA or not?

A. In my opinion, it would be apparent to her that she would be removing all the DNA present. And that would be her goal is to remove as much DNA present to maximize her ability to detect DNA.

Q. And you reviewed all of those -- everything and talked

to her also?
A. Yes.
Q. But it was not readily apparent to you when you began analyzing the items?
A. Well, it was readily apparent that I also would be trying to remove any and all DNA present, but I had to do that because I was trying to repeat what she did exactly to see if I could obtain the same results that SLED obtained.
MR. SORENSON: That would be all I would have, Your Honor.
THE COURT: Anything further?
MR. FALK: A brief redirect.
REDIRECT EXAMINATION BY MR. FALK:
Q. Let's look at the headband. Let's say you cut it in half, and let's say it's seven inches long, approximate.
A. Okay.
Q. If -- and let's go from the left-hand cut. We have it laying on the table in front of us. Start from the left-hand side. If somebody thoroughly scraped and swabbed the first three inches of that headband, okay?
A. Okay.
Q. Would you expect to be able to come behind and find any DNA on those first three inches?
A. Unlikely.
Q. Because the person thoroughly scraped and swabbed it?

A. Correct.
Q. Okay. Now, if somebody thoroughly scraped -- and I'm using the first three inches because that's approximately, you know, not all of it but a significant portion of it.
Now, if somebody did maybe the first three inches of this headband and got -- and didn't get any results, and there's still four inches left, would that compromise their ability to go after the next four inches of the headband?
A. Not at all.
Q. Okay. So if somebody was going to possibly do this in a piecemeal fashion, if they did a portion, that would still leave another portion for somebody to look at?
A. Correct.
Q. Okay.
A. When I perform forensic analysis, I make every attempt to only use enough of the evidence item to perform the analysis.
Q. So the actual headband, once you have taken the swabbing and the scrapings off, the headband is still there; you're not destroying that in any way?
A. Correct.
Q. You're not putting any reagents, chemicals on that, right?
A. Correct.
Q. So you're not altering that or adulterating that in any

way?
A. Correct.
Q. So that would still be fresh territory for somebody else to look at?
A. Correct. It's just a mechanical removal of the DNA and not a chemical one.
THE COURT: Hold on just a minute. Can you all lock that back door? We're getting to about a quarter to 1. The jury is supposed to be here at 1:30. I don't want any kind of trickling in here.
I'm sorry. Go ahead, Mr. Falk.
Q. So knowing that she thoroughly scraped and swabbed the entire headband, you wouldn't really expect to find any on that headband following her same procedure?
A. After obtaining my results of finding no DNA, I was not surprised at that.
Q. And you believe there would be a way to have gone through that analysis, then leave an opportunity for somebody else to obtain fresh DNA?
A. Yes. There was sufficient evidence on items there to perform an analysis on part of the item and have a remaining portion available for any future testing.
Q. I'm obviously not a DNA expert, but, I mean, when I suggested going through the first three inches of it, would that be a type of procedure you would use?

A. It would.

MR. FALK: Okay. No further questions.

THE COURT: Anything further, Mr. Sorenson?

MR. SORENSON: No, sir.

THE COURT: Dr. Bennett, you may step down. Thank you.

THE WITNESS: Thank you.

THE COURT: Anything else, Mr. Falk, on this matter?

MR. FALK: I have no further witnesses.

THE COURT: All right. Anything by way of argument? Happy to hear from you.

MR. FALK: Your Honor, clearly I don't think there was any bad faith on the part of purposely trying to destroy the evidence, but my point is that I believe the SLED procedure is designed, whether by purpose or not, the result of the SLED procedure is not to -- it's to be so entirely thorough as to not leave any opportunity for any further analysis of that same piece of evidence.

I think that had they adopted a procedure that would have at least left the door open for fresh recovery, I think then my client would have had an opportunity to perform his own analysis. But because of the thoroughness, and I think that everybody suggests that their procedure was thorough. Because of the extreme thoroughness of the procedure, there was no way. It was, in effect, totally destructive testing that potentially was unnecessary.

THE COURT: All right. Thank you.

Anything further? Anything further, Defense Counsel?

MR. FALK: No, Your Honor.

THE COURT: Mr. Sorenson, happy to hear from you, sir.

MR. SORENSON: Just briefly, Your Honor. As you did indicate, I handed up several cases back in chambers that I think deal with this issue. And I do believe it comes down to basically two issues when you're dealing with allegations of destruction of evidence: That the defendant must demonstrate either, one, that the State destroyed the evidence in bad faith, and I'd submit to you there's absolutely no evidence of that in this case; or that the evidence possessed an exculpatory value apparent before the evidence was destroyed, and the defendant cannot obtain other evidence of comparable value by other means.

It's my position, Your Honor, that from the defense's own expert, that it's, you know, not apparent when they're processing an item such as is this, I mean, where they're going to get DNA. And their only fault that they can point to is basically that the evidence technician was too thorough in doing her job.

And I just don't think I've ever heard that being a complaint against law enforcement that should then lead to evidence being suppressed because they did too thorough of a job processing an item.

You know, this isn't a blood stain or something like that where you could say it would be easy, you know, to just swab and test a portion of the stain and leave it behind. It's not readily apparent when you're dealing with, in this case, a wig and a visor that, you know, appear to be a women's wig and a women's visor that are clearly being used just for a disguise, I mean, where to be swabbing.

And, ultimately, you know, that's, you know, law enforcement's job is to try to collect evidence. And I submit to you that's what they were doing. And they were doing a thorough job, which, you know, typically we're commending law enforcement for doing a thorough job. In this case it's somehow being twisted to go against them.

And I would point out also you heard in my questioning of Dr. Bennett that there were, when these items were originally initially collected, the North Charleston Police Department swabbed the inside of those items, and those swabs are still in evidence.

I mean, we met with Dr. Bennett and offered that he could have whatever he wanted. He wasn't interested in swabs. He wanted the items themselves to retest. And those would have been swabs that were taken prior to those items going out to the state law enforcement division. I mean, those are still available, have been available for the last -- you know, since April of last year.

So I think that would also kind of go to destroying that other prong that there is other items that are still -- it's not like we destroyed the wig and the visor. I mean, they were tested, and then those items were destroyed and any evidence that possibly could have come from them.

So it would be our position, Your Honor, that the defense has not met either of the prongs as laid out in *the State v. Cheeseboro* and the other cases provided to the Court.

THE COURT: All right. Based upon what I've heard here today, based upon arguments of counsel, the Court does not find that there is any evidence that the State destroyed evidence in bad faith. Nor is there any evidence that the State destroyed evidence that possessed an exculpatory value that was apparent before the evidence was destroyed, and the defendant can obtain other evidence of comparable value by other means.

While Dr. Bennett testified he would have maybe done things different, there was no fault other than the State's expert or that SLED performed too thorough of a test to maximize their findings.

Furthermore, no such DNA was apparent, as testified by Dr. Bennett, to the State, such as blood or semen or some other means that would be apparently visible to the naked eye, so to speak.

Furthermore, his testimony was that such DNA would have come from skin cells, skin cells that would not be readily apparent, especially in light of the fact that the wig and/or visor in question here were not piece items of evidence that had been worn on numerous occasions, but were items that had not, in fact, been worn hardly at all, so to speak, but would have been DNA testing simply for the looking of skin cells. It would not have been something that would have been embedded within the fabric which may be found in items that were worn over and over and over.

Therefore, the Court, based upon its testimony elicited from this stand, does not find that such items or their findings should be suppressed, but your objection is so noted for the record.

MR. FALK: Thank you, Your Honor.

THE COURT: All right. We'll stand at ease right now. Any other matters that we need to handle right now?

What I would propose doing is breaking right now for a short lunch. The jury's going to be here at 1:30. How long do you all give them downstairs to come in, about 15 minutes? About maybe 45 before we start talking to them?

CLERK OF COURT: Well, yeah, probably. We'll do a general roll call downstairs.

THE COURT: I would ask -- giving the lawyers, Ms. Mott and the other court personnel about an hour for lunch, I

would ask that you not start roll call until about 1:45 for the general discussion with the jury. Give them about 15 minutes to get in there, give the lawyers an opportunity to go get something to eat and get back here for them to be present during that process.

Does your client, Mr. Falk, have civilian clothes?

MR. FALK: Yes, he does.

THE COURT: All right. Make sure that he is --

MR. FALK: They've been delivered downstairs.

THE COURT: Make sure that he is provided with those clothes to change into for purposes of jury selection this afternoon, all right?

Anything further at this time, Mr. Sorenson?

MR. SORENSON: No, sir.

THE COURT: Mr. Falk?

MR. FALK: I just want to get a copy of my exhibit.

(Recess held.)

(Jury panel duly sworn and qualified.)

THE COURT: All right. Is the State ready to proceed?

MR. SORENSON: Yes, sir.

THE COURT: Defense counsel.

MR. FALK: Yes, Your Honor.

THE COURT: Mr. Solicitor, if you'll call your case please, sir.

MR. SORENSON: Thank you. May it please the Court, Your

Honor.

THE COURT: Yes, sir.

MR. SORENSON: At this time the State calls the case of the *State v. Tyrone Darius Ellison*, two indictments, Your Honor: 2013-GS-18-1271, charging Mr. Ellison with one count of entering a bank, depository or building and loan association with intent to steal; Indictment 2014-GS-18-325, charging him with one count of armed robbery.

THE COURT: Ladies and gentlemen, the State has called the case of *the State of South Carolina v. Tyrone Darius Ellison*. Mr. Ellison is charged in two separate indictments, first with the offense of entering a bank, depository or building and loan association with intent to steal.

This particular indictment reads that in Dorchester County, South Carolina on or about April 1, 2013, the defendant, Tyrone Darius Ellison, unlawfully did enter the SunTrust Bank, a building or part of a building occupied as a bank, depository or building and loan association, with the intent to steal money, securities for money or property, either by force, intimidation or threats, in violation of Section 16-11-380 of the South Carolina code of laws.

The second indictment that I hold is a charge for armed robbery. The indictment reads as follows: "That on or about April 1, 2013, in Dorchester County, the defendant, Tyrone Darius Ellison, did by use of force, threats or

intimidation and while armed with a deadly weapon or while alleging, either by words or action, that he was armed while using a representation of a deadly weapon or any object which a person present during the commission of the robbery reasonably believed to be a deadly weapon, take and carry away goods and/or monies belongings to SunTrust Bank from the person or presence of Roberta Bass and/or Quinn Rustin with intent to permanently deprive the victim of possession of the goods or monies, such weapon or alleged weapon described as a handgun. This offense, being in violation of Section 16-11-330 of the South Carolina code of laws."

Now, ladies and gentlemen, the indictments that I hold in my hand which I have read to you is not evidence in this case. Please understand that they are simply the charging documents by which this case or these cases are brought into this court.

To these charges the defendant, Mr. Tyrone Darius Ellison, has pled not guilty. He has pled not guilty to each of these charges. Therefore, the State of South Carolina bears the burden of proving his guilt beyond a reasonable doubt as to each charge.

Now, before we go forward in selecting a jury, there are several questions that I must ask of you. Is there any member of the jury panel that has ever been related by blood, connected by marriage, had a close personal, business or

social relationship with Mr. Tyrone Darius Ellison? If so, please stand.

The following, ladies and gentlemen, is a list of potential witnesses in this case. Please listen very carefully to this list of witnesses, potential witnesses. They include: John Baker, Roberta Bass, Quinn Rustin, Bonnie Weeks, Loretta Norris, David Lewis, Terrance Bryant, Chyronda Youmans, Al Hallman, Moses Wood.

I'm going to stop right there on the list and ask you this question, then I'll continue with the list. There are numerous people, so I'm going to do this in -- break it down into different parts.

As it relates to those witnesses or potential witnesses that I have just called out, is there any member of the jury panel that has ever been related by blood, connected by marriage, had a close personal, business or social relationship with any of those potential witnesses? If so, please stand.

Please listen to the next list of potential witnesses: James Lee, Annette McKinney, Officer Jeremy Ledford, Officer Casey Pace, Sergeant Ken Sharp, Investigator Lisa Kubicsko -- I hope I pronounced that correctly -- Detective Charles Benton, Detective Travis Repman, Detective Ruben Serrudo, Sergeant Al Kuechler.

Is there any member of the jury panel that has ever been

related by blood, connected by marriage, had a close personal business or social relationship with any of those potential witnesses? If so, please stand.

The next group of potential witnesses: Detective Karen MacDonald, Detective Jason Monroe, Charlotte Rich, Shawnta Middleton, Cindy Hearn, Catherine Leisy, Betty Butler, Ashley Bell, Doris Yarborough, Patricia Crooks.

Is there any member of the jury panel that has ever been related by blood, connected by marriage, had a close personal, business or social relationship with any of those potential witnesses. If so, please stand.

Yes, ma'am, your name and number in the back, please.

JUROR NO. 31: Gloria Cyrek, No. 31. Social friend.

THE COURT: Hold on just a minute.

Who all from that list do you know, Ms. Cyrek.

JUROR NO. 31: Betty Butler.

THE COURT: In what capacity do you know Ms. Butler?

JUROR NO. 31: Social friend about 16 years.

THE COURT: Do you engage in regular social activities together?

JUROR NO. 31: I see her about once a week.

MR. SORENSON: May we approach real quick?

THE COURT: Yes.

MR. SORENSON: I'd be willing to guess she has the wrong Betty Butler since this is an evidence technician at SLED.

THE COURT: Can you come forward, please, ma'am.

Where does Ms. Butler that you know live?

JUROR NO. 31: Where does she live? She lives on Cobbler Road.

THE COURT: Here in Dorchester County?

JUROR NO. 31: Yes, I believe it is.

THE COURT: Does she work anywhere that you know of?

JUROR NO. 31: She just retired, I believe.

THE COURT: From where?

JUROR NO. 31: A government job. I don't -- I don't know of --

THE COURT: This Ms. Butler, according to the State, works with SLED, South Carolina Law Enforcement Division, and lives in Columbia; is that right?

MR. SORENSON: I thought that's where she lived.

THE COURT: Maybe a different Betty Butler?

JUROR NO. 31: Perhaps.

THE COURT: But you don't know --

JUROR NO. 31: My hearing isn't really good.

THE COURT: But you don't know where she retired from? You said a government job?

JUROR NO. 31: No, I don't. All I know is that --

THE COURT: She's currently employed?

MR. SORENSON: I thought she was. Maybe she was -- it gives me some concern that we could be talking about,

theoretically, the same person.

JUROR NO. 31: Yes.

MR. SORENSON: I'm pretty sure she's still there.

JUROR NO. 31: I don't know.

THE COURT: We have enough jurors. As a matter of precaution, I'm going to set her aside.

Do you have any objection?

MR. FALK: Setting her aside, no, I don't.

THE COURT: As a matter of precaution, I'm going to set you aside. It may or may not be the same person. I'd hate for you to be put on this jury and then it is the same person. The State seems to think that it's a different person, but as a matter of precaution, I'm going to set you aside for trial in this case.

JUROR NO. 31: Okay. Thank you so much.

THE COURT: But you can stay with us.

MR. FALK: I didn't get her number.

JUROR NO. 31: 31.

THE COURT: 31, Ms. Gloria Cyrek. I'm going to set her aside.

All right. The next group of potential witnesses, please listen: Amy Stephens, Courtney Smith, Clarissa Mack, Terry Blanks, Clarence Bonnette, Sam Powers, Investigator William O'Neil, David Jeter, Annette McKinney, Moses Woods, Chunte Green, Candida Payne, Dennis McKinney and Dr. Robert

M. Bennett.

Are there any members of the jury panel that have ever been related by blood, connected by marriage, had a close personal, business or social relationship with any of those potential witnesses? If so, please stand.

At this time I'm going to ask the attorneys for the State, followed by defense counsel, if you would stand and introduce yourselves to the jury panel, please.

MR. SORENSON: Thank you, may it please the Court, Your Honor.

THE COURT: Yes, sir.

MR. SORENSON: My name's Don Sorenson. I'm the senior assistant solicitor here in the First Judicial Circuit, which is comprised of Dorchester County, Orangeburg County and Calhoun County. Do you want me to introduce everybody else, the other lawyers in my office?

THE COURT: That may be involved in this case, yes, sir.

MR. SORENSON: Okay. This is Phil Giese. Mr. Giese is an assistant solicitor here in Dorchester County. That's Ms. Kerri Huff. She's one of my court assistants. And this is Detective Jason Monroe with the North Charleston Police Department.

THE COURT: Mr. Falk.

MR. FALK: I'm James Falk. I have an office in Charleston. This is Caroline Sunaki, who is working with me

today. She's our clerk. And my client, this is Tyrone (indicating).

THE COURT: Has any member of the jury panel ever been related by blood, connected by marriage, had a close personal, business or social relationship with any of the attorneys involved in this case? If so, please stand.

Yes, ma'am, your name and number, please.

JUROR NO. 88: Athea Mack, No. 88.

THE COURT: Yes, ma'am. Ms. Mack, who do you know?

JUROR NO. 88: Can I come forward?

THE COURT: Yes, ma'am, please come forward.

Come on around here Ms. Mack, please, ma'am. How are you today?

JUROR NO. 88: I'm fine.

THE COURT: Tell me.

JUROR NO. 88: The solicitor's office is handling a criminal case for me, and I know Mr. Sorenson.

THE COURT: Are you charged with a criminal?

JUROR NO. 88: No, he's handling it.

THE COURT: You're the victim?

JUROR NO. 88: My granddaughter.

THE COURT: Okay. What kind of case is it?

JUROR NO. 88: She was raped at the school.

THE COURT: Okay. So you're closely involved in that case with the solicitor?

MR. SORENSON: I've met with her, yes, ma'am. Now that I met her and she says who it is, I know exactly who it --

THE COURT: All right. I'm going to set her aside for trial of this case. Do you hear what she's saying?

MR. FALK: Yes. I'm not sure I would object to her staying, but if you want to set her aside, that's fine.

THE COURT: I mean, her granddaughter is a victim of you said a rape.

JUROR NO. 88: Yes.

THE COURT: And she has been cooperating with Mr. Sorenson on that.

MR. FALK: I understand.

THE COURT: I'm setting her aside for the trial of this case.

Are you okay? Stay with me right now, okay? Just set her aside for trial.

All right. Has any member of the jury panel or their immediate family ever been the victim of a violent crime? If so, please stand.

Tell me your name and number, please, ma'am.

JUROR NO. 118: Donna Ramsey, 118.

THE COURT: The fact that you stood in response to this question, if you were selected as a juror in this case, would that affect your ability to be fair and impartial to both the State and the defense.

JUROR NO. 118: I'm not sure.

THE COURT: Then as a matter of precaution, I'm going to set you aside for the trial of this case. Tell me your name and number again, please.

JUROR NO. 118: Donna Ramsey, 118.

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

Ladies and gentlemen, I previously read the indictments in this case to you, but let me tell you this: This particular offense for which Mr. Tyrone Darius Ellison is charged with allegedly occurred at SunTrust, the SunTrust Bank at 8610 Dorchester Road, North Charleston, on or about April 1, 2013, at approximately 10:30 a.m.

Has any member of the jury panel heard or read anything about this case, whether it be on television or in the newspapers? If so, please stand.

Tell me your name and number, please, sir.

JUROR NO. 55: Gary Grill, No. 55.

THE COURT: Mr. Sorenson, Mr. Falk, I've given him protection.

MR. SORENSON: Yes.

MR. CLEVELAND: Yes.

THE COURT: Sir, you may be seated, thank you.

Yes, ma'am, your name and number, please.

JUROR NO. 68: Laverda James, No. 68.

THE COURT: Can you come forward, madam. Now, I'm not going to ask you to go into what you've read and what you've heard, but let me ask you this question: If you were selected as a juror in this case, whatever you've read or whatever you've heard, could you set that aside and decide this case based solely upon the evidence and testimony that's presented in this courtroom and nowhere else?

JUROR NO. 68: I think so.

THE COURT: You think so?

JUROR NO. 68: Okay. I believe so, because what I've heard has only been -- but you asked the question have we heard. I'm not sure if it's the same branch, but if it's the branch that's in the Whitehall/Coosaw area.

THE COURT: That's the one.

JUROR NO. 68: Okay. I actually live there, so I did hear about it because that's my neighborhood. But I have not read anything.

THE COURT: Did you hear about it from the news outlets or media?

JUROR NO. 68: Yes, just from the news.

THE COURT: How long ago was that?

JUROR NO. 68: Well, over a year ago.

THE COURT: Well, let me ask you this: Based upon what you've heard about it from news outlets, have you formed or expressed an opinion about any matter in this case?

JUROR NO. 68: No.

THE COURT: Ma'am?

JUROR NO. 68: No, I have not. Didn't even know who the defendant was. Never knew the name, just that something had happened.

THE COURT: Do you believe that you could set aside whatever you've heard and decide this case based solely upon the evidence and testimony?

JUROR NO. 68: Yes. Yes, I can do that.

THE COURT: Thank you. I'm going to let you return.

Let the lawyers stay here for just a second.

Mr. Sorenson, anything with regard to that at this point?

MR. FALK: I mean, I don't know how to ask the question without asking the question I don't want to know, but I wish we could ask a little bit of what she heard, because if she heard about the July --

THE COURT: She didn't even know the defendant. She didn't know his name.

MR. CLEVELAND: But if she still knows it, because they said they apprehended the victim and the suspect. I mean, that's what the news report was. So if there's a way that we could ask a couple things she knows about it, if she knows it was two, then I've got to have her -- I have a problem.

THE COURT: What?

MR. FALK: If she knows that there were two.

THE COURT: Two robberies?

MR. FALK: Yes. Because when it was reported, it was he was a suspect in two robberies. They might be one of those details that you might remember about the case.

MR. SORENSON: The bank is robbed on April 1st. It gets robbed on July 1st. He is in a high speed chase with law enforcement after the second robbery, gets apprehended the following morning and the news after that probably did address that he's been charged with two bank robberies at SunTrust.

THE COURT: Have you got a problem with me inquiring on that?

MR. SORENSON: I don't. I don't.

THE COURT: What was the name?

MR. SORENSON: Ms. James, Laverda James.

THE COURT: Ms. James, I'm sorry to do this. Can you come up here again, please. I should have just asked you to stand over here while I spoke to them. I'm sorry. Come on up here. Tell me, if you would, what you heard about the case.

JUROR NO. 68: I never really heard anything about the case itself, only about the incident. And that's a fairly new branch. It has not been there for very long, so it caught my attention because something had happened at that branch. And as I said, it's at the entrance of my

neighborhood.

As far as the particulars, whatever I heard, I honestly don't remember. It's just when you gave the address, it clicked that oh, yes, that I had seen that on the news, had heard about it.

THE COURT: Have any further inquiry?

MR. FALK: No, Your Honor.

THE COURT: Okay. Thank you. I'm going to let you stay with me. Thank you, Ms. James. You may be seated. Thank you.

Has any member of the jury panel formed or expressed an opinion about any issue or matter involved in this case? If so, please stand.

Is any member of the jury panel aware of any bias or prejudice toward either the State or the defendant? If so, please stand.

Is there any member of the jury panel who is a member of or contributor to any group which has as its primary concern the promotion of law enforcement or victims rights? These groups might include but certainly are not limited to MADD, SADD or CAV, Citizens Against Violent Crime? If so, please stand.

Does any member of the jury panel know of any reason, any reason whatsoever, why he or she should not serve as a juror in this case, with particular emphasis being placed

upon your ability to be fair and impartial to both the State and the defense? If so, please stand.

Any further voir dire from the State?

MR. SORENSON: Not from the State, Your Honor.

THE COURT: Defense counsel?

MR. FALK: Your Honor, I have a few more that were on my list.

THE COURT: Can you come up here, Mr. Sorenson.

I'll ask this question: Whether or not any of them bank at that particular location. How about that?

MR. FALK: Okay.

THE COURT: The other questions I've pretty much included in my other voir dire.

MR. FALK: I think the people are probably all gone already, but, I mean, if somebody -- you asked if somebody was a victim of -- did you ask about victim of violent crime?

THE COURT: Mm-hmm.

MR. FALK: I'm not sure if you were working at a store when a robbery would occur if you would think that that was a victim of a violent crime. I mean, I think the store is the victim, so I have a question in there just any member of your close family or you been working at a store when a robbery has occurred.

THE COURT: Well, I think that's inclusive in what I've asked.

MR. FALK: Okay.

THE COURT: Any member of the jury panel currently or in the past bank with SunTrust Bank at 8610 Dorchester Road in North Charleston? If so, please stand.

Yes, sir, your name and number, please.

JUROR NO. 112: Charles Phipps, No. 112.

THE COURT: You currently bank at that location?

JUROR NO. 112: No.

THE COURT: You just bank with SunTrust?

JUROR NO. 112: SunTrust. I think I got a car loan from that address one time.

THE COURT: The fact that you bank with them, would that in any way affect your ability to be fair and impartial to both the State and the defense in this case?

JUROR NO. 112: No.

THE COURT: Thank you, sir. Tell me your name and number again.

JUROR NO. 112: Charles Phipps, No. 112.

THE COURT: Thank you, sir, you may be seated.

Anything further from the State?

MR. SORENSON: No, sir.

THE COURT: Defense counsel?

MR. FALK: No, Your Honor.

THE COURT: Madam clerk, if you will produce a list for me.

Two alternates, please. Five and ten on the strikes.

(Brief pause.)

THE COURT: As they are generating that list, can you all approach.

(Judge and attorneys confer.)

CLERK OF COURT: As I call your name, if you'll please come forward, turn around and face the back of the courtroom. If you have any personal items, bring those with you.

Juror No. 78, David Keller.

(White male comes to the front of the courtroom.)

CLERK OF COURT: What says the State?

MR. SORENSON: Please present Mr. Keller.

CLERK OF COURT: The defense?

MR. FALK: We'll strike the juror.

CLERK OF COURT: Please have a seat back in the audience. Juror No. 89, Christopher Male.

(Black male comes to the front of the courtroom.)

CLERK OF COURT: What says the State?

MR. SORENSON: Please excuse Mr. Male.

CLERK OF COURT: Please have a seat back in the audience.

Juror 130, Kathleen Signor.

(White female comes to the front of the courtroom.)

CLERK OF COURT: What says the State?

MR. SORENSON: Please present Ms. Signor.

CLERK OF COURT: Defense?

MR. FALK: Please seat the juror.

CLERK OF COURT: Please have a seat in the jury box to your left.

Juror No. 75, Robert Jones, IV.

(White male comes to the front of the courtroom.)

CLERK OF COURT: What says the State?

MR. SORENSON: Please present Mr. Jones.

CLERK OF COURT: Defense?

MR. FALK: Please seat the juror.

CLERK OF COURT: Please have a seat in the jury box to the left.

No. 148, J.B. White, Jr.

(Black male comes to the front of the courtroom.)

CLERK OF COURT: What says the State?

MR. SORENSON: Please excuse Mr. White.

CLERK OF COURT: Please have a seat back in the audience.

Juror 73, Heather Johnson.

(White female comes to the front of the courtroom.)

CLERK OF COURT: What says the State?

MR. SORENSON: Please present Ms. Johnson.

CLERK OF COURT: The defense?

MR. FALK: Please strike this juror.

CLERK OF COURT: Please have a seat back in the

audience. No. 24, Steven Clowers.

(White male comes to the front of the courtroom.)

CLERK OF COURT: What says the State?

MR. SORENSON: Please present Mr. Clowers.

CLERK OF COURT: Defense?

MR. FALK: Please seat the juror.

CLERK OF COURT: Please have a seat in the jury box to the left.

No. 125, Alex Ross.

(White male comes to the front of the courtroom.)

CLERK OF COURT: What says the State?

MR. SORENSON: Please present Mr. Ross.

CLERK OF COURT: Defense?

MR. FALK: Please seat the juror.

CLERK OF COURT: Please have a seat in the jury box to the left.

No. 68, Laverda James.

(Black female comes to the front of the courtroom.)

CLERK OF COURT: What says the State?

MR. SORENSON: Please present Ms. James.

CLERK OF COURT: Defense?

MR. FALK: Defense strikes Ms. James.

CLERK OF COURT: Please have a seat back in the audience.

Juror No. 4, Ann Ayer.

(White female comes to the front of the courtroom.)

CLERK OF COURT: What says the State?

MR. SORENSON: Please present Ms. Ayer.

CLERK OF COURT: Defense?

MR. FALK: Please seat the juror.

CLERK OF COURT: Please have a seat in the jury box to the left.

No. 143, Nolan Thompson.

(White male comes to the front of the courtroom.)

CLERK OF COURT: What says the State?

MR. SORENSON: Please excuse Mr. Thompson.

CLERK OF COURT: Please have a seat back in the audience.

Juror 117, Dawn Putzel.

(White female comes to the front of the courtroom.)

CLERK OF COURT: What says the State?

MR. SORENSON: Please present Ms. Putzel.

CLERK OF COURT: Defense?

MR. FALK: Please strike Ms. Putzel.

CLERK OF COURT: Please have a seat back in the audience.

Juror No. 15, William Bradsher III.

(White male comes to the front of the courtroom.)

CLERK OF COURT: What says the State?

MR. SORENSON: Please present Mr. Bradsher.

CLERK OF COURT: Defense?

MR. FALK: Defense strikes Mr. Bradsher.

CLERK OF COURT: Please have a seat back in the audience.

No. 123, Tracey Rickus.

(White male comes to the front of the courtroom.)

CLERK OF COURT: What says the State?

MR. SORENSON: Please present Mr. Rickus.

CLERK OF COURT: Defense?

MR. FALK: Please seat Mr. Rickus.

CLERK OF COURT: Please have a seat in the jury box to the left.

Juror 32, Bryan Davis.

(White male comes to the front of the courtroom.)

CLERK OF COURT: What says the State?

MR. SORENSON: Please present Mr. Davis.

CLERK OF COURT: Defense?

MR. FALK: Defense strikes Mr. Davis.

CLERK OF COURT: Please have a seat back in the audience.

Juror No. 33, Lennon Davis.

(White male comes to the front of the courtroom.)

CLERK OF COURT: What says the State?

MR. SORENSON: Please present Mr. Davis.

CLERK OF COURT: Defense?

MR. FALK: Please seat Mr. Davis.

CLERK OF COURT: Please have a seat in the jury box to the left.

Juror 36, Bridge Dewees.

(Black female comes to the front of the courtroom.)

CLERK OF COURT: What says the State?

MR. SORENSON: Please present Ms. Dewees.

CLERK OF COURT: Defense?

MR. FALK: Defense strikes Ms. Dewees.

CLERK OF COURT: Please have a seat back in the audience.

No. 109, Holly Perkins.

(White female comes to the front of the courtroom.)

CLERK OF COURT: What says the State?

MR. SORENSON: Please present Ms. Perkins.

CLERK OF COURT: Defense?

MR. FALK: Please seat Ms. Perkins.

CLERK OF COURT: Please have a seat in the jury box to the left.

Juror 112, Charles Phipps.

(White male comes to the front of the courtroom.)

CLERK OF COURT: What says the State?

MR. SORENSON: Please present Mr. Phipps.

CLERK OF COURT: Defense?

MR. FALK: Please seat Mr. Phipps.

CLERK OF COURT: Please have a seat in the jury box to the left.

Juror 76, Thomas Jordan, Jr.

(White male comes to the front of the courtroom.)

CLERK OF COURT: What says the State?

MR. SORENSON: Please present Mr. Jordan.

CLERK OF COURT: Defense?

MR. FALK: Defense strikes Mr. Jordan.

CLERK OF COURT: Please have a seat back in the audience.

Juror 14, Mark Blevins, Sr.

(White male comes to the front of the courtroom.)

CLERK OF COURT: What says the State?

MR. SORENSON: Please present Mr. Blevins.

CLERK OF COURT: The defense?

MR. FALK: Please seat Mr. Blevins.

CLERK OF COURT: Please have a seat in the jury box to the left.

Juror 151, William White.

(Black male comes to the front of the courtroom.)

CLERK OF COURT: What says the State?

MR. SORENSON: Please present Mr. White.

CLERK OF COURT: Defense?

MR. FALK: Please seat Mr. White.

CLERK OF COURT: Please have a seat in the jury box to

the left.

Juror 103, Cheryl Montgomery.

(White female comes to the front of the courtroom.)

CLERK OF COURT: What says the State?

MR. SORENSON: Please present Ms. Montgomery.

CLERK OF COURT: Defense?

MR. FALK: Defense strikes Ms. Montgomery.

CLERK OF COURT: Please have a seat back in the audience.

No. 132, Jacquelyn Smalls.

(Black female comes to the front of the courtroom.)

CLERK OF COURT: What says the State?

MR. SORENSON: Please excuse Ms. Smalls.

CLERK OF COURT: Please have a seat back in the audience.

Juror No. 121, Colleen Rhodus.

(White female comes to the front of the courtroom.)

CLERK OF COURT: What says the State?

MR. SORENSON: Please present Ms. Rhodus.

CLERK OF COURT: Defense?

MR. FALK: Please seat Ms. Rhodus.

CLERK OF COURT: Please have a seat in the jury box to the left.

For our first alternate, Juror No. 23, Michelle Cheslek.

(White female comes to the front of the courtroom.)

CLERK OF COURT: What says the State?

MR. SORENSON: Please present Ms. Cheslek.

CLERK OF COURT: Defense?

MR. FALK: Please seat Ms. Cheslek.

CLERK OF COURT: Please have a seat in the jury box to the left.

That's Alternate No. 1. For the second alternate, Juror No. 135, Richard Spicer.

(White male comes to the front of the courtroom.)

CLERK OF COURT: What says the State?

MR. SORENSON: Please excuse Mr. Spicer.

CLERK OF COURT: Please have a seat back in the audience.

Juror 157, Katherine Windham.

(White female comes to the front of the courtroom.)

CLERK OF COURT: What says the State?

MR. SORENSON: Please present Ms. Windham.

CLERK OF COURT: Defense?

MR. FALK: Defense strikes Ms. Windham.

CLERK OF COURT: Please have a seat back in the audience.

Juror 128, Roy Schroeder.

(White male comes to the front of the courtroom.)

CLERK OF COURT: What says the State?

MR. SORENSON: Please present Mr. Schroeder.

CLERK OF COURT: Defense?

MR. CLEVELAND: Defense strikes Mr. Schroeder.

CLERK OF COURT: Please have a seat back in the audience.

Juror No. 77, Christie Kelleher.

(White female comes to the front of the courtroom.)

CLERK OF COURT: What says the State?

MR. SORENSON: Please present Ms. Kelleher.

CLERK OF COURT: Defense?

MR. FALK: Please seat Ms. Kelleher.

CLERK OF COURT: Please have a seat in the jury box. Alternate No. 2.

THE COURT: Are there any matters of law we need to take up with regard to jury selection from the State?

MR. SORENSON: No, Your Honor.

THE COURT: Defense counsel?

MR. FALK: No, Your Honor.

THE COURT: Ladies and gentlemen, you all have been selected as fair and impartial jurors in this case. What I am going to do is I'm going to ask you to step to the jury room for just a minute. Step to the jury room for just a minute. Do not -- you're going to hear me say this over and over. Do not discuss the case until you're instructed to do so. I'll get you back out here as quickly as possible.

Everybody else remain seated while the jury exits the

courtroom, please.

(The jury retires to the jury room at 3:59 p.m.)

THE COURT: Ladies and gentlemen, those of you who are seated out in the audience, you were not selected as a juror in this particular case. What I am going to do at this time is I am going to excuse you all for the balance of today and for tomorrow. What I am going to ask you to do, it's my understanding each of you were given this card with juror information on here; is that correct? Does anybody not have this card?

I'm going to ask that you call the telephone number back that's on this card. It's about three fourths of the way down. Call that number tomorrow night after 6:00. After 6:00. And that will give you instructions as to what you are to do with regards to Wednesday and possibly the remainder of the week.

Anything from the State before I release this?

MR. SORENSON: No, Your Honor.

THE COURT: Defense counsel.

MR. FALK: No, Your Honor.

THE COURT: You all are free to go. Please make sure you call that number back tomorrow night after 6:00. Thank you.

(Jury panel exits the courtroom.)

THE COURT: Mr. Sorenson, can you come up for a minute,

please.

I'm just asking him what about the remainder of the week. You can come up here if you want to.

(Judge and attorneys confer.)

(The jury enters the courtroom at 4:02 p.m.)

THE COURT: You all can be seated as you come in, okay?

I need Ms. Cheslek and then Ms. Kelleher to sit in those back two, right there. Ms. Kelleher and Ms. Cheslek, did I pronounce that correctly? You two are the only ones that have an assigned seat right now, okay?

The rest of you, as you come in and out of here, you can sit wherever you so desire.

Now, at some point in time, a foreperson will be selected for the jury. Once the foreperson is selected, they will sit where this young lady is seated. Other than that, those are the only three people that have assigned seats throughout the trial of this case. So as you come in and out of the courtroom, you can sit wherever you so desire, unless you're selected as a foreperson and except for my two alternates. They've got to sit in one of those two seats back there.

Now, what I'm going to do, ladies and gentlemen, at this time, I am going to excuse you all for the balance of the evening, okay? Rather than start the trial of this case this late in the evening, I am going to excuse you for the balance

of the evening.

What I am going to ask you to do is to please be back in the jury room tomorrow morning at 9:00, at 9:00, and we will start the trial of this case as promptly at that time as possible.

During your overnight break, during any breaks that I give you, please understand that you are not to discuss this case with anyone. You know very little about this case at this point other than what I've read you in the indictment. And I have told you that that is not evidence in this case.

Evidence in this case will be elicited from this witness stand, the witnesses and any evidence, items of evidence that may be introduced during the course of this trial. You are not to discuss this case with anyone, whether it be your family, friends, coworkers, anyone, until you're instructed to do so by this Court.

Furthermore, you are instructed not to do any independent investigation on your own, whether it be online or whatever. Again, you are to decide this case based solely upon the evidence and testimony that's presented in this courtroom and nowhere else.

Is there anything from the State before I release the jury for the balance of the day?

MR. SORENSON: No, Your Honor.

THE COURT: Defense counsel?

MR. FALK: No, Your Honor.

THE COURT: All right. I'm going to let you go for the day. Please be back at 9:00 in the morning, and we will start the trial of this case at that time. The bailiffs here, they will show you where you need to return to, okay? You all are free to go at this time.

(The jury retires to the jury room at 4:05 p.m.)

THE COURT: Anything from the State at this time? I know up here at sidebar you indicated that you all wanted to put something on the record that you all were in agreement with.

MR. SORENSON: The only thing I guess is that since we have a few minutes here at the end of the day, Your Honor, is Mr. Falk had filed a motion in limine dealing with a couple issues, some 404(b) matters and then also the defendant's prior record.

I've told Mr. Falk that I think the two issues that he had regarding kind of prior bad conduct, the alleged bad conduct on the part of his client would involve his prior criminal conviction for an assault and battery with intent to kill. I would not be intending to try to get into that in our case in chief. I mean, we can address that, I guess.

THE COURT: If he takes the stand and opens that door, that's a whole different ball of wax.

MR. SORENSON: We can address that, I guess, at the

appropriate time.

THE COURT: Right.

MR. SORENSON: So as far as our case in chief, that I don't have a problem with. And then I have told him, along with the prior lawyers that were involved in this, that we would not be seeking to go into the July 1st bank robbery which he's been indicted for also.

THE COURT: Okay.

MR. SORENSON: Now, obviously, you know, if something pops up where I think he's opened the door to that or something, I would approach and we'll take that up at that point in time, but we've instructed our witnesses and we will continue to instruct them that we are not -- we are only dealing with the April 1st bank robbery.

THE COURT: Right. And this was discussed back in chambers, and I asked you to do that as well, to convey to your witnesses not to go into that.

All right. Anything else?

MR. SORENSON: That would be all from the State, Your Honor.

MR. FALK: Your Honor, regarding the 609 issue, if my client took the stand and did not open the door to his character, would you still consider whether or not his prior record could be excluded under 403? I mean, I think the statute does allow that when a defendant witness takes the

stand, there's still another 403 balancing analysis.

THE COURT: Right. Right.

MR. FALK: And provided I don't open the door, saying my guy come in and say he's an Eagle Scout or something like that.

THE COURT: Well, I'll take it under consideration when and if the matter arises. Once I advise him of his rights and whether or not he decides to testify, we'll go from there.

All right. Anything else?

MR. SORENSON: For right now, no, sir.

THE COURT: Anything else?

MR. FALK: No, Your Honor.

THE COURT: All right. 9:00 in the morning.

Yes?

MR. FALK: Your Honor, different judges are different. When you object, do you want to come right up, or do you want us to stand and give the rules or what do you want --

THE COURT: All I want is your objection and for you to state your grounds for your objection.

MR. FALK: Okay.

THE COURT: No arguing objections on the record in the presence of the jury. Don't allow that, improper.

MR. FALK: Thank you.

THE COURT: If I feel like I do need argument, then I'll

send the jury out. I'll recognize the objecting party and hear from them at that time.

MR. FALK: Yes, sir.

THE COURT: Anything further, Mr. Sorenson?

MR. SORENSON: No, sir.

THE COURT: Mr. Falk?

MR. FALK: No, sir.

THE COURT: See you all tomorrow morning at 9:00.

(Trial of the case adjourned for the day at 4:10 p.m.)

(Trial of the case resumed on 10/21/14.)

(State's Exhibits 1-13, 18-29 and 37-44 premarked for identification.)

THE COURT: Mr. Sorenson, with consent from my understanding of Mr. Falk, came back and showed me a letter or a handwritten note that was dropped off in the solicitor's office. Did you have a chance to look at that, Mr. Falk?

MR. FALK: I did, Your Honor.

THE COURT: Anything, any motions or anything?

MR. FALK: Yes, Your Honor, we'd ask to exclude the juror, and if we can have two alternates, if we could go forward.

THE COURT: Well, this is what I'm going to do: I'm going to pull that juror out. I want to find out what, if any, relationship there is there.

My questions to the jury yesterday did not ask

specifically about any relationship with the solicitor, Mr. Pascoe. My questions did certainly ask whether or not they knew of any reason whatsoever why they could not be fair and impartial to both the State and the defense.

And what I am going to do is I am going to pull her in here at sidebar. I'm going to ask her the basis or what prompted the writing of that note, what relationship, if any, there is with Mr. Pascoe or anybody else in the solicitor's office and whether or not -- I'll see what her responses are to make a determination as to whether or not I believe any further questioning needs to take place.

MR. FALK: Thank you.

THE COURT: If you will get me No. 4, Ms. Anne Ayer, please.

(The Court's Exhibit 1 marked for identification.)

MR. SORENSON: Court's Exhibit 1 is two pages, Your Honor. The original I think may just be one page, but it was folded up, and it's been photocopied.

(Juror enters the courtroom.)

THE COURT: If you'll stop right there. Madam Clerk, please swear her in.

CLERK OF COURT: If you'll place your left hand on the Bible, raise your right hand. State your full name for the record.

THE WITNESS: Anne Sharp Ayer.

ANNE AYER,

being first duly sworn, testified as follows:

THE COURT: How you doing, Ms. Ayer?

THE JUROR: Fine.

THE COURT: Can you identify this, what's been marked as Court's Exhibit No. 1? It's a copy of something.

THE JUROR: Yes, sir, I gave this.

THE COURT: Is that a letter or a handwritten note that you wrote to Mr. Pascoe?

THE JUROR: Yes, sir.

THE COURT: Can you tell me what the basis of that or what prompted the writing of that note to Mr. Pascoe, who is the solicitor here.

THE JUROR: I actually gave it to him before I even came in here yesterday morning.

THE COURT: Okay.

THE JUROR: And I had no clue that I shouldn't have done that.

THE COURT: I understand.

THE JUROR: But it's -- I used to work -- I was human resources director for 28 years with Dorchester County.

THE COURT: Okay.

THE JUROR: And they terminated my employment in July of 2013.

THE COURT: Okay.

THE JUROR: And there is some -- I had filed a lawsuit with the county, against the county.

THE COURT: Okay.

THE JUROR: And I just simply wanted to talk to him about that.

THE COURT: Okay.

THE JUROR: Yes, sir.

THE COURT: Do you have any kind of social relationship with Mr. Pascoe at all?

THE JUROR: No, sir. I haven't seen Solicitor Pascoe probably in two years.

THE COURT: Okay. Well, as a matter of precaution, that's why I called you out here. It was brought to my attention, and this was given to Mr. Pascoe yesterday. And like I said, as a matter of precaution, I wanted to question you about it.

If you are allowed to remain and serve on this jury, do you believe you could be fair and impartial to both the State and the defense in this case?

THE JUROR: Yes, sir, absolutely. I -- this is just, like, the second time I've come in the Courthouse, you know, since all that happened to me a year ago.

THE COURT: Okay.

THE JUROR: And I just -- and, in fact, I left Judge Blunt a thank you note because she helped a friend of

mine -- one of her clerks helped a friend of mine. I left them both a note. That was just my way of saying "thank you" and --

THE COURT: All right. Well, I'm going to let you stay with us right now. You can return to the jury room. Do not discuss what I brought you out here for.

THE JUROR: Absolutely.

THE COURT: And I'll get you all back out here in just a minute, okay?

THE JUROR: Yes, sir.

THE COURT: Thank you.

(Juror exits the courtroom.)

THE COURT: Mr. Falk, anything from you at this time?

MR. FALK: Yes, Your Honor. I'd like to renew my motion to exclude the juror. She possibly has a reason for bias. I don't know if her wanting to communicate with the solicitor was possibly a means to curry favor in this lawsuit that she has, or I mean, I don't know what her bias -- I mean, certainly she doesn't have a -- doesn't seem like she -- even though she has a lawsuit against the State and it's obviously going to be of financial benefit to her -- excuse me, against the county, and obviously she'd reap a financial benefit, because it sounds like it's an unlawful termination lawsuit.

And I'm just -- don't know if that possibly could be floating in the back of her mind that, you know, she'd rather

be on the good side of some people in county government as opposed to the bad side. I mean, I think this goes beyond just the fact that she had an employment relationship with the county, but I think this lawsuit raises concerns of potential bias.

And I appreciate her responses to the question, but I still have concerns. And we have two alternates. It's not going to be that long of a trial. I don't think we'll run out of alternates. And there's a lot at stake here.

THE COURT: Mr. Sorenson.

MR. SORENSON: I'll leave it in Your Honor's discretion.

THE COURT: All right. Here's what I'm going to do: I really do not see -- she's answered my questions and is confident that she could be fair and impartial, but as a matter of precaution, and certainly taking into consideration Counsel's argument, Mr. Falk, we do have two alternates.

And this is what I'm going to do: I am going to excuse her from service on this case because it could be perceived from the standpoint of her being favorable to the State in an effort to gain preferential or preferable testimony or help on the back end from the solicitor, could be perceived as such.

And while I do not believe that is the case at all, we operate -- we operate, in a lot of cases and in many instances, under the perception, the appearance -- the

appearance.

So what I'm going to do, Madam Clerk, I need two alternates. And the way that they are -- we determine who is going to serve at this point, they need to be put in a cup or something, both names, and draw them out. And the one that's drawn and the one that's the alternate who serves. It's not in the order that they were selected. That's how the statute reads. It's different in criminal than civil.

CLERK OF COURT: Michelle Cheslek.

THE COURT: She was the first one that was selected. Ms. Cheslek will no longer be an alternate; she will serve as an active member of this jury.

Is there anything else from the State at this time?

MR. SORENSON: No, Your Honor.

THE COURT: Defense counsel?

MR. FALK: We'd move to sequester the witnesses, separate the witnesses.

MR. SORENSON: I don't have any objection. We'd just ask, Detective Monroe is our lead investigator.

THE COURT: I'll allow him to remain in the courtroom. Could you bring me Ms. Ayer back out here, please.

(Juror enters the courtroom.)

THE COURT: Ms. Ayer, do you have anything back in the jury room?

THE JUROR: Yes, sir, my keys.

THE COURT: Go ahead and get your keys. I'm going to excuse you from service as a matter of precaution. After discussion with the attorneys, the ultimate decision was my decision. I appreciate you being forthright and honest with me about it. It is simply as a matter of precaution. I believe everything you had to say to me, but the appearance, possible appearance, appearance, gave me a little bit of concern. And that's why we select alternates, okay?

THE JUROR: Okay.

THE COURT: That's why we select alternates. I'm going to excuse you from service. I think you've got that jury card. Please call that number back after 6:00 tonight and do not discuss when you go back in there to get your keys why you're being excused. You're free to go, okay?

THE JUROR: Thank you.

THE COURT: Thank you.

(Juror exits the courtroom.)

THE COURT: Anything before I bring the jury in?

MR. SORENSON: No, sir.

MR. FALK: No, Your Honor.

THE COURT: Bring the jury please, ma'am.

(The jury enters the courtroom at 9:21 a.m.)

THE COURT: You all can be seated. Please be seated. Ms. Cheslek.

THE JUROR: Yes.

THE COURT: You can be seated right here. Where's Ms. Kelleher?

THE JUROR: Right here.

THE COURT: Ms. Cheslek, you are no longer an alternate in this case. The only person that has an assigned seat right now is Ms. Kelleher.

Madam Clerk, would you swear the jury, please.

(Jury duly sworn.)

THE COURT: Ladies and gentlemen, we are about to try the case of the State of South Carolina versus Tyrone Darius Ellison, but before we begin the trial of this case, I will tell you that this trial will probably be different from what you might expect.

Many people do not have the chance to attend actual court sessions as you're doing now and may think from watching television or movies or reading books that trials are always full of high drama, intense action and riveting circumstances.

Now, while all of these things may be true at times, this trial, ladies and gentlemen, is not for entertainment. It is a fundamental part of our democracy. A search for the truth in an effort to make sure that justice is done between the parties.

Searching for the truth and making sure that justice is done is often slow, deliberate and repetitive, the opposite

of what you may have seen on television or in movies or read in books. This courtroom is a place of honor, dedicated to the protection and preservation of citizens' rights through what many have called the greatest justice system ever created.

Now, the attorneys appearing before you, ladies and gentlemen, are advocates for the parties that they represent, but first and foremost, they are officers of the Court, sworn to uphold the integrity and fairness of our judicial system and to help you in the search for the truth. You should expect them to be professional, competent and ethical in the representation of their clients' interests.

Now, what I will now say to you, ladies and gentlemen, is intended as an introduction to the trial of this case. These remarks are not a charge on the law in this case. I will instruct you on the law applicable to this case at the end of the trial before you retire to consider your verdict. This is merely an explanation of the procedure that we will follow in the trial of this case so that you may better understand what may be happening.

Now, the defendant in this case, ladies and gentlemen, is charged by an indictment filed in this Court with the crimes of armed robbery and entering a bank or depository or building and loan association with intent to steal. The elements of each of those charges will be explained to you

later.

The indictment, ladies and gentlemen, is simply the charging document by which this case is brought into this court, and it is not in any sense evidence of any of the allegations that it contains.

The defendant has pled not guilty to these charges; therefore the State of South Carolina bears the burden of proving each of the elements of the indictment beyond a reasonable doubt. It will be your duty, it will be your duty, ladies and gentlemen, to decide whether the State has met that burden.

Your purpose as jurors is to find and determine the facts. You are the sole judge of the facts. If at any time I make any comment regarding the facts, you must disregard it. You are to determine the facts from the testimony you hear and the other evidence introduced in court. It is up to you to determine the inferences which you feel may properly be drawn from the evidence.

It is especially important that you perform your duty, ladies and gentlemen, diligently and conscientiously, because ordinarily there is no way to correct an erroneous determination of the facts by a jury.

On the other hand and with equal emphasis, the same law that makes you the judge of the facts makes me the judge of the law. The law, as given by the court, is the only law

that you may consider. You must accept and follow it even though you may disagree with it.

I cannot tell you all, ladies and gentlemen, what the facts are, and you cannot disagree with me about what the law is or should be. Your job is to take the law as I give it to you and apply it to the facts as you find them from the testimony of the witnesses and any other evidence that is introduced. After doing that, you will render your verdict, a true and just verdict under the solemn oath that you just took as jurors.

Now, until I tell you to begin your deliberations, you must not discuss this case with anyone, including your fellow jurors, friends, family members and anyone involved in the case. The attorneys and the parties in this case have been advised that they are not to talk to you at all. So if you see anyone involved in this case and they don't speak to you, they are not being unfriendly; they're simply following this Court's instructions.

Now, during your deliberations, you may only discuss the case in the jury room with your fellow jurors, because they have seen and heard the same evidence that you have. However, you must not discuss the case with anyone other than your fellow jurors until you have returned a verdict and the case is at an end.

I remind you that you must decide this case, ladies and

gentlemen, based solely on the evidence presented here in this courtroom. This means that during the trial, you must not conduct any independent research about this case, the facts of the case, the evidence presented in the case, or the people or organizations involved in any way in the case. Please do not try to find out information from any source outside of this courtroom.

In other words, you must not look at dictionaries or other reference materials, search the Internet, websites or blogs or use any other electronic tools to get information about this case to help you decide the case. You may not use computers, telephones, cell phones, smart phones, tablets, the Internet or other tools of technology with communication capabilities at any time while you are in the courtroom or during your deliberations.

During your breaks for meals or overnight, if necessary, you may use these devices. However, you must not use those devices to communicate with anyone about this case until the case is over.

This means that you must not use phone calls, emails, text messages, instant message, Twitter or any blog, chat room or website, including Facebook, Google plus, Myspace, Linked In, YouTube or any social media websites to send or receive information about this case.

This includes information about a party, a witness, an

attorney or a court officer, news accounts about the case, research on topics raised, any topics you may think would be helpful in deciding the case or any testimony presented by any witness.

During the trial, do not read, listen to or watch any news reports about the case, if any. This includes anything that may be in the newspapers or on the Internet, radio or television. You must not consider anything, ladies and gentlemen, that you may have read or heard about the case outside of this courtroom, whether before or during the trial.

Information on television, radio, the Internet or from other sources might be wrong or incomplete. In our judicial system, it is important that you are not influenced by anything or anyone outside of this courtroom. If you become aware of another juror's violation of these instructions, please inform the Court immediately.

It is important, ladies and gentlemen, that you keep an open mind and not decide any issue in the case until all of the evidence has been presented, the parties have made their closing arguments and I have instructed you on the law in this case.

It is your solemn responsibility to determine the guilt or innocence of the defendant, and your verdict must be based solely on the evidence as it is presented to you in this

trial and on the law, as I instruct you, during and at the close of the trial.

Now, in just a moment, the solicitor will make what is called an opening statement in which the solicitor will explain to you the issues in this case or at least what the solicitor thinks the issues are. The attorney for the defendant may also make an opening statement, although he is not required to do so.

What the attorneys tell you, ladies and gentlemen, during their opening statements is not evidence in this case. It is only their contention as to what the issues are. The evidence in this case will be presented to you by the testimony of sworn witnesses from this witness stand and/or by exhibits that may be introduced into evidence.

Now, from time to time during the trial you may hear one of the attorneys say something like, "Your Honor, I believe that we have a question of law or a matter of law to discuss with you," or, "Your Honor, may we approach the bench." Or sometimes I myself might find it necessary to excuse you from the courtroom for a short while so the attorneys and I can discuss a matter of law.

The reason for this is because you are the judge of the facts in this case, and sometimes when I am discussing matters of law with the attorneys, it may be necessary for me to make some comment as to the facts in connection with

ruling whether or not a particular law applies.

I am not supposed to tell you all what I think the facts are, so I will excuse you from the courtroom while these discussions take place so that in no way will you be influenced by anything that I might say or do in connection with the facts.

Now, in determining what the true facts are in this case, you must decide whether or not the testimony of the witnesses is believable. It will be my responsibility to rule as a matter of law as to whether certain testimony is admissible or not, but once the testimony is admitted, whether or not you believe it is solely for you to determine.

Now, in deciding whether to believe a witness, you have the right to consider the interest of any witness, the bias of any witness, the prejudice of any witness, the opportunity for the witness to have seen the matters and things about which the witness may testify and the way the witness acts on the witness stand.

You have the right to consider anything that is in the record that will help you evaluate the testimony of the witnesses. That means, ladies and gentlemen, that it is your duty to pay close attention to these witnesses, to observe the witnesses, to listen to the witnesses and to pay close attention to the attorneys and to the Court.

Please don't let your thoughts wander, but give strict

attention to the testimony in this case so that at the end of all the testimony, after the arguments of counsel and the charge on the law by the Court, you will then be in a position to determine what the true facts are and to apply the law to those facts and thus render a true and just verdict.

Now, later in this case, a foreperson will be selected to preside over deliberations in the jury room. It will be the foreperson's added duty to preside in the jury room and be the jury spokesperson here in court. It will also be the foreperson's duty to write the verdict, but I will give the foreperson further instructions about that at the conclusion of the case.

Now, in order to preserve everyone's rights, I will give the attorneys an opportunity to object to anything that I have said. Any exceptions or any objection to anything that I have said to the jury by the State?

MR. SORENSON: No, Your Honor.

THE COURT: Defense counsel?

MR. FALK: No, Your Honor.

THE COURT: All right. Ladies and gentlemen, we are now going to begin the trial of this case. The State is recognized for opening statements.

MR. GIESE: May it please the Court, Your Honor.

THE COURT: Yes, sir.

MR. GIESE: Good morning. On April 1st, 2013, Roberta Bass and Quinn Rustin were working at the SunTrust Bank on Dorchester Road. It was Roberta's first day.

As they were starting to get settled, as Quinn was starting to show Roberta, you know, the lay of the land in there, a black male walks in wearing a wig, a visor, sunglasses and holding a gun and a latex glove. And the State submits to you that the man who did that, who walked in the store that day and proceeds to rob Quinn Rustin and Roberta Bass is Tyrone Ellison, who's seated over there (indicating).

Now, my name is Phil Giese. We met earlier. This is Don Sorenson. We represent the State of South Carolina in prosecuting Mr. Ellison. Mr. Ellison stands charged, as the judge told you, with two crimes: Armed robbery and entering a bank with the intent to steal.

Now, as the judge informed you, he's going to instruct you on the law at the end of this trial, but I'm going to give you a little preview of that right now.

In South Carolina, to be found guilty of armed robbery, Mr. Ellison must be found to have robbed another person or persons while armed with a deadly weapon or while armed with something that could be perceived as a deadly weapon, pretty simple.

Entering a bank with intent to steal is also pretty

simple. The State must show that Mr. Ellison entered the SunTrust Bank with the intent to steal money from that bank. Okay? That's just a little preview of the law.

Now, the State is required to prove that Mr. Ellison committed those crimes beyond a reasonable doubt, and it's our burden to do so. And in this case, the State accepts that burden.

Reasonable doubt, and you're going to hear some more about reasonable doubt throughout the trial. Reasonable doubt is not any and all doubt, okay? It's reasonable doubt. It's any doubt that would cause a reasonable person to hesitate to act. If at the end of this trial you're firmly convinced that Mr. Ellison committed these offenses, it's your duty at that point to find him guilty.

Now, let's go back to kind of what all you're going to hear about this week. As I said, on April 1st of 2013, Quinn Rustin and Roberta Bass were working as tellers at the SunTrust Bank on Dorchester Road. Again, it was Roberta's first day. In the morning, Quinn's kind of showing her the lay of the land, you know, their policies, what they do to open the bank, that sort of thing.

And at around 10, between 10 and 10:30, a black male walks in with a wig, a visor, sunglasses and holding a gun with a latex glove on. He approaches the teller desk, Ms. Rustin and Ms. Bass see him approach. He approaches the

teller desk, lifts himself over the teller desk and behind into the area where Quinn and Roberta are standing, holding them at gunpoint, and tells them to empty their drawers.

Now, because it's Roberta's first day, her drawer is empty and she opens her drawer and he sees that it's empty. However, Quinn's drawer has money in it. She empties the entire drawer. There's four separate drawers inside of there, gives him all the cash that they had in that drawer. He takes it, puts it in a little bag and leaves, hops back over the counter and runs out.

Meanwhile in an office kind of to the side of the teller desk, there's another bank employee. Ms. Bonnie Weeks is meeting with a customer. His name's David Lewis. He kind of hears the commotion. They both kind of hear the commotion. They see the black male wearing the wig leave, and Mr. Lewis gets up and follows him out.

He sees him take off, the man with the wig on, sees him take off and disappear into a wooded area right there in the Coosaw Creek area. He then sees that black male reappear out of the wooded area. Mr. Lewis is driving his car around, looking for him.

He sees him reappear without it the wig, without the visor, without the gun and the latex glove. And he takes off. He hops into a green Honda Civic -- and that's going to be important in this case -- hops into a green Honda civic

and drives off, gets away, essentially.

Law enforcement arrives. They begin their investigation, and they go to that wooded area. They take officers to that wooded area where Mr. Lewis saw him disappear into. And in that wooded area they find a wig. They find a visor. They find a gun and they find a latex glove, okay? And they collect those items.

They end up sending those items off to a forensic scientist, and the forensic scientist matches DNA -- they pulled DNA off those items -- from the wig, the visor and the latex glove, and that DNA is linked to Tyrone Ellison.

And you're going to hear from that forensic scientist this week. You're going to hear from all the bank employees that were in the bank that day about what happened, as well as Mr. Lewis. You're going to hear from law enforcement about their investigation of this case.

You're also going to hear from some individuals who will link Mr. Ellison to that green Honda Civic I mentioned earlier that they see the bank robber disappear into. And as I said, you're going to hear from the forensic scientists about their testing and the DNA they pulled off those items.

And the State contends after hearing all that and after seeing all the evidence -- you're also going to see footage of the robbery itself from bank surveillance video. Taking all that into account, at the end of this trial, the State's

going to ask you to return guilty verdicts against Mr. Ellison, thank you.

THE COURT: Mr. Falk.

MR. FALK: Good morning.

THE JURY: Good morning.

MR. FALK: Sometime around the 1st of July 2013, my client was involved in an automobile accident. He was traveling in a car. There was an accident. Following the accident, the next thing he knows is he's being charged with a robbery that occurred on April 1st. This was the first time my client knows anything about this robbery.

And then also on July 1st, picture his parents, sometime late in the day in July, members of North Charleston police detectives come up and start talking to his parents. They advise them that there's been an automobile accident and it's been a serious accident and some people could be hurt and I think possibly even some people may not survive the accident.

Without telling my client where -- without telling my client's parents where he is, they start asking him questions, because at this time they think they had developed some testimony or some evidence that linked my client to this accident on April 1st, considering his parents then don't find out where this child is until July 2nd but only after they subject his mother to some questioning.

Now, the only thing simple about this case -- and, I

mean, we'll certainly contend that somebody broke into the bank or walked into the bank. Somebody robbed the bank, but it's not simple to say that my client robbed the bank. Well, certainly there's nobody in the -- everybody in the -- everybody's description who has seen that person who robbed the bank, they certainly described the disguise, but nobody described my client.

My client wasn't there. My client knows where he was on April 1st and you'll hear testimony about where he was on April 1st.

The prosecution has indicated that something important is about the car. My client did have a car, did have a Honda Civic. His mother bought him a Honda Civic. It was kind of a beater. It was kind of torn up, not probably the car that somebody like my client wanted to drive around in.

His idea was he got the car. He was going to flip it, make a couple of bucks on it and save some more money in order to buy a car that's maybe more appropriate for what he wanted to be driving around in. Young man, doesn't want to be driving around in a beat-up car, radio broke, paint all torn up if he could do something different. My client got rid of the car.

You're going to hear testimony that they're going to try to link the car to my client. You're going to hear testimony from us that says my client wasn't in possession of the car

at the time of the robbery.

The prosecution's also indicated that there's forensic evidence here, that there's some DNA evidence here, but you're also going to hear from our DNA expert, and the DNA evidence is not always conclusive. And there's some questions with the DNA -- although there may be a link with my client, it also shows that there was other DNA present on those items.

You'll also find out that there's not any other type of fingerprints left in the bank. You know, how somebody could come into the bank, rob it and then leave without leaving any fingerprint evidence that certainly would identify to my client, you're going to have to consider how that happened.

You've heard about a gun coming in. You're going to have to consider why there were no fingerprints on this gun. There's a lot there that they're not able to prove because my client wasn't there at the time.

This is kind of like a jigsaw puzzle. I mean, consider that you're trying to put together a jigsaw puzzle and you've got two different pictures, but somehow you drop the box and all the pieces are on the floor. The prosecution wants you to pick up the pieces and put it together to make their picture.

But I contend that once you hear our evidence, you're not going to be able to put the picture together because

there's going to be some pieces that you know are important that just don't fit in the prosecution's picture.

This is the first time my client's going to have the opportunity since July -- since the 1st of July, probably about the 2nd of July, he's been in custody, July 2nd, 2013. This is his first opportunity to come in here and tell you -- and let you know what his side of the story is.

I need you all to give your attention to this case. It's a very serious case. These are obviously very serious charges. It's going to have significant implications on my client. I need you all to please look at this evidence with an open mind. Wait until you can hear our side of the story before you reach a decision in this case. Thank you.

THE COURT: Call your first witness.

MR. GIESE: State calls Quinn Rustin.

CLERK OF COURT: Place your left hand on the Bible, raise your right hand, state your full name for the record.

THE WITNESS: Quinn Rustin.

QUINN RUSTIN,

being first duly sworn, testified as follows:

MR. GIESE: May it please the Court, Your Honor.

THE COURT: Yes, sir.

DIRECT EXAMINATION BY MR. GIESE:

Q. Ms. Rustin, where do you work?

A. SunTrust Bank on Dorchester Road.

Q. And how long have you worked there?
A. I've worked at that location for four years.
Q. What are your duties there?
A. I help open accounts, customer service, teller transactions, everything.
Q. Okay. What were your duties there on April 1st of 2013?
A. I was training Roberta Bass, and she just started that day.
Q. What were you training her as?
A. A teller.
Q. Okay. Were you working as a teller that day?
A. Yes.
Q. Kind of describe the events of when you arrived at work.
A. We were just preparing everything for her. When she got in, I was showing her the ropes, "This is how we do things here. This is where we keep stuff here." And as -- as we were going over everything --
Q. What happened -- what happened at that point?
A. He came in the doors, and as soon as he came in through the second set of doors, he kind of stopped and kind of crouched down and pulled a gun out of his pocket. He was wearing this straight wig, sunglasses and visor. And it's just not natural for someone to be dressed like that to come in.
Q. Let me stop you right there. What made you think it was

a wig?
A. You could just tell. It's -- the hair looked synthetic, too shiny and you could just tell.
Q. Okay. What did he look like?
A. You could tell it was a man wearing a wig.
Q. Okay.
A. He had facial hair, big sunglasses. It was a visor and not a baseball cap.
Q. Do you remember what kind of facial hair it was?
A. Like a light mustache and little bit of, like, chin --
Q. Okay. At some point does he approach the counter?
A. He does. He ran up with the gun out saying, "Give me all your money."
Q. Let me stop you right there. At some point did he go back behind the teller desk?
A. He did. Once he reached the counter, he put his hands on the counter with the gun, and I could see the gun had a silver barrel and it looked just like one that my husband had. So I realized that it was a real gun at that point. And when he put his hands up on the counter, he realized that he could jump it, and that's what he did.
Q. Okay. What happened next?
A. He said, "Open all the drawers." And he had -- he had Roberta open hers and me open mine, and then he had the gun on both of us, and then Roberta moved back. And as I opened

mine, you could see that I had the money. Since Roberta had just started, she didn't have anything. And he told me, "Give me all the money."

So as I'm scooping the money out of my drawer, it hit the side wall and just flew all over the place. He told me to pick it up, reach down and pick everything up. And he kept saying, "Give me all your money. Open all the drawers. Give me all your money."

So I had to open my second drawer, too, and I had to bend down on the ground to pick up all the money. And underneath the other teller station, some of my bills went underneath that. I had to go underneath there to pick that up.

Q. Were you just -- were you handing the money to him?

A. I was, and he -- it was a combination of both handing him the money and trying to shove it into -- he had like a little fanny pack. It was small, small bag that he had, and he kept saying, "Give me all your money." So at one point I handed him my coin tray, too, but -- and he told me cash only.

Q. Okay. At some point did he leave?

A. Yes. He --

Q. Can you describe how he left?

A. Once I gave him all the money, and he could see in my drawers, he took a step back and finished shoving all the

money into his little bag, and he steps up on the chair to jump back over the counter. As he jumped over the counter, he dropped his gun on the other side. He bends over, picks it up and he walks out of the branch.

And that just, I couldn't believe that. He comes running in, and then he just walks out like he had all the time in the world.

Q. Are you and Roberta still behind the teller desk at this point?

A. We're still behind the desk, yes.

Q. Okay. He walks -- all right. And describe him walking out.

A. He's casually walking out. He looks over and sees that Bonnie's in her office with a client, and then he gets to the door and he starts pulling on the doors. We have a sign on the door that says "push" so everyone knows how to leave. And so he starts pulling on the doors, and he's starting to panic at this point, and you can tell.

And he doesn't realize, as he's pushing, to pull the door back, that the door is opening. He actually breaks our doors as he's trying to get out. Finally I yell "push," and right as he's turning around to try and get out, he drops his gun again. He picks it up and then he runs out.

Q. Okay. And at some point did law enforcement arrive?

A. Yes, they came shortly afterwards.

Q. Okay. Just one moment, Your Honor.

May I approach the witness, Your Honor?

THE COURT: Yes.

Q. Quinn, I'm showing you what's been premarked as State's Exhibit 18. You can hold it. Do you know what that is?

A. Yes, sir. This is the video of the robbery.

Q. Did you have the opportunity to view that video before these proceedings?

A. Yes, sir.

Q. Is that a fair and accurate representation of what took place that day?

A. Yes, sir.

Q. Of what you just testified to?

A. Yes, sir.

MR. GIESE: Your Honor, at this time the State would move State's Exhibit 18 into evidence.

THE COURT: Any objection?

MR. FALK: No objection, Your Honor.

THE COURT: Without objection, State's Exhibit No. 18 admitted into evidence.

(State's Exhibit 18 admitted into evidence.)

MR. GIESE: Your Honor, may I publish it for the jury?

THE COURT: Yes, sir.

Q. Quinn, there's one right in front of you. And before I start playing this video, can you kind of describe what the

jury's looking at here?
A. This is the start of the day. This is the teller line. I'm at my station, and that's where Roberta will be starting once we get her situated.
Q. Okay.
A. So we're just going over --
Q. And is that behind the teller desk?
A. It is, yes, sir.
Q. Can you identify yourself back there?
A. I'm in the gray.
Q. And you can draw on the screen if you use your finger.
A. Okay. This is me (indicating).
Q. And then is Roberta back there too?
A. This is Roberta (indicating).
Q. Okay.
(Video played.)
Q. Quinn, is that a fair and accurate representation of what happened to you that day?
A. Yes, sir.
Q. I'm going to show you a couple more angles. Where are we looking at here?
A. This is when you first enter in. That's the lobby.
Q. Okay.
A. That's after the second set of doors.
Q. Okay. So where would the door be in relation?

A. Just right behind it.
Q. Okay. I'm going to ask you to watch again, if you don't mind.
A. Yes, sir.
(Video played.)
Q. Quinn, is that the guy, the man that robbed you?
A. Yes, sir.
MR. GIESE: Just one more moment, Your Honor. May I approach the witness again, Your Honor?
THE COURT: Yes, sir.
Q. Quinn, I'm showing you what's been premarked as State's Exhibit 20. Do you recognize that?
A. Yes, sir.
Q. Can you tell me what that is?
A. That is him entering the bank.
Q. Okay. Is that the man that came in the bank and robbed the bank?
A. Yes, sir.
Q. Is that a fair and accurate portrayal of that man?
A. Yes, sir.
MR. GIESE: Your Honor, at this time the State would like to move State's 20 into evidence.
THE COURT: Any objection?
MR. FALK: No objection.
THE COURT: Without objection, State's Exhibit 20

admitted into evidence.

(State's Exhibit 20 admitted into evidence.)

Q. All right. Now, I'm showing you what's been premarked as State's Exhibit 27. Do you recognize that?

A. Yes, sir.

Q. And can you tell the jury what that is?

A. That is him leaving the bank.

Q. That's who leaving the bank?

A. That's the robber.

Q. And that's a fair and accurate portrayal of the person that robbed you that day?

A. Yes, sir.

MR. GIESE: At this time, Your Honor, the State would move State's 27 into evidence.

THE COURT: Any objection?

MR. FALK: No objection.

THE COURT: Without objection, State's Exhibit 27 also admitted into evidence.

(State's Exhibit 27 admitted into evidence.)

MR. GIESE: No further questions at this time, Your Honor.

THE COURT: Cross-examination.

MR. FALK: Thank you, Your Honor.

CROSS-EXAMINATION BY MR. FALK:

Q. Ms. Rustin, do you recall giving a statement to the

police in this case?
A. Yes, sir.
Q. Do you recall saying that you saw the robber touch Roberta's drawer?
A. Yes, sir.
Q. Okay. Did you get a good look at his hands?
A. Yes, sir.
Q. Thank you.
And did you notice whether or not he was wearing gloves?
A. I believe so. I remember seeing the gun more than his hands.
Q. Okay. But you said you saw him touch the drawer?
A. Yes. I saw him when he touched the counter, as he was getting ready to go over, and then he reached -- he reached over.
Q. So is it your testimony that he was wearing gloves on both hands?
A. I don't remember.
Q. When you said he touched Roberta's drawer, was he using the hand -- he did that with not his gun hand, correct?
A. Correct.
Q. Thank you.
Do you recall which officer you gave the statement to?
A. No, sir.
Q. Okay. Do you recall him asking you about whether or not

you remembered anything significant about him or if you could describe him?

A. Yes, sir.

Q. When you were giving that description, were you trying to say everything you knew about him?

A. Everything that I could remember.

Q. Okay. And so when you were making that description, you were doing your best to try and identify him to the extent that you knew; is that right?

A. Yes, sir.

Q. Thank you.

I noticed in your statement, though, that you didn't say anything about his facial hair, and you certainly didn't say anything about any hair on his chin. Are you sure you're not just now seeing my client and deciding that he had hair on his chin?

A. Yes, sir.

Q. Wouldn't you have wanted to give that information to the detective at the time, though?

A. Yes, sir.

Q. Okay. But you didn't at the time?

A. No, sir.

Q. Okay. Thank you.

Now, in your statement you had said that, and I'm not really as familiar with bank operations as obviously you are,

but I believe the detective asked you something about was there anything else you noticed about him. And you had said -- do you recall saying that the one thing that you sort of noticed about him was that he knew about multiple drawers behind the bank?

A. Yes, sir.

Q. And why did that surprise you?

A. Because most people don't know about bank procedures.

Q. So do you think maybe that might have been somebody who had possibly been working at a bank?

A. Had some knowledge of bank operations, yes, sir.

Q. One moment.

You had said that he opened up, he was pushing against the door; is that right?

A. Yes, sir.

Q. And that wasn't with his gun hand?

A. No, sir. It was pulling -- he was pulling against the door.

Q. Okay. And he wasn't pulling against the door with his gun hand, was he?

A. With both hands.

Q. Okay.

A. At one point.

Q. Okay. But you didn't -- when you gave your statement, you didn't tell the officer that he was wearing gloves on

both hands; is that correct?
A. I don't remember.
MR. FALK: Okay. If I can approach the witness, please.
THE COURT: Yes, sir.
(Defendant's Exhibit 1 marked for identification.)
Q. Let me give you an opportunity to review the statement.
A. Yes, sir.
Q. Have you had a chance to read through it?
A. Yes, sir.
Q. Is that a fair and accurate -- is that the statement that you gave?
A. Yes, sir.
Q. Okay. And after having a chance -- and do you think there was anything that you omitted from the statement? I mean, is there anything that you said that wasn't on the statement?
A. Yes, sir.
Q. Well, after having reviewed the statement, do you recall now whether or not, can you say whether or not you told him that he was wearing gloves on both hands?
A. No, sir.
MR. FALK: All right. No further questions.
THE WITNESS: I have a question.
THE COURT: You can't ask questions. You get to answer only.

THE WITNESS: Okay.

MR. FALK: Thank you.

THE COURT: Is that marked for identification purposes only?

MR. FALK: Yes, Your Honor.

THE COURT: Not being introduced into evidence?

MR. FALK: No, it's not.

THE COURT: Any redirect?

MR. GIESE: Just one moment, Your Honor.

THE COURT: All right.

MR. GIESE: No furthers questions, Your Honor.

THE COURT: Ma'am, you may step down. Thank you.

Call your next witness, please.

MR. GIESE: State calls Roberta Bass.

CLERK OF COURT: Please place your left hand on the Bible, raise your right hand and state your full name for the record.

THE WITNESS: Roberta Ann Bass.

ROBERTA BASS,

being first duly sworn, testified as follows:

MR. GIESE: May it please the Court, Your Honor.

THE COURT: Yes, sir.

DIRECT EXAMINATION BY MR. GIESE:

Q. Ms. Bass, where do you work now?

A. Ocean Eye.

Q. Okay. And where did you work prior to that?
A. SunTrust Bank.
Q. Okay. And how long had you worked at Sun -- how long did you work for SunTrust Bank?
A. The one here in South Carolina?
Q. The one on Dorchester Road.
A. From April 1st, 2013, to September 19th, I think, this year.
Q. Okay. Of this year?
Okay. Do you remember your first day at work?
A. Yes.
Q. Can you tell the jury what happened when you first arrived at work?
A. Got there that morning, met with everybody, kind of went through what the typical job is as a teller, went behind the teller line and was kind of set up on my computer and --
Q. Did you meet Quinn?
A. Yes.
Q. Okay and --
A. I met John and Quinn.
Q. -- what were you and Quinn doing?
A. We were just talking about, you know, how things go and what we do and what takes place and just a daily basis as a teller.
Q. Okay. And what else happened?

A. We were kind of sitting and standing on our seats, and usually when somebody comes in, you stand up. And the door opened and we stood up and kind of looked at each other and we just -- we just saw somebody just run towards us and --

Q. Can you describe that person? To the best of your -- what you can remember.

A. About five-nine, five-ten, black.

Q. What was he wearing?

A. He had -- it looked like a wig with like a visor and sunglasses and kind of loose clothing.

Q. Okay. And at some point did he walk up to the teller counter?

A. He kind of like walk/ran up to the teller counter.

Q. Okay. And what was he doing?

A. Holding a gun.

Q. Okay. What happened next?

A. He pointed the gun, and then he put his hands on the counter like this (indicating) and jumped over and said, "Open all the drawers. Open all the drawers."

I had opened mine and mine were empty still because it was my first day. And Quinn had opened hers, and he stood between us and he goes, "Open all the drawers, all the drawers. I want them all open. I want all the money," and just, you know, talking quick.

And so I was going around trying to show him that

there's no other drawers. And as I was standing up against the wall, he's like, "Get down. No, stand up."

So I just stood there, and Quinn was continuing to put money in his bag. And then he went back over the counter and --

Q. How did he exit?

A. He jumped back over the counter like -- he came in between Quinn and I, but then he, like, pushed my chair out of the way, went off to the side, dropped something, picked it up and then kind of like walked around the rope thing or whatever and then gradually walked out.

Q. Did you notice a weapon in his hand?

A. Yes, absolutely.

Q. Did you get a good look at the weapon?

A. Yes.

Q. Can you kind of describe the weapon --

A. It was --

Q. -- to the best of your ability?

A. -- a black gun. I mean, there was no other way to describe it.

Q. Okay. And which hand was he holding it in? Do you remember?

A. His right hand.

Q. Okay. Did he have gloves on?

A. It looked like he had some kind of gloves or something.

I don't know if he had it wrapped around things or if he had it totally on, but he had something.
Q. Okay. And what color were the gloves or was the glove or whatever you saw?
A. I can't remember that.
Q. Okay.
A. The color.
Q. But it was something wrapped around the gun?
A. He had something.
Q. Okay. And did you watch him leave?
A. We stood right where we were at, and we could see part of him going out. And as he was going out, he was trying to -- you've got to push the doors. He was trying to pull on the doors, and he was pulling so hard that it basically broke the frame of the door. And then after that, he went on out --
Q. Okay.
A. -- and left the scene.
Q. At some point did law enforcement arrive?
A. Yes.
Q. Okay. Roberta, I'm about to show you on the screen here, and there's a screen right there in front of you, what's been entered into evidence as State's 17 (sic). Describe to the jury what, kind of, we're looking at, what angle we're looking at here.

A. What angle --

THE COURT: Hold on a minute. You're referring to 18, I believe, not 17.

MR. GIESE: I apologize, Your Honor. You're correct.

THE COURT: To be clear for the record. I'm sorry, ma'am.

Restate your question.

Q. Ms. Bass, you're looking at what's been entered into evidence as State's 18, State's Exhibit 18. Can you describe -- first of all, have you had the opportunity to view this beforehand?

A. Yes.

Q. Can you describe what we're looking at here?

A. This is behind us.

Q. Is that behind the teller desk?

A. It's behind the teller line.

Q. Okay. And are you in this video?

A. Yes. I'm in the green jacket.

Q. Okay. And who else is with you there?

A. That's Quinn.

Q. Okay. I'm going to ask you just to watch this video, and then I'm going to have a question for you afterwards.

(Video played.)

Q. Roberta, is that a fair and accurate representation of the events that you just described that happened to you that

day?
A. Yes.
Q. And let me show you --
MR. GIESE: May I approach the witness, Your Honor?
THE COURT: Yes, sir.
Q. Showing you what's been entered into evidence as State's Exhibit 27, can you tell me what that is a picture of?
A. It's a picture of the kid that robbed us.
MR. GIESE: Okay. No further questions, Your Honor, at this time.
THE COURT: Cross-examination.
CROSS-EXAMINATION BY MR. FALK:
Q. You said that you saw the gun; is that correct?
A. Mm-hmm.
Q. What part of the gun --
THE COURT: I need a "yes" or a "no" answer.
THE WITNESS: I'm sorry.
THE COURT: That's okay.
THE WITNESS: Yes, sir.
THE COURT: Thank you.
Q. Okay. And so what part of the gun was visible to you? Was that the barrel? I mean the part where the bullet comes out.
A. I guess so, yes. I don't know much about guns, but yes.
Q. Okay. Thank you.

You had an opportunity to look at his hands?
A. Did I look at his hands?
Q. Did you have an opportunity to see his hands?
A. As much as I could, yes.
Q. Was he wearing gloves on his hands?
A. I don't recall if he was wearing gloves. I remember seeing something in his hands. I don't know if it was a glove or a cloth. I remember seeing something in his hands.
Q. So it wasn't something that was over his fingers, right?
A. I don't remember.
Q. Do you recall giving a statement in this case?
A. Yes.
Q. Did you describe -- in your statement, did you describe the witness as having wearing dreads that you saw underneath the wig?
A. I thought it was dreads or the -- part of the wig. It looked like a lot of hair under a visor or a hat.
Q. What's your description of dreads?
A. Just wavy hair, like knotted hair.
Q. Okay. Like all braided up together? You know, like you see pictures of Bob Marley, Rastafarian, those kinds, is that what you meant by dreads?
A. Well, not long Bob Marley hair, but just thick, you know, braided -- not braided, but wavy, ratty hair.
Q. Okay. In your statement you said that it looked like

those were underneath the wig.
A. Mm-hmm.
Q. Is that your statement still? Is that still your belief?
A. It looked like it was part of the wig or underneath the wig, yes. I could not tell if it was part of the wig or underneath the wig, but it looked like there was something fake on the head.
MR. FALK: One moment, please.
THE COURT: Those of you on the front row of the jury, can you all see okay with those TV's up or do you want them put back down? If you want to put them back down, please feel free to do so, okay?
Q. Just to be clear, when you were talking about something wrapped around the gun, was that around the barrel part of the gun or the handle part of the gun?
A. Looked like he had something on his hand --
Q. Okay.
A. -- to hold it with.
MR. FALK: No further questions.
THE COURT: Any redirect?
MR. GIESE: No, Your Honor. Thank you.
THE COURT: Ma'am, you may step down. Thank you.
THE WITNESS: Thank you.
THE COURT: Call your next witness.

MR. SORENSON: State calls Bonnie Weeks.

CLERK OF COURT: Please place your left hand on the Bible, raise your right hand and state your full name for the record.

THE WITNESS: Bonnie Jean Weeks.

BONNIE WEEKS,

being first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. SORENSON:

Q. Good morning, Ms. Weeks.

A. Good morning.

Q. If you would, please tell the jury where it is that you're employed.

A. SunTrust Bank on Dorchester.

Q. Okay. And do you know what the address is of that bank?

A. 8610 Dorchester Road.

Q. Is that located in Dorchester County?

A. Yes.

Q. And if you would, tell the jury what you do at SunTrust.

A. I'm a personal banker.

Q. And how long have you worked there?

A. For eight years.

Q. So obviously back in -- on April 1st of last year, 2013, you were employed there at that time?

A. Yes.

Q. Were you working that -- I believe it was Monday

morning?
A. Yes.
Q. And if you would, tell the jury, kind of explain to the jury where it is that your office is located.
A. If you walk in through the front doors, there's an office immediately to your left, but there's a second office to your left right before the bathrooms. I'm in that second office to the left.
MR. SORENSON: May I approach the witness, Your Honor?
THE COURT: Yes, sir.
Q. Let me show you what's been marked as State's Exhibit No. 5. Do you recognize that photograph?
A. Yes.
Q. Okay. And what does that photograph depict?
A. The lobby and the entryway to the teller stations.
Q. And on State's Exhibit No. 5, would you be able to kind of point essentially to where your office is located --
A. Yes.
Q. -- in regulation to this?
A. Where the officer in the red shirt and the gray shirt are and she's holding up her hand, she's basically pointing towards my office. It's right back there.
MR. SORENSON: Your Honor, we offer State's Exhibit 5 into evidence.
THE COURT: Any objection?

MR. FALK: No objection.

THE COURT: State's Exhibit No. 5 admitted into evidence without objection.

(State's Exhibit 5 admitted into evidence.)

Q. And this basically is now looking kind of from the lobby area at the teller stations?

A. Uh-huh.

Q. Is that correct?

A. Right.

Q. And you testified a moment ago, Ms. Weeks, that kind of where this officer and the lady and the two females, it looks like --

A. Yes.

Q. -- that are kind of right there --

A. Uh-huh.

Q. -- the one officer has got their arm up?

A. Pointing.

Q. They're kind of pointing, and that would be the direction that officer was pointing basically would be towards the -- going to your office?

A. Yes. It's a glass wall that looks out into the -- a glass window.

Q. And do you have windows in your office?

A. Yes.

Q. Okay. Where do your windows in your office look out to?

A. There's a window behind me that looks out over the parking lot and towards Steel City. It's like one of those windows where you walk into the window and you can see all around you kind of thing. And then there's a window into the lobby. My entire -- I don't really have a wall looking into the lobby. I just have a glass window thing, a glass door.
Q. So you can see, though, from your office out into the parking lot --
A. Uh-huh.
Q. -- and I guess is there a road that kind of runs --
THE COURT: Please let him finish his question before you answer. And if it's a question that warrants a "yes" or "no" answer, please give him a "yes" or "no" answer as opposed to an "uh-huh" or "huh-uh."
THE WITNESS: Okay.
THE COURT: That's just to make sure that the record's clear, okay?
THE WITNESS: Yes, sir.
THE COURT: Thank you, Ms. Weeks.
Mr. Sorenson, you may continue.
MR. SORENSON: Thank you, Your Honor.
Q. So that window that overlooks the parking lot, there's a street that runs there also. What's the name of that street?
A. Club Course Drive.
Q. Okay. And that runs from Dorchester Road to, I guess --

A. Patriot Pointe?
Q. Okay. And I guess Coosaw Creek is back there also?
A. Yes.
Q. Now, that morning, Ms. Weeks, about 10:30 that morning, did you have any customers in the bank that you were assisting?
A. Yes.
Q. Okay. And are you aware -- do you recall now who that was that you were assisting that morning?
A. David Lewis.
Q. And where were you and Mr. Lewis located at that morning about 10:30?
A. I was sitting at my desk and he was sitting facing me across the desk.
Q. And from where Mr. Lewis was sitting, would he be able to see the lobby of the bank?
A. No.
Q. So it's to his back, I guess?
A. Yes.
Q. Now, tell the jury then, about 10:30 that morning, did something happen in the bank that kind of drew your attention out into the lobby area?
A. Yes.
Q. Tell the jury what that was that happened.
A. I was dealing with Mr. Lewis, and there was some

commotion, and I heard the person running by saying, "Open your drawers. Open your drawers." At that point I just realized, Okay, you know, what's going on? Is this kids playing out there? Is it something going on? So, yes, I looked through the window to see what was going on.

Q. Okay. And did you see what was happening out there?

A. Yes.

Q. Okay. And did it appear to be somebody joking around out there?

A. No.

Q. And describe to the jury how many people did you see out in the lobby area when you looked out from your office?

A. I only saw one person rush by.

Q. And from where you're seated at your desk, could you see actually Ms. Rustin and Ms. Bass behind the teller line where they are?

A. No, sir.

Q. So you saw a person go by your office. What direction, where were they heading?

A. They were headed towards the teller line.

Q. Okay. And describe that person as you saw -- that you saw go by your office and your window.

A. As I saw him through my lobby window, it was just a black blur and -- as he rushed by.

Q. Okay. What did you do at that point in time when you

saw that person and kind of heard what was going on out there?

A. I said to Mr. Lewis, I think we're being robbed, and Mr. Lewis confirmed that he had the same idea. So I reached over and I picked up the phone and I dialed 911.

Q. And did you get through to 911?

A. Yes.

Q. Okay. And were you on the phone with them while the robbery was actually going on inside the bank?

A. Yes.

Q. Now, at some point in time, did you have an occasion to see what you described as just being a blur going by initially? Did you have an occasion to see that person again?

A. I did see him as I was looking at my computer screen. I thought he fell. He went down towards the floor. I made sure to keep my eyes on the computer screen because I was on the phone with 911, and I didn't really want that to be found out.

And he went by again. And then as he exited the building, 911 asked me if I knew which direction he went. So I stood in my window that overlooks the parking lot and Club Course Drive and relayed to the 911 person what I was watching.

Q. Okay. What was that that you were seeing in looking out

your window then?
A. I was watching him run by my window, down towards Steel City, which is the restaurant behind us, and following Club Course Road -- Drive, he crossed the street and went into the woods.
Q. And describe -- did you then have, from seeing him come kind of exiting the bank and then coming outside your window and watching him go down the road, did you have a little better opportunity to see him and get a description of the person you saw at that time?
A. Yes.
Q. Okay. And describe for the jury, then, that person that you saw.
A. Okay. He had on some chocolate milk kind of colored pants, cargo pants, too big, but that's how the kids wear them now. He had on a hoodie. It was black with some gray kind of fur in the hood, and it seemed to me it was a wig of long black hair.
Q. How about -- could you tell if it was a male or a female?
A. No. Just by the clothes, I would assume it was a guy, but I didn't know for sure.
Q. Okay. But you never saw a face to be able to see that?
A. Right.
Q. Okay. And how about whether it was African-American or

a Caucasian?
A. No.
Q. Couldn't tell that either from -- all right.
And how about just kind of the overall kind of physical build of the person you saw?
A. Skinny.
Q. Skinny?
A. His clothes were much larger than he was.
Q. And how about tall, short, medium?
A. Not very tall.
Q. Not very tall?
A. Probably around my height, five-seven. That's what I would assume as he was running.
Q. Yet again, you're observing him kind of running away from you basically down the road?
A. Yes.
Q. And what -- so you're on the phone with 911 kind of describing some of this stuff to them as it's going on?
A. Yes.
Q. Did Mr. Lewis stay in the office with you?
A. No. Mr. Lewis -- I had my back to Mr. Lewis looking out of the window, and while I was on the phone with 911, and the next thing I knew, Mr. Lewis ran by my window. So he had gone after the young man.
Q. And you testified that the last time you saw the

individual, he was kind of crossing the street kind of near Steel City Pizza, going into the wooded area?
A. Yes.
Q. Let me show you --
MR. SORENSON: May I approach, Your Honor?
THE COURT: Yes, sir.
Q. Ms. Weeks, let me show you State's Exhibit No. 1 and ask you if you recognize that map.
A. Yes.
Q. You've seen this map before?
A. Mm-hmm.
Q. Okay. And does this kind of depict, show the area of where the bank, SunTrust Bank is located, Steel City Pizza is located and the wooded area you saw the person run into?
A. Yes.
MR. SORENSON: At this time we offer State's Exhibit 1 into evidence.
THE COURT: Any objection?
MR. FALK: No objection.
THE COURT: Without objection, State's Exhibit No. 1 admitted into evidence.
(State's Exhibit 1 admitted into evidence.)
Q. Now, Ms. Weeks, are you able to kind of get yourself oriented to what you're looking at?
A. Yes.

Q. Could you kind of point out -- and I think you can kind of touch the screen and it'll put a dot -- initially kind of where the bank is located?
A. (Witness complies.)
Q. Okay. And you had testified earlier that your window kind of overlooked the parking lot and Club Course Road.
A. Uh-huh.
Q. So kind of draw, show the jury where Club Course Road is that you're talking about.
A. (Witness complies.)
Q. Okay. And back at the beginning of where you started that line, what main road is that, then, that the bank is located on?
A. That's Dorchester Road.
Q. Okay. And if you would show the jury where Steel City Pizza is located at then.
A. Well, over there (indicating).
Q. It's at the end of that little strip mall right there?
A. It's at the ending of the shopping center.
Q. And so as you observed the individual run by your window and then kind of down Club Course Road, kind of show approximately where you saw the individual cross into the street and into the wooded area.
A. (Witness complies.)
Q. Okay. And I guess just kind of if you could do a little

circle of kind of the wooded area that you're talking about the person -- I guess it won't let you circle. I'm sorry.

A. Right there (indicating).

Q. Okay. So into that wooded area?

A. Uh-huh.

Q. All right. And did you see the person again after that, after they went into the wooded area?

A. No.

Q. And Mr. Lewis, you said you saw him come out and kind of come by your window also. Do you know where he went at that point in time?

A. He got -- he started to run, and then he came back and got in his truck and took off in his truck.

Q. Okay. Do you know where he went at that point in time?

A. No.

MR. SORENSON: Thank you. Thank you, Ms. Weeks. That's all I have. Please answer any questions Mr. Falk has.

THE COURT: Cross-examination.

MR. FALK: We have no questions.

THE COURT: You may step down.

Call your next witness.

MR. SORENSON: State calls John Baker.

CLERK OF COURT: Please place your left hand on the Bible, raise your right hand and state your full name for the record.

THE WITNESS: John Baker.

JOHN BAKER,

being first duly sworn, testified as follows:

THE COURT: Mr. Baker, as you're answering questions, I want you to pretend or suppose that you're speaking to that lady in the very back corner of the jury box back there. Make sure everybody hears you.

THE WITNESS: Okay.

THE COURT: If it warrants a "yes" or "no" answer, please give me a "yes" or "no" for the record to make sure the record is clear. Please do not talk at the same time that the questions are being asked, okay? Let them finish the questions before you answer.

THE WITNESS: Okay.

THE COURT: All right, Mr. Sorenson.

MR. SORENSON: Thank you, Your Honor.

DIRECT EXAMINATION BY MR. SORENSON:

Q. Good morning, Mr. Baker.

A. Good morning.

Q. If you would tell the jury where it is that you're employed.

A. I work for SunTrust Bank and I'm the manager at the branch 8610 Dorchester Road.

Q. Okay. And that's in Dorchester County?

A. Yes, sir.

Q. Okay. And how long have you been employed with SunTrust, first of all?
A. Little over nine years.
Q. Okay. And how long have you been employed in the capacity of the manager of that SunTrust on Dorchester Road?
A. Since it opened about four years ago.
Q. And I want to turn your attention back to the morning of April 1st of 2013, were you working that morning?
A. Yes, sir.
Q. Okay. And what other employees were working that morning of April 1st at your branch?
A. Bonnie Weeks, Roberta Bass and Quinn Rustin.
Q. Okay. So the three young ladies that the jury's just heard from?
A. Yes, sir.
Q. And it's my understanding that this was Ms. Bass's first day working at that branch?
A. That is correct. It's the first day that she worked for me.
Q. And when you enter the bank, if you would, tell the jury where is your office located at, Mr. Baker.
A. As you enter the bank, my office is to the right of the entrance.
MR. SORENSON: May I approach the witness, Your Honor?
THE COURT: Yes, sir.

Q. Let me show you a couple photographs, State's Exhibit No. 3 and 4. Do you recognize those photographs?
A. Yes, sir.
Q. And they depict the entrance area of the bank and then also where your office is located at?
A. Yes, sir.
MR. SORENSON: Your Honor, at this time we'd offer State's 3 and 4 into evidence.
THE COURT: Any objection?
MR. FALK: No objection.
THE COURT: Without objection, State's Exhibit 3 and 4 admitted into evidence.
(State's Exhibits 3-4 admitted into evidence.)
Q. And initially, this State's Exhibit No. 3, Mr. Baker, what's depicted in State's Exhibit No. 3?
A. The entrance, the entranceway to the bank.
Q. So that's the front door, and that picture is taken --
A. Looking from the inside of the bank out.
Q. Now, you testified that when you come in those doors, where is your office located at?
A. When you come in, it's to the right.
Q. Showing you State's Exhibit No. 4, does that show your office?
A. That is correct, right there (indicating).
Q. Where my finger is located?

A. Yes, sir.
Q. Now, that morning, Mr. Baker, of April 1st, about 10:30 that morning, where were you located at in the bank?
A. I was sitting in my office.
Q. And did you have anybody in the bank (sic) with you?
A. I did not.
Q. Were you aware at that time whether there were any customers in the bank, either at the teller line or with Ms. Weeks in her office?
A. I don't really remember, to be real honestly with you, okay?
Q. That's fine. But you did not have anybody in your office with you?
A. That is correct.
Q. Okay. And did you know -- let me ask you this: Did you know where Ms. Rustin and Ms. Bass were about 10:30 when you were in your office?
A. Yes, sir, they were behind the teller line.
Q. And how about Ms. Weeks?
A. I knew she was in her office.
Q. Okay. Just wasn't sure at that time whether she had a customer with her or not?
A. That is correct.
Q. Okay. Now, at some point about 10:30 that morning, Mr. Baker, did something happen inside the bank that kind of

caught your attention?
A. Yes, sir.
Q. Tell the jury what that was.
A. I just heard a commotion, and I was facing away from the front of the bank, working on some papers on my desk, and I turned around because I heard a commotion, didn't know exactly what it was. And then I looked up and then I saw a head pop up from behind our check-writing counter, and a person then walked very rapidly out of the bank and went through the front doors, tried to get through the front doors, had trouble pushing instead of pulling, but tried to get out the door.
Q. Okay. So prior to that initial kind of commotion you heard and then looking down and you said you saw somebody kind of pop up from behind one of the counters out there?
A. Yes.
Q. Had you heard anything or realized that a robbery was going or anything like that prior to that?
A. I just heard noises, okay, like something got dropped and clattered on the floor and whatever, and then I saw the head pop up.
Q. So at that point in time when you saw the person go by, tell the jury what you noticed about the person that you then saw kind of walking briskly by, back to the front door area.
A. He had something all over his head and just walking

really fast, trying to get out the doors. I came out of my office, looked at the ladies behind the teller line and -- and I don't remember if we communicated. I'm not even really sure, but I knew something had happened.

And so my job then is to get to the front doors and lock them, okay, so that nothing can come back into the branch. And when I was going that way, I saw that individual go by, and you can look from my office to the other side of the bank, and I can see -- there are windows there out into the parking lot, and I saw that person go by those windows. So I went out of the branch and around the corner of the door so I could see the person going down the road.

MR. SORENSON: May I approach the witness, Your Honor?

THE COURT: Yes, sir.

Q. Showing you State's Exhibit No. 2, are you familiar with that photograph?

A. That is the front entrance to the bank.

Q. Okay. And does that show also the area then that you would have seen this individual going?

A. That is correct.

MR. SORENSON: Your Honor, at this time we'd offer State's 2 into evidence.

THE COURT: Any objection?

MR. FALK: No objection.

THE COURT: Without objection, State's Exhibit 2

admitted into evidence.

(State's Exhibit 2 admitted into evidence.)

Q. And looking at this photograph, Mr. Baker, where would the front doors of the bank be located at in relation to the photograph?

A. Right there, the front doors are just right there. That's a window next to the front door (indicating).

Q. So just off to this side of the picture --

A. That is correct.

Q. -- if you panned around, you'd see the two -- the front doors.

And you testified then that you saw -- you went out around the corner. Is this basically the corner of the bank you came around?

A. That is correct.

Q. And then where did you see this individual fleeing to at that time?

A. They were -- he was going down the road, and none of those cars were there. I mean, the parking lot was basically empty, okay?

Q. I believe these are a handful of law enforcement vehicles --

A. That is correct. Yes, there were no cars there at that time.

Q. So you had, at that time, a clear view looking down?

A. Of the road.
Q. I guess Club Course Road?
A. Club Course Drive, yes, sir.
Q. And did you see where this individual went?
A. I watched him go down the road and went down that road probably 150 to 200 yards, and then he cut left into the woods that lined that road.
Q. Now, did you point that information out to anybody out there?
A. Yes. One -- there was a client in the bank, and he came out at the same time I did. And he said, "Did you see where he went?"

And I pointed and said, "Yes, he just went into those woods right there (indicating)."

Q. Now, do you know, are you familiar with who that person is that you were talking to?
A. Don't know what his name is, no.
Q. And after kind of pointing that information out to that customer that had come out, where -- what did you do at that time?
A. Then I went back into the bank. I locked the doors and then started our procedures when something like this happens.
Q. And law enforcement had been notified?
A. That is correct.
Q. Did they respond out there?

A. They were there very quickly.
Q. And that's the North Charleston Police Department; is that correct?
A. Yes, sir.
Q. And let me ask you this: The jury's already seen some of it with a couple of the other employees, but I guess is there a surveillance system in the bank?
A. There is.
Q. And did you go about then that morning getting with your security people and getting that security footage provided to law enforcement?
A. I just give them the contact numbers and stuff to do that, because then it goes directly to them. It doesn't go through me.
Q. But you made sure that was done that morning with law enforcement?
A. That is correct, yes, sir.
Q. And have you had an opportunity to view that surveillance video?
A. Yes, sir.
Q. And the jury's seen, I guess, a couple different angles. I'm not going to -- but is that -- ultimately, there are a whole handful of different angles that are contained in that CD that was provided to law enforcement?
A. Yes, sir.

Q. Now, Mr. Baker, as part of your job also then, did you make an attempt to determine how much money was taken from your bank that morning?

A. We as a bank, that's not my position. We have an auditor, and then our area manager comes in, and they do what we call they count the cash down so that they know exactly how much was gone.

Q. And are you aware of about how much money was taken that morning?

A. Can I look and see? I've got it written down in my pocket. Is that all right? Yes, sir, it was $6,032.

Q. And that would have all been taken from Ms. Rustin's area?

A. That is correct. She was the only one that had a drawer that morning.

Q. Let me ask you this, Mr. Baker: The individual that you saw kind of walking past you and then that you observed basically kind of running down Club Course Drive, are you able to describe him for the jury?

THE COURT: Hold on a minute. I've got a juror that needs a break.

MR. SORENSON: I'm sorry.

THE COURT: Hold on a minute. I'm going to let all of you step to the jury room. Do not discuss the case, and I'll get you back out here as quickly as possible. Please step to

the jury room.

(The jury retires to the jury room at 10:44 a.m.)

THE COURT: We'll stand down for just a few minutes.

Mr. Baker, you may step down, but do not, do not discuss your testimony with anyone, okay? You can step down. We'll stand down for a few minutes.

(Recess held.)

THE COURT: All right. Anything from the State before I bring the jury back out?

MR. SORENSON: No, sir.

THE COURT: Defense counsel?

MR. FALK: No, Your Honor.

THE COURT: All right. Bring me the jury, please.

(The jury enters the courtroom at 10:59 a.m.)

THE COURT: I hope everyone's refreshed now and ready to proceed.

State, you're recognized. You may continue direct examination.

MR. SORENSON: Thank you. That would be all I have for this witness, Your Honor.

THE COURT: Cross-examination.

CROSS-EXAMINATION BY MR. FALK:

Q. You've been with the bank for four years, this branch for four years?

A. Yes, sir.

Q. Okay. Are you familiar with the loss prevention practices that the bank has: For example, dye packs, bait money?
A. Yes, sir.
Q. I mean, that falls under your supervision?
A. Yes, sir.
Q. There was no bait money recovered in this case, was there?
A. Not to my knowledge.
MR. FALK: No further questions.
THE COURT: Any redirect?
MR. SORENSON: Just very briefly.
REDIRECT EXAMINATION BY MR. SORENSON:
Q. Do you know, was a dye pack used?
A. No, sir.
Q. Do you know whether there was any bait money that was given to the robber that morning?
A. The bank does not have what we classify as what you would call bait money where we keep track of the numbers. What our bait money does is when it's pulled, it sets an alarm off, a silent alarm. So we don't have money inside the drawer that is serial numbered that is given out, that is not, that -- we don't have that kind of bait money.
Q. And on April 1st, the bank robbery that occurred at your branch on April 1st, was any money given that would have had

a tracking device in it?
A. No, sir.
Q. Is that something that subsequently -- the steps that your bank has taken -- taken steps to now attempt to do?
A. Yes, sir.
Q. Okay. But on April 1st, so that wasn't -- so there wasn't any dye pack given. There wasn't any kind of tracking device or anything like that in the money that was given to the robber that morning?
A. That is correct.
MR. SORENSON: Thank you, Mr. Baker.
MR. FALK: Just recross.
RECROSS-EXAMINATION BY MR. FALK:
Q. Did the silent alarm go off in this case?
A. I don't know. I mean, to the best of my knowledge, yes, but it's silent; so we don't hear it. It goes at the alarm company.
Q. In your investigation of this case, did you ever find out whether or not an alarm went off and whether or not the money was triggered -- the alarm was triggered?
A. You know, I don't know, because we also dialed 911 at the same time.
MR. FALK: Thank you.
THE COURT: Sir, you may step down. Thank you.
THE WITNESS: Thank you.

MR. SORENSON: May he be excused, Your Honor?

THE COURT: Any objection to him being excused?

MR. FALK: No, Your Honor.

THE COURT: Sir, you're excused. You may leave. You have no further responsibilities under your subpoena.

THE WITNESS: Thank you.

THE COURT: You're free to go.

THE WITNESS: Thank you.

THE COURT: Have a good day.

Call your next witness.

MR. SORENSON: State calls David Lewis.

CLERK OF COURT: If you'll place your left hand on the Bible, raise your right hand, state your full name for the record.

THE WITNESS: David Lewis.

DAVID LEWIS,

being first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. SORENSON:

Q. Good morning, Mr. Lewis.

A. Good morning.

Q. If you would, please tell the jury how old you are.

A. 64.

Q. Okay. And what do you do for a living?

A. I'm retired.

Q. And you live in the Summerville area?

A. Yes. I live in Wescott Plantation off Dorchester Road.
Q. And back in April of last year, of 2013, were you doing some of your banking at that time with the SunTrust Bank on Dorchester Road?
A. Yes, I was.
Q. And specifically on the morning of April the 1st of 2013, were you at the SunTrust Bank on Dorchester Road that morning?
A. Yes, I was.
Q. Okay. And around 10:30 that morning, who were you interacting with at the bank?
A. I had went in the bank and sat down and talked to Bonnie about some IRA money.
Q. And do you remember where you were sitting and meeting with her in the bank?
A. When you walk in the bank, she's got the second office on the left-hand side, great big window overlooking the parking lot.
Q. And when you -- and you were sitting in there?
A. Yes.
Q. Okay. And when you were sitting, kind of tell the jury how are you oriented then to the lobby of the bank. Are you facing it, back to it or --
A. Okay. I'm sitting across as I am here. Bonnie was on the other side of the desk. The window and the parking lot

is to my right, and the bank tellers are just to the left behind me.

Q. Okay. So from where you're sitting, can you really see what's going on out in the lobby without kind of turning and looking?

A. No.

Q. And tell the jury then about 10:30 that morning, as you're sitting in Ms. Bonnie Weeks' office with her, kind of what happened.

A. Bonnie and I were talking, and where I'm sitting, you can see to the right of me the window and see the parking lot. A guy walked by, and I'm afraid in my lifetime I've been in a couple robberies, and the first thing I noticed is this fellow's passing by me and he's all cloaked up, and it's summertime, and I've got on shorts, and he is dark hoodie, hair, dark glasses, dark pants, baggy clothes, coming around the corner, and I was thinking to myself, "Oh, boy, here we go."

And within a couple minutes, he walked in, went behind us. I seen him -- glanced just to see him go by. And Bonnie said to me, she said, "David, don't turn around and look over your shoulder, but I think we're being robbed." And she kind of give me that look.

And I said, "Well, you've got a button to push? Push the button and get on the phone and let's see what happens."

And you could hear some shuffling going on. I couldn't hear what anybody was saying, and she got on the phone. The fellow went out the door, come around, walked past me again and then went down the street.

About that time I stood up. Bonnie stood up, and we're describing the fellow as he's walking away. And as he gets past the window where I can't see any longer, I walked out the front. The bank manager was standing there watching the guy go down the street. I jumped in my truck and I went after him.

Q. Okay. And you said that you all were describing the robber to law enforcement. Could you describe for the jury, you have a little bit about the clothing, but kind of describe the person that you saw that morning?

A. I couldn't recognize the person because I didn't see him in the face. But as he walked by, the first thing you saw when he walked by was he was -- his clothes were too big on him, and he looked bigger than what he was. As he passed us and went down the street, I think he was about five-six to five-eight, probably 160 pounds.

As he was running away from the bank, he had a hoodie on and the hoodie fell off and he had a big head of dreadlocks, which looked way too big for his head, so I'm assuming at that point that I didn't think that was his real hair.

As he ran away, again, I went out and went after him.

And when I went by him, he was in the woods. I went past him up to the next intersection, which is about another 100 yards away. And when I turned around, a car was coming at me. It was a middle-class neighborhood and an old model Honda was coming at me with this big guy in it, another black fellow. And I knew right away that's not the right neighborhood.

So I turned my truck around real fast. When the fellow got to the intersection of the road, the fellow that was in the woods then came out and got in the car and they sped off, and I went after them.

Now, the fellow that came out of the woods didn't have all the clothes on that the fellow that went in the woods. There was no longer dreadlocks anymore. There was no longer a big heavy coat and that kind of stuff. He got in the car, and I followed him.

Q. Okay. Let me just kind of back you up a little bit. So you said you come out and get in your truck and head kind of down the road, the direction you saw the person kind of running?

A. The bank manager was standing at the bank. And what he had done is went out the bank, went down the side and was running down the side of the road, and then he crossed the street and went in the woods. And the bank manager was saying, "There he goes. He's going into the woods."

And we seen him cross the street like he was going in

the woods, and at that point I jumped in my truck and went after him.

Q. Okay. And you testified that when you go kind of past that wooded area, what is off to the left?

A. There was a small apartment complex right in that section of woods there.

Q. Is that where you turned into?

A. I turned into there.

Q. And as you turned into that apartment complex, what did you see?

A. Well, as soon as you turn into the apartment complex, of course there's houses right there, but I didn't go, but, I don't know, 30, 40 yards and there was a car coming at me. And the car, again, was an older model, dark green Honda with another fellow in it.

And like I said, it was probably a predominantly white neighborhood in the upper middle class. The car just didn't fit the spot, so I just assumed that might be what I was after. So I turned the truck around and went back out.

Q. And you said -- I think you described that as kind of an older -- and what color was that Honda?

A. Dark green.

Q. And what condition was that vehicle in?

A. It was old. It was -- the paint was faded. It was a four-door car and it had been abused a little bit.

Q. And so as you turned around then, and obviously somebody was -- the person you described, there was somebody driving that vehicle, right?
A. Exactly.
Q. Okay. And did you then -- you testified that you then saw somebody come out of the woods and get in the passenger side of that vehicle?
A. That's exactly right.
Q. And did that appear to be the same person that you had seen run into the woods but just no longer was kind of dressed and hair the same way as the person that you saw go in the woods?
A. Yes.
Q. Now, at that point in time, as that vehicle then went to exit the apartment complex, which direction did it go?
A. It turned left, went down Coosaw Creek Parkway, I think, and got to the intersection. There was a red -- there was a traffic light there. The light was red. I was driving a black unmarked Chevrolet police truck, okay? And so they knew right away when I turned around that I had seen them and I was after them.
MR. FALK: Objection, Your Honor. I'm not sure --
THE COURT: What's the grounds for your objection?
MR. FALK: He's professing what he believes my client knew.

THE COURT: Hold on, come up here.

What's your objection?

MR. FALK: That he is not qualified to give an opinion about what my clients were thinking when they saw the black truck.

MR. SORENSON: He's basically just describing their actions.

Q. Mr. Lewis, just --

THE COURT: Restate your question, Mr. Sorenson.

MR. SORENSON: Yes, Your Honor.

Q. Mr. Lewis, if I could just -- just kind of -- I want you just to describe for the jury what the vehicle did, not necessarily what they may have been --

A. Okay.

Q. -- thinking, because obviously you weren't in the vehicle with them.

But so you turned your truck around and proceeded also, took a left back onto the road that runs beside the bank?

A. Yes.

Q. And followed them? So basically you're going away from the bank at this point in time?

A. That's exactly right.

Q. And you indicated that you came up, there's a red light, I guess, at Patriot Boulevard and Coosaw Creek or Club Course Drive?

A. Yes, sir.
Q. When that older green four-door Honda came to that light, was it red or green?
A. The light was red.
Q. Okay. And what --
A. They ran the red light.
Q. What did you do at that point in time?
A. I followed behind them. I turned left to follow behind them as they turned the corner. As we both turned the corner, just got through the intersection, a marked police car was coming my direction heading for the bank, and I waved out the window trying to get the officer's attention. He didn't appear to see me, I don't think, so I pursued the car down the street, hoping to get some more information or a tag number or something.
Q. So you were heading down now Patriot Boulevard?
A. That's correct.
Q. And describe for the jury how -- I mean, this Honda, how was it driving at that time?
A. The Honda probably sped up to almost 100 miles an hour with me right behind them, so it was very apparent they knew I was there. When it got -- there was no traffic on the road at the very beginning, but as we got a mile or two down the road, we started running into traffic.
And the fellows that I was behind started zigzagging in

and out of cars, and I backed off and stopped at that point because it was too dangerous for me to keep on doing that.

Q. And ultimately, where did you go then after you kind of backed off and stopped following their vehicle?

A. I turned around and came right back to the bank.

Q. Let me ask you, the direction that you were following them on Patriot Boulevard, you had testified that you live in Wescott Plantation?

A. Yes.

Q. Would that be the way that you could go to go back to Wescott?

A. Yes.

Q. And that's the direction that you were following the vehicle?

A. Yes.

Q. Now, ultimately you had described the vehicle earlier. Were you able to get the license tag of the vehicle?

A. Yes. I was trying to memorize the number, chase the car and use my telephone and do all kind of things at one time, and I tried to memorize the number the best I could, but when I turned around and came back, the one thing that I recognized, number one, it was a South Carolina license plate, and I wasn't sure exactly whether it was a 153, the first three numbers, or a 193, but that was generally what it was. I gave that description to the police.

Q. Okay. You told them that morning back at the bank?
A. Yes.
Q. So a South Carolina tag with the first three numbers either 153 or 193?
A. Yes.
MR. SORENSON: Beg the Court's indulgence.
THE COURT: Yes, sir.
MR. SORENSON: Thank you, Mr. Lewis, please answer any questions Mr. Falk has.
THE COURT: Cross-examination.
CROSS-EXAMINATION BY MR. FALK:
Q. You said when the -- when you saw somebody coming out of the woods, he was no longer wearing the hoodie and the jacket; is that correct?
A. Yes, sir.
Q. And you said that you all were going about 100 miles an hour when you passed the police car?
A. No, sir. I said I turned the corner after running a red light behind them, and the police car was making the turn going to the bank. At that point we were probably only doing 20 or 30 miles an hour, starting to accelerate.
MR. FALK: One moment, please.
No further questions.
THE COURT: Any redirect?
MR. SORENSON: No, Your Honor.

THE COURT: Sir, you may step down, thank you.

MR. SORENSON: May he be excused?

THE COURT: Any objection to him being excused, Mr. Falk?

MR. FALK: No, Your Honor.

THE COURT: Sir, you may be excused. You have no further responsibility under your subpoena. You're free to go. Have a good day.

Call your next witness.

MR. GIESE: State calls Officer Jeremy Ledford.

CLERK OF COURT: Place your left hand on the Bible, raise your right hand and state your full name for the record.

THE WITNESS: Jeremy Michael Ledford.

JEREMY LEDFORD,

being first duly sworn, testified as follows:

MR. GIESE: May it please the Court, Your Honor.

THE COURT: Yes, sir.

DIRECT EXAMINATION BY MR. GIESE:

Q. Officer Ledford, where do you work?

A. City of North Charleston, North Charleston Police Department.

Q. And what are your duties with the police department?

A. I'm currently assigned to our gang unit, the gang intervention unit.

Q. Okay. Were those your duties on April 1st, 2013?
A. Yes, sir.
Q. And can you kind of describe those duties?
A. Our team, what we do is we currently identify and track criminal gang members. What we do is we'll use a lot of different sources from intelligence gathering techniques to identify them, from what different sets, and try to monitor them and eventually go up for state and federal prosecution.
Q. Do you assist in other areas with law enforcement?
A. Yes, sir. We are certified law enforcement officers, so if there's a call that goes out, even though we're, you know, attached to a different team, if a certain call goes out, we're close to it, then we'll assist them as well.
Q. Do you remember April 1st, 2013?
A. Yes, sir.
Q. What happened that day?
A. Actually, the call came out across the radio. The -- it was -- the tones were dropped, is what we call it, so we knew it was kind of a higher priority call, and I happened to be just a couple miles down the street from the scene of that. Just due to my close proximity to the call, I went ahead and responded.
Q. Where was that?
A. I was at -- when I responded, I believe I was at the intersection of Dorchester and Parquet Drive.

Q. Okay. And where did you respond to?
A. I believe 8601 Dorchester. It was Dorchester and Coosaw Boulevard.
Q. Okay. And --
A. The SunTrust Bank.
Q. Okay. And what was it in reference to?
A. It was in reference to a possible bank robbery.
Q. Describe for the jury what you observed when you arrived on scene.
A. When I arrived on the scene, there were several other marked units that were already on scene because of the way the call had come out. They were kind of saturation -- saturating the area, trying to look for the -- any suspects that had fled the business.

When I arrived on scene, I had set up just south of the actual bank itself, waited for another unit to get on the opposite side and then we actually exited our vehicles and approached the business.
Q. Okay. What happened next?
A. As we approached the front doors, we were going to go ahead and enter the bank to make sure that there was nobody left inside the bank that was hostile. We got to the front door and the front doors were locked, so we had -- actually had to wait -- the other officer and I had to wait for the branch manager to unlock the front door for us to enter.

Q. Okay. Did you eventually enter?
A. Yes, sir, we did.
Q. And what did you do inside?
A. Once we entered the bank, we conducted a sweep of the inside of the bank just to make sure that everybody was safe, started talking to employees, getting general description from employees of, you know, who had fled the business, what had taken place, direction of travel, where they may have ran to, just pretty much make sure everybody was okay inside.
Q. Did you determine a place of travel, as you said?
A. Yes, sir. We were told that upon the suspect exiting the actual front of the bank, from inside the bank looking out, that they went out the front doors and went to the right, and after they went to the right, that they lost sight of him and were no longer able to view him.
Q. Okay. Did you go out there?
A. After -- after my part inside the bank was over with, I did exit the -- exit the bank and went down. We were told that the exterior of the bank, near that wood line is where he ended up running through. And I exited the bank and went back over there to assist the K-9 handler that was called to the scene.
Q. Okay. And what K-9 handler was there, was at the scene?
A. Sergeant Sharp.
Q. Officer Ledford, I'm showing you what's been entered

into evidence as State's Exhibit 1. Can you kind of describe -- first of all, what is that?

A. That's the intersection of Dorchester Road and Club Course.

Q. Is the SunTrust Bank you responded to in this photograph?

A. Yes, sir, it is.

Q. And you can mark on the screen. Can you show the jury where?

A. Right here (indicating).

Q. And what was the route that you were told the suspect fled to?

A. I was told that he -- the suspect fled, went around the right-hand side of the building and crossed over into the wood line and back up (indicating).

Q. And that's the route you went as well?

A. Yes, sir.

Q. Describe for the jury what you did once you got to the wood line.

A. Once I got to the wood line, we already had the K-9 that was doing the initial track to try and, you know, locate the suspect. During the track itself, Sergeant Sharp entered the wood line. And once the track -- we ended up just right over here where there is the back of I believe it's the apartment complex, kind of like the manager's office, and that's where

we had stopped at (indicating).

We were actually on the way back -- as I was assisting Sergeant Sharp, we were on the way back to put the dog away, and the dog actually just kind of went back in the woods on his own. He, you know, kind of picked up another scent or whatever the case may be and went back in the wood lines.

I actually stayed back out on the outside of the wood line. I guess there was some other evidence that was located, and I stayed on the outside of that, the wood line right at the roadway, to be kind of a physical marker for our crime scene units, our forensics units, so that when they arrived on scene when they were finished processing the inside of the bank, that they would know exactly where that they needed to enter the wood line to go look for other items that were located.

Q. Did crime scene eventually go to the wooded area?

A. Yes, sir. When they were finished processing the inside of the bank, they came down, and as -- with me standing on the side of the roadway being a physical marker, we told them that that was the place that they needed to enter to be able to recover items that were located in the woods.

Q. Okay. After you directed crime scene to that area, what else did you do, what happened next?

A. From that, once crime scene entered the wood line where I was marking for them, my duties were done. The inside of

the bank had been turned over to detectives. Forensics had already processed it, and my part was complete.

Q. So you went back out on the road --

A. I left the scene and went back in service, yes, sir.

MR. GIESE: Okay. Beg the Court's indulgence, Your Honor.

No further questions for this witness, Your Honor.

THE COURT: Cross-examination?

CROSS-EXAMINATION BY MR. FALK:

Q. You said that your involvement, that your normal scope of duties is with gang involvement?

A. Yes, sir.

Q. During the course of the investigation of this bank robbery, did any leads get developed as to possible gang involvement in this?

A. No, sir. We actually didn't follow up on this case with that angle at all, not from our unit.

Q. If it just didn't come to your attention, could it have come to somebody else's attention in your unit, or would you know about it?

A. Typically, the way our department works, if there's any type of gang involvement from any angle, we're supposed to be notified for us to eventually be able to run the actual gang angle on that. So we would have or should have been notified if there was any type of gang involvement.

Q. House of Murdah, M-U-R-D-A-H, is that a gang?
A. House of Murdah?
Q. Yes.
A. Not that our unit is aware of, no, sir.
MR. FALK: Nothing further.
THE COURT: Any redirect?
MR. GIESE: No, Your Honor.
THE COURT: Sir, you may step down. Thank you.
THE WITNESS: Thank you, Your Honor.
MR. GIESE: May this witness be excused, Your Honor?
THE COURT: Any objection?
MR. FALK: No objection.
THE COURT: Sir, you're excused. You're free to go. You have no further responsibility under your subpoena. Have a good day.
THE WITNESS: Thank you, sir. And you as well.
THE COURT: Call your next witness.
MR. GIESE: State calls Sergeant Ken Sharp.
CLERK OF COURT: If you'll please place your left hand on the Bible, raise your right hand and state your full name for the record.
THE WITNESS: Kenneth W. Sharp.

KENNETH SHARP,

being first duly sworn, testified as follows:
MR. GIESE: May it please the Court, Your Honor.

THE COURT: Yes, sir.

DIRECT EXAMINATION BY MR. GIESE:

Q. Good morning, Sergeant. Where do you work?

A. I work for the City of North Charleston.

Q. And what are your duties?

A. Currently assigned to our K-9 unit. I'm the sergeant over the unit.

Q. Okay. Were those your duties on April 1st of 2013?

A. Yes, they were.

Q. Do you remember that day?

A. Yes, I do.

Q. What happened that day?

A. That day I was requested to respond to the SunTrust Bank to conduct a track for a robbery which had just occurred.

Q. Okay. Sir, were you kind of the on-call K-9 person?

A. Yes. Well, I was the only K-9 that was available at that time.

Q. Describe for the jury what happened when you first arrived. What did you observe?

A. When I first arrived, I met with the sergeant that was on scene. He informed me of the incident which had occurred at the bank. I was given a last direction of travel for the fleeing suspect, and that's when I retrieved my K-9 and started the actual track.

Q. What was the last direction of travel?

A. Last direction of travel was on the right-hand side of Coosaw Creek Boulevard behind the bank.
Q. I'm showing you what's been entered into evidence as State's 1. It's going to pop up on your screen there. Can you -- first of all, do you recognize this?
A. Yes, I do.
Q. What is this showing?
A. This is a aerial photo of Dorchester Road and Club Course Drive.
Q. Okay. And I had asked you previously about his direction of travel. Can you kind of show on the map what was shown to you or told to you?
A. It was on the map where the blue X is. It was actually across the street and a little bit towards Dorchester Road in this grassy area where I was last (indicating) --
Q. You can kind of use your finger and draw on there. Just kind of show the general vicinity.
A. (Witness complies.)
Q. Okay. And so did you go to that wooded area?
A. Yes, I did. I deployed my K-9 around that area and I tracked down the grass and right around here is where we crossed the street (indicating).
Q. Okay. What happened next?
A. After we crossed the street, my K-9 led me down to an area right around in here (indicating), and we went into the

wood line, which would have been to the left.

Now, when we went into that wood line, I found an area in the grass that was a combination of tall grass on the outside or just on the outside of the wood line where it appeared that someone or something had been laying down there.

Q. And let me stop you before we go too far. What's your training as a K-9 officer? Can you kind of give us a little background on that?

A. I've been with the unit for about 13 years. I'm currently working my third police K-9. I'm the trainer at North Charleston. I've conducted training around Georgia and South Carolina and North Carolina. I've been to several seminars, training seminars in the area.

Q. And the K-9 you currently have is the one that you had on April 1st of 2013?

A. That is correct.

Q. Okay. And I kind of interrupted you there. What happened once you get to that apartment area? What happened next?

A. After we found this area on the grass where -- that I described earlier, my K-9 kind of pretty much circled. So at the time, I assumed that that was the direction or where the person had fled through. We were in the process of walking back to the vehicles, and we were on this side of the road

(indicating), and right around in this spot right here, my K-9 took a right and actually entered the wood line right in here (indicating).

Q. Okay.

A. It appeared that he was on another trail.

Q. And did you follow him into the wood line?

A. Yes. As soon as we entered the wood line, we got about 30 feet in and we came across a black hat that was lying on the ground and that -- at the time my dog picked up the hat and had it in his mouth.

Q. Okay. What else did you find?

A. We told him to let go of the hat or I told him to let go of the hat. We continued to track, and from there in sequence, we located a single glove. It looked like a medical glove that you would use, a wig, and a we also found a pistol that was lying on the ground too.

Q. Okay. And did you alert crime scene of that?

A. Yes, sir.

Q. Or what's your protocol at that point?

A. At that time we usually have somebody stand by with the evidence, and I'll continue -- I'll continue to work my dog.

Q. Okay.

A. So we had -- I believe it was Officer Ledford we had stand by, and I continued my track through the woods, and we pretty much did a half moon and came right back into this

area where the dog had initially led to where the grass was all laid down.

Q. Okay. And describe the grass being laid down. What was the significance of that and how did you notice that?

A. I noticed it because all the other grass in the area, it was very tall grass, but it was standing up, and it was laid down on. It wasn't broken grass, so it looked like somebody had laid down there to try and conceal themselves.

I don't believe it was an animal. The only animals that are in the area are deer and wild boar, and I don't believe they're going to bed down that close to the housing area.

MR. GIESE: Beg the Court's indulgence.

May I approach the witness, Your Honor?

THE COURT: Yes, sir.

Q. Sergeant Sharp, I'm showing you what's been premarked as State's Exhibit 6. Can you describe that, please?

A. That's going to be the black hat that we first located going into the woods.

Q. Is that the hat your dog located originally?

A. Yes, it is.

Q. And I'm showing you what's been marked as State's Exhibit 7. What's that a picture of?

A. That's a close-up of the black hat.

Q. Are those both fair and accurate depictions of the black hat that was found, discovered by you on April 1st, 2013?

A. Yes, it is.

MR. GIESE: Your Honor, at this time the State would move to have State's 6 and 7 entered into evidence.

THE COURT: Any objection?

MR. FALK: No objection.

THE COURT: Without objection, State's Exhibits 6 and 7 admitted into evidence.

(State's Exhibits 6-7 admitted into evidence.)

Q. All right. Sergeant Sharp, I'm showing you what's been premarked as State's Exhibit 8. Do you recognize that?

A. Yes, I do.

Q. And what's that a photo of?

A. That's the single latex glove.

Q. And is that a fair and accurate representation of the glove that was found that day?

A. Yes, it is.

MR. GIESE: Your Honor, at this time the State would move to have State's Exhibit 8 entered into evidence.

THE COURT: Any objection?

MR. FALK: No objection.

THE COURT: Without objection, so admitted, State's Exhibit 8.

(State's Exhibit 8 admitted into evidence.)

Q. Sergeant, now I'm showing you what's been premarked as State's Exhibit 9. Do you recognize that?

A. Yes, I do.
Q. Can you describe that?
A. That's a close-up picture of the latex glove.
Q. Is that a fair and accurate representation of that latex glove?
A. Yes, it is.
MR. GIESE: Your Honor, at this time the State would move to have State's 9 entered into evidence.
THE COURT: Any objection?
MR. FALK: No objection.
THE COURT: Without objection, State's Exhibit 9 admitted.
(State's Exhibit 9 admitted into evidence.)
Q. All right, Sergeant, now State's Exhibit 10. Do you recognize that?
A. Yes, I do.
Q. And what is that?
A. That's the handgun that we found on the track.
Q. Okay. Is that a fair and accurate representation of the handgun you found on April 1st, 2013?
A. Yes, it is.
MR. GIESE: Your Honor, the State would move that State's Exhibit 10 be entered into evidence.
THE COURT: Any objection?
MR. FALK: No objection.

THE COURT: Without objection, State's Exhibit 10 admitted.

(State's Exhibit 10 admitted into evidence.)

Q. Sergeant Sharp, this is State's Exhibit 11. Can you describe that for us?

A. Yes, it's a close-up of the handgun.

Q. Is that a fair and accurate representation of the handgun you found on April 1st, 2013?

A. Yes, it is.

MR. GIESE: Your Honor, the State moves to have State's 11 entered into evidence.

THE COURT: Any objection?

MR. FALK: No objection.

THE COURT: Without objection, State's Exhibit 11 admitted.

(State's Exhibit 11 admitted into evidence.)

Q. All right, now, State's Exhibit 12, Sergeant, can you describe that for us?

A. Yes. That's going to be the wig that we found on the track.

Q. Is that a fair and accurate representation of the wig found on April 1st, 2013?

A. Yes, it is.

MR. GIESE: At this time, Your Honor, the State moves to have State's 12 entered into evidence.

THE COURT: Any objection?

MR. FALK: No objection.

THE COURT: State's 12 admitted without objection.

(State's Exhibit 12 admitted into evidence.)

Q. Finally, Sergeant, this is State's Exhibit 13. Do you recognize that?

A. Yes. That's a close-up of the wig.

Q. And is that a fair and accurate representation of the wig found on April 1st, 2013?

A. Yes, sir.

MR. GIESE: Your Honor, at this time the State moves to have Exhibit 13, State's Exhibit 13 moved into evidence.

THE COURT: Any objection?

MR. FALK: No objection.

THE COURT: Without objection, State's Exhibit 13 admitted.

(State's Exhibit 13 admitted into evidence.)

MR. GIESE: Your Honor, may I publish these for the jury?

THE COURT: Yes, sir.

Q. Sergeant, can you describe that photo for the jury, please?

A. Yes, sir. This is going to be the black hat that my K-9 picked up on the track in his mouth.

Q. Okay. Is that the first thing your K-9 located that

day?
A. Yes, it is.
Q. Okay. That's State's Exhibit 6, for the record. I'm showing you what's been entered into evidence as State's Exhibit 7. Can you describe that for the jury, please?
A. That's a close-up picture of the black hat.
Q. I'm showing you what's been marked as State's Exhibit 8. Can you describe that, please?
A. Yes. This is going to be the latex, single latex glove that we found.
Q. Okay. Can you kind of circle it on there? Can you see it?
A. (Witness complies.)
Q. Sergeant, this is State's Exhibit 9. Can you describe that?
A. That's a close-up of the latex glove.
Q. Is that -- and is that in the same position as what was on the previous picture?
A. Yes, it is.
Q. Okay. It's just a close-up view?
A. Correct.
Q. All right. This is State's Exhibit 10. Can you describe that, please?
A. Yes. This is going to be the handgun that we found on the track.

Q. Can you circle the handgun on there?
A. (Witness complies.)
Q. Okay. And that's where the handgun was when you found it?
A. Correct.
Q. This is State's Exhibit 11. Can you describe that for us?
A. This is a close-up of the handgun.
Q. This has been entered into evidence as State's Exhibit 12. Do you recognize that?
A. Yes, that's going to be the wig.
Q. And this is State's Exhibit 13. Can you describe that for us?
A. That's a close-up of the wig, sir.
Q. Sergeant, can you describe where all these items were found, and were they all found in the same general vicinity or --
A. They were in the general vicinity, but it was as we proceeded throughout the track, you know, the hat and then this item and then this item and then this item, as if to be discarded as a person was going through the woods.
Q. Okay. That wooded area, and how big is that area, would you estimate?
A. It's not very big, in that general area maybe a quarter of an acre. When you enter the woods, you can see through to

the other side.
Q. Okay. After you alerted crime scene to these items, what did you do next?
A. After we completed the track, I returned to my vehicle and placed my dog back in the truck.
Q. And then you went back out, back out on the road?
A. Correct.
Q. So that was -- was that the extent of your involvement?
A. Yes, it was.
MR. GIESE: I have no further questions, Your Honor.
THE COURT: Cross-examination.
CROSS-EXAMINATION BY MR. FALK:
Q. How far was the wig found relative to this area of grass? You had talked about an area of grass --
A. Maybe 60, 75 yards.
Q. Okay. And the way that a K-9 works is that it's locating these by a scent?
A. Honestly, it's all depending on who you talk to. There's a couple different theories on how K-9 track. It's basically skin graphs or disturbance on the ground is how a dog tracks, but he distinguishes items because it's a different smell than what the smell of the ground is.
Q. Once a K-9 finds one item does it, does it -- is it trained to keep looking for additional items?
A. If we tell the dog to continue to search, yes.

Q. And as part of the search, you would have wanted to find all the items in that area; is that correct?
A. That's correct.
Q. And the K-9 didn't locate any other items in the area?
A. No, just those items that we described.
MR. FALK: No further questions.
THE COURT: Any redirect?
MR. GIESE: No, Your Honor.
THE COURT: Sir, you may step down, thank you.
MR. GIESE: May this witness be excused?
THE COURT: Yes, sir. So you are excused. You have no further responsibility under the subpoena. You're free to go. Have a nice day.
THE WITNESS: Thank you, sir.
THE COURT: Call your next witness.
MR. SORENSON: State calls Terrance Bryant.
CLERK OF COURT: Please place your left hand on the Bible, raise your right hand and state your full name for the record.
THE WITNESS: Terrance Bryant.

TERRANCE BRYANT,

being first duly sworn, testified as follows:
DIRECT EXAMINATION BY MR. SORENSON:
Q. Good morning, Terrance.
A. Good morning.

Q. If you would, tell the jury how old you are.
A. I'm approximately 27 years old, just had a birthday on September 23rd.
Q. So you just turned 27?
A. Yes, sir.
Q. Okay. And where do you currently live, Terrance?
A. 108 Bragg Street, Norway, South Carolina.
Q. And Norway is in what county?
A. Orangeburg County.
Q. Orangeburg County. And who do you live there with?
A. With my girlfriend and our three children.
Q. Okay. And what's your girlfriend's name?
A. Chyronda Youmans.
Q. Okay. And how old are your three kids?
A. We have -- the oldest one is 15; the middle one is ten; and the youngest one is two.
Q. Okay. And those are all her children?
A. Probably the last one. That's me and hers, the youngest one, the two-year-old.
Q. The other two -- obviously the 15-year-old is not yours, because you would have been 12, right?
A. Yes, sir.
Q. Okay. So the youngest of the three children that live there is actually your biological child; is that correct?
A. Yes, sir.

Q. And when is her birthday?
A. Her birthday is March 29th.
Q. And so this year, 2014, March 29th, how old did she turn that birthday?
A. Two.
Q. So on March 29th of 2013, that was her first birthday?
A. First birthday.
Q. And let me ask you, do you know the defendant, Tyrone Ellison?
A. Yes, sir.
Q. And how about his family, do you know his mother and stepfather?
A. I knew his mother.
Q. And how long have you known Mr. Ellison?
A. I'm going to say approximately around 12 years.
Q. And back in early 2013, were you friends with Mr. Ellison?
A. Yes, sir.
Q. Now, back -- kind of back you up to March into the early part of April of 2013, Terrance, were you living in Norway with Ms. Youmans at that time?
A. Yes, sir.
Q. And what were you doing for a living back during that time?
A. During that time I'm approximately going to school at

Denmark Tech and doing odd jobs.
Q. And are you still in school at Denmark Tech?
A. Yes, sir.
Q. And how about Ms. Youmans?
A. Yes, sir.
Q. Same thing, in school also?
A. Yes, sir.
Q. And were you receiving financial aid back in the spring of 2013?
A. Yes, sir.
Q. To go to school at Denmark Tech?
A. Yes, sir.
Q. All right. Let me ask you this: In March of 2013, did you and Chyronda have a vehicle?
A. No, sir.
Q. Were you looking for a vehicle during that time period?
A. We had discussed it and was planning on purchasing one.
Q. Let me ask you, in March of 2013, did you have a driver's license?
A. No, sir.
Q. How about Chyronda, did she have a driver's license?
A. No, sir.
Q. Okay. Who was ultimately -- were you looking to get a vehicle for, though, out of the two of you all?
A. My girlfriend.

Q. And in March of 2013, did Mr. Ellison know that you were looking for a vehicle? Was he aware of that --
A. I'd say around the end of March, yes, sir.
Q. The end of March? Okay.
And now let me ask you this, Mr. Bryant: At some point in time, did Mr. Ellison, the defendant, Tyrone Ellison, contact you about possibly selling you a vehicle?
A. Approximately April 1st of 2013, which is the same day we received our second half of our check from Denmark Tech, he called me that morning. And as we -- it was just a normal conversation. It wasn't about a vehicle or anything and come up that I would let him know that we was at Denmark Tech receiving our funds, and we were looking for a vehicle. At that time he bought it to my attention that he had a vehicle that he would like to sell.
Q. Okay. And you said -- how do you know what day that was?
A. I knew what day was that exactly because, like I said, on the 29th of March was a Friday, which was my daughter first birthday. That Saturday, which was the 30th, it was a festival in our -- where we live at in our little town. That Sunday was Easter, and that Monday is the second part of our check was given to us, that morning.
Q. Okay. And did you all cash that check?
A. I didn't specifically cash my check. She cashed hers

that day.
Q. Okay.
A. I still had, like, I'm going to say approximately four, five hundred dollars from the check we received two weeks before that.
Q. So by "she," you mean your girlfriend, Chyronda?
A. Yes, sir.
Q. So she cashed a check that day, April 1st?
A. That same day, April 1st.
Q. Okay. And where did you all cash or she cash that check?
A. She cashed it at a liquor store in Orangeburg.
Q. Okay. And was that where you had cashed previous checks also --
A. Previous checks.
THE COURT: Hold on. Let him finish his question before you speak. My court reporter is trying to take down what both of you are saying and she can't take down when both of you are talking, okay? So please let him finish his question. Thank you, sir.
You may continue, Mr. Sorenson.
MR. SORENSON: Thank you, Your Honor.
Q. So you're sure that it is the Monday after your daughter's birthday, so April the 1st?
A. Yes, sir.

Q. Okay. And ultimately, did you get a call sometime later that day from Mr. Ellison indicating that he did, in fact, want to sell you that vehicle?
A. Yes, sir, approximately 4:00, around about 4 or 5:00.
Q. That afternoon?
A. Mm-hmm.
Q. And where were you at when he called you?
A. I was in Norway.
Q. And did -- do you know back in April of -- you know, on April 1st of 2013, do you know where Mr. Ellison was living then?
A. Yes, sir. He was approximately living in Wescott Plantation.
Q. That's in Summerville?
A. Yes, sir.
Q. And did you make arrangements then to meet up with him to see if you were, in fact, interested in buying this vehicle he had?
A. Yes, sir.
Q. Okay. And did he come to you in Norway or you go to him in Summerville or how did that work out?
A. We had meet at a gas station in Walterboro, South Carolina.
Q. Is that kind of in the middle, I guess, between the two of you all?

A. Yes, sir.
Q. And let me ask you, how did you get to -- given the fact that you may have been buying a vehicle, how did you get to that gas station in Walterboro?
A. My girlfriend cousin took me there.
Q. Okay. And what is his name?
A. T.J.
Q. T.J.
A. Timothy.
Q. Is T.J. still with us?
A. No, sir.
Q. He's passed away since April of 2013?
A. Yes, sir.
Q. But he gave you a ride there?
A. Yes, sir.
Q. And how about Mr. Ellison, did he arrive at that gas station in Walterboro?
A. When I got to the gas station, Mr. Ellison was already there.
Q. And was he with anybody?
A. Probably two people. I know it was a male and a female. I couldn't really see them because of the tinting on the van, the white van that was already there with Mr. Ellison.
Q. So those other two people were in a white van?
A. Yes, sir.

Q. From what you saw of them, did you recognize either one of them?
A. No, sir.
Q. And now, how about Mr. Ellison? Let me just make sure just for the record. The person we're referring to, do you see him in the courtroom?
A. Yes, sir.
Q. Okay. And point him out for the jury.
A. Right there (indicating).
Q. What's he wearing at the defense table?
A. Like a turquoise blue shirt.
Q. So he was at the gas station in Walterboro when you got there that afternoon of April the 1st?
A. Yes, sir.
Q. Okay. And did he have a vehicle with him?
A. He had the green Honda. I guess that was -- he drove the green Honda, and the people in the white van was his ride back from the gas station.
Q. Okay. And describe for the jury that green Honda that Mr. Ellison had with him that afternoon of April the 1st.
A. It was a 2000 green Honda Civic, four doors, and it was, like, a cute car, a good car.
Q. What condition was it in? I mean, was it brand-new looking or --
A. No. It was fair. It was fair.

Q. Okay. And ultimately did you agree to buy that vehicle from Mr. Ellison that afternoon?
A. Yes, sir.
Q. Okay. And did you pay him that afternoon?
A. Yes, sir.
Q. What did you pay him?
A. I counted out $900.
Q. Okay. You gave that to Mr. Ellison?
A. Yes, sir.
Q. Now, at that time did you then take possession of that vehicle that afternoon?
A. I took possession of that vehicle that afternoon, but after I paid him the $900, you know, we talked for another five minutes as I approximately looked at the car, and he took his tag off the Honda, and I replaced it with another tag.
Q. All right. Did you see the tag that he took off of it? I mean, do you have any idea what the tag was or anything of that nature?
A. No, sir.
Q. Now let me ask you: Did you -- when you then purchased that 2000 Honda Civic from him that afternoon, did Mr. Ellison -- did you all fill out any paperwork, like a bill of sale or anything like that, indicating that he was selling you the vehicle that afternoon?

A. No, sir.
Q. Did he give you, "he" being Mr. Ellison, give you any paperwork kind of relating to that Honda Civic that afternoon?
A. Yes, sir.
Q. And let me show you State's Exhibit No. 39. Is this some of the paperwork that was given to you by Mr. Ellison that afternoon of April 1st of 2013?
A. Yes, sir.
MR. SORENSON: Your Honor, at this time we'd offer State's 39 into evidence.
THE COURT: Any objection?
MR. FALK: No objection.
THE COURT: State's 39 admitted into evidence without objection.
(State's Exhibit 39 admitted into evidence.)
Q. And you ultimately provided this to us and law enforcement; is that correct?
A. Yes, sir.
Q. And this paperwork kind of reflects when Mr. Ellison had purchased the vehicle from an individual named James Lee?
A. Yes, sir.
Q. Okay. And does it -- and what day does it indicate on the paperwork that you were given that Mr. Ellison came into possession of this vehicle?

A. March 23rd, 2013.
Q. About eight or nine days prior to you getting the vehicle?
A. Yes, sir.
Q. All right. Now, at some point in time after then taking possession that afternoon of that Honda Civic, did you -- and let me just ask you while I'm -- before I forget, on this paperwork, does it have the vehicle identification number on the paperwork in several spots?
A. Yes, sir.
Q. There, second page here too (indicating)?
A. Yes, sir.
Q. Now, at some point in time after you took possession of that vehicle, did you and Chyronda, either of you, attempt to go register that vehicle with the Department of Motor Vehicles?
A. Yes, sir. We attempted that that Friday, which was April the 5th, 2013.
Q. Okay. And were you able to register that vehicle in either your name or Ms. Youmans' name?
A. No, sir.
Q. And why was that that you were unable to do that?
A. The lady at the DMV told us that we have the wrong paperwork. We would have to have a South Carolina paperwork --

Q. Okay.
A. -- title for it.
Q. Okay. And ultimately in the paperwork you received, there wasn't any title nor -- was there any paperwork showing basically Mr. Ellison selling you --
A. No, sir.
Q. -- or Ms. Youmans the vehicle?
A. No, sir.
Q. As a result of that, what did you do?
A. I contacted his mother. And when I contacted his mother, I let her know and explained to her what the DMV lady told me, and which -- you know, she shook it off and told me she would get it straight. Well, she came and, I'd say, possibly two days after I called her, she came and got the paperwork from me.
Q. That's this paperwork here (indicating)?
A. Yes, sir.
Q. All right. And did she leave you any paperwork when she took that paperwork or just --
A. No, sir. She didn't leave me any paperwork, but she took the paperwork. Approximately another week, week and a half later, we received an envelope in the mail.
Q. Okay. And who was that envelope from?
A. That was from Tyrone mother.
Q. Okay. What is her name?

A. Ms. Annette.
Q. Okay. Do you remember -- do you know her last name?
A. McKinney.
Q. McKinney. Okay.
And in that envelope then that you received back from Ms. McKinney, what was in that envelope?
A. It was basically the same paperwork that Tyrone gave me, but all the dates was the 23rd, the same dates that was on Tyrone paper, but every line where you supposed to sign at was empty.
Q. Let me show you. So you got this paperwork, State's 39, back from Ms. McKinney. Then additionally, let me show you State's Exhibit No. 43. Let me show you State's 43. Mr. Bryant, do you recognize that document?
A. Yes, sir.
Q. And how did that document come into your possession?
A. That was in the envelope that Ms. Annette sended me on the 16th.
MR. SORENSON: Your Honor, at this time we'd offer State's 43 into evidence.
THE COURT: Any objection?
MR. FALK: No objection.
THE COURT: Without objection, State's Exhibit 43 admitted.
(State's Exhibit 43 admitted into evidence.)

Q. And, Mr. Bryant, what is this document --
A. That's a bill of sale.
Q. And who does that indicate -- who is that filled out as being the name of the seller of the vehicle?
A. Tyrone Ellison.
Q. And is it asking then -- let me ask you, is there a date that's filled in on there?
A. It is, but it's -- it's military time or something.
Q. What's the date, March the what?
A. 23rd, '13. It's March, '13. '13.
Q. This is 23 March, then looks like 13..13 or something like that?
A. Yes, sir.
Q. Did you fill out any of this paperwork?
A. No, sir.
Q. Whose information is filled up at the top?
A. That's the seller to Tyrone and Tyrone.
Q. Okay. So that's selling it to, and who is it saying is the buyer of the vehicle?
A. Me.
Q. And let me ask you, that information, that March 23rd date, is that the correct date? Is that the date that you took possession of the vehicle?
A. No, sir.
Q. And how about in the middle here where it's got the

price of the vehicle, $1100; is that what you paid Mr. Ellison for the vehicle?
A. No, sir.
Q. As a result of getting this, did you fill it out and take this to the Department of Motor Vehicles?
A. No, sir.
Q. And why didn't you do that?
A. Because at that time, my first reason because I'm not the one who was gonna take it to the DMV. My girlfriend was -- Chyronda Youmans was going to register the car. And at that time, we noticed that the car wasn't running.
Q. Let me ask you this: Is the date accurate that you were -- that you purchased the vehicle on this paperwork you received from them?
A. No, sir.
Q. Yet again, did you hold on to this and ultimately turn it over to law enforcement?
A. Yes, sir.
Q. What did you ultimately end up doing with that Honda Civic?
A. I'd say approximately around October, November, it was getting rough, and I sold it.
Q. Who did you sell it to?
A. I actually don't know.
Q. Was it an individual?

A. Yes, sir. It was like -- I know he owns a car, like, auto mechanic shop.
Q. All right. And how much did you sell the vehicle for then?
A. $450.
Q. During that time period from when you had the vehicle on April 1st up until October or so when you sold it, I mean, were you still driving it while it was operable during that time period?
A. No, sir.
Q. Was it being driven at all during that time period?
A. No, sir. Because approximately two weeks, I'd say about two weeks after we purchased the car, two and a half weeks, it wasn't running anymore.
Q. And did you ever get the paperwork straightened out where you could register it with the Department of Motor Vehicles?
A. No, sir.
Q. So it was never registered in your name; is that correct -- or Chyronda Youmans' name; is that correct?
A. Never.
Q. Okay. Let me ask you this: Were you ever contacted kind of later on in 2013 again by Ms. McKinney about trying to purchase that vehicle back or get you to sell that vehicle back to somebody?

A. Yes, sir.
Q. Did you do that?
A. No, sir.
Q. And do you know who that was that she was trying to get you up with to give that vehicle --
A. Personally, no.
Q. And when -- do you know about when that would have occurred?
A. It had to have been -- it had to have been around the time that I sold the vehicle, because I -- by the time I noticed the inbox to my Facebook, I already had done sold it.
Q. So sometime in that October/November area?
A. Yes, sir.

MR. SORENSON: Beg the Court's indulgence.

That would be all I have for this witness, Your Honor.

THE COURT: Cross-examination.

MR. FALK: May I have a moment, please, Your Honor.

THE COURT: Yes, sir.

CROSS-EXAMINATION BY MR. FALK:

Q. You had testified, according to your testimony, it was April 1st Tyrone called you sometime. Could you just repeat when he called you first, what time of day it was?
A. It was approximately around 11.
Q. 11:00?
A. Yes, sir.

Q. And it was during the course of this telephone call that you told him that you wanted to buy a car; is that correct, or that you were looking for a car?
A. Yes, sir.
Q. Now, you were kind of keeping track of -- you had testified that you get paid or you get student aid money from?
A. Denmark Tech.
Q. Denmark Tech, okay. And you were talking something, I think you said this was your second payment that you were looking for?
A. Yes, sir.
Q. When did you get the first payment?
A. The first one came, like, March, I want to say March 15th.
Q. Okay. And you had talked about your girlfriend, Ms. Youmans?
A. Yes, sir.
Q. And does she also get -- is it your understanding she also gets payments?
A. Yes, sir.
Q. Okay. Would she have gotten those at about the same time?
A. Yes, sir.
MR. FALK: May I approach, Your Honor.

THE COURT: Yes, sir.

(Judge and attorneys confer.)

Q. You've been in trouble with the law in the past?

A. Yes, sir.

Q. Okay. Do you have a prior felony conviction?

A. Yes, sir.

Q. Can you tell me what that's for?

A. That's for strong-arm robbery, attempted strong-arm robbery.

Q. Do you know the date of that conviction?

A. The date of that conviction was April 27th, 2007.

Q. The date of the conviction?

A. Yes, sir.

Q. Okay. But you're off of parole, aren't you?

A. Excuse me?

Q. Did you have a term of probation?

A. Yes, sir. I came home on parole.

MR. SORENSON: Your Honor, objection. I think this is beyond the scope of what he's allowed to --

THE COURT: Objection sustained.

MR. FALK: No further questions.

THE COURT: Can the lawyers approach for just a minute, please.

(Judge and attorneys confer.)

BY MR. FALK:

Q. Just to clear something up, your arrest date was in 2007; is that correct?
A. Yes, sir.
Q. But you actually -- you got sentenced in 2009; is that correct?
A. No, sir. I got sentenced in 2008.
Q. In 2008?
A. Yes, sir.
MR. FALK: No further questions.
THE COURT: Any redirect?
MR. SORENSON: No, Your Honor.
THE COURT: Sir, you may step down. Thank you.
MR. SORENSON: May he be excused?
THE COURT: Any objection to him being excused, Mr. Falk?
MR. FALK: Your Honor, we would like to have him available for further testimony.
THE COURT: Mr. Sorenson?
MR. SORENSON: May we just approach?
THE COURT: Yes, sir.
(Judge and attorneys confer.)
THE COURT: Mr. Bryant, I'm going to let you go for the day, but you're still under subpoena. You need to make sure that they have contact information for you if needed, okay?
THE WITNESS: Yes, sir.

THE COURT: You're free to go for the day. And not to discuss your testimony.

Call your next witness.

MR. SORENSON: State calls Chyronda Youmans.

THE COURT: Anybody on the jury need a break? Everybody okay?

CLERK OF COURT: If you'll place your left hand on the Bible, raise your right hand and state your full name for the record.

THE WITNESS: Chyronda Faith Youmans.

CHYRONDA YOUMANS,

being first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. SORENSON:

Q. Good afternoon, Ms. Youmans.

A. Hey.

Q. How are you doing?

A. All right.

Q. If you would, tell the jury, please, where you live.

A. I live in Norway, South Carolina.

Q. Okay. And who do you live there with?

A. I live with Terrance and my three kids.

Q. Okay. And Terrance, what relationship is Terrance to you?

A. My boyfriend.

Q. Okay. And you said you have three children. How many

of them are Terrance's?
A. I got a two-year-old and I'm pregnant now.
Q. And your two-year-old's a little girl?
A. Yes, sir.
Q. And when is her birthday?
A. March 29, 2012.
Q. So on March 29th of 2013, obviously that was her first birthday?
A. Yes.
Q. Now, let me ask you this: The jury has just heard testimony about a Honda Civic. Do you recall Terrance coming into possession of a Green Honda Civic?
A. Yes, sir.
Q. Let me ask you this: Did you go with him when he purchased that Honda Civic?
A. No, sir.
Q. And do you know what day it is that he got that vehicle, though?
A. We got it on the 1st.
Q. 1st of?
A. Of April.
Q. Okay. Of what year?
A. 2013.
Q. And how do you know that he got it that day?
A. Because we got our school refund that same day.

Q. And who -- did either one of you cash a check that day?
A. I did.
Q. And where was it that you cashed that check?
A. At a liquor store in Orangeburg on the 1st.
Q. And do you remember about how much that check was for?
A. 2,000, a little over 2,000.
Q. And was any of that money used to purchase that Honda Civic?
A. Yes, sir.
Q. And whose car was that ultimately going to be, was the plan for it to be?
A. It was gonna be my car, but after we had problems with it at the DMV, it never went through.
Q. And to get to that now, did you have an occasion at some point in time to go to the Department of Motor Vehicles in an attempt to register that vehicle?
A. Yes, sir.
Q. Okay. Was there anything else that you had to take care of that day before you could register that vehicle?
A. Yes. I had to pay some reinstatement fees and a seat belt ticket for my daughter that day.
Q. And do you remember what day it was that you went and did that?
A. It was like on the 5th.
Q. Okay. Let me show you State's Exhibit No. 44. Do you

recognize that document?
A. Yes, sir.
Q. And is that your receipt from actually paying that reinstatement fee --
A. Yes, sir.
Q. -- and doing all that?
A. Yes, sir.
Q. And does that indicate what day, up at the top there, that was done?
A. Yes, sir.
Q. When is that?
A. April 5th.
Q. Okay. Of 2013?
A. '13, yes, sir.
MR. SORENSON: Your Honor, at this time we'd offer State's 44 into evidence.
THE COURT: Any objection?
MR. FALK: No objection.
THE COURT: Without objection, State's Exhibit 44 admitted into evidence.
(State's Exhibit 44 admitted into evidence.)
Q. Now, on that day, Ms. Youmans, that you paid that reinstatement fee, I guess, for your license; is that correct?
A. Yes.

Q. Were you able to register the vehicle that day?
A. No, sir.
Q. Now let me ask you this: Back during March and April of 2013, did you know the defendant, Tyrone Ellison?
A. Yes.
Q. And was he friends of yours or friends of your boyfriend, Mr. Bryant's?
A. Friends of my boyfriend.
Q. Let me ask you this: Were you aware of why you were unable to register the vehicle when you tried to?
A. All I was told that we didn't have the right, correct paperwork.
Q. Now let me ask you, as a result of that, did you attempt to get the correct paperwork, or did Terrance attempt to --
A. Terrance.
Q. -- kind of straighten all that out?
A. Mm-hmm.
Q. And to your knowledge, was that ever done?
A. No. No, sir.
Q. Okay. The vehicle ever registered in your name that you're aware of?
A. No, sir.
Q. And do you know how long you all had that vehicle before it was gotten rid of?
A. Maybe it sat there about three months.

MR. SORENSON: Thank you, Ms. Youmans, that's all I have.

THE COURT: Cross-examination.

CROSS-EXAMINATION BY MR. FALK:

Q. Did you also receive student aid checks from Denmark in March, mid March?

A. Yes, sir.

Q. Do you know about the date?

A. Around the 15th.

Q. Okay. And I'm not sure if you testified to this: Did they tell you what was wrong with the paperwork?

A. All they did say was it was incorrect paperwork to get -- you know, to register.

Q. And you're the one who took the paperwork; is that right?

A. Yes.

Q. And they just told you it was wrong?

A. Yes. Because I had -- I also had to -- with dealing with mine with the charges that I had for my reinstatement, I also had to go. And they was putting me on SR-22 to -- for all that. So that was it.

Q. So did you ever advise Ms. McKinney what was wrong with the paperwork?

A. Well, actually Terrance spoke with her on that. I never spoke with her about the paperwork at all.

Q. I thought you -- so was he with you when you tried to register?
A. Yes, he was with me when I registered, yes.
MR. FALK: No further questions.
THE WITNESS: Yes.
THE COURT: Any redirect?
MR. SORENSON: No, Your Honor.
THE COURT: Ma'am, you may step down, thank you.
THE WITNESS: Thank you.
MR. SORENSON: May she be excused?
THE COURT: Any objection to her being excused?
MR. FALK: None.
THE COURT: Without objection, you are excused, ma'am. You have no further responsibility under your subpoena. You're free to go. Have a nice day.
THE WITNESS: Okay. All right.
MR. SORENSON: If she could just be -- because obviously she lives with Mr. Bryant, since he is not excused, just that obviously they're not supposed to talk about it.
THE COURT: He can go for the day.
MR. SORENSON: They just shouldn't be talking about their testimony.
THE COURT: Correct, correct.
Do you understand that, ma'am?
THE WITNESS: Yes, sir.

THE COURT: Okay, thank you.

Call your next witness.

MR. SORENSON: May we approach, Your Honor?

THE COURT: Yes, sir.

(Judge and attorneys confer.)

THE COURT: All right. Ladies and gentlemen, what we're going to do at this time is we're going to break for lunch. I'm going to let you go to lunch. I'm going to ask that you be back here at 1:45. At 1:45, please be back in your jury room, and we will resume the trial of this case as promptly at that time as possible.

Do not, do not discuss the case at all, do not do any independent investigation on your own. As I told you from the outset, you are to decide this case based solely upon the testimony and evidence that's presented in this courtroom and nowhere else. You all are free to go. Please be back at 1:45. Thank you.

(The jury retires to the jury room at 12:17 p.m.)

THE COURT: Anything before we break? You all were talking up here at sidebar, Mr. Falk asked about Dr. Bennett for Friday morning.

MR. FALK: Yes, sir.

THE COURT: It's my intention that we put up -- or the State has put up nine witnesses thus far. It is my intention to try to finish all testimony tomorrow. That's my

intention, so I'm not going to wait until Friday morning for Dr. Bennett to take the stand. He needs to be prepared to go tomorrow morning at the latest.

MR. FALK: Thank you, Your Honor.

THE COURT: Okay?

MR. FALK: Well, could I at least -- could I be protected until 3? I'm just -- he was here in the morning and, I mean, he was here yesterday. Obviously he's got other commitments and I'm just trying to be sensitive to his time.

THE COURT: I understand that, but he is under subpoena, I suppose, or should be.

MR. FALK: Yes. And I just thought as a -- if you could say 1, I'll say 1. I just want to see if I can just sort of narrow it down.

THE COURT: I understand, but I can't gauge where the State's going to be in their case. I don't have any idea what you may or may not put up. You're the only one that knows that. State's got 37 witnesses named on here and you've got approximately seven. We're rolling right along on this thing. And I told you all once we started, we were going to go.

MR. FALK: I appreciate that. I'm just trying to accommodate --

THE COURT: And I understand what you're trying to do and I understand that he's got other commitments, but once

the case is started, he needs -- and it may be a situation that as we proceed along, and Charleston's, what, an hour and 15 minutes from here, maybe?

MR. FALK: Maybe, yes.

THE COURT: And that's where he is, it may be a situation that the State rests around lunchtime tomorrow. I don't know. I mean, I don't know if the State's going to call all 37 witnesses.

MR. SORENSON: We're not, Your Honor.

THE COURT: They only know that.

MR. SORENSON: We're not, Your Honor. I can assure you of that.

THE COURT: I wouldn't anticipate you doing it. Just in my experience, State typically names a lot of witnesses and they make a decision as the case proceeds who they may call and who they may not need to call, but I would ask that you have him at least available from 1:00 on tomorrow.

MR. FALK: Thank you.

THE COURT: And that you -- he doesn't necessarily have to be sitting up here, but he has to be on standby ready to be here within the hour, so to speak. How about that?

MR. FALK: Thank you, Your Honor.

THE COURT: Okay. Anything before we break for lunch?

MR. SORENSON: No, sir.

THE COURT: All right. Be back at 1:45, please. Thank

you.

(Lunch recess held.)

(State's Exhibits 14, 16, 17 and 36 premarked for identification.)

THE COURT: State ready to proceed?

MR. SORENSON: Yes, sir.

THE COURT: Defense counsel?

MR. FALK: Yes, Your Honor.

THE COURT: All right. Bring me the jury, please, ma'am.

(The jury enters the courtroom at 1:49 p.m.)

THE COURT: Ladies and gentlemen, hope you all had a nice lunch and are ready to proceed this afternoon.

At this time I'm going to recognize the State to call your next witness, please.

MR. GIESE: Thank you. May it please the Court, Your Honor, State calls James Marion Lee.

CLERK OF COURT: Please place your left hand on the Bible and raise your right hand and state your full name for the record.

THE WITNESS: James Marion Lee.

JAMES LEE,

being first duly sworn, testified as follows:

MR. GIESE: May it please the Court, Your Honor.

THE COURT: Yes, sir.

DIRECT EXAMINATION BY MR. GIESE:

Q. Mr. Lee, where do you live?

A. In Lake City, South Carolina.

Q. And how long have you lived there?

A. All my life.

Q. Okay. Where are you currently employed?

A. Madison Auto Sales out of Scranton, South Carolina.

Q. What do you do there?

A. Buy and sell cars, wholesale mainly.

Q. Okay. And that's what you do for a living?

A. Yes, sir.

MR. GIESE: Okay. May I approach the witness, Your Honor?

THE COURT: Yes, sir.

Q. Mr. Lee, I'm showing you what's been entered into evidence as State's Exhibit 39.

A. Yes, sir.

Q. Do you recognize that?

A. Yes, sir.

Q. What is that?

A. That's a bill of sale from me to Tyrone Ellison.

Q. Okay. And can you kind of -- hold on. Let me grab that from you. I'm going to put it up on the screen.

A. Yes, sir.

Q. Do you see it there on your screen, sir?

A. Yes, sir.
Q. Can you take the jury through what all that says on there?
A. That's James Marion Lee, my old address, that I sold it March 23rd on a Honda Civic to Tyrone -- what is it, Tyrone Ellison out of Summerville.
Q. And then what's down there?
A. That's my signature and his signature.
Q. Okay.
A. And the mileage exempt.
Q. And why'd you put the date there?
A. The date -- the date of sale.
Q. To signify when you sold it?
A. When I sold it to him, yes, sir.
Q. Can you kind of describe how you came about selling this vehicle?
A. Friend of mine I used to work with years ago at Nan Ya Plastics out of Lake City, Moses Woods, he introduced me to -- I think her name is Annette. It's Tyrone's mother, and they were needing a cheap car, cheap, reliable car.
Q. And Mr. Woods, how well do you know him?
A. Just through work-related, you know, buying and selling some cars, cheap cars throughout the community.
Q. Had you done this kind of thing with him before, that kind of arrangement?

A. Yes, sir.
Q. And at some point, Mr. Woods informed you that Ms. McKinney would like to buy a vehicle?
A. Yes, sir.
Q. Did he give you a certain type of vehicle that she wanted to buy?
A. Just something cheap.
Q. Okay.
A. Just something reliable, cheap, reliable, that was all.
Q. And in your head, you just -- you remembered you had this vehicle?
A. Yes.
Q. Do you remember what color the vehicle was?
A. I think it was like a dark green.
Q. Okay.
A. Kind of faded a little bit, dark green color.
Q. And what kind of vehicle?
A. Honda Civic.
Q. Okay. Do you remember how much you sold it for?
A. I think it was around 1,000 bucks.
MR. GIESE: Beg the Court's indulgence.
THE COURT: Yes, sir.
MR. GIESE: I have nothing further, Your Honor. Please answer any questions Mr. Falk may have.
THE COURT: Cross-examination.

CROSS-EXAMINATION BY MR. FALK:

Q. When did you purchase the car?

A. I don't recall. I think I got it from the county auto auction. The dates on it, I have a paper trail on it.

Q. One moment, please. Do you recall whether or not you'd had it for a couple of days?

A. No, sir, I had it for a while.

Q. Okay.

A. Yes, sir.

Q. So more than one or two days?

A. Yes, sir.

Q. Do you recall how much you paid for it?

A. Like I said, I think it was around $1,000.

MR. FALK: No further questions.

THE COURT: Any redirect?

MR. GIESE: Yes, Your Honor, briefly.

REDIRECT EXAMINATION BY MR. GIESE:

Q. Sir, you testified that you had the car for a little while.

MR. GIESE: May I approach the witness?

THE COURT: Yes, sir.

Q. I'm showing you what's been marked as State's 39. It's Page 3 of this document. What does that document say? What's --

A. This is the day that I bought the car.

Q. And what does it say? What does that say? What's the date?
A. The date was March the 20th.
Q. Of what year?
A. Of 2013.
Q. Okay. And why is that date -- you know, you mentioned you had the car for a while. Why that date, March 20th, 2013?
A. Only thing I can think of, it was a misprint. It should have been '14. Other than that, that's it.
MR. GIESE: May I approach the witness again, Your Honor?
THE COURT: Yes.
Q. Mr. Lee, you sold the car to Mr. Ellison, and you testified it was on March 23rd of 2013.
A. Mm-hmm.
Q. This paperwork says March 20th, 2013.
A. Right.
Q. You testified on cross-examination that you had the car for a while, and it would indicate you only had it for three days, based on the dates.
A. Right.
Q. Did you buy the car off your lot? How did that --
A. Yes, sir.
Q. Can you describe that for us?

A. What I meant to say was how that works is when I buy it through my dealership, I had it for a while. But when I actually bought it as an individual myself, it was only for a few days.

Q. And that's the March 20th date?

A. Right. Yes, sir.

Q. Okay.

A. I'm sorry about that.

MR. GIESE: No problem. Nothing further, Your Honor.

THE COURT: Anything further, Mr. Falk?

MR. FALK: No redirect.

THE COURT: Recross?

MR. FALK: No. Excuse me.

THE COURT: You may step down. Thank you.

THE WITNESS: Yes, sir. Thank you.

MR. GIESE: May this witness be excused, Your Honor?

THE COURT: Any objection to him being excused?

MR. FALK: No, Your Honor.

THE COURT: Without objection, sir, you're excused. You're free to go. You have no further responsibility under your subpoena. Thank you for being here. Have a nice day.

THE WITNESS: Thank you, sir.

THE COURT: Call your next witness, please.

MR. GIESE: State calls Detective Karen MacDonald.

CLERK OF COURT: Please place your left hand on the

Bible, raise your right hand and state your full name for the record.

THE WITNESS: Karen MacDonald.

KAREN MACDONALD,

being first duly sworn, testified as follows:

MR. GIESE: May it please the Court, Your Honor.

THE COURT: Yes, sir.

DIRECT EXAMINATION BY MR. GIESE:

Q. Detective MacDonald, where do you work?

A. City of North Charleston Police Department.

Q. And what are your duties there?

A. I currently work as a detective in the white collar/fraud investing unit.

Q. Were those your duties in April of 2013?

A. Yes.

Q. At some point in the course of your duties, were you asked to take buccal swabs from Tyrone Ellison?

A. Yes.

Q. Can you describe the buccal swab process for the jury?

A. I get out a buccal swab, which is sealed in a package, kind of a plastic/paper combination package. I open the top, pull out the swab, make sure I'm wearing gloves, ask the subject to open their mouth, then rub the swab on the inside of the cheeks to get the epithelial cells, then place the swab back into the package and seal it.

And then when I'm placing it into evidence, I place that into a paper bag, seal that, tape it shut and initial the bag.

Q. Did you follow that process when you took buccal swabs from Tyrone Ellison?

A. Yes.

Q. What's the purpose of taking buccal swabs?

A. To get samples for DNA.

Q. DNA testing?

A. Yes.

Q. What did you do after you took the buccal swabs from Tyrone Ellison?

A. I secured it in a paper bag and taped it shut and placed it in the evidence locker.

Q. Is that standard protocol for the police department?

A. Yes.

Q. Can you kind of describe the evidence locker, how that works?

A. We have a series of lockers inside the evidence room. We also have a large -- looks like a giant mailbox, but it's like a safe. You can put stuff in there too. Once you put it in there, you can't get it out. And the lockers have individual locks on them with different combinations, and when you put it in a locker, you close the lock and you can't open it unless you know the combination.

MR. GIESE: I beg the Court's indulgence.

THE COURT: Yes, sir.

Q. Detective MacDonald, do you remember the day you took a buccal swab from Tyrone Ellison?

A. I believe it was July 17th.

Q. Of what year?

A. 2000 -- might have been 2014, could have been '13. I believe it was 2013.

MR. GIESE: Thank you.

I beg the Court's indulgence.

(State's Exhibit 45 marked for identification.)

MR. GIESE: May I approach the witness, Your Honor?

THE COURT: Yes, sir.

Q. I'm showing you what's been premarked as State's Exhibit 45. Do you recognize that?

A. Yes.

Q. Can you explain what that is?

A. It's chain of custody sheet that I fill out whenever I place any evidence in the evidence room.

Q. After reading that, do you know now what day you took the buccal swabs from Mr. Ellison? Is it written on there anywhere?

A. July 17, 2013.

Q. Okay. And that would -- because you wrote that date on there, that would be the day that you took the buccal swabs?

A. Yes.
Q. Couldn't be a different day. Okay.
A. No.
MR. GIESE: Nothing further, Your Honor.
THE COURT: Cross-examination?
MR. FALK: No questions.
THE COURT: Is that marked for identification only.
MR. GIESE: Yes, yes, sir.
THE COURT: Ma'am, you may step down. Thank you.
THE WITNESS: Thank you.
MR. SORENSON: Please the Court, Your Honor.
THE COURT: Yes, sir.
MR. SORENSON: State calls Lisa Kubicsko.
CLERK OF COURT: Please place your left hand on the Bible, raise your right hand and state your full name for the record.
THE WITNESS: Lisa Kubicsko.

LISA KUBICSKO,

being first duly sworn, testified as follows:
THE COURT: Spell your last name for the court reporter, please, ma'am.
THE WITNESS: K-U-B-I-C-S-K-O.
DIRECT EXAMINATION BY MR. SORENSON:
Q. Investigator Kubicsko, if you would, tell the jury where you're employed.

A. With the North Charleston Police Department as a civilian crime scene technician.
Q. And how long have you been employed with the North Charleston Police Department in that capacity?
A. It will be four years in December.
Q. And as a civilian crime scene technician, explain to the jury, if you would, just kind of what your day-to-day duties and responsibilities are with North Charleston.
A. We respond to any crime scene, whether it be burglaries, robberies, homicides, shootings, suicides. We'll document the scene with photographs, collect evidence, package the evidence, prepare it to go to SLED for testing, testify in court.
Q. And I want to turn your attention, if I could, Investigator, back to the morning, early afternoon of April 1st of 2013. Did you have an occasion that day to respond out to the SunTrust Bank on Dorchester Road in Dorchester County?
A. Yes.
Q. And are you aware of about what time it was that you arrived out there?
A. About 10:30.
Q. Do you have a report that you did in this case?
A. Yes.
Q. Would that help kind of refresh your memory as far as

dates and times?
A. Yes.
Q. Okay. Bear with me one second.
A. I believe I have on the report 1:30.
Q. Mm-hmm.
A. Is that accurate?
Q. Yes, ma'am. That was the -- the robbery happened at 10:30, so you weren't out there right when the robbery happened; is that correct?
A. No, sir.
Q. Okay. Do you want this to help refresh your memory for anything or do you -- no? Okay. So about 1:30 you think?
A. Yes.
Q. All right. And describe for the jury, when you got out to the bank, kind of what the scene was like when you got there as far as what was going on at the bank.
A. Yes. When I got there, I walked into the bank and I noticed there were several detectives on scene. They were talking to the bank employees, witnesses and such. The front doors were propped open so that people weren't touching them so we could come and do our job, and they were trying to get the surveillance video from the managers. It had to be emailed to them.
Q. And did you have an opportunity then to speak briefly with the detectives on the scene just to kind of get an idea

what, you know, you were dealing with out there before you began processing that scene?

A. Yes.

Q. And then you made reference that part of what they were trying to do is at least to get some still photographs to look at. Did you have an opportunity ultimately to kind of do that there at the scene?

A. Yes.

Q. And have you had an opportunity not only at the scene but also kind of after the fact to have gone through and looked at some of the still photographs that have been --

A. Yes.

Q. I want to just --

MR. SORENSON: May I approach the witness, Your Honor?

THE COURT: Yes, sir.

Q. Let me show you State's Exhibits 19 and then 20 through 26 and 28. If you could look through those items.

Do you recognize all those still photographs?

A. Yes.

Q. Are those photographs some of which that you reviewed out there at the bank that day, some of which you reviewed kind of since then in kind of going back and reviewing the case?

A. Yes.

MR. SORENSON: Your Honor, at this time we'd offer

State's 19, 21 through 26 and 28 into evidence.

THE COURT: Any objection?

MR. FALK: No objection.

THE COURT: Without objection, State's Exhibits, 19, 21 through 26 and 28 admitted into evidence.

(State's Exhibits 19, 21-26, 28 admitted into evidence.)

Q. Now, describe for the jury then what did you after kind of getting an idea of what you were dealing with out there, tell the jury how you went about processing and what you did out there at that scene at the bank that early afternoon.

A. Started by taking overall photographs of the bank from different angles just to show the layout of the bank. After talking with detectives, I was told, and, you know, seeing some pictures through the surveillance pictures that were emailed, where the suspect came in, where he jumped over the counter, where he jumped back over the counter to leave, to get an idea of where the suspect may have made contact with the counter, looking for places where I could collect DNA from or fingerprints.

So once I was done taking overall photographs, I began processing the counter for fingerprints. I also had another CST, crime scene technician, with me who began processing the front doors.

Q. Okay. And obviously from looking at, like, State's Exhibit No. 20, you knew that the robber came in the front

door; is that correct?
A. Yes.
Q. And I guess you also knew that he had gone out the front door?
A. Yes.
Q. And you testified that you handled kind of processing around the counter and, at least from at least the stills that you looked at initially, it was obvious that he had gone over the counter --
A. Yes.
Q. -- during the robbery; is that correct?
A. Yes.
Q. So based on that kind of information that you had from the still photographs, you processed or attempted to process the counter?
A. Yes.
Q. The teller counter?
A. Yes.
Q. And let me ask you, were you able to find any prints -- let me ask you this -- anywhere in the bank that ended up matching Tyrone Ellison?
A. No.
Q. Let me ask you this: Have you had an opportunity since then to go back and view not only just the still photographs out there but actually look at the whole video itself?

A. Yes.
Q. Tell the jury, in looking at the video, does it appear that the suspect in this case is wearing gloves?
A. No.
Q. Okay. Now, does it appear that he is -- has anything in his hands, though, when he is coming in the front door?
A. Yes.
Q. Okay. How about when he is going over the counter?
A. Yes.
Q. Going back over the counter?
A. Yes.
Q. And then going out the front door?
A. Yes.
Q. And in viewing that video, is there any spot that you saw where it appeared that the suspect actually touched with his hands, as far as grabbing a door or putting his fingers down on a counter or anywhere, that you observed on that video?
A. With a full hand, no, I did not observe that at any point in time.
Q. Okay. And if I could, you've had an opportunity to view the surveillance video?
A. Yes.
Q. Okay. And if I could, I want to go through and just kind of show you some of those, go to a couple spots on the

video that show the suspect coming in the bank, going over the counter and then ultimately leaving the bank, okay, so you can kind of point out to the jury what you're talking about.

A. Okay.

Q. And, Investigator Kubicsko, ultimately this video or the CD that was produced and put into evidence has a whole bunch of camera angles; is that correct?

A. Yes.

Q. What I want to go to is initially the front entry.

THE COURT: That's Exhibit 18, State's 18?

MR. SORENSON: This State Exhibit 18, yes, Your Honor.

THE COURT: Thank you.

Q. Let me show you, looking at State's Exhibit No. 18, the camera angle from the front entry. As the suspect is approaching the door, does it appear that he has anything in that left hand as he is reaching to open the door?

A. Yes.

Q. So given that, would you expect to find any prints of that suspect on that outside door handle as they're coming in that interior door there?

A. It depends on a bunch of different factors.

Q. The fact that he's got something in his hand that is --

A. Yes. Exactly how he grabbed that door would depend, but I wouldn't be surprised if not.

Q. You have to actually touch it with your skin, right, to leave a fingerprint; is that correct?
A. Right, yes.
Q. Now, as the individual is approaching the teller counter, can you tell whether he's got items in both of his hands at that point in time?
A. Yes.
Q. And obviously, we observed when he came in the door earlier, it appeared he had some sort of black pouch or something in his left hand that he opened the door with?
A. Yes.
Q. And what does he appear to have in his right hand as he's approaching the tellers?
A. A handgun.
Q. And as he goes up and over the counter, does he ever let go of either one of those items as he's going over the counter?
A. No.
Q. So as he comes back behind the counter here, dealing with Ms. Rustin and Ms. Bass behind the counter, is there any time where it appears that he touches any items back behind the counter?
A. No.
Q. I'll let it play until he goes back over.
Now, as he prepares to go back over the counter here,

yet again, does he have items in both of his hands as he's going back over the counter?

A. Yes.

Q. I now want to jump to Teller Station 3. We'll go back with him coming over the counter initially.

Looking at 10:29:09 coming up here, again, there as you see him come over the counter, what does he appear to have in his right hand?

A. A handgun and a white glove.

Q. I'm going to get to that in a second. Well, actually, let me talk about that while I've got that here. So you kind of later on have an opportunity not necessarily that day but kind of as the investigation continued later on to go back and observe this still photograph that's on the video right here?

A. Yes.

Q. And obviously you've seen what you described as a handgun. What does it appear he's holding the handgun with?

A. It's a white latex glove.

Q. And I'm going to get to the significance of that in a few minutes. So that's him coming over there. This is Teller Station 2's camera. And does that picture show him holding in his left hand the pouch there?

A. Yes.

Q. And then lastly, I want to go to -- back to the front

entry when the suspect is leaving the bank. Bear with me one second. Let me get about 20 seconds further down here.

10:30 a.m. and 9 seconds coming up, the suspect approaches the exit door. What does he appear to have in his right hand as he is opening that door to leave the bank?

A. The white latex glove.

Q. That is in his hand as he's pulling on the door?

A. Yes.

Q. Given your experience and what you had an opportunity to go back and observe kind of after the fact, was it surprising to you that you did not find, you know, any -- I mean, assuming for argument's sake that he is the robber that was in the bank, is it surprising, given what you observed kind of going back and going through the video, that you did not find any prints of his?

A. No.

Q. Now, as far as that counter goes, did you have an opportunity not only to attempt to process it for fingerprints, did you attempt to swab it at all for potential DNA?

A. Yes. After I processed it, you know, when we process, sometimes we'll see smudges or see the powder kind of clump up to suggest that maybe there's some kind of substance there, sweat or whatnot. So in one particular spot, I thought I may have saw a smudge or some kind of substance, so

that's what I swabbed on the countertop.
Q. Okay. And did that swab, and I'm going to get to items that went out to SLED in a little while, but is that one of the items that ultimately was sent out to SLED to see if they could get any DNA off of it?
A. Yes.
Q. Now, while you were in processing the bank and photographing and attempting to find evidence in the bank, did you learn of -- did you become aware of some other items being found nearby?
A. Yes.
Q. And where were those items found?
A. They were found in a wooded area.
Q. And where was that wooded area located in relation to the bank?
A. Looking at the front of the bank, it was off to the left side across the street.
Q. And I guess when you became aware of that, had an officer already found those items?
A. Yes.
Q. Tell the jury kind of when you went over into that wooded area, kind of describe what was going on over there when you went over that way.
A. We were informed that they had found several items in the wooded area. So while we were still dealing with the

bank, I gave one of the officers my yellow evidence placards that we normally use so that they could go ahead and mark those items so that they weren't overlooked or missed later.

So once we were cleared up from the bank, we went over there, me and the other CST that was with me, and we took photographs of the evidence, overall photos, to try and see, okay, this is where No. 1 was and relate that to where No. 2 is so you can kind of show how everything was dropped, possibly as the suspect was fleeing away.

So we took the overall photographs and close-up photographs of each item and then we collected them.

Q. And ultimately, Investigator Kubicsko, did you collect some items from out in that wooded area?

A. Yes.

Q. And tell the jury what those items were that you collected.

A. Item No. 1 was a black visor; Item No. 2 was the white latex glove; Item No. 3 was a .380 Accu-Tek handgun; and Item No. 4 was a black wig.

Q. And if I could show you State's Exhibits 14 through 17. I just ask you if you recognize those. What are --

A. And the gun, I assume, too.

Q. Yes, I'm sorry.

How many items do you have up there, three? I'll show you State's Exhibit 16 here.

A. Yes.
Q. And what are those four items, State's 14, 15, 16, 17?
A. These are the four items that I found or officers found in the woods that I later photographed and collected.
MR. SORENSON: Your Honor, at this time we'd offer State's 14, 15, 16 and 17 into evidence.
THE COURT: Any objection?
MR. FALK: No objection.
THE COURT: State's Exhibits 14, 15, 16 and 17 admitted without objection.
(State's Exhibits 14-17 admitted into evidence.)
MR. SORENSON: And for the record, Your Honor, 14 is the visor; 15 is the latex glove; 16 is the handgun; 17 is the wig.
THE COURT: All right.
Q. And, Investigator Kubicsko, let me show you State's Exhibits No. 6 and 7. Do you recognize those?
A. Yes.
Q. And what are those? What are State's 6 and 7 a picture of?
A. Those were photographs that were taken of these items in the woods.
Q. What items depicted specifically in State's 6 and 7? I'm sorry?
A. The visor.

Q. So that would have been this item right here? That was the visor that you collected?
A. Yes.
Q. That day out in the woods?
THE COURT: And that's Exhibit what?
MR. SORENSON: That is State's Exhibit 14.
THE COURT: Thank you.
Q. And then you said your Marker No. 2, depicted as State's Exhibits 8 and 9, is what?
A. The white latex glove.
Q. And that white latex glove was collected also?
A. Yes.
Q. And that is what? It's wrapped up in here, but it's that -- that latex glove is wrapped up in here?
A. Yes.
Q. And going out to the State Law Enforcement Division?
A. Yes.
THE COURT: That's Exhibit what?
MR. SORENSON: That's Exhibit 15. I'm sorry, Your Honor.
Q. And then your Marker 3, I believe you had testified, shown in State's Exhibits 10 and 11 is what kind of handgun.
A. .380 Accu-Tek.
Q. And that gun that was found out in the woods, was it loaded when you found it?

A. No.
Q. Did it -- describe what kind of gun is that? I mean, you said a 3 -- is it a revolver or semiautomatic?
A. Semiautomatic handgun.
Q. Okay. And did it have a clip with it?
A. It did not have a magazine in it.
Q. Okay.
A. And no rounds in the chamber.
Q. And that then is State's Exhibit No. 16 that you collected?
A. Yes.
Q. Is that correct?
And then lastly, Marker 4, let me show you State's Exhibit No. 12 and 13. Does that show -- I guess that 12 shows kind of the relationship between a couple items; is that correct?
A. Yes.
Q. And State's Exhibit No. 13 a close-up of what?
A. The black wig.
Q. Those items, yet again, found and recovered in the woods?
A. Yes.
Q. To the left of the bank?
A. Yes.
Q. And let me show you State's Exhibit No. -- back on

State's Exhibit No. 12, kind of in the background there, what is that that's up in the background kind of where my finger is?

A. It appears to be the fence that's around the pool of that apartment complex back there.

Q. I mean, where? There's an apartment complex kind of on the other side of that woods there?

A. Yes. Back around the woods.

Q. So these items are in fairly close proximity to that apartment complex?

A. Yes.

Q. And, yet again, then that wig, State's Exhibit No. 17, this is the wig, the wig that was found in the woods (indicating)?

A. Yes.

Q. And were all those items from you kind of viewing not only the still photos but the video also all consistent with the items that the bank robber had --

A. Yes.

Q. -- in his possession during the bank robbery?

A. Yes.

Q. Let me kind of now go through. Since those items were collected, I want to go through kind of what you did with those items. Starting with the wig, so State's Exhibit No. 17, what did you do with this wig when you got it back to

the North Charleston Police Department?
A. What I did with the wig was tried to collect DNA from it. So when we collect DNA, we think of how someone may have left DNA on the item. You know, a hat, for example, you know, you wear it over your forehead where you might sweat a lot. So that would be something that we would think about, where we want to swab that hat to obtain the DNA.

So for the wig, I'm thinking of on the inside of it, which would be against your head. So we used sterile cotton-tipped swabs. There's two in a package. What we'll do is we'll put a few drops of distilled water on one swab and swab the area that we're interested in and then go back over it with a dry swab. Then they're packaged and dried, sealed. Everything's submitted to the evidence property room with a chain of custody.
Q. So those swabs were taken, sealed, put into evidence. And how about the wig? Was it also then packaged, sealed and put into the evidence room?
A. Yes.
Q. And ultimately, are you aware of what got sent out to SLED for them to attempt to do DNA --
A. Yes.
Q. -- with regard to the wig?
A. Yes.
Q. What got sent out to SLED?

A. We sent the wig to SLED.
Q. So the swabs that you initially took are still in evidence --
A. Yes.
Q. -- is that correct, if needed --
A. Yes.
Q. -- down the road?
A. Yes. We try -- sometimes we try to swab the items instead of just sending the item itself, just to save SLED's time, because then it would have to go through their evidence processing unit to do the swabs and then go to the DNA unit. So sometimes we try to do that to avoid that step, but in this case, there's probably a lot more DNA on that wig than what I can obtain from just one swab, so it was best to just go ahead and send the wig itself.
Q. And then looking at State's Exhibit No. 14, the visor, what did you do with the visor?
A. I did the same thing: I swabbed the inside rim of it for DNA.
Q. And those swabs still maintained at North Charleston?
A. Yes.
Q. And what happened to State's Exhibit 14, this item?
A. That was also sent to SLED for DNA testing.
Q. These items -- the wig, 17, and the visor, 14 -- were they packaged together or separately when they're sent out to

SLED?
A. Separately.
Q. Now, how about the gun, State's Exhibit No. 16? First of all, were you able to do any kind of trace on the gun to find out who it belonged to?
A. Yes.
Q. All right. And what were the results of that?
A. The results, you might have to give me it to refresh my memory, but it came back to a dealer in Philadelphia, I believe.
Q. And that was?
A. Many years ago.
Q. Purchased back -- someone had it back in 1993; is that correct?
A. Yes.
Q. Okay.
A. So since then there's been no trace of where it's been.
Q. All right. Now, as far as that gun, though, as far as processing that gun, what, if anything, did you do with that gun when you -- after you obtained it on April the 1st of 2013?
A. We always want to try and do DNA before fingerprinting if we're going to do both, because once we swab it, we could mess up the fingerprints. So for the gun, what we want to do is swab the textured areas of it, areas where we would not

get a fingerprint from. So I swabbed the grip of it and the textured parts of the slide for DNA.

Q. That would be the grip, this part here (indicating)?

A. Yes.

Q. And then the slide, this part up in here (indicating)?

A. Yes, or the --

Q. Or right here where it's kind of --

A. Yes, the textured side of it. And that's just kind of the standard or what we usually do with all of the guns.

And then I -- to process it for fingerprints, I put it in a superglue fuming chamber. What that does is, you put the gun in a chamber with some water and some superglue on heating thing, and it will create a fume that will adhere to the fingerprints on the firearm. So I did that and then observed it and then I used black powder to see if anything developed.

Q. And did you find any possible fingerprints on the gun?

A. Yes, I found one and examined that.

Q. Did you attempt to compare that to Tyrone Ellison's fingerprints?

A. Yes.

Q. And what were the results of that --

A. It was inconclusive.

Q. And just explain to the jury what "inconclusive" means?

A. Meaning it did not have enough characteristics to make

an identification or an exclusion.
Q. Could be his fingerprint, could not be; there's no way you can tell one way or the other --
A. Correct.
Q. -- and tell this jury one way or the other; is that correct?
A. Correct.
Q. But no other prints that didn't match his; is that correct? There were no fingerprints you lifted that you could say are definitely not Tyrone Ellison's?
A. No.
Q. Just that one possible print that was basically inconclusive?
A. Correct.
Q. Correct? All right.
Now, ultimately, the swabs that you talked about taking from the textured area for DNA, were those swabs ultimately sent out to State Law Enforcement Division?
A. Yes.
Q. Now, lastly, the latex glove that you collected, State's Exhibit No. 15, tell the jury what you initially did when you first collected this latex glove.
A. When I collected it, again, I swabbed it for DNA, trying to think of if someone was wearing the glove, because at this point in time, I was still under the assumption that someone

was wearing the glove possibly. So I swabbed the fingertip area and some of the palm as if someone were wearing it.

Then it later became known from the video that the suspect wasn't wearing the glove, instead they just had it crunched up in their hand around the object.

Q. Initially, though, when you first processed this April 1st or 2nd or so, you're swabbing the fingertip area, assuming somebody was wearing it?

A. Yes.

Q. Is that what you testified?

And ultimately then, that swab that you took of that glove, were they sent out to State Law Enforcement Division for DNA testing?

A. Yes.

Q. Those initial swabs? Okay.

A. I also processed it for fingerprints, but there was nothing.

Q. No fingerprints on the glove?

A. Yes.

Q. Now, ultimately, was the -- these items were all returned from the State Law Enforcement Division, obviously?

A. Yes.

Q. We got them here. Okay.

Still packaged separately?

A. Yes.

Q. Okay. How about this latex glove? You said that you had taken swabs and the swabs went out to SLED?
A. Yes.
Q. Where was this latex glove then kind of in the interim after the swabs go out to State Law Enforcement Division?
A. Still in our evidence property room.
Q. And it's sealed in your evidence property room?
A. Yes.
Q. With your signatures indicating -- so nobody -- you could tell if somebody had tampered with it?
A. Right. I would have signed the chain of custody releasing it to the evidence unit. They would have signed it receiving it, and that's where it would stay until someone else signed it out.
Q. Now, you kind of alluded to this, but ultimately in May of this year, May of 2014, did you have an opportunity in preparing for this case for court to go back and view the video specifically with regards to that latex glove that was found?
A. Yes.
Q. And yet again, showing you State's Exhibit No. 25, the still photograph, does that kind of depict what you're talking about as far as that latex glove, somebody appearing to be holding the gun with it?
A. Yes.

Q. So as a result of that, what then was done in May of this year with that latex glove that you had collected, State's Exhibit No. 15?
A. We sent the glove itself to SLED for further DNA testing.
Q. They requested to basically swab the entire glove at that point in time?
A. Yes.
Q. And additionally then, in May of this year, was State's Exhibit No. 16, the gun, was it also sent out to SLED?
A. Yes.
Q. And what was the purpose of sending it out to SLED?
A. For them to swab the entire thing and try and collect DNA from it.
Q. So I believe it was May 16th of this year, that's when those -- basically that glove, State's 15, and the gun, State's 16, both of those items were sent to the State Law Enforcement Division?
A. Yes. We initially are only allowed to send five items to SLED for violent crimes, so that's why we sent five initially. Once they come back, then we're allowed to send more, so that's when we did this.
Q. So initially, the swabs from the wig went -- I mean, sorry, the wig went.
A. Mm-hmm.

Q. The visor went. The swabs you took from the gun?
A. Yes.
Q. The swab you took -- swabs you took from the fingertips and the palm of the latex glove?
A. Yes.
Q. And then I believe you testified earlier the swab you took from the counter?
A. Yes.
Q. Those five items went out initially?
A. Yes.
Q. Subsequent to getting information and reports back, two additional items were sent out for some further testing --
A. Yes.
Q. -- is that correct?
A. Mm-hmm.

MR. SORENSON: Beg the Court's indulgence.

THE COURT: Yes, sir.

MR. SORENSON: I believe that's all I'd have, Investigator. Please answer any questions Mr. Falk has.

THE COURT: Cross-examination?

MR. FALK: Thank you, Your Honor.

CROSS-EXAMINATION BY MR. FALK:

Q. So you had the latex glove, and you were looking for fingerprints in that; is that correct?
A. Yes, after I swabbed for DNA.

Q. So it is possible to have fingerprints on a latex glove?
A. It is possible.
Q. Okay. So if I had a latex glove and I pressed my hand between a latex glove and a hard surface, would you expect to see a fingerprint on that?
A. It would depend on other factors.
Q. But would it be possible?
A. It could be possible, yes.
Q. And so when you swabbed the glove originally, where did you -- where did you swab on the -- this is your hand. If your glove's a hand, excuse me. If your hand is a glove, where did you swab?
A. I don't recall specifically which finger that I could tell you.
Q. Would you have only done one finger area?
A. I don't recall.
Q. Let me look at the exhibits here.
MR. FALK: May I approach the witness?
THE COURT: Yes, sir.
Q. I'm showing you what's been marked as Exhibit 9. Where's the inside or the outside on a latex glove?
A. It would depend on how the person wore it and how they took it off.
Q. So based on that, can you tell whether or not that glove was inside out?

A. No, I can't.
Q. So did you look on both sides of the glove for -- did you look on both sides of the glove for fingerprint details?
A. Yes.
Q. And you found none?
A. No.
Q. So I assume then you would have swabbed both sides of the glove, wouldn't you have?
A. No. Because I swabbed before I fingerprinted. After I fingerprinted it, I superglue fumed it, so then everything was superglued.
Q. So once it's fumed, you can't --
A. You can, but that's not what we -- we do. I wouldn't assume to get anything after that. I'm not a DNA expert. I wouldn't know how that would work.
Q. So once you fumed it, you would -- I'm sorry. You fumed the glove, and then you would assume you couldn't get any more DNA from it; is that what you're saying?
A. To my knowledge, I had already obtained the DNA before I processed it. I don't know right then and there whether I obtained DNA or not, so I swabbed the glove and then fumed it for fingerprints.
Q. And were you saying that then once it's fumed for fingerprints, you couldn't go back and look for additional DNA?

A. I don't know that. I'm not a DNA expert, so I wouldn't know what the chances are of that working.
Q. What exactly is a fuming process?
A. Cyanoacrylate superglue fuming. What they do is, we have a superglue fuming chamber. We fill a dish up with water and then put another little tin cup in there with about a quarter size of superglue, and the heat creates a fume with the vapor and turns the superglue into a fume, which adheres to the fingerprints.
Q. How did you mark the latex glove to know what side that you had swabbed?
A. I did not mark it.
Q. And from where it was there, how did you -- when the glove was presented to you, was it crunched up like we saw in the photograph there in Exhibit 9?
A. How it was in the photograph is exactly how it was when I collected it.
Q. And did you then straighten it out or try and put it one way or the other?
A. Yes, when I was in the lab swabbing it.
Q. And it's your testimony today that you're sure that you only swabbed one side of the glove?
A. I do not recall.
Q. Now let's talk about the gun for a minute. I think when you -- you said you viewed the video a couple of times?

A. Yes.
Q. And doesn't it -- does it appear that the person who was robbing the bank bent down a couple of times to pick up the gun?
A. I'm not sure what they were picking up, because it was hidden behind the counter in the video. I didn't see that, but when they went to exit the bank, the suspect did drop something and pick it up. And then when the suspect left the first set of doors, dropped something again and picked it up.
Q. Were you able to determine what he had dropped each time?
A. The first -- on the other side of the counter, I don't recall what it was. By the doors, I believe it was the white latex glove that was dropped.
Q. You said that the top area of the gun is something that would hold DNA?
A. Yes.
Q. And I believe you were saying it was that side right there, these diagonal lines (indicating)?
A. Yes.
Q. Would DNA be transferred if -- certainly if somebody was wearing a glove, you wouldn't expect DNA to be transferred to anything else from his hands; is that correct?
Let's say if somebody's wearing a glove and they drop a gun and they pick the gun up, would you expect DNA to get

transferred to the gun?
A. From their hand?
Q. Yes.
A. It's possible. It depends on -- what we're doing is we're trying to get the touch DNA, which is from your skin cells. So it all depends on how much, you know, you're sweating, if you're not sweating, how much skin cells you're shedding and whatnot, it's all dependent on all those things.
MR. FALK: One moment, please.
THE COURT: Yes, sir.
Q. And there was only one glove recovered, right? You only looked at one glove?
A. I did, yes.
MR. FALK: I have no further questions.
THE COURT: Any redirect?
MR. SORENSON: No, sir.
THE COURT: Ma'am, you may step down. Thank you.
Call your next witness.
MR. GIESE: State calls Clarissa Mack.
CLERK OF COURT: Place your left hand on the Bible and raise your right hand. State your full name for the record.
THE WITNESS: Clarissa Mack.

CLARISSA MACK,

being first duly sworn, testified as follows:
MR. GIESE: May it please the Court, Your Honor.

THE COURT: Yes, sir.

DIRECT EXAMINATION BY MR. GIESE:

Q. Ms. Mack, where are you currently employed?

A. South Carolina Department of Motor Vehicles.

Q. And how long have you been employed there?

A. 13 years.

Q. What are your duties there?

A. Custodial records -- well, I have access to all the records, do vehicle research, from 1929 up to today's date.

Q. Okay. And how long have you been doing that?

A. 13 years.

Q. In the course of your duties, are you required to testify to records?

A. Yes.

Q. About how many times do you think you've testified as to DMV records?

A. Maybe once a month.

Q. Okay. And you testified about records kept by the DMV in the ordinary course of business?

A. Correct.

Q. Can you describe some -- what types of things have you testified to?

A. Title histories, verifying if there's title fraud, VIN numbers, if VIN numbers have been taken off original plates and switched out to another vehicle, title histories, lien

holder information.

MR. GIESE: Okay. Beg the Court's indulgence, Your Honor.

THE COURT: Yes.

MR. GIESE: May I approach the witness, Your Honor?

THE COURT: You may.

Q. Ms. Mack, I'm showing you what's been premarked as State's Exhibit 40. Do you recognize that?

A. I do.

Q. Can you kind of describe for the jury what that is?

A. This is a vehicle plate history. This tells you when the vehicle plate was issued to the vehicle and if the plates was turned in or is currently on the vehicle.

Q. And what's the plate on that?

A. The plate on this plate history is 1533 FX.

Q. Okay. And that's what would be found on the license plate?

A. Correct.

Q. Okay. And who is that plate registered to?

A. Tyrone Darius Ellison.

Q. Okay. Before I go on, is that a fair and accurate representation of the plate history of 1533 FX?

A. Correct.

MR. GIESE: Your Honor, at this time the State would move State's 40 into evidence.

THE COURT: Any objection?

MR. FALK: No objection.

THE COURT: Without objection, State's Exhibit 40 admitted into evidence.

(State's Exhibit 40 admitted into evidence.)

Q. And I may have just asked you this, but when does it say Mr. Ellison was issued that plate?

A. November 14th, 2012.

Q. Okay. Is there anywhere on there or in that packet that says when Mr. Ellison surrendered that plate?

A. Yes. The plate was turned in on 4/13/2013.

Q. And how do you know that?

A. I have the receipt attached.

Q. And can you kind of explain how Mr. Ellison's name would be put on there? Did he have to fill out paperwork, anything along those lines?

A. Right. Once you get a vehicle and you register it in your name, you would come to the DMV and fill out a Form 400, pay 14 -- $15, and if you want to expedite it, it's $35. Then they issue you a plate and your title.

MR. GIESE: Okay. May I approach the witness again, Your Honor?

THE COURT: Yes.

Q. All right. I'm now showing you what's been premarked State's Exhibit 41. Do you recognize that?

A. Yes. This is a vehicle title history.
Q. Okay. And what is a vehicle title history?
A. The history is basically the chain of who all has -- the vehicle has been titled to.
Q. Is that a fair and accurate representation of the vehicle title history? Actually, before I ask that, what's the VIN number on that vehicle?
A. It's a 1996 Ford, and the VIN is 1 F, Frank; A, Apple; L, Larry; P, Paul; 54 N, Nancy; X, X-ray; T, Tom; A, Apple 299688.
Q. And is that a fair and accurate representation of that VIN number that you just remarked on title history?
A. It is.
MR. GIESE: At this time, Your Honor, State would move to have State's Exhibit 41 entered into evidence.
THE COURT: Any objection?
MR. FALK: No objection.
THE COURT: Without objection, State's Exhibit 41 admitted into evidence.
(State's Exhibit 41 admitted into evidence.)
Q. And is there a date on there where it says Mr. Ellison purchased the title on that vehicle?
A. It was purchased on 4/16/2013.
Q. Okay. And, again, is there paperwork filled out that puts Mr. Ellison's name on that form?

A. Yes. You would fill out a Form 400 and submit it to the DMV.
Q. Okay. So it's the same type of paperwork?
A. Correct.
Q. Okay. I'm now showing you what's been marked as State's Exhibit 42.
A. Thank you.
Q. Do you recognize that?
A. Yes.
Q. And what is that?
A. This is the DL credentials that we have on file.
Q. Okay. And who's that for?
A. Tyrone Darius Ellison.
Q. And is that a fair and accurate representation of the driver's license photo the DMV has on file on Mr. Ellison?
A. Yes, it is.
MR. GIESE: Your Honor, at this point, the State would ask to move State's Exhibit 42 into evidence.
THE COURT: Any objection?
MR. FALK: No objection.
THE COURT: Without objection, 42 admitted into evidence.
(State's Exhibit 42 admitted into evidence.)
MR. GIESE: Just one moment, Your Honor.
Q. Okay. I'm just going to kind of recap, Ms. Mack.

MR. GIESE: May I approach the witness, Your Honor?

Q. That's State's 40. Can you tell the jury what vehicle is on that form?

A. It's a 2002 Hyundai Elantra.

Q. And that's the -- that's the plate history for what license plate?

A. 1533 FX.

Q. Okay. Now State's 41, what vehicle is that the title history for?

A. A 1996 Ford Taurus.

Q. And is there a VIN number on there?

A. Yes.

Q. Can you read that again, please?

A. 1FALP54NXTA299688.

Q. Okay. Thank you.

Did you ever check to see if VIN number 2HGEJ6614YH538330, which is belonging to a Honda Civic, did you ever check to see if that was registered to Tyrone Ellison?

A. Yes.

Q. And what were the results of you checking that?

A. This vehicle he has never owned.

Q. Okay. So he would never have gone to the DMV and filled out paperwork on that vehicle?

A. Correct.

MR. GIESE: Nothing further, Your Honor.

THE COURT: Cross-examination.

CROSS-EXAMINATION BY MR. FALK:

Q. When you testified that the car was never owned, is it more accurate to say that the car was never registered?

A. Yes. It's a possibility that he could have bought the car, but he never bought it to have it registered into his name.

Q. If a car is bought in another state and you're going to transfer title, what is the procedure there?

A. You would just --

Q. Are you familiar with that procedure? Do you know what forms need to be filled out?

A. Yes. It's the same procedure as the South Carolina title.

Q. Do you have to obtain a South Carolina title first?

A. Yes. Well, it's -- for instance, if he has a North Carolina title, he bought a vehicle from North Carolina, all they do is sign over on the back that they sold it to him, and he would bring that form, that North Carolina title, to South Carolina DMV and fill out a Form 400 and get the South Carolina title issued in his name.

MR. Falk: No further questions.

THE COURT: Any redirect?

MR. GIESE: No, Your Honor.

THE COURT: Ma'am, you may step down. Thank you.

THE WITNESS: Thank you.

MR. SORENSON: May this witness be excused?

THE COURT: Any objection?

MR. FALK: No objection.

THE COURT: Without objection, you're excused. You have no further responsibility --

THE WITNESS: Thank you.

THE COURT: -- under your subpoena. Thank you for being here. Have a nice day.

(Witness excused.)

THE COURT: All right. Ladies and gentlemen, we are going to take a break at this time. I'm going to ask you to step to the jury room. Do not discuss the case. Do not discuss the case. We'll get you back out here as quickly as possible. Thank you.

(The jury retires to the jury room at 2:58 p.m.)

THE COURT: We'll stand down for a few minutes.

(Recess held.)

THE COURT: State ready to proceed?

MR. SORENSON: State is, Your Honor.

THE COURT: Defense counsel?

MR. FALK: Yes, Your Honor.

THE COURT: Bring in the jury, please.

(The jury enters the courtroom at 3:09 p.m.)

THE COURT: Mr. Sorenson, you're recognized. Call your next witness, please.

MR. SORENSON: Thank you, Your Honor. State calls Betty Butler.

CLERK OF COURT: Please place your left hand on the Bible and raise your right hand, state your full name for the record.

THE WITNESS: Betty Walker Butler.

BETTY BUTLER,

being first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. SORENSON:

Q. Good afternoon, Ms. Butler.

A. Good afternoon.

Q. If you would, please tell the jury where it is that you're employed.

A. I'm employed with the South Carolina Law Enforcement Division, also known as SLED.

Q. And how long have you been employed at SLED?

A. Over 18 years.

Q. And what department do you work in?

A. I'm a forensic technician in the DNA case work.

Q. Okay. And if you would, just kind of briefly describe for the jury your kind of duties and responsibilities in that department.

A. As a forensic technician, I do perform presumptive tests

for blood, semen. I look for hairs, fibers, body fluids or anything that could be of value to a particular case.

Q. Okay. As part of that, are you sometimes submitted items and asked to process them in an attempt to possibly determine ownership of those items or who may have been wearing an item?

A. Yes, I do.

Q. And if you would, and I guess, Ms. Butler, have you had an opportunity then, as a result of processing items in that department, had an opportunity to come and testify in court about those procedures and your findings?

A. Yes, I have.

Q. About how many times have you testified, do you think?

A. Over 39 times.

Q. And specifically in this case, did you have some items submitted to you to be processed to attempt to determine ownership or who may have been wearing an item?

A. Yes, I did.

Q. And what were those items that you received in this case?

A. SLED Item No. 1, black visor; and SLED Item No. 2, a black wig.

Q. And when you're dealing with, like, a visor or a wig, some kind of head wear, describe for the jury how you go about processing those items to attempt to get DNA to

determine ownership or who may have been wearing those items, such as a ball cap or a visor or a wig.

A. When I receive, for instance, Item No. 1, a black visor, the most -- when you wear a visor, you wear it and you sweat around the head a lot of times, or you even get hair on it. So what we do is go on the inside of the particular visor. We scrape the inside on a clean white paper and we scrape it first and we swab it.

And we also take up the -- with a clean swab, take up whatever we scrape off that particular item. Then we have to put it out to dry. After we do that, then we put it into an envelope, seal it with our initials, the date, and then we heat seal it. And we also put initials, the date and sign it and send it to further testing.

Q. Okay. And when you're dealing with a ball cap or a visor, are there any other items, like on the brim area, any reason that you might swab the brim area of a visor or a hat?

A. The reason why we would do a brim, when you put on a visor, you normally touch it with your hands, either left or right. It depends on if you're right-handed or left-handed, you normally touch it. So what we do is we scrape the brim also and swab it to see if anybody have touched that particular spot on the visor or a wig.

For instance, in this case, when you put a wig on, you sweat around your head a lot, and we do the inside of a wig,

where we scrape it first on clean paper, on different clean paper, and we take up that particular scrapings that we do, and we also swab around the band of the wig.

And I said before, you put that particular swab to dry. Once it dries, we seal into that heat-seal envelope, initial, date it and put it into a heat-seal pouch.

Q. Specifically now turning to this case, and you've kind of made reference a little bit to it initially, but when you ultimately submitted -- I believe it was -- your item was SLED No. 1, but State's Exhibit No. 14.

Is that the item that was submitted to you, Ms. Butler?

A. State's Exhibit No. 14 is SLED Item No. 1.

Q. Now, tell the jury what you did as far as processing State's Exhibit No. 14.

A. State's Exhibit No. 14 is a black visor. On the inside of this band right here, we scraped the inside of this, and we also swabbed the inside. And this part of the brim, this section here where you normally touch, we did the same -- I did the same thing for this, around the edges, where you can, where you touch it and put it on the head itself.

Q. Then ultimately, once those swabs were taken, what was done with those swabs from State's Exhibit No. 14, your Item No. 1?

A. Once the swabs has been taken, I mark the area, which is SLED Item No. 1.1. I mark the area. Also put the lab number

on it, which is L 134837, have to do that, and then I use a clean swab, like I said before. I put it into a gold coin envelope, put it up to dry. Once it dries, I seal it into that particular envelope, I put my initials, the date, and I also seal it into a heat-seal pouch, where I put my initials and date and also sign it, and I send it to, for further testing.

Q. And when was that that you did that with those to process that item and created basically your Item 1.1, the swabs from that visor?

A. June 5th, 2013.

Q. Okay. So June 5, 2013. Then ultimately those items would have ultimately made it to the DNA analyst, the swabs that you took from the item?

A. Yes, they did.

Q. In this case, that's Catherine Leisy; is that the DNA analyst involved in this case?

A. Yes, that's correct.

Q. Now showing you State's Exhibit No -- I believe it's 17, ask you if you received that item out at SLED.

A. Yes, I did.

Q. And describe now for the jury what you did with State's Exhibit No. 17, and I think that's probably your Item 2; is that correct?

A. State's Exhibit No. 17, SLED Item No. 2. The band

that's -- that cloth band that's around here (indicating). I scraped these around here and here and swabbed around here (indicating).

And once I -- once I did that, I took up the scrapings that I did, put it into the gold coin envelope, set it up to dry. Once it was dry, I seal it into that gold coin envelope, then put it into a heat-sealed pouch, then I initial and date the seal and I sign it and date it, and I sent it to further testing to the DNA analyst, which is Catherine Leisy.

Q. Okay. And yet again, as to State's Exhibit 17, your Item 2, that wig, what day did you process that item?

A. June 5th of 2013.

Q. And then on June 5th of 2013, so you would have -- would have let those swabs dry, and they would have been sealed in an envelope and then forwarded on to the DNA analyst?

A. That's correct.

Q. And after you finished with the items themselves, I guess they would go back to the agency, the wig and the visor?

A. That's correct.

Q. And any further, I guess, testing on those items would then be done by Agent Leisy, as far as not on the wig and the visor, but on the swabs that you created from those items; is that correct?

A. That's correct.

MR. SORENSON: That's all I have from this witness, Your Honor.

THE COURT: Cross-examination.

CROSS-EXAMINATION BY MR. FALK:

Q. I believe you testified that you scraped the band of both the wig and the visor?

A. That's correct.

Q. And what do you use to scrape that with?

A. I use a plastic sterile -- what we call as a scraper to scrape the band with. It's a plastic -- well, like a small plastic knife-type thing.

Q. Okay. And when you are -- when you were scraping the band, you were following SLED procedures?

A. That's correct.

Q. And you've been trained by SLED as to how to do these scrapings?

A. That's correct.

Q. And I believe, certainly when you were demonstrating the process, it looked as though you were scraping the entire circumference of both the hat and the wig; is that correct?

A. That's correct.

Q. So was it your goal in that instance to obtain all the DNA evidence that might be on that hat and that wig?

A. No. The goal was to get a fair enough evidence on the

particular swab for a profile, if possible.
Q. How much is a fair enough evidence?
A. It's normally the -- the whole area, because that's what touches the skin, and that's why we do it.
Q. I'm not trying to argue with you. I'm just trying to see. So your goal is to scrape the entire circumference and get the DNA evidence off of that; is that correct?
A. That's correct.
Q. Okay. Would there be any reason why you couldn't have scraped half of the band?
A. We could have, but that's not part of our protocol. It's to do the whole entire band to get the best profile that we can.
Q. So if you were ever asked to -- let's say a situation came up where they asked you to go back again and get some scrapings off the band of the hat or the wig. Would you expect to be able to find anything?
A. It's a possibility.
Q. Well, isn't your goal to be thorough to try and get all of that information, all that --
A. We don't know whether we have everything or not. What we do when we scrape everything, we really do it in the blind, because skin cells, you can't really see it. You are trying to get the best evidence that you possibly can when you do the whole entire band.

Q. So the protocol and the goal is to be as thorough as possible; is that correct?
A. That's correct.
Q. No part of the goal of the protocol is to leave any material on there?
A. We don't know whether we leave anything or not because you can't see it. Skin cells are something where you can't -- you can't really see it. You're just doing the best possible job that you can.
Q. If you scraped half of the visor and ran a test, could you then scrape the other half of the visor and run a test?
A. Perhaps you can.
Q. So, I mean --
A. It's a possibility.
Q. -- would there be any reason why scraping, running a test on half the visor first would stop you from running a test on half of the visor -- the other half of the visor?
A. That's not -- our protocol is to scrape the whole entire band of the item that we doing.

MR. FALK: No further questions.

THE COURT: Any redirect?

MR. SORENSON: A couple things, Your Honor.

REDIRECT EXAMINATION BY MR. SORENSON:

Q. If I'm understanding you, Ms. Butler, I mean, you're trying to do a thorough job; is that correct?

A. That's correct.
Q. Okay. And when you're dealing with, in cases like this, when you're trying to determine ownership or who was wearing an item such as a visor, and you kind of touched on this, can you -- I mean, these skin cells, are they visible to the naked eye?
A. No, they are not.
Q. Okay. So looking at State's Exhibit 14 today, I mean, can you tell if there's DNA on that just looking at it with the naked eye?
A. No, you cannot.
Q. And back on June the 5th of 2013, looking at that same item and the wig also, could you tell looking at them whether there's DNA there?
A. No, you could not, not the naked eye.
Q. This isn't a situation where you had a stain that you were collecting from, like a blood stain or a semen stain or something like that; is that correct?
A. That's correct.
Q. That, I guess, would be a little different because you know exactly where you're trying to collect it from; is that correct?
A. Yes. That's a different test altogether.
Q. Because it's your testimony in this case, I mean, you feel like you did a thorough job processing these items to

give Agent Leisy the best opportunity to get DNA results from these items; is that correct?

A. That's correct.

MR. SORENSON: Thank you, Ms. Butler.

THE COURT: Mr. Falk.

RECROSS-EXAMINATION BY MR. FALK:

Q. Mr. Sorenson asked you about if there was a blood stain and how this is different from that; is that correct?

A. Yes, he did.

Q. Have you ever -- have you ever processed a blood stain?

A. Yes, I have.

Q. If you process a blood stain, do you use the entire stain in order to run your test?

A. No, we -- no, we do not. What --

Q. Go ahead. You were going to say something?

A. What we do on a blood -- because we have to take -- look at the blood stain. We have to cut the whole stain. We use just a small portion, because you could actually see it, get a small portion and then cut the whole entire blood stain out and then forward that to the DNA analyst.

Q. So on something like a blood stain, there's an opportunity to come back a second time and retest it?

A. No. We send the whole thing to the DNA analyst, and they don't always use all the blood stains. Sometimes they use what they need and send what they don't need back to the

agency.

Q. And what they sent back to the agency, have you ever had an -- been called on to reprocess what's been sent back to the agency?

A. Not the particular blood stain. Maybe we're looking for another -- I've had cases where perhaps we get a representative sample of the blood, because the blood is other different places on the particular item. And what we do is get a representative sample of that particular blood, and every now and again we might have to go and get another sample from a different spot and send to the analyst.

MR. FALK: No further questions.

THE COURT: Ma'am, you may step down. Thank you.

Call your next witness.

MR. SORENSON: Thank you, Your Honor, State calls Ashley Bell.

May Ms. Butler be excused, Your Honor.

THE COURT: Any objection?

MR. FALK: No objection.

THE COURT: Without objection, ma'am, you are excused. Thank you for being here.

CLERK OF COURT: Please place your left hand on the Bible, raise your right hand, state your full name for the record.

THE WITNESS: Ashley Bell.

ASHLEY BELL,

being first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. SORENSON:

Q. Good afternoon, Ms. Bell.

A. Hi.

Q. If you would, tell the jury where it is that you're employed.

A. I am employed with the South Carolina Law Enforcement Division, more commonly referred to as SLED.

Q. Okay. And what do you do at SLED?

A. I am a forensic serologist.

Q. And how long have you been -- first of all, tell the jury a little bit what your background is.

A. I have a bachelor of science degree in biochemistry from Washington and Lee University.

Q. And how long have you been employed at SLED?

A. Approximately two and a half years.

Q. And tell the jury a little bit what your duties are out there in that department.

A. I examine items of evidence for potential biological evidence. I collect those potential areas of biological evidence and perform serological tests for possible biological stains, such as blood, semen and saliva. I then make cuttings from those items of evidence and forward that for DNA analysis. And lastly, I generate reports, and based

upon my findings and my examinations, and I testify to those reports.

Q. Now, also, are there occasions where you're, instead of actually making cuttings of items, where you're actually processing items to see if there is touch DNA, if somebody has touched or handled an item?

A. That is correct.

Q. And describe to the jury how that -- how you would go about doing that if you had an item of clothing or an item such as a gun that was presented to you. How would you go about processing those items for potential DNA?

A. Mm-hmm. If I am given an item such as a gun to process for touch DNA, I would begin by using a cotton-tipped swab, sterile swab. I would moisten it with sterile water. I would go through and swab the entire gun.

I would next take another swab that's dry, though, in this case I would not moisten it, and swab the entire item in the exact same areas again. And we're hoping to be able to pick up potential skin cells that way.

Q. And specifically in this case, did you have a couple items that were submitted to you back in June of this year for your processing?

A. Yes, sir, I did.

Q. And what were those items that were submitted to you and that you were asked to process for possible DNA evidence?

A. I received SLED's Item 6, which was a handgun, and I also received SLED's Item 7, which was one latex glove.
Q. And showing -- I guess just kind of going in order that you told the jury, showing you State's Exhibit No. 16. Let me ask you if you recognize that item.
A. I do recognize the item. On the outside of the box, I see where I placed special SLED tape with the date and my signature. And when I open up the box, I also see the paper that I processed the gun on top of, and that is labeled with the unique SLED lab number, item number, my initials and the date.
Q. And what day did you process that gun, Ms. Bell?
A. It was on June 16, 2014.
Q. And tell the jury how you went about processing that gun.
A. Again, I used a cotton-tipped sterile swab, I moistened it with water and I would have swabbed the entire outside of the gun. I would have then taken a dry cotton-tipped sterile swab, swabbed the entire outside of the item again. I allowed those swabs to dry, and then I packaged them.
Q. And those items were then subsequently forwarded on, I guess, to the DNA analyst?
A. Correct. I would have placed them into a coin envelope that has the unique SLED lab number, item number, and it's taped with my initials and date on the back.

Q. And that gun was SLED Item 6, so what did the swab that you then created, did that have an item number, too, then?
A. It did. It was given what we call a -- we have parent items, which would -- the gun would have been the parent item, and off of that, I created a child, if you will. The swabs were the child, so they were given Item 6.1.
Q. Okay. And that was sent -- and are you aware in this case it was Agent Leisy, Catherine Leisy, that did the DNA testing in this case?
A. Yes, sir.
Q. Now, did you also receive, let me show you State's Exhibit No. 15.
A. Yes, I do recognize it, again, because it has the unique SLED lab number and label, item number. I see where I wrote "Return to agency" on it and the last seal that was made was by myself with my initials and the date. I also can see on the back of the packaging that that lab number is there, that item number, my initials and the date.
Q. And that item is, I guess, your SLED Item No. 7; is that correct?
A. Correct, yes, sir.
Q. And what was that item?
A. That item was a glove, a clear or white latex glove.
Q. And tell the jury what you did with that latex glove.
A. My processing would have been very similar as it was to

the gun. I would have used another cotton-tipped sterile swab, moistened it with some sterile water, and I was instructed to swab only the outside of the glove as it was submitted.

I then used a dry cotton-tipped sterile swab and swabbed the exact same areas on the entire exterior of the glove. Again, I would have had allowed those swabs to dry, and then I would have packaged them into a coin envelope with the SLED lab number, the now children number, item number, which would have been 7.1, and I would have sealed that envelope with tape with my initials and the date.

Q. Okay. And what date was that done?

A. That was done on the same day, which would have been June 16, 2014.

Q. And you indicated that you ultimately turned those items over to Agent Leisy?

A. Yes, sir.

Q. Did you hand deliver them to her?

A. Yes, sir.

Q. That -- after you -- right after you finished processing?

A. After the swabs were allowed to dry and packaged back into the coin envelope and then into a heat-sealed pouch, which is sealed and labeled with my initials and date, I would have manually transferred those items over to

Agent Leisy.

Q. And as far as the glove goes, so your instructions basically when you received the glove, you swabbed just basically the entire -- what was the way the glove was, the entire exterior of the glove?

A. Correct. I was instructed to swab the outside of the glove as it was submitted. So I didn't turn it inside out or anything like that. However it was given to me when I laid it out on the processing paper, that was considered the outside, and that is what I swabbed.

Q. And you did basically the entire part --

A. The entire, yes, sir.

Q. Okay. And so those items then, so it was -- what you created and was then submitted to Agent Leisy would have been Item 6.1 and Item 7.1; is that correct, swabs from the gun, swabs from the glove?

A. Yes, sir, that is correct.

MR. SORENSON: Okay. Thank you, Ms. Bell.

THE COURT: Cross-examination.

MR. FALK: Thank you.

CROSS-EXAMINATION BY MR. FALK:

Q. When you are trying to recover DNA material, you're using the swab because it can get down into -- let me rephrase the question.

On an item such as this, which has raised and lowered

surfaces, for example, on this handle area. And I'm not sure what you want to call this area right there (indicating), where it's got raised and lowered surfaces, the DNA, the material is going to collect not just on the top, but it's going to collect down in the bottom; is that right? Is it possible that skin cells or whatever would collect down in those crevices?

A. It is possible. I'm swabbing the entire outside of the gun, so whatever parts of that gun were touched, that is where my swab is going to swab and pick up.

Q. And so the swab would go down into the crevices as well?

A. If there are grooved parts along the outside of the gun, then yes, sir, the swab would go into there as well.

Q. And what would leave -- you had said -- what kind of items, what kind of fluids could be on there that would leave DNA?

A. Essentially, if we're swabbing for touch DNA, we're hoping to pick up epithelial or skin cells that were left behind from whoever handled the item.

MR. FALK: No questions.

MR. SORENSON: Nothing further, Your Honor.

THE COURT: Ma'am, you may step down. Thank you.

THE WITNESS: Thank you.

THE COURT: Call your next witness.

MR. SORENSON: State calls Catherine Leisy.

CLERK OF COURT: Please place your left hand on the Bible and raise your right hand. State your full name for the record.

THE WITNESS: Catherine Leisy, L-E-I-S-Y.

CATHERINE LEISY,

being first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. SORENSON:

Q. Good afternoon, Agent Leisy.

A. Good afternoon.

Q. If you would, tell the jury where you're employed.

A. I work for the South Carolina Law Enforcement Division, more commonly known as SLED. I am a forensic scientist assigned to the DNA and serology unit.

Q. Okay. And if you would, tell the jury how long you've been employed at SLED.

A. I've worked at SLED for approximately eight and a half years.

Q. And how long of that have you been in the DNA department?

A. The entire time.

Q. And if you would, tell the jury a little bit about your educational background.

A. I have a bachelor of science degree in genetic engineering from Cedar Crest College in Allentown, Pennsylvania, prior to my time here with SLED, I spent

approximately four years working at a private DNA testing facility known as Orchid Cellmark, where I ran the same types of tests and analysis that I do here at SLED.

I am also required to participate in continuing education, which consists of training seminars and conferences that relate to specific topics in DNA and forensic testing.

Q. And have you had an opportunity, Agent Leisy, to testify in court about your findings in regards to the field of DNA identification?

A. Yes, sir.

Q. And approximately how many times have you testified?

A. Over 50 times now in several counties within the South Carolina, as well as several different states throughout the country and United States Federal Court.

Q. Been qualified as an expert on those 50-some-odd occasions?

A. Yes, sir.

MR. SORENSON: Your Honor, at this time we'd offer Agent Leisy as an expert in the field of DNA analysis.

MR. FALK: No objection.

THE COURT: Ladies and gentlemen, Agent Leisy is being offered as an expert in DNA forensic testing and DNA analysis. Let me explain this to you. Normally, a person cannot give opinion testimony normally. When a person

testifies, they must testify as to what they saw, heard or sensed by smell or something of that nature.

However, there is an exception when someone is qualified because of education or experience. They are permitted to give their opinion in certain areas if the Court qualifies them that way. This witness is being qualified as an expert in the area of forensic testing and DNA analysis to give opinion testimony in that area.

That does not mean that you must accept the opinion, but it is evidence for you to use in any way that you see fit and give it the weight and credibility that you believe is appropriate.

Mr. Sorenson.

MR. SORENSON: Thank you, Your Honor.

BY MR. SORENSON:

Q. Agent Leisy, if you would, kind of briefly kind of describe for the jury what DNA is.

A. DNA stands for deoxyribonucleic acid. It's the genetic material found in all of our body cells with the exception of our red blood cells. DNA is fashioned of structures called chromosomes, which contain our genes. And genes are code for our physical characteristics, such as our height or our eye color.

We inherit one copy of DNA from our mother and one from our father and, therefore, we have two copies of every gene.

Now, approximately 99.9 percent of an individual's DNA is identical to that of everyone else's, and it's the variation in that remaining .1 percent that allows us to tell different people apart.

Q. And as DNA relates to a criminal case, kind of explain typically how you're getting involved.

A. My job is to try and develop what's known as a DNA profile from biological material that has been left at a crime scene or on an item of evidence. I can then compare that DNA profile to the DNA profile of a known individual whose sample has been submitted for comparison. And essentially we're just trying to see if the DNA profile from the evidence matches the DNA profile of the known individual.

Q. And as far as your DNA, tell the jury where -- you know, where -- I think you said the only spot it's not found is in your red blood cells; is that correct?

A. Correct.

Q. All right. So your skin cells?

A. Correct.

Q. Have DNA?

A. They do.

Q. Your -- I guess your white blood cells, so your -- if you left blood at a scene, you can get a DNA profile from that?

A. That's correct.

Q. How about a semen stain at, let's say, a scene of a criminal sexual assault?
A. That's correct. Typically what we're looking for is semen, saliva, blood or skin cells that have been transferred by an individual coming in contact with an item.
Q. And your DNA in those four different areas that you talked about, is your DNA the same in all four of those areas?
A. Yes, it is.
Q. Okay. So if you had -- you know, a suspect left blood at a crime scene, you could hopefully generate a DNA profile from that blood at the crime scene and compare it to a DNA profile gotten from buccal swabs or cheek swabs --
A. That's correct.
Q. -- collected from him?
A. Yes, sir.
Q. And if you would, describe briefly for the jury what type of DNA testing do you use out at SLED.
A. We utilize what is known as PCR-STR testing. PCR stands for polymerase chain reaction. It's a technique that allows us to make copies of the specific locations in DNA that we need to test, and those locations are call STRs or short tandem repeats.

And an STR is simply a location in our DNA where a short core unit of DNA repeats a certain number of times. We make

copies of those locations of our DNA and then count the number of repeats. We then assign a number to that repeat unit.

So let's say at one location I inherit eight copies from my mom and eight copies from my dad, my DNA type at that location would just be an 8, because that's the number of repeats that I had at that location.

We test 15 STR locations, as well as a location known as amelogenin, which tells us the gender of the DNA, and that overall collection of 15 STR locations and the gender marker gives us what we call a DNA profile.

Q. You can then compare that profile between the two samples?

A. That's correct.

Q. To see whether they match or not?

And DNA testing, is that something that's pretty widely done throughout the country at this point in time?

A. It is. This is the most common use of DNA in forensic testing throughout -- really throughout the world at this point.

Q. Obviously, these days, you know, it's used not only to possibly prove that somebody was at a crime scene but it also can be used the opposite, to basically, you know, exonerate an individual; is that correct?

A. It can, yes, sir.

Q. Now, talk on, just real briefly before I get into the evidence that was submitted in this case, a little bit about the lab out at SLED. Is it an accredited lab?
A. We are accredited by the American Society of Crime Laboratory Directors' laboratory accreditation board. It's basically a voluntary program that the lab chooses to participate in to show that we meet certain standards and guidelines that have been set to ensure consistency and quality in forensic testing.
Q. And that's something that was in effect back during the -- throughout the course of your involvement in this case?
A. That's correct.
Q. And let me ask you, do you ultimately, you know, generate and keep the paperwork and all of the -- kind of the charts and stuff that are generated? Are they all stuff that are preserved and can be turned over to any other expert if they need to review your findings?
A. It is. We generate a case folder that contains all of our bench notes and all of the results of our testing. Those notes are used to then write a report documenting what tests were performed, what the results were and what our interpretations of those reports were. That information can then be reviewed by other scientists, if necessary.
Q. And lastly, before you're able to -- if you are the

person that is actually doing an analysis on a case, before you can actually issue and sign a report and issue that, is there any kind of review process that goes on before that can be done?

A. There is. Anytime I complete lab work on a case, I then generate my report. The report then goes through a technical review, done by another qualified analyst, essentially to make sure all of our lab protocols were followed and the work was done correctly.

It then undergoes an administrative review, which is really more crossing T's, dotting I's, making sure that all of the lab work and everything has been completely finished. The report is then signed and sent -- disseminated for review.

Q. All right. Now, Agent Leisy, I want to now specifically turn you to this case that we're here for today. Did you ultimately receive I think it's about six items of evidence for you to do DNA on?

A. I did.

Q. And if you would, tell the jury what those items were that you received to perform DNA analysis on.

A. I received numerous swabs in this case.

Q. I guess seven.

A. The first would be SLED Item 1.1, which was identified as a swab taken from a black visor; SLED Item 2.1, swab taken

from a wig; SLED Item 3, which was identified as a swab taken from the side and grip of a .380 handgun; SLED Item 4, swab from left counter; SLED Item 5, swabs from a latex glove.

I also received buccal swabs, which are just cotton swabs taken from the inside of an individual's cheek to be given -- used as a known standard. The swabs were identified as belonging to Tyrone Ellison.

Q. And then were you subsequently -- and that was all done back and you received all those items, I think they were all initially submitted back in 2013?

A. That's correct.

Q. Was there also then a subsequent submission of a couple additional items?

A. There was.

Q. Okay. And did you receive any items from that subsequent submission?

A. Additionally I received SLED Item 6.1, another set of swabs taken from a .380 auto handgun, as well as swabs 7.1, which were taken from a latex glove.

Q. And the items that are the .1 items, the 1.1, 2.1, 6.1 and 7.1, did those items go through somebody else out at your agency before they made it to you?

A. They did.

Q. And so where would they have gone before they made it to you?

A. SLED items 1.1 and 2.1, the swabs from the black visor and black wig, were taken by evidence processing technician Betty Butler; and Swabs 6.1 and 7.1, the swabs from the gun and swabs from the latex glove were taken by forensic serologist Ashley Bell.

Q. Now, Item 3, the swab from the handgun; Item 4, the swab from the left counter; and Item 5, the initial swabs from the white latex glove, did those swabs just come directly to you from the law enforcement agency?

A. They did. They were submitted after having been collected from -- by the local law enforcement.

Q. Now, did you have an opportunity then, Agent Leisy, to attempt to see whether you could get a DNA profile from ultimately those, I guess, five, six, seven, eight items, including the buccal swabs from Mr. Ellison?

A. Yes, sir, I did.

Q. And if you would, I guess probably the best way to do it is just kind of go through them in numerical order. First of all, as far as the buccal swab that you received from Mr. Ellison, were you able to develop a DNA profile from that buccal swab?

A. I was.

Q. And I guess I probably should get you to explain, what's a buccal swab? The jury's heard that term a few times.

A. Buccal swab is what we most commonly use now for known

DNA standards for an individual. It's really just a sterile cotton swab, very similar to a Q-tip. It is rubbed against the inside of an individual's cheek to collect cells from the inside of their mouth. We can then develop a DNA profile from that swab. We use that profile as their known standard in comparison to evidence profiles.

Q. From that cheek swab, that buccal swab, were you able to develop a DNA profile for Mr. Ellison?

A. I was.

Q. And was it a complete profile?

A. Yes, sir.

Q. And was it a single, lone profile or was there any kind of mixture involved to it?

A. There was no indication of a mixture.

Q. I guess would that suggest to you it was properly collected? I mean, it wasn't contaminated in any way, shape or form?

A. There was no indication of an issue with the standard at all.

Q. So then did you have an opportunity then to process those other seven items in an attempt to see if you could develop a DNA profile to compare to Mr. Ellison?

A. Yes, sir.

Q. And I guess starting with Item 1.1, the swab from the black visor, if you would, tell the jury your results from

processing Item 1.1.

A. The DNA profile developed from the swab from the black visor is a mixture of at least two individuals. The DNA profile developed from a major contributor to this mixture matches the DNA profile developed from Tyrone Ellison, and the probability of randomly selecting an unrelated individual having a DNA profile matching the major contributor to this mixture is approximately 1 in 2.2 quintillion.

Q. Describe for the jury, I mean, how big is 2.2 quintillion?

A. That large a number would be significantly larger than the current population of the earth.

Q. All right. To make sure I understand this now, tell the jury what you mean by a mixture.

A. A mixture indicates that we have DNA from more than one person. In this particular mixture, we have what we consider to be a major contributor. That means that one individual left significantly more DNA than the others did. That allows us to essentially pull out their lone profile, because the intensity of the signal given off by their DNA is so much greater.

If we can pull out a major contributor profile, as we did in this case, it allows us to compare that directly to the profile of a known individual for identification purposes.

Q. In this case there was that major contributor, and it was, I guess, based on the probability, a pretty significant major contributor?
A. Yes, sir.
Q. And that matched the defendant, Tyrone Ellison?
A. It did match the profile I developed for Mr. Ellison, yes.
Q. So what does that mean with regards to that swab from the inside of that visor?
A. Within a reasonable degree of scientific certainty it is my opinion that Mr. Ellison is the major contributor of DNA developed from the visor.
Q. And yet again, this case with that, we're dealing with basically skin cells, I mean, when you're processing something for ownership?
A. Typically, yes. There can be other bodily fluids present. There was only an ownership request, meaning we're trying to determine who may have worn it or who may have been in physical contact with it. So really what we're looking for is skin cells that may have been transferred during physical contact with it.
Q. And is it your opinion within a reasonable degree of scientific certainty then that Mr. Ellison would have either worn or been in contact with that visor?
A. It's my opinion that his DNA is present on the item. I

can't necessarily say how it was transferred to the item, but it is my opinion he is the major contributor to the DNA profile found on that item.

Q. And that was -- and Ms. Butler had testified that she collected that swab, I think, on June -- bear with me one second, June 5th of 2013?

A. I would have to refer to my notes to give a specific date.

Q. Okay. That's all right. So that's as to Item 1.1. How about as to Item 2.1?

A. SLED Item 2.1 was the swab taken from a black wig. The DNA profile developed from this item is also a mixture of at least two individuals, and the DNA profile developed from the major contributor to this mixture also matches the DNA profile of Tyrone Ellison. And, again, the probability of randomly selecting an unrelated individual having a DNA profile matching this major contributor is approximately 1 in 2.2 quintillion.

Q. Yet again, it's a mixture, so we've got somebody else's DNA. Somebody else has been in contact or left some DNA on this item besides Mr. Ellison; is that correct?

A. Correct. There's at least one other contributor of DNA to the item.

Q. But the major contributor, yet again, 1 in 2.2 quintillion matches the defendant, Tyrone Ellison?

A. That's correct.
Q. How about Item 3, the swab from the .380 that was submitted by law enforcement agency?
A. The DNA profile developed from our SLED Item 3, the swabs from the handgun, was a partial DNA profile, and Mr. Ellison is excluded as a possible contributor to this mixture.
Q. So you did get a partial, a partial DNA profile from that?
A. That's correct.
Q. But you could exclude him from that, so it's somebody else that has left that partial DNA on that gun?
A. That's correct. Mr. Ellison was excluded as a possible contributor to the profile I was able to develop.
Q. All right. How about State's Exhibit -- or SLED Item No. 4, the swabs taken from the counter at the bank?
A. A partial DNA profile was developed from the swabs from the counter, and Mr. Ellison was excluded as a possible contributor.
Q. Kind of similar to the gun? I mean, it's not a complete profile but still exclude Mr. Ellison, though; is that correct?
A. Yes, sir. It was very limited information on that particular sample. I was not able to develop a full profile, but, in my opinion, Mr. Ellison is excluded as a possible

contributor to that profile.
Q. And then lastly, in kind of the initial submission to you, your SLED Item No. 5, the swabs that were taken from the latex glove that were initially submitted by the North Charleston Police Department?
A. From SLED Item 5, swabs from the latex glove, a partial DNA profile was developed, and Mr. Ellison was excluded as a potential contributor.
Q. And yet again that's not -- was not a full DNA profile?
A. Correct.
Q. But what was there, you excluded Mr. Ellison; is that correct?
A. Yes, it is.
Q. Now, subsequent to that, I believe you testified earlier, did you ultimately have in June of this year, of now 2014, a couple other items that were submitted out to SLED for some further testing?
A. Yes, sir.
Q. And we heard Ms. Bell testify earlier about basically creating Items 6.1 and 7.1, the swabs from the .380 auto handgun and the swabs from that white latex glove. Were those two items, your Item 6.1 and your Item 7.1 submitted to you to see if you could develop a DNA profile from those items?
A. They were.

Q. And if you would, tell the jury what the results of your findings on those two items were.

A. The DNA profile developed from SLED Item 6.1, swabs from the handgun, is a mixture of at least three individuals, and Tyrone Ellison is excluded as a possible contributor to this mixture.

And in regard to SLED Item 7.1, swabs taken from the white latex glove, the DNA profile developed is a mixture of at least two individuals, and the DNA profile developed from the major contributor to this mixture also matches the DNA profile of Tyrone Ellison.

The probability of randomly selecting an unrelated individual having a DNA profile matching the major contributor to this mixture is approximately 1 in 2.2 quintillion.

Q. So similar to basically the same results as you had from the swabs from the visor and swabs from the wig; is that correct?

A. That's correct.

Q. So ultimately, once you got done reviewing and analyzing all this evidence, basically those three items that you found the defendant's DNA on, a probability of 1 in 2.2 quintillion on all three of those items; is that correct?

A. Correct. The same statistics would apply to the DNA profile of the major contributors to those mixtures matching

the profile developed from Mr. Ellison's standard.
Q. I guess that was a complete DNA profile that you were able to get of Mr. Ellison's on all three of those items?
A. Yes, sir.
Q. You've talked about kind of the controls that are in place out at SLED as far as the review process and all of that. Was that all done in the case?
A. It was.
Q. So it was -- a technical review was done on both of these reports before they were issued?
A. Yes.
Q. And then also what was the other type of review you talked --
A. We do an administrative review.
Q. Administrative review. So that was done also on both of these before you issued them?
A. That's correct.
Q. So within a reasonable degree of scientific certainty, you can tell this jury, Agent Leisy, what about the defendants DNA with regards to the swabs from the visor, the swabs from the wig and the swabs from the latex glove that were created, that were done by Ms. Bell?
A. It is my opinion within a reasonable degree of scientific certainty that Mr. Ellison is the major contributor of DNA to those mixtures.

MR. SORENSON: Thank you, Agent Leisy, please answer any questions that Mr. Falk has.

THE COURT: Cross-examination.

MR. FALK: Thank you.

CROSS-EXAMINATION BY MR. FALK:

Q. You had testified earlier that when you originally ran a DNA profile on the gloves and you generated an analysis of that, that you did not find any DNA on the glove; is that correct?

A. No, there was a partial DNA profile developed. I was able to exclude Mr. Ellison from that partial profile.

Q. Thank you.

Could you just review for me, how much contact does it take in order to transfer an epithelial cell?

A. It takes very limited contact. To rub your finger along the surface of a table would leave epithelial cells. Really any contact would cause some form of transfer of skin cells to an object.

Q. If I clap my hands over a table, am I going to throw off any epithelial cells?

A. It's possible.

Q. Now, just so we're clear on your testimony, you can't say with any degree of certainty that Mr. Ellison was ever wearing that wig; is that correct?

A. That's correct. I can't testify to how the DNA was

transferred, just that at some point it was transferred to these items.

Q. And that, of course, would go along with the visor as well?

A. Yes, sir.

Q. Sometime around May 13, 2014, did you get a request to look at the gun, I mean, to look at the glove again?

A. I would have to double-check on the exact date, but I was submitted a request to retest the item.

MR. Falk: May I approach, Your Honor?

THE COURT: Yes, sir.

MR. FALK: I'll mark that as Defendant's Exhibit 2, I mean, for purposes --

THE COURT: Identification purposes?

MR. FALK: Identification purposes.

(Defendant's Exhibit 2 marked for identification.)

Q. That document right there, can you tell me what that is?

A. This is what we refer to as our submission paperwork or packing slip. These forms include information given to us by the law enforcement agency that is submitting the case. It includes items, descriptions, exactly what tests are to be performed, suspect names, any sort of that information. It also can include detailed instructions as to how we're to test a particular item.

Q. I had asked you originally did you know about the time

that you received that. After looking over that, do you have a better understanding what time you received that or what date?

A. The form indicates that it was received on May the 13th of this year.

Q. Okay. Does that form have any directions on it for you?

A. Yes, it does.

Q. And what were you directed to do?

A. Would you like me to read it or --

Q. That's fine.

A. As the comment section reads on this form, it was directed to my attention, resubmitted for Solicitor Don Sorenson. Please try to obtain suspect DNA from handgun. Swab already obtained from texture area on slide and grip then processed with cyanoacrylate. Please try to obtain suspect DNA from white latex glove.

Would you like me to read the whole --

Q. No, that's fine. I'll take that back.

So when you got this form, you were directed to try and find Mr. Ellison's DNA on it?

A. I was directed to reswab the particular items to try and develop DNA profile for comparison purposes.

Q. It says -- you had read it said, "Please try to obtain suspect DNA from the handgun"?

A. That was how it was submitted, yes, sir.

Q. So you were sort of directed to look for Mr. Ellison's DNA?
A. That's not how I would read it. That's how it's written out. To us the, purpose is to develop any potentially probative or informative profile that may be on a particular item. I don't go looking through items to find a particular person. My job is to develop a DNA profile for comparison.
Q. Can you explain what CODIS is, C-O-D-I-S?
A. CODIS stands for combined DNA index system. It's an electronic database that is maintained by the FBI. It consists of DNA profiles collected from crime scenes as well as those of known of criminal offenders. We can use that database to try and identify previously unknown DNA profiles developed from items of evidence.
Q. And are there any guidelines as to what type of DNA profiles can go into CODIS?
A. There are.
Q. Was any of the DNA that was taken from the wig or the visor submitted to CODIS?
A. Yes. The DNA profile developed -- the major DNA profile developed from SLED Item 1.1, the swab from the black visor, was submitted for CODIS comparison.
MR. FALK: One moment, please.
May I approach the witness, Your Honor?
THE COURT: Yes, sir.

Q. I'm going to show you a document we're going to have as Defendant's Exhibit 3, just for identification purposes.

(Defendant's Exhibit 3 marked for identification.)

Q. I asked you earlier to look at this document right here.

THE COURT: Was that No. 2?

MR. FALK: I was going to ask her to reconfirm that.

THE WITNESS: Yes, sir.

Q. And that's the document that we looked at before that I referred to as Exhibit No. 2?

A. Yes, sir.

Q. Thank you.

THE COURT: Thank you, Mr. Falk.

Q. So Exhibit No. 3 that you're looking at, is that a report that you prepared?

A. Yes, it appears to be a copy of the initial report that I prepared for this case.

Q. Is there anywhere on the report that it reveals your results for Item 1.1?

A. There is.

Q. In the section about your results for Item 1.1, did you make any reference about whether or not that was suitable for CODIS entry?

A. I did indicate on the report that the major contributor was entered into the combined DNA index system for comparison.

Q. When we're talking about this gigantic number, 1 in 2.2 quadrillion, if you were recovering DNA from the headband, does that mean that the DNA is all around the headband?

A. In terms of my statistics and the profile developed, it means that the DNA was present on the swab as it was presented to me. Where exactly it was on the headband as it was collected during processing can't necessarily be determined. I mean, you can't look at a visor or wig and say, "Well, I can see the skin cells right there."

We test an area that we believe would be a good representation of where skin cells are most likely to be based on what the item is, how it would be worn, where it would be in contact with your body.

Q. But you have no way of knowing how large a section of materials were found on the headband; is that correct?

A. Again, my understanding is just that the entire headband was processed, that cells from around the entire band would have been collected. I can't say specifically where on the band they were before they were transferred to the swab during collection.

Q. Now let me ask the question this way: Let's say -- let's maybe not talk about skin cells. Let's talk about whether or not there was a drop of blood on the headband, and you would do a DNA analysis on that; is that correct?

A. If that were the request for that particular item, yes, sir.
Q. Okay. And when you're saying the major contributor on that, that just means of the speck of blood that's on there, it's more of somebody else's. It's more one person's than another; is that correct?
A. It would just mean that of the DNA that I was able to collect, regardless of its source, in that amount of DNA, that one particular individual contributed more DNA than did anyone else.
Q. So nothing that you have testified to can talk to how much DNA was on any of the items; is that correct?
A. The specific results in different portions of the test can indicate roughly how much DNA was present. I can't give you an exact measurement of how much DNA was on the item as it was collected by law enforcement. I can just give you an idea of how much we were able to collect during our testing process.
Q. How much do you need to collect?
A. Really very small amounts.
Q. And what is a very small amount?
A. We target approximately one nanogram of DNA. It's difficult to really explain. I mean, you're talking just maybe a few hundred cells. It doesn't take very much material at all.

MR. FALK: One moment, please.

THE COURT: Yes, sir.

Q. And on the handle of the gun, you talked about partial DNA profiles?

A. Yes, sir.

Q. What would be a reason why there would not be a full DNA profile?

A. Most commonly it's just that there's not enough DNA present, and when we try to make copies of the DNA that we're interested in testing, there aren't enough copies for us to be able to get a signal. There can also be issues with degradation. Different environmental factors can cause to break down DNA, and as the DNA would break down, it makes it more difficult for us to develop a profile.

Q. But, again, you testified that it only takes slight contact to transfer an epithelial cell; is that correct?

A. That's correct.

Q. And you testified that a nanogram, a nanometer of DNA would be sufficient?

A. Correct, or even a little bit less.

Q. Yet there was no DNA -- Mr. Ellison's DNA was not on the gun; is that correct?

A. There was no indication to me of Mr. Ellison's DNA being in that mixture. Again, I can only speak to the profile I was able to develop, but based on that profile, I believed it

appropriate to exclude Mr. Ellison as a contributor.
Q. And that is the same as on the DNA that came from the counter; is that correct?
A. That's correct. There was only a partial DNA profile developed from the counter, and Mr. Ellison was excluded.
MR. FALK: I have no further questions.
THE COURT: Any redirect?
MR. SORENSON: Just real briefly, Your Honor.
REDIRECT EXAMINATION BY MR. SORENSON:
Q. Agent Leisy, when you're dealing with epithelial or skin cells, tell the jury how you can go about transferring them onto an item.
A. Typically, any type of physical contact. Again, if your skin comes in contact with a particular item, you would expect there to be some level of transfer, but if you were sweating, you would expect your sweat to increase the amount of transfer.
You know, as counselor pointed out, really clapping your hands, even that can cause some shedding of cells. It depends quite a bit on, you know, the conditions and on the person that you're concerned about, but really any type of physical contact will cause some level of transfer.
Q. So if you're wearing an item, obviously that would be physical contact?
A. You would expect a form of transfer, yes, sir.

Q. And Mr. Falk asked you about -- kind of along those same lines, but if you did handle an item, you would expect to find skin cells, but is it also something that can be removed easily from an item?

A. DNA can be removed. It could be wiped off. Again, depending on environmental conditions, it could be degraded. Also, when you're dealing with mixtures, it could be that other people left more of their DNA on an item than a particular individual of interest, which could basically mask their DNA profile.

To exclude someone from a mixture just means that based on the information I was able to develop, I have excluded them as a potential contributor.

Q. And obviously, in order to get your skin cells onto an item by handling the item, you actually have to handle the item, right? I mean, let's say you had a glove on and you handled an item. I mean, you wouldn't necessarily expect to find your skin cells on that item you picked up; is that correct?

A. Correct. If you had a solid barrier, such as a latex glove, you would expect that to prevent transfer from your skin to a particular item.

Q. That's what I was getting at. Thank you Agent Leisy.

A. Yes, sir.

THE COURT: Mr. Falk, anything further?

MR. FALK: No recross.

THE COURT: Ma'am, you may step down. Thank you.

THE WITNESS: Thank you, sir.

THE COURT: Can the lawyers approach, please.

(Judge and attorneys confer.)

THE COURT: All right. Ladies and gentlemen, what we are going to do at this time is we are going to stop for the balance of today. We've been going hard at it all day long. I'm going to ask that you be back in your jury room tomorrow morning at 9:30. 9:30. Not 9, 9:30, okay.

During your overnight break, my instructions remain the same: Do not discuss the case at all. Do not do any independent investigation on your own. You're to decide this case based solely, based solely upon the evidence of testimony presented in this courtroom, nowhere else.

Anything further from the State before I release the jury for the balance of the day?

MR. SORENSON: No, sir.

THE COURT: Defense counsel?

MR. FALK: No, Your Honor.

THE COURT: Let me say this to you real quick, then I'll let you go: When you all return in the morning, I'm going to ask that you all select a foreperson. I will say this: That Ms. Kelleher cannot be your foreperson, okay? So it will be from you 12 there. If you all will select your foreperson

when you come back in the morning. Write it on a piece of paper.

Ma'am, would you please make sure that they have something to write on in there, something to write with. Write it on a piece of paper and give it to the bailiff when you all come out in the morning so she can give it to me. And that foreperson will be seated where this young man's seated right now, okay?

At this time you all are free to go. See you all tomorrow morning at 9:30. Thank you.

(The jury retires to the jury room at 4:21 p.m.)

THE COURT: Anything further from the State at this time?

MR. SORENSON: I don't think so. My only -- if you wanted to maybe address his -- I know we're not quite at the end of our case, but just to have him -- advise him of his rights to testify so he'd have the overnight to kind of -- I'll leave that up to Your Honor, but obviously we have a few minutes time right now.

THE COURT: I'll go ahead and do that. Just as a matter of precaution, and I'm sure that Mr. Falk has already talked to him about his right to testify, but that's certainly something that we can go ahead and do.

Madam Clerk, will you swear the defendant.

Sir, if you would please stand.

CLERK OF COURT: Please raise your right hand, state your full name for the record.

THE WITNESS: Tyrone Darius Ellison.

TYRONE DARIUS ELLISON,

being first duly sworn, testified as follows:

THE COURT: Sir, you are Tyrone Darius Ellison?

I need a verbal response from you, okay?

THE DEFENDANT: Yes, sir.

THE COURT: What I am going to do at this time is I am typically -- or what happens at the conclusion of the State's case, the State's indicating to me that they -- at sidebar here in the presence of your counsel that they intend on putting up, I think, three more witnesses before they rest, okay?

What I am going to do, give you the overnight. For purposes of making your decision, I am going to advise you of your constitutional rights. Now, you have the right, and I want you to understand that you have the right to present a defense in this case. You have the right to claim the protections given to you by the Fifth Amendment to the constitution of the United States, and that amendment states in part that no person, no person shall be compelled in any criminal case to be a witness against himself.

This means that you cannot be required to testify in this case. You have the right to testify on your own behalf;

however, however, no one can make you testify. This is a personal right, and no one can waive this right except you.

If you decide to testify in the trial of your case, you will be subject to the same rules that govern other witnesses, and you may be examined and cross-examined on any relevant issue in this case.

In addition, if you have any convictions involving dishonesty or false statement or for crimes punishable by imprisonment for more than a year, and this Court determines that the probative value of admitting the evidence outweighs its prejudicial effect to you, the solicitor will be able to introduce your record to attack your credibility.

If you decide to testify, this decision on your part must be freely, voluntarily and intelligently made with the knowledge of the protections given to you by the Fifth Amendment and the consequences of your decision to testify.

If you decide not to testify, I will instruct the jurors that they cannot, that they cannot give the fact that you did not testify any consideration whatsoever and that there is to be absolutely no prejudice to you because you did not testify.

Now, it is left entirely up to you whether or not you testify. You may talk with your attorney, your family, your friends or anyone else, but the final decision, the final decision will be left entirely up to you. Do you understand

what I've explained to you?

THE DEFENDANT: Yes, sir.

THE COURT: Do you have any questions about what I've explained to you?

THE DEFENDANT: No, sir.

THE COURT: Now what I will do is I'm going to give you the overnight. Certainly you have continuing time overnight to further discuss this with your lawyer, family or whoever you so desire, but as I've told you before, that ultimate decision as to whether or not you testify in the trial of your case is left entirely up to you, and I will give you the overnight to certainly consider that, because I certainly expect us to get -- for the State to rest its case tomorrow.

And at that time, you will have an opportunity to either testify and/or put up any defense that you so desire, and I will requestion you concerning your desire to testify. Do you understand me?

THE DEFENDANT: Yes, sir.

THE COURT: All right. Anything further, Mr. Falk, at this time?

MR. FALK: Not on this subject, but I think there's another subject.

THE COURT: All right. You may be seated, sir.

Yes, sir.

MR. FALK: As you know, this was -- a lot of evidence

was produced in this case about an April 1 and a July 1 event, and when I picked up the case, I was focusing on the April 1 event. In part of the discovery in the July 1 event were some latex gloves that were found, you know, in July pursuant to a search warrant of the black Taurus that Mr. Ellison was driving at the time.

I guess had I appreciated the fact that these things were going to be introduced into evidence since I kind of categorized them as that case that I'm not handling versus this case, I probably would have brought this to the Court's attention at the beginning of the trial with a motion in limine and maybe we could address it then, but when they come in, I'm going to move that they be suppressed, because I don't think that they are going to be relevant evidence and I think it's going to be prejudicial.

I think there's a significant gap in time between -- I mean, it's not the same car. It's three months later. It's a relatively mundane item that was found in the glove box of the car, but I think in the context of this case, it's going to be highly prejudicial to my client. So we would -- I would move -- I am moving in limine that those be excluded from testimony, from introduction.

THE COURT: Mr. Sorenson.

MR. SORENSON: Thank you, may it please the Court, Your Honor.

THE COURT: Yes.

MR. SORENSON: Just to kind of give you kind of a full background so you understand what we're talking about here, as Your Honor has heard, you know, it's the State's position that the individual that committed this bank robbery on April 1st was basically using this white latex glove to hold the gun, uses it to open the door on the way out. That item's recovered. Heard testimony that it's our position that his DNA is found on that latex glove.

Subsequent to his arrest three months later, they execute a search warrant on his black Ford Taurus and find in the glove box -- it's not really a glove box, the center console of that vehicle, three white latex gloves.

And we've got them. They're still sealed in the envelope from when they were collected that day. I was waiting for the person to open it so there's no -- there have been some allegations that maybe we took one of these gloves and that's what got resubmitted to SLED, so that's why this has not even been opened yet.

But it's our position that this would be relevant just to show, I mean, while it's a mundane item, I still think it's still a fairly unique item to have somebody to have in their position when one of the same type of item was used in a bank robbery three months earlier, and I think in that regard, it is relevant evidence.

THE COURT: Are they the same type of gloves?

MR. SORENSON: I mean, they're similar white latex gloves. I mean, we can -- I haven't opened them to, you know, compare if they're the exact same brand. I mean, he worked at Burger King. I have no doubt that that's probably where they came from was his job.

But at the same time, I mean, he's got white latex gloves in his car three months later from when one was used in a bank robbery three months prior. It would be our position that they are -- that it is relevant.

THE COURT: Anything else, Mr. Falk?

MR. FALK: I've made my case.

THE COURT: I'll let you know in the morning. If you want to submit me case law on it overnight, I'll let you do that.

MR. FALK: Thank you.

THE COURT: Forward it to my law clerk, please, sir, and she can forward it to me.

(Trial of the case adjourned for the day.)

(Trial of the case resumed on 10/22/14.)

THE COURT: State ready to proceed?

MR. SORENSON: Yes, Your Honor, I guess the only issue I think we need to address first is the matter of the latex gloves, because that would be our first witness that we would be seeking to call.

THE COURT: Any further argument on that from defense counsel?

MR. FALK: Yes, Your Honor. I did not find a case that was really sort of on all fours to the facts that we have here. It's our contention that there is no relationship -- I mean, that -- the issue is whether or not my client owned the latex -- owned that particular latex glove that was found at the scene.

It's not a situation, and in that, this latex glove was found three months later. Whatever latex gloves were found in the car are certainly not the ones at the scene.

Now, it seems to me that this comes closer to trying to show admission through 406 as habit and character evidence that my client was in the habit of having, purchasing latex gloves, and certainly one instance of another similar situation is certainly not enough evidence to prove habit and character.

I think this would be similar to the situation in which a cigarette butt was found at the scene and it was a Marlboro Light cigarette butt and three months later you found a pack of Marlboro Lights in the defendants car, and I think the jury would certainly want to jump to the conclusion that my client smoked Marlboro Lights, but certainly there's no strong connection between the two.

And if the Court, I mean, I have no -- I have no

question that the evidence is relevant, but I think, under this situation, the prejudicial value outweighs its relevance, because I think its relevance is small as compared to the probability of prejudice that my client would face if they're allowed to know that at three months later in a different automobile the defendant had a latex glove which was similar to a latex glove found at the scene, and it clearly was not the latex glove found at the scene.

Again, this is not a situation where possibly somebody identified the defendant of having a gun, that gun was not recovered, but then three months later somebody said, "Yeah, I knew Mr. McKinney had a gun like that." So we know that we're not talking about the actual piece of evidence. This is similar evidence and, again, I think that its prejudicial value far outweighs its probative value.

THE COURT: All right. With respect to Defendant's objection or motion to suppress, the latex gloves that were found in the automobile, with all due respect, Court does find such is relevant in this case. It is probative, and the prohibitive value is not outweighed by the prejudicial effect, and, therefore, I'm going to allow the gloves to come in.

Anything further at this time, Mr. Sorenson?

MR. SORENSON: No, sir.

THE COURT: Mr. Falk.

MR. FALK: No, Your Honor.

THE COURT: But your objection is so noted for the record.

MR. FALK: Thank you.

THE COURT: Okay. Anything else? Bring me the jury, please.

(The jury enters the courtroom at 9:49 a.m.)

THE COURT: I see that you all have selected a foreperson, and that foreperson is Mr. Davis.

JUROR NO. 33: Yes, sir.

THE COURT: Juror No. 33; is that correct?

JUROR NO. 33: Yes, sir. Good morning.

THE COURT: Good morning, sir.

If you'll hand this to the court reporter, mark that as a court's exhibit.

(The Court's Exhibit 2 marked for identification.)

THE COURT: Sir, that will be your assigned seat throughout the remainder of this trial.

Hope you all had a restful evening last night and are ready to proceed here today.

At this time I'm going to recognize the State. Call your next witness, please, sir.

MR. SORENSON: Thank you. The State calls Al Hallman.

CLERK OF COURT: Please place your left hand on the Bible, raise your right hand and state your full name for the

record.

THE WITNESS: Al Hallman.

AL HALLMAN,

being first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. SORENSON:

Q. Good morning, Mr. Hallman.

A. Morning.

Q. If you would, tell the jury where you're currently employed.

A. Currently I am employed by Kmart in North Charleston.

Q. Okay. And what do you do at Kmart?

A. I am the loss prevention team lead.

Q. And prior to being employed by Kmart, where did you work prior to that?

A. The North Charleston Police Department.

Q. What did you do at the North Charleston Police Department?

A. I was -- well, towards the end of my career, I was the supervisor of the forensic investigations unit.

Q. And how long did you work for North Charleston?

A. 26 years.

Q. And so back in July of 2013, of last year, where were you employed at that time?

A. City of -- oh, last year?

Q. Of 2013.

A. What month?
Q. July.
A. I was employed as a civilian investigator with the forensic investigations unit at North Charleston Police Department.
Q. Okay.
A. Sorry about that.
Q. That's okay.
And you said part of your duties were basically working in the crime scene department?
A. That's correct.
Q. And as part of those duties, do you have occasions where you processed and searched vehicles as a result of search warrants that may have been obtained in cases?
A. Yes, sir.
Q. And I want to turn your attention, if I could, Mr. Hallman, back to July 1st of last year, I guess that evening, the evening of July 1st of 2013. And did you have an occasion that evening to execute a search warrant on a 1996 black Ford Taurus?
A. Yes, sir, I did.
Q. And if you would, do you have the VIN number on that Ford Taurus documented in your records?
A. Yes, sir, I do.
Q. Can you just publish that for the record?

A. Yes. 1FALP54N, November, XTA299688.
Q. And that black Ford Taurus, did you recover any -- let me ask you this specifically -- any latex gloves out of that Ford Taurus?
A. Yes, I did.
Q. And how many did you recover?
A. Three.
Q. And if you would, tell the jury where those gloves were located.
A. They were located inside the center console between the two front seats.
Q. And did you document those latex gloves by way of photographing them?
A. Yes, I did.
Q. And showing you State's Exhibit No. 37, do you recognize that photograph?
A. Yes, sir, I do.
Q. And what is contained in State's Exhibit 37?
A. That is a photograph of the gloves in the center console as they were when I located them.
Q. Okay. And let me show you State's Exhibit No. 36, ask you if you recognize State's Exhibit No. 36.
A. I do. This is the evidence bag in which I packaged the gloves after they were removed from the vehicle.
Q. And did you document on that bag, you know, what you

collected and where they were collected and the date and all that?

A. Yes, I did.

MR. SORENSON: Okay. Your Honor, at this time we'd offer State's 36 and 37 into evidence.

THE COURT: Subject to Defendant's objection, so admitted.

(State's Exhibits 36-37 admitted into evidence.)

MR. SORENSON: Thank you, Your Honor.

Q. State's Exhibit No. 37, that, again, is a photograph of the latex gloves?

A. Correct.

Q. And yet again, where is that located in that Taurus?

A. That's in the center console between the two front seats.

Q. You indicated there were three gloves?

A. Yes.

Q. Okay. And State's Exhibit No. 36, are those three gloves in there? You can open that now if you need to.

A. Can I remove them?

Q. Yes, sir.

A. Yes, they are. Those are the gloves that I recovered.

Q. One, two, three latex gloves; is that correct (indicating)?

A. Yes.

Q. And when you collected those latex gloves, you put them on, I guess, 7/2/13 at 12:30 in the morning; is that correct?
A. That is correct. That's the time and date that I removed them from the vehicle.
Q. From the black Ford Taurus. And did you seal them at that point in time in this bag?
A. I did.
Q. And obviously this bag has been opened and is open now, but --
A. Correct.
Q. -- did you have an opportunity to view this evidence bag, this item, a few weeks ago in preparation for court today?
A. Yes. It was a couple weeks ago when I met with you at my place of employment and you presented the bag to me and it was unopened with my initials still across the evidence tape.
Q. So you could tell nobody had tampered with it --
A. No.
Q. -- as of a couple weeks ago?
A. No. My evidence tape was still intact.
Q. Now let me ask you also, in that vehicle, were there any -- was there any forms of ID belonging to the defendant, Tyrone Ellison, that were found in that vehicle?
A. Yes, sir, there were.
Q. And what was that that was found in the vehicle?

A. There was a South Carolina driver's license, No. 100841451, belonging to Mr. Ellison, and there was also a Heritage Trust Federal Credit Union ID card also belonging to Mr. Ellison.

Q. And where were those two ID's of Mr. Ellison found in that Ford Taurus?

A. They were also in the center console.

Q. Same area that the gloves were found?

A. Yes, sir.

MR. SORENSON: Thank you, Mr. Hallman, that's all I have.

THE COURT: Cross-examination.

MR. FALK: One moment, Your Honor.

THE COURT: Yes, sir.

MR. FALK: No questions of the witness.

THE COURT: Sir, you may step down. Thank you.

THE WITNESS: Thank you, Your Honor.

THE COURT: Call your next witness, please.

MR. SORENSON: Thank you. May it please the Court, State calls Detective Jason Monroe.

Is Mr. Hallman excused, Your Honor?

THE COURT: Any objection, Mr. Falk?

MR. FALK: No, Your Honor.

THE COURT: Without objection, sir, you are excused. You have no further responsibilities under your subpoena.

You're free to go. Have a nice day.

THE WITNESS: Thank you, Judge.

CLERK OF COURT: Raise your right hand, state your full name for the record.

THE WITNESS: Philip Jason Monroe.

PHILIP JASON MONROE,

being first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. SORENSON:

Q. Good morning, Detective Monroe.

A. Good morning.

Q. If you would, tell the jury, please, where it is that you're employed.

A. I work for the City of North Charleston Police Department.

Q. And if you would, tell us what you do at the City of North Charleston Police Department.

A. Currently I'm assigned as a white-collar investigator in our criminal investigations division.

Q. And how long have you been with North Charleston?

A. 11 years.

Q. And as part of your duties as a white-collar investigator, do bank robberies fall under the realm of cases that you respond to and then subsequently do the follow-up investigation on?

A. Yes. My unit responds to all bank robberies and works

with the FBI to prosecute.

Q. And specifically turning your attention back to the morning of April 1st of 2013, did you respond to the SunTrust Bank that morning in relation to a bank robbery that had occurred?

A. Yes, I did.

Q. Okay. And tell the jury, if you would, when you responded to the SunTrust that morning, kind of what capacity, what was your role in responding that morning.

A. When the call originally went out, Sergeant Kuechler had identified this bank robbery as being assigned to me, making me the lead detective. When I arrived at 8610 Dorchester Road, the SunTrust Bank, I entered. There was already a couple people inside, investigators, patrolman, that were securing the interior of the bank.

I then directed the other responding detectives to take statements and attempt to gather evidence and assist in any way they could.

Q. And ultimately that morning, were the employees of the bank interviewed by either yourself or other detectives and officers that responded?

A. Yes.

Q. And did you become aware of a witness by the name of David Lewis that had purportedly been involved in a short chase of the alleged getaway vehicle?

A. Yes. Detective Serrudo informed me that Mr. Lewis had given pursuit and was giving his statement.
Q. Okay. Did --
A. And I spoke with him.
Q. Okay. Did you have an opportunity then as the lead investigator to kind of follow up and review that statement given by Mr. Lewis?
A. Yes, I did.
Q. And ultimately then on the morning of April 1st, 2013, within 30 to 45 minutes of the robbery occurring, did you all have a description then that you were looking for of a possible vehicle in this case?
A. I did, yes. Mr. Lewis --
Q. What was -- go ahead. I'm sorry.
A. Mr. Lewis had provided us with a description of an older, four-door, dark green Honda that was seen fleeing the area where the suspect came out of the woods and entered the vehicle. He gave me the partial tag of either 153 or 193, which I then relayed to our crime analysis people, asking for them to start pulling tags.
Q. Did he also indicate what state tag that was?
A. Yes. He said it was a South Carolina tag. He was positive of that.
Q. Now, ultimately, when you were out at the bank that morning, did you all have an opportunity to have some kind

of -- on the scene actually to actually start reviewing some of the still photos from the -- that were sent from the bank's security office?

A. Yes, I did. I had been in contact with Steve Starnes of SunTrust Bank security, who was sending me images via email, also sending images to Mr. Baker's computer inside the -- inside the bank itself. And we were able to watch clips of the video in Mr. Baker's office when they were emailed to us.

Q. Okay. And part of that, did you find in any of those still photographs that were sent to you any that possibly showed that getaway vehicle?

A. Yes, I did.

Q. Okay. I'm showing you State's Exhibit No. 19.

MR. SORENSON: May I approach the witness, Your Honor?

THE COURT: Yes, sir.

Q. Are you familiar with that still photograph?

A. Yes, I am.

Q. And where is that? If you would kind of point the vehicle out that you're referring to.

A. The dark green, right there (indicating).

Q. Right where my finger is right there?

A. Yes, sir.

Q. Okay. And kind of describe for the jury where that is located at in relation to the bank.

A. That is the rear of the bank where the drive-through ATM

and drive-through service lanes are at and the front side of Steel City Pizza in that shopping center in the parking lot between the two.

Q. Is that Steel City over here where my finger is pointing?

A. Yes, it is.

Q. From your investigation, that vehicle, as seen in the back parking lot, matched the description of the vehicle that Mr. Lewis gave to you?

A. Yes, it does.

Q. Now, as part of the stills that you reviewed that morning at the bank, were those also stills that contained possible pictures of the suspect inside the bank?

A. Yes, there were.

Q. Specifically showing you State's Exhibits 27 and 28, ask you if you recognize those items.

A. Yes, I do.

Q. Okay. And what are those two items?

A. Those are pictures of the suspect exiting the bank after committing the robbery.

MR. SORENSON: I believe they're both in evidence. Do you have both of them, Your Honor, in --

THE COURT: Yes, sir. 27 and 28 were admitted by Investigator Kubicsko.

Q. So that morning then out at the bank, you all had

basically this still photo in your possession that morning?
A. I did, yes.
Q. And as a result of having a possible photo of the suspect and at least a description and a possible distant photo of the getaway vehicle, was anything done with that information?
A. Yes, it was -- I passed it up the chain of command. It was disbursed to the rest of the agency to be on the lookout for the green Honda with the partial tag, also the suspect as a light-skinned possible black male that was no longer disguised, because we had found the items.
Q. That was going to be my next question. So obviously, in looking through those still photographs, it appears that the individual has long hair; is that correct?
A. Yes, sir.
Q. Were you aware out there on the scene that State's Exhibit No. 17, this black wig, was found in the woods near the bank?
A. Yes, sir, I was.
Q. And is that consistent with the hair that is seen on the suspect?
A. Yes, sir.
Q. In the bank?
A. Exactly.
Q. Are you also aware that State's Exhibit No. 14, this

visor, was found out there at the scene?
A. Yes, sir.
Q. And yet again, is that consistent with the visor that is being worn by the suspect in the video?
A. Yes, it is, the emblem on the side is exact.
Q. Specifically looking at the -- I guess the right side of the visor, is there something on that, on State's Exhibit No. 14?
A. Yes, there is.
Q. What is that? I mean, the --
A. It's a silver circular design of some sort, metal buckle.
Q. Okay. And looking at State's Exhibit No. 28, is that consistent with appearing to be some sort of emblem in the same spot on the visor in State's Exhibit No. 28?
A. Yes, it is.
Q. And also, were you aware that a gun was found out there at the scene?
A. I was.
Q. In the woods? And yet again, was the gun consistent with the gun that is depicted in the still photographs and the video from the bank?
A. Yes, it is.
Q. And lastly, were you aware that a white latex glove was found also out there in the wooded area in the vicinity of

the visor, the wig and the gun?
A. Yes, I was.
Q. And yet again, in looking back at the still photographs, is that white latex glove depicted in those still photographs in the video from the bank robbery?
A. Yes, it is.
Q. And what is the role that you were able to detect of that white glove in the video and the stills?
A. While reviewing the video, we were able to observe the suspect holding the white latex glove in the palm of his hand over the gun so that the glove was not on the hand, as it should naturally be worn, but more balled up and around the grip of the gun as to prevent skin contact to the gun. And he -- it remained that way until he dropped it at the front door when he was exiting.
Q. Now, Detective Monroe, you had indicated that you had that partial tag and the fact that you were looking for an older, green Honda. Were you ultimately able to, through your investigation and the photographs and all, determine what kind of Honda you were looking for?
A. Yes, I was.
Q. And what was that?
A. We determined that through the photos and researching the automated license plate reading and the SCDMV vehicle database that the vehicle was between a 1999 and a 2001 Honda

Civic. Myself and Sergeant Kuechler went to the Honda dealership and showed exploded -- blown-up pictures of the vehicle from different cameras that we found, and they were able to identify it as such, as a Honda Civic.

Q. Okay.

A. Between those years.

Q. Okay. And so ultimately, during -- you know, the bank robbery happened on April 1st. Over the coming weeks and months, did you all attempt to find an older model, green Honda Civic with a license tag beginning with 153 or 193?

A. Yes, sir, I did.

Q. And were you ever able to, either from just, you know, obviously just being on patrol and having people be on the lookout or through searching DMV databases, were you ever able to find an older model, green Honda Civic that contained a South Carolina license plate beginning with 153 or 193?

A. No, I was not.

Q. Now, Detective Monroe, did you become aware that the defendant, Tyrone Ellison, was taken into custody on July 2nd of 2013?

A. Yes, I was.

Q. And showing you State's Exhibit No. 29, is this a photo that was taken of him that day when he was taken into custody on July 2nd of 2013?

A. Yes, it is.

MR. SORENSON: Okay. Your Honor, at this time we'd offer State's 29 into evidence.

THE COURT: Any objection?

MR. FALK: No objection.

THE COURT: Without objection, State's Exhibit No. 29 admitted into evidence.

(State's Exhibit 29 admitted into evidence.)

Q. So on July 2nd of 2013, this is how Tyrone Ellison looked?

A. Yes, it was.

Q. Obviously, looking at this, there is some injury to his right eye, forehead, kind of going down to his cheekbone area?

A. Yes, sir.

Q. Are you aware, was he involved in a car accident sometime in the proximity to when he was arrested?

A. Yes. On July 1st he was involved in a car accident.

Q. And is that what that injury is a result of?

A. Yes.

Q. Okay. So back on April 1st of 2013, that injury was not on his face at the time the bank robbery occurred?

A. Not that I'm aware of, no, it was not.

Q. And you're aware of, back in July at least of 2013, what the defendant's height and approximate weight and physical build was?

A. Yes, sir.
Q. And tell the jury, please, what that --
A. We estimated from the video and the still photos that he was between 5 foot 7, 5 foot 9, 150 to 160 pounds.
Q. Okay. But what about the defendant? I'm talking about --
A. Oh, yes, he is -- what did I do with it? I don't have his exact -- the DMV printout in front of me.
Q. Okay.
A. Which I did have.
Q. Let me show you State's Exhibit No. 42. And does that indicate his -- at least on his driver's license what his height and weight is?
A. Yes. 5 foot 9 and 160 pounds, and that's the same printout I had.
Q. And from having an opportunity to observe Mr. Ellison, at least back on July 2nd of 2013, I mean, was that consistent with his height and weight when you observed him in July of 2013?
A. Yes, it was.
Q. Hadn't put on a whole lot of weight or anything of that nature?
A. No, he had not.
Q. Let me ask you now, and you kind of referenced looking at the video and kind of doing -- kind of judging, in looking

at the defendant, Tyrone Ellison, in your observations of him and what you're aware of him from photographs and all in July of 2013, is he consistent or inconsistent with the individual that you observed in the bank robbing the bank on April 1st of 2013?

A. He's consistent with the suspect.

Q. Consistent in physical build?

A. Physical build, skin tone.

Q. How about facial hair?

A. The facial hair, yes, sir. The pencil mustache is clearly visible in the still photos.

Q. Okay. And going back to State's Exhibit No. 28, what's depicted kind of -- kind of facial hair that you observe in State's Exhibit 28?

A. He has a skinny mustache on -- and what appears to maybe be a minute amount of chin hair. It's hard to tell from the --

Q. In looking at -- yet again, we have a driver's license photo in State's Exhibit No. 42, any facial hair in the driver's license photo?

A. Yes, there is. Similar mustache and similar chin hair is present.

Q. And then yet again on July 1st or July 2nd, when this photo's taken, what facial hair does he still have on July 2nd?

A. He still has a mustache and small amount of chin hair.
Q. Obviously looking at him here in the courtroom today, similar?
A. Same exact, yes, sir.
Q. The last thing I just want to touch on, Detective Monroe, you were in here when Mr. Hallman testified a few minutes ago, correct?
A. Yes, sir.
Q. You heard when he had testified that when he had an opportunity to review this packaging a few weeks ago, it was still sealed and appeared it had not been tampered with, so nobody had removed a glove or tampered with the items that he placed in here back on the evening, early morning hours of July 2nd?
A. Yes, sir.
Q. Did you actually have an opportunity yesterday to actually open this bag here in the courtroom in front of us all?
A. I did, yes, sir.
Q. Okay. And what was in the -- in this when you opened it yesterday afternoon?
A. Three latex gloves.
Q. Same thing that's in it right now?
A. Same thing that I saw come out of it today.
Q. Same thing as documented on here as having been

collected on July 2nd?

A. Yes, sir.

MR. SORENSON: Beg the Court's indulgence.

THE COURT: Yes, sir.

MR. SORENSON: Thank you, Detective. Please answer any questions Mr. Falk has.

THE COURT: Cross-examination.

CROSS-EXAMINATION BY MR. FALK:

Q. During the course of your investigation, were any other leads as other potential suspects --

A. Yes.

Q. -- uncovered?

A. Yes.

Q. Were there any other leads that came through Crime Stoppers?

A. Yes.

Q. Could you explain which ones those were?

A. We had -- I don't have them directly in front of me. I've noted a couple of them in my synopsis. Crime Stopper tips came in that -- if you'll give me one second, I'll give you the exact information.

That Laquan Reed, also known as Juan, may have been the suspect. He is supposed to be a homosexual gang member of a group of people called the House of Murder. We researched his known associates, where he was at, and found him not to

be a viable suspect.
Q. When you found out that Mr. Reed was a gang suspect, did you refer that information to Detective Ledford?
A. No. I spoke with the supervisor at the gang intelligence unit. He told me that that was not an organized criminal gang; therefore, it had no relevance to their unit.
Q. Did anybody give -- what was the description of Laquan Reed?
A. 5 foot 8, 5 foot 9, 160 pounds; however, he was dark skinned.
Q. Was there any description as to his age?
A. 35 years old.
Q. There's nothing from the photographs that you've identified that would make you think that -- you've had an opportunity to identify Mr. Reed, excuse me. You've had -- when you looked at the photograph --
A. I'm sorry. I wear hearing aids and I can't really hear you.
Q. I totally apologize.
Mr. Ellison doesn't look like a 35-year-old man, does he?
A. Not to me.
Q. Okay. Was there another -- were there any other leads developed?
A. I remember receiving a Crime Stopper tip for another

person, but when I looked it up on the day of the robbery, he was in prison. I just don't have the name in front of me.

Q. Okay. Is it safe to say that once you focused on the car that you didn't follow up on these other leads?

A. No, that's not safe to say.

Q. Who went to speak with the other associates of Mr. Reed, of Laquan Reed?

A. Myself, Sergeant Kuechler.

Q. How many did you speak with?

A. A few. I can't give you the exact number. I don't remember.

Q. Now, when you took -- when you -- in the course of -- we already heard testimony earlier, I believe yesterday, and you were certainly in court that day, that there were no fingerprints that were identified inside the bank?

A. Yes.

Q. That Mr. Ellison's fingerprints were not found inside the bank; is that correct?

A. That is correct.

Q. And so during your course of investigation, did anyone else uncover any fingerprints?

A. No. There were never any fingerprints uncovered during the course of the investigation.

Q. You had said that -- earlier in your testimony you said that the suspect, that the person who came out of the woods

you assumed was a suspect after he had shed his disguise; is that correct?

A. Yes, sir.

Q. And you were here earlier when the K-9 officer searched the area and he said that the items that they found were the wig and the visor, the gun and the glove; is that correct?

A. Yes, sir.

Q. And he didn't say that they found a jacket or a hoodie; is that correct?

A. No, sir.

Q. That certainly is part of the disguise, is that --

A. I would say he was wearing it, so yes, it would be part of his disguise.

Q. Were you here in -- and you were here in court yesterday when Mr. Lewis testified and you heard him testify that the person coming out of the woods was not wearing the jacket and the hood?

A. I heard him say that, yes.

Q. But was there any ever effort to go and find the jacket and the hood?

A. There was.

Q. And what was the result of that?

A. Myself and several other detectives spent two hours in the wood line and in Coosaw Commons walking around, attempting to locate any further evidence.

Q. And since it hasn't been introduced, I assume it was never found?
A. There was nothing else located in that wood line.
Q. Now, Mr. Lewis also testified that he is the only person who saw the person coming out of the woods without the disguise on; is that correct?
A. Yes.
Q. Did you ever have -- did you ever pursue a photo pack identification to see if he could identify the person, since he's the one who saw him without a costume?
A. We did.
Q. Was that ever successful?
A. Negative. No.
Q. So in the course of your investigation, there's nobody who ever identified Mr. Ellison as being the person inside the bank?
A. No.
Q. By facial?
A. No. They all said that they weren't able to because of the disguise.
Q. And certainly Mr. Lewis wasn't able to either then?
A. No.
Q. In addition to Mr. Lewis, did other people have an opportunity to look at a photo pack? For example, I didn't see it in your report. Did Quinn Rustin look?

MR. SORENSON: Your Honor, may we approach.

(Judge and attorneys confer.)

THE COURT: Go ahead, Mr. Falk.

Q. In the photograph there, you identified that it might look like he had chin hair; is that correct?

A. Yes, sir.

Q. But that photograph is pretty blurry, is it not?

A. Yes, it is.

Q. Okay. The only thing that is clear is the thin mustache; is that not correct?

A. Yes.

Q. Have you --

A. In that photo, yes.

Q. Beg your pardon?

A. In that photo that I viewed, yes.

Q. That's certainly not an -- you've had an opportunity to investigate. Would you say that it's certainly not uncommon for African-American men to have a thin mustache like that?

A. I've encountered several of them in my 11 years of law enforcement, yes.

Q. So that's not really a distinctive feature, is it?

A. I would say in this circumstance, based on the evidence at hand, that it is a distinguishing mark, because the disguise conceals all other descriptors except for the skin tone and the facial hair.

MR. FALK: One moment, please.

THE COURT: Yes, sir.

Q. You had testified earlier that there were no fingerprints that identified Mr. Ellison?

A. No.

Q. Were there ever any palm prints or any other print identification that identified other people?

A. There were no IDs made that I'm aware of in this case.

Q. So there were no other IDs. I'm just saying were any other prints of any kind recovered from the bank?

A. I believe they lifted some prints off the counter, but after reviewing the video, it was not where he crossed. It's a bank counter. It's going to have lots of fingerprints on it.

Q. And, again, with Mr. Lewis, he was not able to identify -- he was not close enough to him to be able to identify him when he was chasing the suspect into the woods; is that correct?

A. No.

MR. FALK: I have no further questions.

THE COURT: Any redirect?

MR. SORENSON: Just a couple things, Your Honor.

REDIRECT EXAMINATION BY MR. SORENSON:

Q. Mr. Falk, Detective Monroe, had asked you about a Laquan Reed?

A. Yes, sir.
Q. And you noted that in your report, is that correct, that that information had come in just through Crime Stoppers?
A. I did, yes, sir.
Q. And Crime Stoppers--
A. It was a Crime Stopper that was emailed to me.
Q. And that's just an anonymous tip. I mean, anybody can call in and don't have to leave their name or any information; is that right?
A. Yes, I received several Crime Stopper tips via email. Mostly on a daily basis they come in.
Q. And you had indicated in -- and Mr. Falk had asked you, and I'm just looking at your report, and your report makes it look like you're talking about one person, where I think it kind of came out that maybe you were talking about two, and I just want to clarify that.
A. Yes.
Q. Remember he had asked you if you had gotten a Crime Stopper tip regarding a Laquan Reed, and you'd indicated that yes, it had come in, and kind of what his affiliation allegedly was and all that? Do you recall that line of questioning?
A. Yes, sir.
Q. Okay. And in your report, do you have in here how you eliminated Laquan Reed as a suspect? I'm looking at the

bottom of the -- at least my Page 3. It's under April 4th of your notes.

A. Oh, Laquan Reed is in prison on the date and time of the robbery.

Q. Okay. So he was -- so as it came across, at least I got the impression that you were telling Mr. Falk there were two separate people that you kind of eliminated. Looking at this, it looks like that's Laquan Reed that you -- that's the tip you received, and you eliminated him as a suspect because of the fact that he was incarcerated on April 1st?

A. Yes.

Q. Is that correct? Okay.

And Mr. Falk asked you about showing lineups of Mr. Ellison. And just so I understand, I mean, as far as Tyrone Ellison, prior to July 1st, July 2nd of 2013, did you have any idea who Tyrone Ellison was --

A. I had no clue.

Q. -- in that three-month period of time?

A. I did not.

Q. And yet again, looking through your notes, I mean, did you actually show a lineup of Tyrone Ellison to David Lewis? Because I don't see that noted in here, and that's why I --

A. I did not, no.

Q. Okay. And that's what I want to clarify, because the gist of the questions I got on cross-examination was that he

was unable to identify Tyrone Ellison at a lineup?
A. Yes.
Q. Do you know whether he was shown a lineup of Tyrone Ellison?
A. I do not know that he was shown one. I do not believe -- I did not show him one, nor did one of my investigators.
Q. Okay. So as I said, I was a little confused about that on cross-examination. And yet again, I mean, for a lineup of Tyrone Ellison to have been shown, it theoretically couldn't have been done before sometime in July, so over three months later anyway, right?
A. Yes.
Q. Because he wasn't a suspect or known to you all as a potential suspect prior to that; is that correct?
A. Yes, sir.
MR. SORENSON: That would be all I'd have, Your Honor. Thank you.
THE COURT: Any recross?
RECROSS-EXAMINATION BY MR. FALK:
Q. So in that period between April and July, the only identification characteristics you had for the suspect of the robbery was an African-American male between 5 foot 7 and 5 foot 10, 160 pounds with a thin mustache?
A. You are correct.

Q. Certainly -- would it be -- in your investigation of robberies, would that -- do you think that a lot of people in the North Charleston area would fit that general characteristics?

A. I think there would be a lot, yes.

MR. FALK: Thank you.

THE COURT: Sir, you may step down. Thank you.

THE WITNESS: Thank you.

MR. SORENSON: May I approach, Your Honor?

THE COURT: Yes, Mr. Falk.

(Judge and attorneys confer.)

THE COURT: Ladies and gentlemen, I'm going to ask you to step to the jury room for just a minute. Do not discuss the case. Do not discuss the case. I'll get you back out here as quickly as possible.

(The jury retires to the jury room at 10:30 a.m.)

(Recess held.)

THE COURT: Is the State ready to proceed now?

MR. SORENSON: Yes, sir.

THE COURT: Defense counsel?

MR. FALK: Yes, Your Honor.

THE COURT: Please bring me the jury.

(The jury enters the courtroom at 10:49 a.m.)

THE COURT: At this time I am going to recognize the State. All the jurors are back in the courtroom. Call your

next witness, please.

MR. SORENSON: Thank you. The State calls Terry Blanks.

CLERK OF COURT: Please place your left hand on the Bible, raise your right hand and state your full name for the record.

THE WITNESS: Terry Elizabeth Blanks.

TERRY BLANKS,

being first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. SORENSON:

Q. Good morning, Ms. Blanks.

A. Good morning.

Q. If you would, please tell us where it is that you're employed.

A. GEICO Insurance Company.

Q. And where is your office located at?

A. Makin, Georgia.

Q. And how long have you been employed with GEICO?

A. 30 years.

Q. Okay. If you would, tell the jury what your current duties and responsibilities are with GEICO.

A. I'm the compliance analyst. One of the things that I do is prepare documents from subpoenas or any type of investigation. I also make sure that our procedures are correct with state laws, regulations.

Q. And so therefore, if somebody were to subpoena some

records for court, you would be the person that would supply those records?

A. Yes.

Q. And then also if -- as today, if a records custodian is needed in court, would you typically be the person then that would come testify?

A. Yes.

Q. And are records regarding vehicles insured with GEICO, are they kept during the regular and ordinary course of business with GEICO?

A. Yes.

Q. And ultimately, Ms. Blanks, were you requested, through a subpoena from the State, to provide some records pertaining to your Policy 4286108024?

A. Yes.

Q. And I'm going to show you what's been marked as State's 38.

Let me show you --

MR. SORENSON: If I could, may I approach the witness, Your Honor?

THE COURT: Yes, sir.

Q. Let me show you State's Exhibit 38. Do you recognize that document?

A. Yes, sir.

Q. And were those the records that you provided to us

regarding that policy number that I just indicated a moment ago?
A. Yes, sir.
Q. And those are kept in the regular course of business by GEICO?
A. Yes, sir.
Q. And I guess is it the regular practice of GEICO in insuring a vehicle to keep reports and records such as these?
A. Yes, sir.
MR. SORENSON: Your Honor, at this time we'd offer State's 38 into evidence.
THE COURT: Any objection?
MR. FALK: No objection.
THE COURT: Without objection, State's Exhibit 38 admitted in evidence.
(State's Exhibit 38 admitted into evidence.)
Q. And, Ms. Blanks, if you would, tell the jury who is the policy owner for those records that you have before you, State's Exhibit 38?
A. Tyrone Darius Ellison.
Q. And what is Mr. Ellison's address that you had on file for him back during that time period?
A. , Summerville, South Carolina 29485.
Q. And let me ask you, do those documents that you have

before you show what vehicles Mr. Ellison had insured through GEICO from the period the end of calendar year 2012 through 2013?

A. Yes.

Q. All right. And specifically, if we could kind of go through those records, was there an insurance policy issued to Mr. Ellison back on October 31st of 2012?

A. Yes. That's when his policy was effective.

Q. Okay. And what was the initial vehicle that was insured by Mr. Ellison?

A. A 2002 Hyundai Elantra.

Q. And do you have on that Hyundai Elantra -- bear with me one second.

Do you have a VIN number on that Hyundai Elantra?

A. Yes.

Q. And could you publish that for the jury?

A. KMHDN45D22U363994.

Q. And showing you State's Exhibit No. 40, this is a vehicle plate history that was introduced into evidence yesterday for a plate 1533 FX. Is that the same VIN number that's located on that document?

A. Yes, it is.

Q. I believe you indicated that policy was effective, I'd asked you, October 31, 2012?

A. Yes, sir.

Q. Okay. And did Mr. Ellison subsequently, at some point in time, insure another vehicle with GEICO?
A. Yes.
Q. And when was that policy issued?
A. March 24, 2013.
Q. Okay. Let me ask you if -- with GEICO, typically is it done over the phone, calling a representative over the telephone?
A. It can be over the phone or on the Internet.
Q. And if I were to either go online or to call your number on the telephone today and ask, you know, that I wanted to insure a vehicle with you, when then would that insurance become effective posting on the paperwork you have?
A. The coverage would be bound or deleted from the date or time of the phone call or the time that it goes on the Internet, but all insurance policies will show the effective separation date as of 12:01 a.m. the next working day.
Q. So if on your paperwork you've got that policy as being issued on March 24th of 2013, what date would that mean that you all were actually contacted to have that policy in effect?
A. March 23rd.
Q. And yet again, what -- and I'm not sure if I got to this part or not, what was the vehicle then on March 23rd, effective March 24th of 2013, what kind of vehicle was

insured by GEICO for Mr. Ellison?
A. A 2000 Honda Civic.
Q. Okay. And do you have the VIN number on that Honda Civic?
A. Yes.
Q. And could you publish that for the Court?
A. 2HGEJ6614YH538330.
Q. And did that -- at the time then that that Honda Civic was insured effective March 24, 2013, did you all still have the Hyundai Elantra insured for Mr. Ellison?
A. No, it was removed.
Q. And if I could also, just like I did a moment ago, let me show you State's Exhibit No. 39, which is in evidence, which is a South Carolina Department of Motor Vehicles bill of sale. As you just published that VIN number for the Honda Civic that you insured, let me ask you --
MR. SORENSON: May I approach the witness, Your Honor? I apologize.
THE COURT: Yes.
Q. Is that the same VIN number that is located on State's Exhibit No. 39?
A. Yes, it is.
Q. Now, that policy that was issued on March 24th or was effective March 24th of 2013 for the Honda Civic, was that policy at some point in time renewed?

A. It was.
Q. And when was it renewed?
A. March 28.
Q. So essentially four days later. I mean, is that just how your -- I guess your policy cycle goes --
A. Yes.
Q. -- that it would have? Okay.
And so on March 28th of 2013, tell the jury with regards to that 2000 Honda Civic kind of what happened with regards to that policy, that GEICO policy.
A. The policy was offered for renewal for May 1st, 2013 through November 1st of 2013.
Q. All right. Now, let me ask you this, at some point in time prior to May 1st, was that policy on that Honda Civic canceled?
A. Yes.
Q. And when was that that it was canceled?
A. It was canceled effective April the 11th.
Q. And if it was effective April 11th, then when would you all have been notified to cancel that policy?
A. April 10.
Q. And then so effective April 11, did Mr. Ellison have a vehicle that was insured by GEICO?
A. No.
Q. On April 11th?

A. No.
Q. Now, subsequent to that did there come a time when he did, in fact, have another vehicle insured by GEICO?
A. Yes.
Q. And when did that occur and what was that vehicle?
A. The policy was reissued on April 16th to be effective April 17th for a 1996 Ford Taurus.
Q. And at the time then that that Ford Taurus, insurance on that Ford Taurus was issued, effective April 17th I think you said; is that correct?
A. Yes, sir.
Q. Was the Honda Civic then had been removed from the policy a week prior?
A. Yes.
Q. And I guess my final question, Ms. Blanks, in the records that you provided that you have testified about today, back on April 1st of 2013, what was the only vehicle that GEICO had insured for Tyrone Darius Ellison on April 1st of 2013?
A. The 2000 Honda Civic.
MR. SORENSON: Beg the Court's indulgence.
THE COURT: Yes, sir.
MR. SORENSON: Thank you, Ms. Blanks. Please answer any questions Mr. Falk has.
THE COURT: Cross-examination.

CROSS-EXAMINATION BY MR. FALK:

Q. If I called up GEICO and said I wanted to buy a month's worth of insurance, is that possible?

A. We do not write short-term policies. We'll write a policy for a six-month period.

Q. And so always -- anytime you buy an insurance policy through GEICO, it's going to show a coverage period of six months?

A. Correct.

Q. If there was a transfer of ownership of a car, if somebody was driving a car and the title hadn't been transferred, would it still be covered? Let's say somebody bought insurance from GEICO.

A. Yes, sir.

Q. And lent the car to somebody else, two weeks later lent the car to somebody else, and there was an accident. Would GEICO still have liability for the accident?

A. It would depend on whether there was a bill of sale of the vehicle or on the vehicle.

Q. So bill of sale would be the thing that would trigger GEICO no longer having liability?

A. Correct.

Q. So the person who was still on the bill of sale, so any -- so if I bought a policy with GEICO, and until my name showed up on a bill of sale showing that it had been sold to

somebody else, it's still covered by GEICO; is that correct?
A. Say that one more time.
Q. I know. It was a bad question. I apologize.
The bill of sale is what triggers -- the bill of sale is what triggers GEICO no longer being responsible for the car?
A. Yes.
Q. Okay. And if I called you up and said, "Look, I sold that car," you would still wait till you had the bill of sale, would you not?
A. We would not. We would go ahead -- if the policy owner calls and says, "I want to cancel the policy. I sold the vehicle," we would cancel the policy for the next day.
MR. FALK: No further questions.
THE COURT: Anything further, Mr. Sorenson?
MR. SORENSON: No, Your Honor.
THE COURT: Ma'am, you may step down. Thank you.
MR. SORENSON: May she be excused, Your Honor?
THE COURT: Any objection?
MR. FALK: No objection.
THE COURT: Ma'am, you are excused. You're free to go. You have no further responsibility under your subpoena. Thank you for being here.
Call your next witness.
MR. SORENSON: Your Honor, at this time the State would rest.

THE COURT: All right. Ladies and gentlemen, the State has rested its case, and there are, at this time, some matters of law that I need to take up outside of your presence. I'm going to ask you to step to the jury room while I take up these matters. Do not, do not discuss the case. I'll get you back out here as quickly as possible. Please go to the jury room.

(The jury retires to the jury room at 11:03 a.m.)

THE COURT: I want to make this clarification on the record: When Investigator Monroe was on the stand, he was questioned concerning Exhibits 27 and 28, and Mr. Sorenson inquired as to whether or not those exhibits had been admitted into evidence, and the Court indicated that they had been admitted into evidence through Lisa, Investigator Lisa Kubicsko.

Going back and looking at my notes, it appears that 28 was admitted through Investigator Kubicsko, while 27 was admitted through Quinn Rustin.

MR. SORENSON: That would be --

THE COURT: I just wanted to make that clarification. They were admitted into evidence. I just misspoke in stating that both of them were through Kubicsko, when, in fact, 27 was admitted through Mr. Rustin -- excuse me, Ms. Quinn Rustin, and 28 was through Investigator Kubicsko.

Anything else?

MR. SORENSON: No, sir.

THE COURT: All right. Anything at this time, Mr. Falk?

MR. FALK: Your Honor, my client would move for a directed verdict at this time.

THE COURT: Anything by way of argument?

MR. FALK: Yes, Your Honor, we think that the State's case has some -- that the State has been unable to prove the identity of -- the State has certainly done a very good job of proving that the bank was robbed on April 1st, but there is significant questions in the testimony regarding whether or not my client is the person who robbed the bank on that day.

We think that the testimony is speculative and it's going to cause the jury to draw some conclusions that aren't necessarily fair, and, therefore, we think that directed verdict would be proper.

THE COURT: All right. Mr. Sorenson, anything in response?

MR. SORENSON: Real briefly, Your Honor.

Obviously, as Your Honor's aware, I think the standard at this point in time is looking at things in the light most favorable to the State. And I'm not sure if Your Honor's -- how close you've seen them, but obviously there's stills and the video that I know you've seen the video up there on your screen that it would be our position is very consistent with

what you see of the suspect's face with the defendant, consistent with his driver's license photo, his booking photo from three months later and even him sitting in the courtroom today.

There are items that are apparent on the video that are found in the woods where the suspect ran to where the State has put up testimony that the defendant's DNA was found on three of those items, 1 in 2.2 quintillion probability that he's the major contributor on the DNA.

Additionally, there's a description of the getaway vehicle used that I think we have linked through records and evidence that we can put the defendant in possession of that type of vehicle with access to a license tag matching the partial tag given by the witness on April 1st of 2013. I think in the light of all that, it clearly makes this a jury issue, Your Honor.

THE COURT: Under the law and looking at the evidence in the light most favorable to the State, the Court is respectfully denying defendant's motion for a directed verdict. The trial Court is concerned with the existence or nonexistence of evidence, not its weight. Certainly there is existence of evidence of guilt of the defendant.

Furthermore, if there is any direct evidence, direct evidence or any substantial circumstantial evidence, the Court is required to submit the case to the jury.

Furthermore, if there is evidence, proof-positive facts and circumstances which reasonably tend to prove the guilt of the accused, the matter of the case should be submitted to the jury. This evidence that's been presented by the State certainly raises more than a suspicion of guilt; therefore, the Court believes that it will be appropriate under the law to submit the case to the jury for them to determine whether or not the defendant is guilty of the crimes for which he is charged.

Anything further at this time, Mr. Sorenson?

MR. SORENSON: Not from the State, Your Honor, no, sir.

THE COURT: Defense counsel? Anything further at this time?

MR. FALK: Not at this time, Your Honor.

THE COURT: All right. What I am going to do, yesterday before we broke for the day, I advised the defendant of his rights, those rights being -- concerning his right to testify and to present a defense.

Sir, if you would stand again, Mr. Ellison.

Madam Clerk, if you'd place him under oath once again, please.

CLERK OF COURT: Please raise your right hand, state your full name for the record.

THE DEFENDANT: Tyrone Darius Ellison.

TYRONE DARIUS ELLISON,

being first duly sworn, testified as follows:

THE COURT: Mr. Ellison, I advised you of your rights yesterday before we broke and wanted to give you the overnight break to consider the rights that I explained to you yesterday. What I am going to do is I am going to go over those rights once again with you, once again with you.

Now, we have now reached the stage of the trial where you may present your defense. You have the right to claim the protections given to you by the Fifth Amendment to the United States Constitution, and that amendment states in part that no person, no person shall be compelled in any criminal case to be a witness against himself.

This means that you cannot be required to testify. You have the right to testify on your own behalf; however, no one can make you testify. This is a personal right and no one can waive this right except you. If you decide to testify, you will be subject to the same rules that govern other witnesses and you may be examined and cross-examined on any relevant issue in this case.

In addition, if you have any convictions involving dishonesty or false statement or for crimes punishable by imprisonment for more than a year and this Court determines that the prohibitive value of admitting this evidence outweighs its prejudicial effect to you, the solicitor will be able to introduce your record to attack your credibility.

If you decide to testify, this decision on your part must be freely, voluntarily and intelligently made with knowledge of the protections given to you by the Fifth Amendment and the consequences of your decision to testify.

If you decide not to testify, I will instruct the jurors that they cannot, that they cannot give the fact that you did not testify any consideration whatsoever. Furthermore, and that there is to be absolutely no prejudice to you because you did not testify.

Now, whether or not you testify is left entirely up to you. You may talk with your attorney, as I told you yesterday, your family, your friends or anyone else, but the final decision as to whether or not you testify is left entirely up to you. Do you understand what I have explained to you?

THE DEFENDANT: Yes.

THE COURT: Do you have any questions about what I've explained to you?

THE DEFENDANT: No.

THE COURT: Have you discussed with your attorney whether or not you should testify?

THE DEFENDANT: Yes.

THE COURT: Do you need any more time to talk with your attorney about whether or not you should testify.

THE DEFENDANT: No.

THE COURT: Do you wish to testify in the trial of your case?

THE DEFENDANT: No.

THE COURT: All right. Anything further from the State at this time?

Sir, you may be seated.

MR. SORENSON: Not from the State, Your Honor, no.

THE COURT: Mr. Falk, anything further?

MR. FALK: He had said that he didn't want to testify --

THE COURT: Could you stand up, please.

MR. FALK: I'm sorry, Your Honor.

THE COURT: That's okay.

MR. FALK: My client said that he didn't want -- that he was exercising his right not to testify, just -- I'm not sure if he understood that his parents were here if he just wanted to -- one last.

THE COURT: I'll give him an opportunity to talk with his parents. Do you want to talk with your parents, Mr. Ellison, before you make that final decision?

THE WITNESS: Sure.

THE COURT: As I told you before now, you can talk to whoever you so desire, all right, whether it be your family, your friends, your lawyer or whoever, but the ultimate decision is up to you, is up to you, whether or not you testify. Do you understand that?

THE DEFENDANT: Yes, sir.

THE COURT: Do you need any more time to talk to your family or anybody?

THE DEFENDANT: Yes, sir.

THE COURT: All right. We'll stand down for just a few minutes. I'll let you talk with your family, but, again, that final decision is up to you. All right.

We'll stand at ease for just a minute.

(Recess held.)

THE COURT: All right. We stood down for a minute for Mr. Ellison to talk with his family.

Mr. Ellison, did you have a chance to talk with your family?

THE DEFENDANT: Yes, sir.

THE COURT: Do you need any more -- stand, please, sir. Do you need any more time to talk to anybody?

THE DEFENDANT: No, sir.

THE COURT: Do you wish to testify in the trial of your case?

THE DEFENDANT: No, sir.

THE COURT: Anything further at this time, Mr. Falk?

MR. FALK: No, sir.

THE COURT: What I'm going to do at this time, I'm going to bring the jury out. I'm going to recognize defense counsel for you to present whatever case you so desire.

MR. FALK: Thank you.

THE COURT: And we'll proceed at that time.

Anything further from the State before we bring the jury back out?

MR. SORENSON: No, Your Honor.

THE COURT: Please bring me the jury.

(The jury enters the courtroom at 11:38 a.m.)

THE COURT: Mr. Foreman, ladies and gentlemen of the jury, at this time I am going to recognize defense counsel.

Mr. Falk, you're so recognized.

MR. FALK: Thank you, Your Honor. At this time we'd like to call Annette McKinney to the stand.

THE COURT: All right. Somebody get her, please.

CLERK OF COURT: Please place your left hand on the Bible, raise your right hand and state your full name for the record.

THE WITNESS: Annette McKinney.

ANNETTE MCKINNEY,

being first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. FALK:

Q. Ms. McKinney, could you please state your relationship to Mr. Ellison.

A. I'm his mother.

Q. And what is your current occupation?

A. I'm a 26-year-old -- 26-year, excuse me, civil service

worker and a 19-year vet for the US Airforce.
Q. For?
A. The US Airforce.
Q. Could you say that again?
A. I've been working civil service 26 years, and I'm also part-time, excuse me, in the reserves for 19 years.
Q. Okay. Thank you.
Did you ever live near the intersection of Dorchester Road and Club Course Drive? Did you ever live in the Coosaw Creek subdivision?
A. Yes, sir.
Q. When was that?
A. Between 2005 and 2007 before I bought my current house.
Q. Okay. Thank you.
Now, did you ever have an opportunity to buy a car for your son?
A. Yes, sir.
Q. And can you tell me what car you purchased for him?
A. I purchased a Honda Accord -- a Honda Civic.
Q. Okay. And do you know about what time of -- what time of year or what day that was that you purchased it?
A. It was last year. It was March the 23rd.
Q. Okay. And how do you remember that date?
A. Because of the paperwork that we had when we filled it out that day at my kitchen table with the car dealer that

came along.
Q. And how did that car get into your possession?
A. A friend of mine who I used to work with, he knows --
Q. Excuse me. How did that car get delivered to you?
A. It was brought by the car dealer on a flat bed.
Q. Okay. And how did you go about finding that car?
A. Through a friend of mine who knows the car salesman who buys cars from auctions.
Q. Okay. What was your goal in purchasing the car?
A. For my son to get back and forth to work.
Q. At that time do you recall where he was working?
A. At Burger King.
Q. Do you know, there's been some testimony that the car -- do you know if he ever sold the car?
A. Yes, he did.
Q. And do you know about what time of year he sold that car?
A. He sold it last year when he purchased the car.
Q. How close to when the car was delivered to your house was it -- I mean, so the car showed up to your house on March 23rd; is that correct?
A. Yes.
Q. Okay. And did you ever see the car after that day?
A. Not after that Saturday, that was on a Saturday, no, sir.

Q. Okay. Now, at this time where was Mr. Ellison living?
A. He was at my house.
Q. Okay. Did he spend every night at your house?
A. Not every night. He's an adult. He had a girlfriend. Sometimes he stayed at her house.
Q. Okay. When did you find out about approximately when he no longer had the car?
A. The following Monday, which was the 25th, that afternoon.
Q. And how did you come about finding out?
A. Well, I came home from work, I opened the door and maybe around, I want to say -- I'm not exactly sure of the time, but I got off work at 3:30, so maybe around 5:00, he pulls up. His girlfriend is driving, and he gets out the passenger side and I meet him at the door and first thing I said is, "Where is your car?"
Q. And based on his -- without telling me what his response is, but based on his response, did you think he still had the car?
A. No.
Q. What was your reaction to that?
A. I was upset.
Q. Why were you upset?
A. Because I had just purchased the car two days ago or three days ago, and he didn't have it in his possession.

Q. So your son was working at the time, wasn't he?
A. Yes.
Q. So how was he getting back and forth to work?
A. Well, his girlfriend, she wasn't working and she would take him. I worked at the Air Force base directly across the street from the Burger King. I had to be at work at 7. I would drop him off, which I had to get up a little bit early, take him and then go to work. So between that and him bumming rides and his girlfriend bringing him back and forth, that's how he got back and forth at home.
Q. Did he ever explain to you why he turned away having a free car?
A. He said he wished I had talked to him first. He was looking at another car on Craigslist.
Q. What kind of car was that?
A. It was a 19 -- between a 1997 or a 1999 Ford Taurus SHO.
Q. Okay. Did he ever tell you why he wanted one car versus the other?
A. Well, he never said he wanted the green car, but as his mother, he had another car that broke down and was sitting in our driveway, and I had a chance to let the car dealer take that car with him and give me the Honda. And I thought when I showed him the Honda, it wasn't a nice-looking car, but to me, as a mother, it will get you to Point A to Point B.
Q. Okay. Did you ever try and get auto insurance on the

car?
A. On the Honda?
Q. On the Honda.
A. Yes, sir.
Q. And what day was that?
A. The same day that I purchased the vehicle, I called GEICO the same day, and they emailed me or faxed me the insurance card, but it didn't go into effect, they said, until 24 hours.
Q. You said that a couple days later, though, you were aware that your son no longer had that car; is that correct?
A. Correct.
Q. Why did you not cancel the insurance?
A. Because he hadn't even gotten paid for the car, and, in my knowledge, the paperwork was still at the house. So I said -- he said, well, he's supposed to be getting the money for the car in a week, and I was like, "Well, this car is your responsibility until you get the money for it," so I didn't cancel the insurance.
Q. Okay. And let me just caution you, please don't try and tell me anything that he said.
A. I'm sorry. Okay, I'm sorry.
Q. Okay. And so your concern was the canceled -- you had a concern about cancelling the policy until you knew it was no longer your car, I guess?

A. Yes.
Q. Okay. And how did you find the Civic?
A. I called a friend of mine I used to work with, and he knows a person who buys cars from auctions, and I just said, you know, "If you could find me a cheap car, my son's car broke down and he's bumming rides back and forth."

And he said, "Let me ask my friend whose name is Mr. Marion."

And a day or so he called me back and said, "Well, he just purchased a Honda." And he said, "It's not a looker, but it's got a good" --
Q. Again, please --
A. I'm sorry.
Q. Thank you.
A. Sorry.
Q. I'm sorry. So we were talking about Mr. Marion. How did you get in touch with Mr. Marion? Who was that?
A. Through my friend, Mr. Woods, who knows him.
Q. Did you ever have any subsequent conversations with Mr. Woods about the car?
A. Yes.
Q. Can you tell me what you told him?
A. I told him a couple days later that "You're not going to believe that the car you just helped me get for my son is gone. He sold it."

Q. You were frustrated at the time?
A. Oh, yes.
Q. And I'm not sure if you said this earlier, but what is your address?
A. My current address?
Q. Your current address.
A. It's . Summerville.
Q. Okay. Where does -- during April of 2013, where was your son getting his mail?
A. At my residence.
Q. Okay. Has your son ever gone to college?
A. He applied to go to college; he didn't physically go.
Q. Okay. Do you know what plans he had made for paying for college?
A. First he was going to go through for financial aid, and then that was his main plan.
Q. Had you ever made any savings for his college?
A. Yes, I did.
Q. Can you tell me about how much money you had set aside?
A. I set aside for the -- for the -- well, I meant to say the last three years. It was the three years prior to him becoming an adult, I set aside $800 a month, which was $9600 I had a year put aside in a separate bank account, and I said to myself, he ever decides to go to school, I would be able to afford him that opportunity.

Q. Did you ever transfer that money to him?
A. I transferred 20,000. I had more than that at the time in my account, but I only transferred 25,000 into his account, I mean, excuse me, 20,000. I had more than 20, but 20,000 I transferred into his account.
Q. When you say "his account," was that one that you all were on jointly?
A. No, it was his account separately.
Q. Okay. When you say "transferred," was that --
A. It was a wire transfer to his account from mine.
Q. Do you know what bank you would transfer the money to?
A. USAA.
MR. FALK: Okay. May I approach the witness?
THE COURT: Yes.
(Defendant's Exhibit 4 marked for identification.)
MR. FALK: Let me ask a few more questions.
Q. After you put the money into his account, were you ever concerned that he was going to go and blow the money on a car or something?
A. No.
Q. When his -- so where did he get the bank statements for that account?
A. To my residence.
Q. Did you ever open up his mail?
A. Yes.

Q. Which mail did you open up?
A. I opened up his bills and maybe the bills that come from car tax, that kind of stuff, anything bill related.
Q. Did you open up his bank statements?
A. Yes.
Q. When you opened up his bank statements, did you ever look at it to see if the money that you had put there was still there?
A. I did check the balance.
Q. At any time before April 1st, so in March of 2013, do you think you looked at his bank statement?
A. Yes, I looked at it every month.
Q. And so then you also looked at it in April and May?
A. Yes.
Q. And your purpose of looking at the bank statement was what?
A. Just to monitor the account.
Q. Okay. And in the course of your monitoring his account, did you ever have reason to believe that he had spent that money?
A. No.
Q. So did you ever have any reason to believe that on April 1st, 2013 he no longer had $20,000 in his account, plus or minus?
A. It was still in there April of 2013.

Q. Thank you.

Now, you had testified that you were opening up his -- I think you testified that you opened up some of his mail. I think you testified that maybe car tax bills, and you already testified that you opened up his bank statements; is that correct?

A. Yes, sir.

Q. Okay. Did you ever have any discussions with him about his credit, his credit history?

A. Yes, I did.

Q. And what were your discussions about that?

A. Well, I was trying to explain to him, you know, as he was getting, you know, older, I said -- because he had mentioned before about maybe buying -- you know, getting his own place one day, buying furniture. And I said, "Well, let me tell you about credit."

It was never -- when I was a child, it was never discussed with me, so I always try and let him know, in my opinion, it's not like you have money you can go ahead and do something -- anything you want to do, you're basically a number, and that number is your credit score, especially for his day and time.

I mean, coming up, not so bad, but this generation, try to be responsible and pay your bills and you can get anything you want without having to pay for it up front. You can get,

you know, credit.

And he didn't, you know, really understand the gist of it, but I did go over that with him, because it was never done -- did to me with my parents. They paid cash for everything.

Q. Do you know if he ever opened up any accounts?

A. Did I open up any accounts?

Q. Do you know if he ever opened up any --

A. Yes, he opened --

Q. Just --

A. Yes, I did.

Q. Okay. And how did you know that he had opened up accounts?

A. Because the statement came to the house.

Q. And those statements were addressed to him?

A. Yes.

Q. And where were those statements mailed?

A. They were mailed to the Carrington Court, where I live at.

Q. Okay. And what was your purpose for -- I mean, you explained your purpose for opening up his statements, his bank statements because you kind of wanted to make sure that your money was still there?

A. Mm-hmm.

Q. Right?

A. Yes.
Q. And what was your purpose in opening up his credit card statements?
A. To make sure the -- at least the minimum monthly balance was paid each month.
Q. And were you opening up every credit card statement?
A. Yes.
Q. Do you know if he had -- do you know specifically what credit cards he may have had?
A. I know he had American Express, maybe a gas card, something -- I'm not sure everything, but I do know American Express definitely.
Q. So how do you know it was an American Express card?
A. I have American Express card. I know what they look like.
Q. Okay.
A. I know he had an American Express card. I've seen the card.
Q. You saw the card?
A. Yes.
Q. Okay. And did you have an opportunity to look at his American Express cards?
A. Yes.
Q. And is this a card that you opened for him, this American Express account?

A. No. He went on -- he would get preapproved offers in the mail sometimes, because if I can explain, when he was 16 years old, I talked to a credit counselor, and I was advised that at 16, if I put him on as an authorized user on some of my accounts, it would help as he got older to build a credit score starting up starting at 16, which he never -- I never gave him the card, but that's pretty much primary at an age that he was -- he was getting preapproved offers, because he kind of like had a small history based on being an authorized user on some of my accounts at 16.

Q. Do you know whether or not in March and April of 2013 he had the American Express card?

A. Yes, he had it.

Q. And you said that you looked at his bills. Did you ever have any concerns about that he was keeping current with his American Express card?

A. No, the bill never stayed high, so the payments would always reflect that they were paid on time.

Q. Thank you.

Did you ever come in -- were you ever informed sometime around July of 2013 that your son was in an automobile accident?

A. Yes.

Q. And can you tell me what day that was?

A. July 1st.

Q. Okay. And when did you -- how did you find out?
A. The police came to my house and told me.
Q. Did they tell you where your son was?
A. No.
Q. What did they tell you -- specifically what did they tell you about the accident? Did they say it was a fender bender?
A. No. They -- they came to my house and told me -- first they asked me is my son named Tyrone Ellison. I said "yes."
And they said that there's been an accident.
And, you know, as a mother I was like, "What?"
And they said, "Yes, it's a bad accident." Car, I think hit -- ran into a tree and there was a lot of blood in the car and they don't think anybody could have survived it.
Q. Okay. After you got that news, when did you first see your son?
A. Maybe the next day or two days later.
Q. Okay. Did you ever -- was that in a hospital?
A. No. It was at the -- it was County Hall, I believe, on -- off of Mall Drive. It was at a police station.
MR. FALK: I have no further questions. Please answer Mr. Sorenson's questions.
THE COURT: Cross-examination.
MR. SORENSON: Thank you, Your Honor. May it please the Court.

CROSS-EXAMINATION BY MR. SORENSON:

Q. Good morning, Ms. McKinney.

A. Good morning.

Q. My name is Don Sorenson. I think we've probably seen each other a few times, so I'm not sure we've ever actually met; is that correct?

A. Yes, sir.

Q. I just have a few things I want to go over with what you testified about with Mr. Falk.

Back in April of 2013 you were living at -- I think the address you gave was 5048 Carrington Court; is that correct?

A. Yes, sir.

Q. And that's located in the Wescott Plantation subdivision?

A. Yes, sir.

Q. And I believe you testified that was your son's, I guess, physical address where he got his mail, but he wasn't staying there all the time?

A. Not every single night, sir.

Q. But he obviously was, had lived at that residence with you and was familiar with that area; is that correct?

A. Yes, sir.

Q. And you had testified that at one point in time several years back, you had actually lived in Coosaw Creek; is that correct?

A. Yes, sir.
Q. Did he live with you when you lived there?
A. He was in high school, yes, sir.
Q. Okay. So yet again, familiar with that intersection of not only Dorchester Road and Club Course Drive but kind of the back way that you can go if you're at -- you're familiar with where, like, Steel City Pizza is?
A. Well, that wasn't there in 2005.
Q. That's right. I guess a lot of that is new, but he --
A. Yes, it is.
Q. But back in 2013 when you were living in Wescott, Mr. Ellison would have been -- your son -- aware of kind of that back way to get into Wescott Plantation going down Patriot Boulevard; is that correct?
A. There's a lot of ways to get in Wescott.
Q. Let me ask you this: How old is your son?
A. He turned 25 August 22nd.
Q. So back at the time of this bank robbery, he was 23 and not quite 24 years old, is that correct, in April of 2013?
A. Yes, sir, that would be correct.
Q. And it's your testimony, during that period of time, your 23-year-old son was living off and on with you; is that correct?
A. Yes, sir.
Q. All right. And basically, it sounds like from your

testimony, I mean, you were pretty much keeping up with all of his financial bank statements, credit card statements that you were opening and keeping up with all of that stuff for your 23-year-old son; is that correct?

A. I was looking at it, yes, I was.

Q. And let me talk about this money that you say that you set aside for your son. You've testified to the jury that you had transferred about $20,000 into an account belonging -- that was in your son Tyrone Ellison's name; is that correct?

A. Yes.

Q. All right. And that occurred, I guess, sometime in March maybe or somewhere prior to March?

A. I believe it was -- I think -- I believe it was December of 2012. It wasn't the month before; it was months before April that the money had been in there.

Q. Okay. And the fact of the matter, Ms. McKinney, is while you had put that money in that account in his name, he didn't know it was there; is that correct?

A. He eventually knew it was there. He didn't know the day I transferred it, no.

Q. He eventually knew it was there when you told him a couple months ago talking to him on the telephone; is that correct?

A. I don't recall what the conversation could have been

about. I'm sure that at one point in time we did discuss the money being in his account.

Q. And the fact of the matter, Ms. McKinney, is -- and honestly, Mr. Falk has told the jury this, your son was arrested back on July 2nd, and he's been at the detention center since then; is that correct?

A. Yes.

Q. And you have an opportunity, I guess, to probably visit him occasionally but also to talk to him on the phone almost every day; is that correct?

A. Yes, it is.

Q. Let me ask you this: Do you recall back on July 28th of this year, of 2014, having a phone conversation with your son where you told him that "There's $20,000 in your savings account that I had put there that you didn't know I had put there. I put it there last year in March, money you didn't have access to. They don't know if you have access to it or not."

Do you remember talking to your son and telling him that you had just discovered that, recalled that you put that money in the bank and were thankful that you found that because now he would be able to try to use that as an argument, "Why would I rob a bank if I had $20,000 in the bank?" But the fact of the matter is, he didn't know it was there on April 1st of 2013; is that correct?

A. I would -- I know me and my son probably had several conversations. Like I said, it's been over a year that he's been there, and I'm sure we discussed certain things, and that could have been one of them. I'm not 100 percent sure.

We did discuss -- I know we did discuss, go over his case, of course, and we did discuss items that -- you know, we did discuss money, maybe, and other things, but it wasn't for him to use as any type of an alibi, because the money was there before he was arrested.

Q. Okay. Then you had another conversation with him actually during that same conversation where you made the -- where you made the statement to him that "That was your own money. They don't know if that was yours or not. I put that money in your account to get it from my account. My name ain't on that account at USA Bank. All they know is you got $20,000 in your account."

Yet again, under the same conversation, you're telling him for the first time that, "Guess what I discovered? Aren't we lucky? I just so happened to put money into your account prior to this bank robbery."

A. That was not the first time that I was telling him, maybe on the phone during that police conversation or on that phone -- taped phone conversation could have been the first time that I mentioned it during the phone conversation, but that's not the first time I mentioned that he had $20,000 in

his account.
Q. Okay. Let me ask you this, and I have got the calls. I mean, we can take a break and you can listen to them, if that would help refresh your memory --
A. I'm not denying that --
THE COURT: Hold on a minute.
THE WITNESS: I'm sorry, sir.
THE COURT: Hold on a minute. Let him finish his statement or question.
THE WITNESS: Okay, sir.
THE COURT: And then you answer.
Same goes, let her finish before you proceed --
MR. SORENSON: Yes, Your Honor.
THE COURT: -- with any further questioning.
THE WITNESS: Yes, Your Honor.
THE COURT: Okay? All right. You may continue, Mr. Sorenson.
Q. I've got the calls if you want to listen to them. We can ask the Court for a break and you can listen to them if that would help refresh your memory.
A. I don't have to listen to them.
Q. Okay. And do you know -- not only have you talked to your son, but you also talked to other inmates at the jail that have called you on his behalf about his case; is that correct?

A. When he couldn't make a phone call, there could have been another inmate calling me.
Q. Okay. And do you recall on July 28th of this year, of 2014, about 5:00 in the afternoon, having a conversation with a young man by the name of Shawn Kitt who was incarcerated over at the detention center, at least was back at that point in time?
A. I really don't know the exact names of the inmate. There are different ones that call. I'm not sure who Shawn Kitt is without seeing the face.
Q. Okay. But obviously you're talking to them on the phone, so you don't see their faces; is that correct?
A. I come visit at the jail and I do see inmates at the jail.
Q. This is a phone conversation on July 28th of 2014 with an individual by the name of Shawn Kitt where you told Mr. Kitt, "I also had $20,000 in his savings account that he didn't know about because it was just money I had transferred in there, you know, so I didn't have it on a noninterest bearing account, so I just moved it there." God works in mysterious ways, because last year I just happened to put that money in his account. It was only in his name, but he didn't know about it. I put $20,000 in his account."
Do you admit or deny making that statement to an inmate that called you on your son's behalf from the Dorchester

County Detention Center on July 28th of 2014, 5:00 in the afternoon?

A. That conversation could have taken place for the simple fact that my son's previous attorney -- there's things that I said on the tape to different people that called my house, and I don't know who the persons were calling my house, but there were different occasions I did talk to different people who were giving me the status of my son and his -- I guess his physical demeanor.

So if he couldn't make a phone call, then there were people who would call me and say, "Your son is doing okay," and pass on messages like that.

Q. But let me ask my question again and I'll try to simplify it. That kind of statement that I just read out to you --

A. Mm-hmm.

Q. -- do you admit to making that statement or deny you made that statement?

A. That statement could have been made.

Q. So that means "yes," you did make it? Because as I said, would it help if I played it for you?

A. I'm saying that I don't know who this Dwayne person is offhand. So as I said, if that person was the conversation that you -- that they taped, then that would have been the person. I don't know who -- I don't know these people

personally.
Q. Okay. I understand that. It's a conversation with an individual named Shawn Kitt, who is in -- was in jail at least on July 28th of 2014. Regardless of whether you know who that person is, do you admit or deny telling another inmate in a phone conversation what I just read out to the jury?
A. I don't deny. If you have the tape, then obviously I must have said it.
Q. It's your testimony now, though, that what you told that inmate is not true, that you didn't tell that inmate the truth then? Because that's not the same as what you just told this jury a few minutes before --
A. I'm saying --
THE COURT: Hold on. Hold on. Let him finish, please --
THE WITNESS: I'm sorry.
THE COURT: -- before you answer.
THE WITNESS: Okay.
THE COURT: Go ahead, Mr. Sorenson.
Q. So is that the truth or is what you just told this jury before I got into this the truth?
A. That's one phone call. There could be phone calls that could lead into other conversations. If that phone call was made, I'm sure that was not the first phone call that I just

happened to say to this inmate -- give him all that detail. That would have been a first-phone-call discussion.

My thing is, people -- my son got out -- when my son is in jail 23 hours a day, he comes out one hour a day, and he gets to use the phone for 15 minutes. So if other inmates are allowed to make a phone call to me to give me his well-being or something, they did that for him.

Q. But this information that you told your son and you told this other inmate, Shawn Kitt, you had just discovered that information, is that correct, back this past summer, several months ago?

A. I knew I had put the money in his account. I knew -- I know that because I'm the one who transferred it in there. It's nothing I just discovered. I knew the money was in there when I transferred it.

Q. But the fact of the matter is back on April 1st, 2013, your son did not know he had $20,000 sitting in a bank account that he had access to; is that correct?

A. He had his statements to view his statements and know he had $20,000 in his account. I opened his mail but put it in his dresser, so it's not like I kept the mail for him.

Q. So that's not the truth then when you were making these phone conversations and told them that he didn't know about it?

A. These inmates, I don't know who the inmates are. I

don't know if they talked to my son and tried to corroborate information. I don't know these people personally.

Q. There's quite a handful of them that you talked to pretty regularly out there; is that correct?

A. I admit that some people might say, "Can you call my mother for me?" And being a mother, and they don't have a phone, I mean, the jail system works that way, unfortunately. Everybody doesn't have privilege to call their parents or someone.

Q. Now let me ask you this: Let's kind of move on from that. Let's talk about this Honda Civic. It's your testimony today, and obviously we are about 19 months after the fact, but it's your testimony that your son purchased that Honda Civic, kind of, I guess you paid for it, but got that Honda Civic on March 23rd, 2013; is that correct?

A. Yes.

Q. All right. And that is easy to tell because we have the paperwork that shows that, is that correct, where your son signed State's Exhibit 39?

MR. SORENSON: May I approach the witness, Your Honor?

THE COURT: Yes.

Q. Your son signed that bill of sale indicating that he purchased that vehicle from James Marion Lee; is that correct?

A. Yes.

Q. And Mr. Lee is the car salesman that your friend knew?
A. Yes.
Q. Is that correct?
So there's no doubt about it that that car came into your son's possession on March 23rd of 2013; is that correct?
A. Looking at the paperwork, that's correct.
Q. And it's your testimony that you purchased that car for him to be able to go back and forth to work, because he was employed at Burger King at that time; is that correct?
A. Yes.
Q. And the reason he needed a car was because the prior vehicle he had, which was the Hyundai Elantra, had either broken down or he'd gotten into an accident or some reason it wasn't operable; is that correct?
A. Yes.
Q. Okay. And let me ask you, how much did you -- do you recall how much you paid for that vehicle?
A. It was $1100, and Mr. Marion took off $400 to let him take the Hyundai Elantra with him.
Q. Okay. So basically you paid on $1100 for that, and then he paid you $400 basically for the Elantra, but that's basically how it worked out, right?
A. Yes, sir.
Q. And you all at that point in time then called GEICO and got insurance put on that vehicle?

A. Yes, sir.
Q. And it's your testimony now that you never saw that vehicle again; is that correct?
A. Not after that Saturday, I don't recall ever seeing it again.
Q. Okay. And it's your testimony that your son told you on Monday the 25th that he had gotten rid of the car; is that correct?
A. Yes.
Q. Now let me ask you this, Ms. McKinney, and this kind of goes into the next line of questioning Mr. Falk had asked you about: Did you have an occasion late on July 1st and then again the morning of July 2nd to have the North Charleston Police Department come out and talk to you at your house?
A. Yes.
Q. Okay. And Mr. Falk had asked you that they had informed you that your son had been in a serious automobile accident; is that correct?
A. Yes.
Q. And that wasn't the only reason they were there, though, right? They were actually looking for your son at that point in time; is that correct?
A. Yes.
Q. And as a result of that, they had some conversations with you about things that were going on; is that correct?

A. They had -- we had conversation, yes.
Q. Okay. And part of them talking to you, they spoke to you about this bank robbery that occurred on April 1st of 2013; is that correct?
A. Yes.
Q. And part of that conversation was then questioning you about what vehicle your son owned back at that point in time; is that correct?
A. That's not the evening, not when the police came. That was when the detectives came.
Q. Okay. The detective is a police officer. You realize that, right?
A. I'm sorry. I'm just confused if you're talking about the day that I was notified.
Q. Okay. I'm sorry. I apologize for that. Specifically that question I am talking about the following day --
A. Okay.
Q. -- they do come back out and talk to you and it's actually a detective that talks to you.
A. Yes, sir.
Q. It's Detective Repman I think is his name?
A. I don't recall his name.
Q. But he came out specifically to question you about the April 1st bank robbery; is that correct?
A. He came to show me some photos.

Q. Okay. And part of that questioning involved what vehicle your son owned and was driving back in April, on April 1st of 2013; is that correct?
A. I don't recall him saying April the 1st. I recall him asking me did he own a vehicle. I don't recall us making the day of April the 1st.
Q. Okay. He did inform you at some point in time that that's when the bank robbery occurred; is that correct?
A. When the bank robbery occurred and he had the car was two different pieces of information, sir.
Q. Okay. But needless to say, he asked you about that vehicle; is that correct?
A. Yes.
Q. All right. And you told Detective Repman that your son had a Honda Civic; is that correct?
A. Yes.
Q. Okay. And then he showed you some photographs of a vehicle. You said, I believe, initially you weren't sure, looking at the photographs, what kind of vehicle that was but ultimately that it could be your son's vehicle; is that correct?
A. After he told me what kind of vehicle it was. I thought it was a Saturn.
Q. Okay. But after looking at it him telling you that's a Civic, your testimony -- your statement to him was that could

be? It's consistent?
A. What he was telling me, first, I thought the car was blue. He told me it was green. It was just the coloring of the photos. So, I mean, he's a detective. I don't know what he knew when they took the picture, but he was telling me it could be a green car or it could be a Honda.
If he was telling me that, it didn't look like that, but that's what he was explaining to me it was, then I wasn't going to argue with him, because he was presenting the picture to me.
Q. Okay. Ultimately you told him, though, that your son owned a dark green Honda Civic?
A. At one point, yes, sir.
Q. At one point in that time. And they obviously were asking you about the location of that Honda Civic; is that correct?
A. I wasn't sure if it was him or the night before, but I was asked that question.
Q. In fact, ultimately, that's how the name Terrance Bryant comes up is you tell them that's who bought the vehicle from your son; is that correct?
A. I told that -- I know I told that to the police the night they came to my house about the car accident, yes, sir.
Q. And the fact of the matter is that you told -- you told law enforcement that night before the following day on

July 2nd that you didn't remember the dates, you didn't remember the dates that your son got the vehicle or got rid of the vehicle; is that correct?

A. Yes, because the paperwork had already been gone.

Q. You didn't have -- as I said, it's easy now to refresh your memory what day he got the vehicle --

A. Right.

Q. -- because you've got the paperwork.

So you didn't know when he -- when he had the vehicle or when he got rid of it, and you made the comment that he only had that vehicle for a few weeks. You told the detective, Detective Repman, that -- on July 2nd of 2013 that you weren't, that was part of the reason why you weren't sure about the picture you were looking at because your son only had that vehicle for a few weeks?

A. That few weeks, sir, was the whole time with the insurance and everything in his name. That's the few weeks I'm discussing, not his ownership, the two weeks. And if you look at the car, I mean the GEICO card, it was about two weeks when I canceled it. So once everything was out of his name, that's the two weeks that I'm referring to.

Q. Okay. So when they specifically asked you the question how long, how much time between the time that he bought and sold the Civic, and your answer was, "Maybe a few weeks," I mean, you were talking about -- you were thinking at that

point in time, you know, "Well, it was on my insurance for a few weeks?"

A. No, sir. What I'm thinking about at that time is that I had a conversation with Terrance Bryant about the vehicle, and I knew that that vehicle was sold to him, and my information to Terrance Bryant is that I need to get the paperwork and everything adjusted, so that's something that I knew, and I knew it took a couple of weeks for that to happen before everything actually got removed from my son, but the ownership was that day, that Saturday.

Q. The 23rd?

A. Yes.

Q. And the fact of the matter is you have no documentation that supports your son giving the vehicle to Terrance Bryant on March 25th, though?

A. Terrance Bryant would have that documentation because I gave it to him.

Q. All right. While we're on that, in fact, let me show you State's Exhibit --

MR. SORENSON: May I approach, Your Honor?

THE COURT: Yes, sir.

Q. Show you State's Exhibit No. 43. Is that the documentation you sent to him as far as the bill of sale goes?

A. That would be the documentation, when Terrance came to

my house, he didn't have a bill of sale at all, and the reason why he didn't have a bill of sale is when my son gave him the car, you don't just say, "Here's the car." You have to have -- he needed the bill of sale to show that he had ownership, as Mr. Marion gave my son a bill of sale.

So Terrance did not have a bill of sale, I guess, when he tried to contact motor vehicles, so I said, "You bring a bill of sale, and you'll be able to get the car registered." That was my main problem. When they made this sale, what documentation did Bryant -- I mean, Terrance Bryant have? That's what I was explaining to my son, you just can't say, "Here's the car," you know, and that's a done deal. The car has to be registered and titled properly.

Q. The fact of the matter is that vehicle was never properly registered by your son at all, correct?

A. He only kept it for one day, so he wouldn't have had time to do that.

Q. So you bought it -- it's your testimony that you bought him this car to go back and forth to work, and your 23-year-old son promptly sold it the same day basically; is that correct?

A. What is correct is that my son didn't ask me to get the car. I took it upon myself to get a car for him to get back and forth to work because it was reasonably priced.

Q. And he was so grateful that he turned around and sold

it, according to your testimony, the following day or according to --

A. I can't say he was -- I can't say he was grateful, but my thing is that he was appreciative of the car, but as time went on, I realized that Mr. Bryant was in search of a car, and my son was helping him out, more or less. He had just had a baby and everything, and my son had his eye on another vehicle, which he did purchase off Craigslist in April.

So it wasn't like I would say my son was ungrateful. I made that determination as a mother, I'd rather him have a nice vehicle to get back and forth to work versus having to ask people to take him back and forth.

Q. And of course, I mean, if he sold this vehicle as you say on the 24th of March, I mean, it was almost a month that he still would have been relying upon rides back and forth to work then --

A. No, he purchased his Ford Taurus in around the middle of April, so it would only have been a couple of weeks.

Q. About three weeks then, right?

A. If you do the math, it could be like two or three weeks.

Q. And when he purchased that, it got put on his insurance, correct?

A. Yes, just as the Honda did.

Q. And that vehicle is -- the insurance is effective, according to the GEICO records, effective April 17th?

A. That could have been correct, if that's what that paperwork says.
Q. All right. And let me ask you this: Something else that you told the detective when they were questioning you about that vehicle the morning of July 2nd, you had made the comment to them that he had had the vehicle for a few weeks, okay, and you explained that what you meant about that --
A. Yes.
Q. That didn't mean he actually physically had it. And you also told them that you had went, after he got the vehicle, and got the windows tinted a couple days later for him.
A. On the Ford Taurus?
Q. No, ma'am. This is -- they're not talking to you about a Ford Taurus. They're asking you about the Honda Civic. It's right after the line of questioning, "How long between the time that he bought and sold the Civic?"

You said maybe a few weeks, told them it didn't have a radio in it and that she had gotten the windows -- that you had gotten the windows tinted a couple days later. After the windows were tinted, he was -- I saw him walking, had gotten dropped off, and he told me at that time that he had sold the car to Terrance.

Do you remember telling Detective Repman that on the morning of July 2nd, 2013?
A. What I remember telling him in my -- when we were

talking about the car is that when he showed me the car prior to me allowing him to record me, when he showed me the car, it had tinted windows.

When we purchased the car, it did not have tinted windows, and I'm assuming that Terrance got the car -- the windows tinted because the picture was after the first of April or April the 1st when he was showing me the pictures. The windows did not come tinted.

Q. I understand that. So do you admit or deny telling Detective Repman on July 2nd of 2013, and they were recording you. So, I mean, you're aware that there's a recording of --

A. I allowed them to do the recording.

Q. That they had asked you how long a time between the time that your son bought and sold the Civic, and you told them a few weeks. And we talked about that, that the car didn't have a radio, that you had gotten the windows tinted a couple days later, and that after the windows were tinted, you saw your son walking and had gotten -- and being dropped off by somebody, and he told you at that point in time that he had sold the car to Terrance. Do you admit or deny telling Detective Repman that on July 2nd, 2013?

A. What I can remember from last year about the car is --

MR. SORENSON: Your Honor, can I get her to answer the question?

THE COURT: Please answer the question either "yes" or

"no," and if you want to have an opportunity to explain it, you can do so, but answer the question first "yes" or "no" and then follow up. If you want to explain, you may do so.

THE WITNESS: Yes.

Q. You told him that? Okay.

A. I believe that that was part of a conversation about windows tinted.

Q. About the Honda Civic? And yet again, I mean, if you want, I will play it for you if that will help refresh your memory.

A. My thing -- well, sir, my thing about answering "yes" or "no" and -- and -- and talking to the detective is when he showed me the pictures, I -- before he recorded me, he showed me the car. I didn't even recognize the car.

And as far as windows being tinted, I'm knowing that after -- after everything happened, the fact that Terrance got the windows tinted, because he told Mr. Woods he got the windows tinted when he tried to sell the car back.

Q. But that is not what you told law enforcement back on July 2nd of 2013, correct? You told them you got the windows tinted. You found out that he sold the car to Terrance after you had gotten the windows tinted; is that correct?

A. If that's what he recorded, I'm -- if that's what he recorded, I could have got confused about the cars, because he did get the Ford Taurus windows tinted.

Q. Would you like for us to play it? I mean --
A. If I could have said that. I'm not saying that -- on that point in time, I'm thinking about my son and being in the hospital, and I could have had told him that.
MR. SORENSON: May we approach, Your Honor?
(Judge and attorneys confer.)
THE COURT: You may continue, Mr. Sorenson.
MR. SORENSON: Thank you, Your Honor. Beg the Court's indulgence one second.
THE COURT: Yes, sir.
Q. And as part of that, a part of that interview with Detective Repman on the morning of July 2nd of 2013, as I indicated, you know, they were questioning you about this April 1st bank robbery; is that correct?
A. Yes.
Q. Okay. And as part of that, they also showed you a photograph from that bank robbery; is that correct?
A. They showed me several photos, sir.
Q. Okay. But specifically they showed you a photograph from that April 1st bank robbery; is that correct?
A. Yes.
Q. Okay. And let me show you State's Exhibits No. 28 and 27.
MR. SORENSON: May I approach the witness, Your Honor?
THE COURT: Yes.

Q. And the photograph that they showed you, Ms. McKinney, was essentially a photograph of the robber showing basically that part of his features; is that correct?

MR. FALK: Your Honor, I object to the foundation of this. I don't think there's been any proof that those are the photographs that were shown to her.

MR. SORENSON: I'm asking her. She can say "yes" or "no."

THE COURT: Restate your question. Hold on a second.

Restate your question, Mr. Sorenson, referring to Exhibits 27 and 28 that are in front of her.

MR. SORENSON: Yes, sir.

Q. I've handed you two photographs up there that are in evidence, Ms. McKinney. Are either of those photographs the same kind of orientation or possibly the same photograph that was shown to you by Detective Repman on the morning of April -- I'm sorry, of July 2nd, 2013 to ask you about what you may or may not recognize about the person in that photograph?

A. If I'm not mistaken, the photos that he showed me were black and white photos.

Q. Okay. Well, was it a black-and-white photo of one of those photos?

A. It's no -- it's like these photos show a lot of, like, area in the background. The photos that he showed me were

black and white. They were more like close-up pictures.
Q. Okay. But the same orientation of the suspected robber?
A. These ones look totally different.
Q. Okay. But you do remember him showing you a photograph from the bank robbery on April 1st of it 2013; is that correct?
MR. FALK: Your Honor, I object, again on the foundation. He's still saying that it was a --
THE COURT: Hold on a minute.
MR. FALK: I'm sorry.
THE COURT: Approach.
(Judge and attorneys confer.)
THE COURT: You may continue, Mr. Sorenson.
MR. SORENSON: Thank you.
Q. Ms. McKinney, isn't it a fact on the morning of July 2nd of 2013, when Detective Repman came out to you, that he told you he was showing you a photograph from the bank robbery at the SunTrust Bank on April 1st of 2013? That's my first question. Just disregard those photos in front of you. Isn't that a fact that he told you that?
A. He told me he wanted to show me some photos. I'm not 100 percent sure if he mentioned about a bank. He asked me can I see -- can he show me some pictures.
Q. So you deny that he told you it was -- that this was a photo from a bank robbery?

A. When he came to my house, he asked me, "I want to show you" -- "Can I show you some photos," sir. That's what -- I do remember that conversation, and he showed me several photos prior to showing me some separate black-and-white photos.

Q. All right. And do you admit or deny that he told you that -- when showing you a photograph that he said, "This is a photo from a bank robbery"? Do you remember him saying that?

A. I don't remember, but he could have said that. I do not remember, sir, if he said it was from a bank robbery or just, "Can I show you some photos?"

Q. Okay. And what was your -- when he showed you that photograph that I submit was referencing the April 1st bank robbery, what was your response as to the person that was depicted in that photograph to Detective Repman?

A. The photos that he showed me, they were black-and-white photos, and when he first showed me -- first of all, he showed me a group of pictures, and they kind of looked like bunch of guys heads in a row. And he said, "Does any of these look like your son?"

And I said "no." And he showed me some other pictures. I don't know if they were mugshots because they were close together. They were in black and white.

Q. That's not what I'm talking about. I don't know what --

I'm talking about the photograph that he showed you, a single photograph that told you this is a photo from a bank robbery and asked you to look at that photograph. Do you remember that and having --

A. I don't remember him saying any photo was from a bank robbery. Now, he had it recorded, but I don't remember that conversation. I don't remember him saying, "This is a photo from a bank robbery."

Q. Okay. It is recorded.

A. If it is recorded, I don't -- I mean, you asked me do I remember, so I don't remember the conversation.

Q. He could very well have said that to you, though --

A. He could have said that.

Q. That photograph, what was your response, and I'm not talking about a series of photographs, that photograph, what was your response as to whether that resembles your son or not in that photograph?

A. The photograph that he showed me, the single photograph he showed me, sir, prior to him recording me, after -- when he showed me the single photograph, my thing is that is 50 percent could be my son. And he said why do I say 50 percent? Because I said he's black.

And that's before he recorded me, because he had showed me so many other pictures, and it's like, it was a young black guy, so 50 percent, you're black. If it was a white

person, that's a 0 percent. 50 percent, I said, "Well, he's black."

Q. Okay. Well, the fact of the matter is there's a little more to your description in your explanation to him; is that correct, Ms. McKinney?

A. This is prior to him recording me. We had a conversation. And once -- once I had told him things before he said, "Now I'm going to record you," because --

Q. Well, let's talk about the recording, because that's what I have a recording of.

A. Mm-hmm, yes, sir.

Q. The fact of the matter is when he was recording you, what did you tell him about the person in that photograph?

A. What I remember when he asked can he record me now, he pulled the photo out that he had at that time, and I looked. I said -- I don't remember exactly the words, but I -- something like, "I don't know." I was looking at it kind of hard, and I said, "Well," because all the hair and stuff.

He said, "Well, just" -- I think he said something about just try to -- I think he told me, "Well, that's a wig," or something when I was saying about some dreads or something. I believe he told me that was -- that's a wig. And then he said, "Just look closely."

And I said, "I'm not sure."

And finally he was kind of like pointing around

different things on the picture, like, you know, "Look here and there."

And eventually I said, "It could be him."

And he said, "Well, how sure are you?"

And I said 75 percent, the 50 percent being that he was black.

Q. And the fact of the matter is the way that conversation went is that he asked you, made the comment, "This is a photo from a bank robbery," and your response -- do you admit or deny that your response to that question was, "That resembles my son's mouth and nose. I don't know what he was wearing, but that resembles my son right there"? Do you admit telling him that?

A. If he has that recorded for that picture that he showed me, it wasn't these photos, but the picture that he showed me, if he had that recorded, we didn't -- there was one photo he showed me in particular, when I finally looked at it, I said it could be 75 percent, the 50 percent being it was a young black guy, the 25 percent there were some features, as there were with the other photos I was shown.

Q. And ultimately, part of when he got you, and you say this multiple times to him, that in looking at that, obviously the hair throws you off, because your son back in April of 2001 didn't have long hair; is that correct?

A. 2001?

Q. I mean 2013. I'm sorry. The time of this bank robbery, your son did not have long hair; is that correct?
A. If this bank robbery was April the 1st, he had short hair.
Q. Correct. So part of what threw you off initially in looking at that and why you're not 100 percent sure is because that person obviously appears to have long hair; is that correct?
A. That wasn't the only thing that threw me off. That was just one of several things that threw me off.
Q. Okay.
A. I can't see the person's -- the picture that he showed me was better than this one, but I couldn't even see the eyes or any features around the face or anything because there was so much hair and then like a hat or something on, so I didn't know who that photo was.
Q. But you tell him on multiple occasions that it resembles your son's nose, resembles your son's mouth; is that correct?
A. On the photo that he showed me, which is not these photos.
Q. That's my question. The photo he showed you, you told them that it resembled your son's nose and your son's mouth multiple occasions; is that correct?
A. I don't know it was multiple occasions, but if he has me recorded -- then if he has me recorded and I said it more

than once on that particular photo and that's what it was -- and another thing, prior to him showing me the photos, he said once I identify my son, I can go see him.

And I'm not going to sit here on this stand and lie that I was -- my mind, looking at those pictures, I'm concerned about my son, thinking he had been seriously injured in a car accident.

So I don't remember word for word, sir. I was never -- I was not in my right state to have a conversation with someone telling you that your son was in a major car accident and they don't think anyone survived. So if I misquoted something, I'm sorry.

Q. And I understand. And you obviously, I mean, you've met with Mr. Falk; is that correct?

A. Yes.

Q. Okay. Has he not gone over and played this audio recording for you about what you told the police?

A. Mr. Falk was not the first attorney.

Q. Well, I mean, there have been a couple. And, I mean, his previous lawyer, Mr. Bolus, I mean, did either Mr. Bolus or Mr. Falk ever let you listen to what you told the police?

A. Mr. Bolus just transcribed it to me in his wording, "Don't worry about that because" -- this and that. That's why he's not here today because I did not hear the recording.

Q. Okay. So you didn't ask Mr. Falk if you could listen to

that --
A. Mr. Falk gave me --
THE COURT: Hold on a minute. Hold on.
THE WITNESS: I'm sorry.
THE COURT: It's not usual --
THE WITNESS: I'm sorry, Your Honor.
THE COURT: -- be on a stand -- it's okay -- be on the stand and be questioned about things, but it's very important, very, very important that only one person speak at a time, okay? So please --
THE WITNESS: I'm so sorry, Your Honor.
THE COURT: -- pause for a second, let him finish and then you're free to answer the question how you deem appropriate, okay?
THE WITNESS: Yes, sir.
THE COURT: You may continue, Mr. Sorenson.
MR. SORENSON: Thank you, Your Honor.
Q. So you've never -- have you ever heard this audio recording?
A. Mr. Falk did give me a copy of the audio. And to this day I -- there were so many other things going on, I still have not played that audio.
Q. Okay. It might be a good idea to go home and do that.
THE COURT: Mr. Sorenson, ask the questions and let her answer, all right?

MR. SORENSON: Yes, sir.
Q. Let me ask you this: With regards to -- and you had made the comment that they ultimately let you, you know -- and they did ultimately let you meet with your son later on that day, is that correct, down at the North Charleston Police Department?
A. Yes, sir.
Q. Okay. And the fact -- in fact, you had a conversation and talked to him for a pretty good length of time; is that correct?
A. Yes.
Q. And, you know, told your son that the officers had been very respectful, very nice to you up to that point in time. I mean, they hadn't mistreated you at all; is that correct?
A. I never had a problem with the officers, no, sir.
Q. All right. And the fact of the matter is that that evening, I mean, about 40 minutes into you talking to your son, I mean, you told him that they had shown you a picture from an April bank robbery where the person was wearing a wig; is that correct?
A. I could have shown -- told my son that he -- I was shown some pictures, yes. And the reason why I was even there was I thought I was supposed to be visiting my son. I didn't know I was in there -- they were sending me in there to interrogate him.

Q. Well, and I'm not getting into what -- anything he said to you. My only question was the fact that you told him that law enforcement, that the police had showed you a picture from an April bank robbery and the person was wearing a wig. I mean, you told your son that; is that true or -- correct or incorrect?

A. I was in there for a long time, and I'm sure I told my son the police was at my house asking questions and everything. I'm sure we had that type of discussion about a picture. Word for word, I can't tell you 16 months later what happened when I was inside there. I was looking at the injuries on his face.

Q. Yet again, you can't -- you don't deny that you may have said that if that --

A. I may have --

Q. -- if that's recorded.

THE COURT: Hold on.

Go ahead, Mr. Sorenson.

Q. If that's recorded, I mean, you don't deny that, that you told him, I mean, just very specifically that you had seen a photograph from a bank robbery from April where the person was wearing a wig; is that correct?

A. I'm sure that I told my son when I met with him everything that was told to me when the police had came, because at that time, I didn't know what was going on. So

when they told me to go in there, they were telling me to ask him questions, because he wouldn't give a statement.

So -- and he still didn't give one when I was in there. He asked for an attorney. And then he had told me that he -- his ribs were sore. He hadn't eaten all day. And when I went out and told the officers he hadn't eaten, they went and bought him Chick-fil-A and told me to go back in there and continue talking to him.

Q. All right. And let me back up. I've got one more series of questions dealing with -- I've got a couple other things I want to talk about, but one more thing dealing with the interview with Detective Repman on the morning of July 2nd.

You had made this comment earlier that you ultimately told them that you were 75 percent sure that was your son in the picture that they showed you; is that correct?

A. Yes.

Q. Okay. And the reason why, because I asked you why, initially they had asked you, "On a percentage scale, how sure are you?"

And you told them, you know, looking at it, "I would say a good 75 percent." And you told them that was because of the mustache and just looking at the side-view, it looks like his mouth, and I think you used the word -- the term "fixture."

So looking at the picture that they showed you, it had a mustache consistent with your son's mustache, and the mouth feature looked consistent, 75 percent consistent to you as being your son; is that correct?

A. I'm not sure of the mustache part, but the pictures were black and white and dark, so I wasn't sure -- I'm not sure. If he has that recorded, like I said, I'm not sure. But he did tell me once I identified my son, I could go see him, and I almost felt like I was under duress, identify him or you don't see your son.

MR. SORENSON: Okay. May I approach, Your Honor?

THE COURT: Yes, sir.

Q. You're saying here today you did not see this picture before at the police station?

A. I don't remember seeing this one.

Q. Showing you State's Exhibit 28, let me ask you this today: Is that consistent or inconsistent with your son Tyrone Ellison?

A. Is what consistent, sir?

Q. Consistent with the mustache?

A. Is this person supposed to have a mustache in the picture?

Q. You don't see a mustache on the picture, a thin pencil mustache just like your son has?

THE COURT: And that's Exhibit 28, right?

MR. SORENSON: Yes, sir.

THE WITNESS: I don't know if that's -- I don't know if that's drawn in or that is a mustache. I can't tell on this picture it. Like you said, pencil. I don't know what that --

Q. So somebody may have drawn that into the picture?

A. You did mentioned the word "pencil" yourself. It looks like a line going across, so that could be makeup. I don't know what that is. I can't tell if it's a mustache from that picture.

Q. That's fine. Otherwise, facial, what you can see of the face that's not disguised, is it consistent --

A. It looks like it's a beard on there. He doesn't have a beard.

Q. So that's inconsistent then? Your testimony is that does not look like your son Tyrone Ellison?

A. To me it does not look like him. That person has a beard in the picture on the side. I can't tell from that picture.

THE COURT: Hold on a minute. Does the jury need a break?

Okay. I've got one juror shaking their head "yes." I'm going to stop for right now. Step to the jury room for just a minute. Step to the jury room for just a minute. We'll try to finish with this witness before we take a lunch break,

all right? Get you back out here as quickly as possible. Go ahead.

(The jury retires to the jury room at 12:44 p.m.)

THE COURT: Can the lawyers approach at sidebar?

(Judge and attorneys confer.)

THE COURT: We'll stand down for just a minute.

Ma'am, you can step down, but, you cannot discuss your testimony. Do not discuss your testimony.

THE WITNESS: Yes, Your Honor.

(Recess held.)

THE COURT: Anything from the State before I bring the jury back out?

MR. SORENSON: No, Your Honor.

THE COURT: All right. It's almost, like, 8 minutes until 1. We need to wrap this up so we can let this jury go to lunch.

MR. SORENSON: Yes, sir.

THE COURT: All right.

MR. SORENSON: Yes, sir.

THE COURT: Anything from defense counsel before I bring the jury back in?

MR. FALK: No, Your Honor.

THE COURT: Please bring me the jury.

(The jury enters the courtroom at 12:52 p.m.)

(State's Exhibit 46 marked for identification.)

THE COURT: Mr. Sorenson, you may continue.

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

THE COURT: Yes, sir.

Q. A couple more lines of questioning, Ms. McKinney. Let me show you what's been marked for ID as State's Exhibit No. 46.

MR. SORENSON: May I approach the witness?

THE COURT: Yes.

Q. You see that's a still photograph from the bank video that's in evidence from Teller Station 2, April 1st 2013 at 10:29 and 10 seconds. Do you see on the left wrist of that individual the bracelet that appears to be on that wrist?

A. There's something on the wrist. I don't know if it's a bracelet. Can't tell what that is.

Q. Something consistent with a bracelet at that time on that video?

A. I don't know what that is. It looks like it could be some skin drawings. I don't know what that looks like.

Q. Okay. Well, let me ask you this: Did your son ever wear a bracelet on his left wrist?

A. I never recognized if he had a bracelet on.

MR. SORENSON: Okay. And can I mark another photo just for ID purposes?

(State's Exhibit 47 marked for identification.)

Q. I'm showing you State's Exhibit No. 47.

MR. SORENSON: Just -- may I approach the witness, Your Honor?

THE COURT: Yes.

Q. Just showing you -- that's just for ID, so keep it down -- State's Exhibit No. 47, do you recognize the person that's in that photograph on the right?

A. Yes.

Q. And who is that?

A. On the right is my son.

Q. Okay. And what is he wearing on his left wrist in that picture?

A. A watch.

Q. And what else, ma'am?

A. Well, looks like a gold watch.

Q. May I have this back?

A. Yes.

THE COURT: Let me see the photograph, please.

MR. FALK: Your Honor, may we approach?

(Judge and attorneys confer.)

THE COURT: Go ahead, Mr. Sorenson.

MR. SORENSON: We'll come back to that on a break, Your Honor.

THE COURT: Okay.

MR. SORENSON: I'll move on for right now.

THE COURT: All right.

Q. And the last -- I believe the last thing I want to ask you about, Ms. McKinney, is Terrance Bryant. Mr. Bryant, you know Mr. Bryant; is that correct?

A. Yes, sir.

Q. He was a friend of your son's; is that correct?

A. Yes, sir.

Q. He's got family members that are friends of your son's --

A. Yes, sir.

Q. -- things of that nature, may at one point in time lived in your neighborhood even I think; is that correct?

A. Yes, sir.

Q. All right. And the fact of the matter is you, on September 29th of 2013, so about a little less than three months after your son was arrested, you contacted Terrance Bryant trying to get him to sell that green Civic back to your friend Moses; is that correct?

A. No.

Q. All right. Do you deny sending him a message saying, "Hey, the guy wants to come and buy the car today. He will come pick it up. He don't know nothing about Tyrone in jail, so just give him the paperwork and take the money. LOL. His name is Moses, and his phone number is 843-616-1320. Call him ASAP with your address because today is good for him."

Do you deny sending --

A. I deny sending that. I did not -- I didn't contact him, because Bryant was trying to buy -- sell the car back. I didn't try to get him to sell the car back. That wouldn't do me any good to sell the car back. I had no -- I had no interest in the car.

Q. So you did send him that message?

A. From Mr. Woods, yes. Mr. Woods was planning on buying the vehicle from him, yes.

Q. Okay. And of course, if that vehicle got sold back to Moses Woods, where it came from initially, there would never be any trace to that vehicle coming back to your son at all, correct?

MR. FALK: Your Honor, I object. Speculation.

THE COURT: I'll sustain the objection. Go ahead.

Q. The best of your knowledge, your son had never registered that vehicle with the Department of Motor Vehicles; is that correct?

A. That's correct.

Q. And after April 1st, it definitely was not in Summerville, South Carolina; is that correct?

A. That's correct.

Q. Let me ask you this: Do you know where your son was the morning of April 1st, 2013, from firsthand personal knowledge? Was he with you?

A. He wasn't with me. I was at work, and I assume he was at work as well.

MR. SORENSON: That's all I'd have, Your Honor. Thank you.

THE COURT: Any redirect?

MR. FALK: No redirect.

THE COURT: Ma'am, you may step down. Thank you.

Ladies and gentlemen, it is about 1 minute until 1. What we're going to do is I am going to give you a lunch break at this time. I'm going to ask that you be back at 2:15, 2:15, and we will resume the trial of this case as promptly at that time as possible.

Do not, do not discuss the case. Do not discuss the case at all. Do not do any independent investigation on your own. You are to decide this case, as I've told you from the outset, based solely upon the testimony and evidence in this courtroom and nowhere else.

Anything from the State before I release the jury for lunch?

MR. SORENSON: No, Your Honor.

THE COURT: Defense counsel?

MR. FALK: No, Your Honor.

THE COURT: Please be back at 2:15. Thank you.

(The jury retires to the jury room at 1:00 p.m.)

THE COURT: Anything else, Mr. Sorenson?

MR. SORENSON: The only thing, I guess, to kind of put on the record the sidebar we had with regards to State's Exhibit 47.

THE COURT: Yes, sir.

MR. SORENSON: It was my -- and I talked to Mr. Falk about this, you know, kind of during the break right before we came back to finish up my cross-examination, and obviously my intention is, I mean, I understand the prejudicial effect of this photograph and did not want to put it into evidence, so I was hoping Ms. McKinney would concede that her son had a gold bracelet on his left wrist.

And obviously when she didn't then, you know, at that point in time, it was going to be my intention to seek to move that into evidence. I think in talking to Mr. Falk at sidebar, you know, I assume he may need to touch base with his client a little bit, but that there's some -- that they might be willing to stipulate that Mr. Ellison has, on prior occasions, worn a gold bracelet on his left wrist.

THE COURT: Mr. Falk?

MR. FALK: In discussing with my client, I certainly am concerned about the prejudicial effect of that photograph coming in. We would stipulate that at one time, you know, he's worn a gold bracelet. Let me argue it to the jury.

THE COURT: All right. Well, I'll advise the jury of such stipulation without introducing that photograph, State's

Exhibit 47.

MR. SORENSON: Do you want us to write something out? I mean, I've done that before. I mean --

THE COURT: That's fine. Yes, just write something out --

MR. SORENSON: -- just briefly write out to mark it as a Court's Exhibit.

THE COURT: -- and do it as a court's exhibit to the stipulation.

MR. FALK: Were we just on the record?

THE COURT: Yes.

MR. FALK: Okay. I just wanted the record to reflect that my client and I discussed the stipulation.

THE COURT: Right. And I just walked down here beside the court reporter because I wanted to look at the photographs.

Okay. Anything else before we break for lunch?

MR. SORENSON: No, Your Honor.

THE COURT: Mr. Falk?

MR. FALK: No, Your Honor.

THE COURT: All right. 2:15. 2:15.

(Lunch recess held.)

THE COURT: All right. Anything from the State before I bring the jury in?

MR. SORENSON: The only thing, Your Honor, and I put up

on the bench up there the stipulation. I've shown that to Mr. Falk, and I think we're in agreement. I don't know if we need to mark that as a court's exhibit or something.

THE COURT: Is that right, Mr. Falk? You've seen this.

MR. FALK: Yes, Your Honor, I have. It's consistent with what we had talked about.

THE COURT: All right. When the jury comes back out, I will read them this stipulation and have it marked as a court's exhibit. My only question of that is as a court's exhibit, does it go back with the jury? Which it would not.

MR. SORENSON: I think -- and I've only had a stipulation, and I've dealt with a few times before, Your Honor, and I think in those occasions, that's the way we've handled it is just had it marked as a court's exhibit, have Your Honor either -- I think I've actually published it on some other occasions if it was during my case in chief.

And then obviously it's evidence, and, I mean, you would address that, I guess, during your jury charge.

THE COURT: I will propose having it marked as a state's exhibit in that case.

MR. FALK: Or it could be a joint exhibit. Whatever.

THE COURT: Madam Court Reporter, what is your --

Well, why don't we make it a state's exhibit, and I'll convey to the jury that you all have each entered into the stipulation, agreed to it.

(State's Exhibit 48 marked for identification.)

(State's Exhibit 48 admitted into evidence.)

THE COURT: Anything else before we bring the jury out, Mr. Sorenson?

MR. SORENSON: No, Your Honor.

THE COURT: What I will do is I will let you publish that. I'll let you publish it.

MR. SORENSON: Okay. Are you going to explain to the jury kind of what a stipulation is or --

THE COURT: I mean, I can just tell the jury that -- I'll publish it, and I'll tell the jury that a stipulation is simply an agreement of the parties.

MR. SORENSON: Okay, thank you.

THE COURT: Not an issue in contention.

Mr. Falk, are you ready to proceed?

MR. FALK: He's just -- I just spoke with him. He's going to run into the restroom and he's going to run right back. He just drove up.

THE COURT: All right.

(Brief pause.)

THE COURT: All right. If you'll bring me the jury, please.

(The jury enters the courtroom at 2:24 p.m.)

THE COURT: All right. Mr. Foreman, ladies and gentlemen of the jury, before we go any further, let me

explain something to you real quick and read something to you. The parties -- and I say "parties," I'm referring to the State and defense -- have entered into what's called a stipulation. In other words, they have entered into an agreement, into an agreement.

And that agreement, which has been marked as State's Exhibit No. 48, reads as follows: "The State and the defense have entered into a stipulation that the defendant, Tyrone Ellison, has in the past worn a gold bracelet on his left wrist."

That has been marked as an exhibit and will be part of the evidence in this case. I'll hand this back to the court reporter. I wanted to explain that to you and read that to you at this stage in the trial.

At this time I'm going to recognize defense counsel. Call your next witness, please, sir.

MR. FALK: We call Dr. Robert Bennett, please.

CLERK OF COURT: Please place your left hand on the Bible and raise your right hand. State your full name for the record.

THE WITNESS: Robert Bennett.

ROBERT BENNETT,

being first duly sworn, testified as follows:

THE COURT: Mr. Falk.

DIRECT EXAMINATION ON VOIR DIRE BY MR. FALK:

Q. Mr. Bennett, could you please tell us your current occupation.
A. I am a forensic scientist, practicing that profession full-time in Charleston, South Carolina.
Q. And what are your qualifications?
A. I have a pharmacy degree from the Medical University of South Carolina as well as a Ph.D. degree from the Medical University of South Carolina, specializing in drugs and alcohol and other toxicology works, which has expanded into all fields of forensic sciences, including DNA testing.
Q. Have you had any additional courses after your postgraduate degrees?
A. Yes. I've taken many continuing education courses through, for example, The National Institute of Justice.
Q. Have you ever had the opportunity to testify as a witness before in a court in South Carolina?
A. Many times over the past 20 years.
Q. Can you tell me, have you testified for -- I mean, obviously I've called you as an expert. Have you ever -- have you ever testified for somebody who wasn't a defendant?
A. Yes. I've testified for both sides approximately equal proportion.
Q. Okay. And you've also testified in family court?
A. Yes. As well as many other courts: Criminal courts, federal courts, various types of courts.

MR. FALK: Your Honor, at this time we'd like to move to have Dr. Bennett qualified as an expert in the field of forensic science.

THE COURT: Mr. Sorenson?

MR. SORENSON: I have no objection with regards to that field.

THE COURT: Ladies and gentlemen, Dr. Bennett is being qualified or is qualified as an expert in the field of forensic science. I previously gave you a charge on expert testimony. That charge remains the same. It does not mean that you must accept the opinion, but it is evidence for you all, for you all to use in any way that you see fit and give it the weight and credibility that you believe is appropriate.

All right, Mr. Falk, you may continue.

DIRECT EXAMINATION BY MR. FALK:

Q. Dr. Bennett, have you had an opportunity to do any work in Mr. Ellison's case?

A. Yes, I have.

Q. Okay. And can you tell me generally what that was?

A. I was provided with two evidence items that I performed some additional DNA testing on. One item was a black wig that SLED had previously analyzed for DNA, another was a black visor that SLED had previously analyzed for DNA.

MR. FALK: May I approach the witness?

THE COURT: Yes, sir.

Q. I'm going to show you State's Exhibit 14. Does State's Exhibit 14 look like the visor that you --

A. It is the visor that I previously analyzed.

Q. And you also testified regarding a wig?

A. Correct.

Q. I'm going to show you State's Exhibit 17.

A. This is also the same item that I previously analyzed for DNA.

Q. Thank you.

And so you picked those items up from?

A. The North Charleston Police Department.

Q. And did somebody from either the solicitor's office or the North Charleston Police Department pick those back up from your office?

A. Yes.

Q. Now, you had testified -- you just testified that you did some additional DNA investigation on this?

A. Correct.

Q. Okay. Can you tell us what you did regarding the visor?

A. Initially I obtained the procedure that SLED had used to perform their DNA analysis. Specifically, I reviewed the report that was published by SLED on the particular items. I also had a direct conversation with the SLED DNA technician who performed a DNA extraction off the item.

In that conversation I was able to receive the exact procedure that was used on both items. At that point I incorporated that procedure into my protocol to repeat, as exactly as much as I possibly could, that exact same DNA extraction with the goal of determining if I could achieve the same results that SLED had achieved.

Q. So can you tell me, can you describe what you did to extract the DNA?

A. After having a conversation with the DNA analyst at SLED, she informed me that she performed two procedures in extracting DNA from the item. The first was a swabbing procedure in which a sterile cotton-tipped applicator swab was moistened and then rubbed on the entire surface of the portion of each item that would come in contact with the head. This is the area that would most likely contain DNA.

She swabbed the entire headband surface and then subsequently after that took a sharp object, such as an X-ACTO knife, and scraped the entire surface in attempt to remove any dislodged particles that may contain DNA. And she informed me that she scraped the entire headband surface on both items and then swabbed the scrapings as well and then submitted both of those swabs for DNA analysis.

Q. If you were given this visor initially, would you have used the same method for, I mean, just as far as scraping and swabbing? Is that the way you would attempt to extract DNA

from a visor?
A. No, I would not. I would swab and/or scrape a portion of the visor in attempt to --
Q. Let me just rephrase my question. I wasn't -- I just wanted to know, scraping and swabbing is generally the technique used?
A. Yes, it's a common practice.
Q. Okay. Now, did the technician give you any information as to how much of the visor and the wig that she swabbed, that she scraped and swabbed?
A. She reported that she swabbed and scraped the entire headband portion, the entire circumference.
Q. And was that for both the wig and the visor?
A. Correct.
Q. By scraping and swabbing, would you expect to remove most of the DNA from the -- the areas that you scraped and swabbed, would you expect to remove all the DNA from that area?
A. Yes. Because that would be intent and purpose of doing the swabbing and the scraping. The swabbing will usually obtain DNA from most any items. If a person who is extracting DNA wants to maximize DNA extraction, not only will they swab, but if it's an item that is porous in nature, such as the fabric on these evidence items, the person would also do scraping.

That procedure maximizes the extraction of whatever DNA is present, and that would be normal procedure to maximize DNA extraction from an item.

Q. She had testified that she scraped and swabbed the entire circumference of both the visor and the wig?

A. Correct.

Q. If you were given this task originally, would you have done the same?

A. No, I would not.

Q. Can you explain your answer?

A. I would have swabbed and scraped a portion of the item, just enough to be able to perform a DNA analysis. For example, and this is somewhat arbitrary, depending on the size of the evidence item, a third of the item.

Every piece of DNA, every piece of evidence item that is submitted to me for DNA extraction for subsequent analysis has to be evaluated on a case-by-case basis. If the item is large, then we potentially have a lot of DNA to work with, if the item is small, not so much.

In the cases where it's a small evidence item, such as a ring or something of that nature, then I might go ahead and swab the entire surface to maximize DNA extraction, because we have to have enough starting DNA to be able to do the DNA analysis, amplify the DNA and continue the DNA analysis.

But if the item is large, like a hat or piece of

clothing, then I would not need to swab the entire surface containing DNA, I would swab a portion that I would consider would be sufficient to obtain DNA.

Now, the reason for that is --

Q. Let me ask you another --

A. Sure.

Q. Now, DNA is -- you could describe DNA as a speck of somebody's body that has fallen onto the hat or --

A. Well, DNA does come from a cell, the nucleus of the cell, and it would have to come from a cellular portion of the body, whatever that cellular portion is.

Q. How small of the -- lack of a better word -- piece of DNA would be necessary in order for you to do your test? Do you need a cup of it?

A. Well, with the technology we have today, we have a procedure called PCR, which stands for polymerase chain reaction, which allows us to take a small amount of DNA and make copies of it, literally millions and millions of copies. And that has allowed us to take very small amounts of DNA, amplify it until we have a quantity that is -- now can be analyzed.

Previously, before PCR, we needed a lot of DNA to start with, because we were just analyzing what we could collect off the evidence item. Now we can take just a small portion of DNA.

At this point we have the technology that if we can get just a few cells, we can actually amplify that DNA through polymerase chain reaction technology and have plenty of DNA for testing. So with today's current DNA testing technology, we would only need a small amount of DNA to start with.

Q. Is that -- again, just to get a rough order of magnitude, are we talking about a tablespoon, a teaspoon, a grain of salt?

A. So small that it's invisible to the naked eye.

Q. I believe there's testimony about a micron?

A. Yes, extremely small amount.

Q. How small is a micron?

A. Smaller than the diameter of a human hair.

Q. Okay. Thank you.

So one micron of DNA would be enough to do this test?

A. Potentially, yes. Now, the more DNA we have to start with, the more we can amplify that DNA, so it's always better to start with as much DNA as we can possibly get.

Q. Is it your understanding that SLED has the technology to do PCR DNA testing?

A. They do.

Q. Do you know if that was done in this case?

A. It was.

Q. Now, when you said earlier that you would consider maybe doing -- of course it would depend on the size, that you

would consider maybe doing a third of the potential area; is that correct?
A. Correct.
Q. Now, if you did a third of it, and you ran your tests, would that have any effect on someone's ability to go back and retest some of the remaining two thirds?
A. None whatsoever. In fact, that's the purpose of only taking a third is to allow remaining evidence to be subsequently analyzed, if necessary.
Q. So if they had taken a smaller amount, it could be reanalyzed either by another party or SLED could have done their -- maybe needed to do their own reanalysis?
A. Correct.
Q. Now, did you have an opportunity to -- so you did DNA testing on the visor and the wig?
A. Yes. The first round of DNA testing that I performed was to mimic as close as possible the exact same DNA extraction and testing that SLED did to see if I could obtain the same results.
Q. And were you able to do that?
A. I was not.
Q. When you say you were not, what does that mean?
A. The results of my DNA analysis, I was unable to extract sufficient DNA to complete a profile.
Q. So it wasn't that you just weren't able to, for some

reason, duplicate the results, you couldn't get enough DNA to start with?

A. That is correct.

Q. Okay. Do you have a conclusion as to why that would be necessary?

A. Yes. The -- I think I understand your question is why did I get --

Q. Why did you not get any results?

A. Correct, yes. When SLED swabbed and scraped the item, they did a very thorough job. They essentially removed all DNA that was there, which was their intent. That's the whole purpose of both swabbing and scraping is to attempt to remove as much DNA as you possibly can. They were successful at that.

Q. So then the original testing of both the wig and the visor, there was more than one individual's DNA was found on each item?

A. According to SLED's analysis, yes.

Q. SLED said that. So there could have been other people's DNA. So had you had more DNA to work with or more area to work with, you could have possibly found somebody else's DNA on the visor or the wig; is that correct?

A. That is possible, yes.

Q. Is there any other conclusions to draw from the fact that you were unable to find any DNA on the wig and the

visor?
A. Well, in my attempt to swab and scrape it using the same method that SLED performed, once that result did not reveal a sufficient DNA for analysis, I then did subsequent additional DNA analysis.
Q. You can't rule out that there was never any DNA there to start with, though?
A. That is true.
Q. Did you have an opportunity -- once you got those results, did you have an opportunity to go further with --
A. Yes, I did.
Q. And can you explain what that was?
A. With the permission of the Court, I was able to obtain the evidence items back in my possession, which I was able to perform what's called destructive specimen DNA extraction. What that means is I was able to actually take a cutting of the evidence item and attempt to remove any DNA that might be embedded in the fabric as opposed to the DNA that's just on the surface.

Since I was unable to obtain DNA on the surface, the next logical step would be to see if I could obtain any DNA that might be embedded in the fabric.
Q. How would DNA have gotten embedded in the fabric?
A. That typically occurs when the item is worn multiple times, in which DNA is put on top of DNA over and over again,

much like someone wearing a hat repeatedly over and over again, in which the headband portion of a hat gets repeatedly stained with cells and sweat. The DNA gets continually pushed into the fabric, but that's more common with an item that's worn repeatedly.

Q. Could it also be on a visor?

A. It could, if the visor typically was worn repeatedly.

Q. It's not just a hat. A hat, a visor, something like that, they're both the same?

A. Yes, they both function the same as far as the headband piece.

Q. And what were your results?

A. Well, I took cuttings of the fabric and attempted to remove any embedded DNA that might be there. I also expanded the number of DNA markers. The original DNA testing was on 13 loci or segments of DNA.

I expanded that testing to 41 loci or segments of DNA, including segments of DNA that were smaller in size, because smaller DNA is less susceptible to degradation, whereas larger fragments of DNA aren't. So expanding the number of loci to smaller fragments does increase the possibility of finding viable DNA.

So in my second DNA testing, of which I took a cutting of the fabric to try to remove any embedded DNA and expanded the number of DNA segments tested, the result of that DNA

analysis was that I was unable to extract sufficient DNA to perform an analysis or to create a profile, the analysis was performed, but the results was zero DNA present.

Q. If the DNA got embedded into the sweatband on a visor, is that likely to come off or be able to be extracted through the scraping and swabbing?

A. The scraping and swabbing is more to collect the surface DNA on the evidence item, whereas the cutting is designed to extract the DNA embedded deeper into the fabric.

Q. One moment, please.

There was testimony that the visor was located by a K-9, when the North Charleston Police Office found the visor as a result of a K-9 search?

A. Okay.

Q. Is there any reason to think that a K-9, through the process of that coming in contact with the visor, could have contaminated the sample?

A. That potentially could occur, but the DNA technology of today is able to separate human versus nonhuman DNA. And so even if the dog had actually picked up the item in his mouth, then the DNA analysis for human DNA would still be able to be performed.

Now, that's not to say that the dog's saliva, with its enzymes, would have degraded some of the DNA. That's very possible, but any DNA that's still remaining would not be

interfered with with the K-9 DNA.

Q. And so at the end of the day, you were unable to find any DNA by scraping the sweatband on the visor or on the wig, and you were unable to find any DNA that was impregnated further deeper into both the sweatband and the wig; is that correct?

A. Well, when you refer to the sweatband, I'm referring to the headband portion.

Q. Headband.

A. And I performed -- on the headband portion, I performed a swabbing, I performed a scraping and I performed a cutting and on the cutting did an expanded analysis and in all my -- all those DNA attempts was unable to obtain sufficient DNA to create a profile.

Q. Just so there's no misunderstanding, could you pick up the bag that has the visor in it and show what we're talking about as far as the area that you scraped and swabbed?

A. The portion that comes in contact with the head is the portion that contains the area that is most in contact with the skin, and so I would swab and scrape the entire surface to repeat what SLED had performed. And if you notice on the inside of the headband, there is a section removed, and that's the cutting that was taken for the final analysis.

And the wig itself, which is available for viewing, if necessary, on the inside has a fabric portion. That's the

headband portion that sits on the crown of the head, and the -- that the hair, the synthetic hair fibers are embedded into that crown portion and comes out to create a wig look.

But the part of the wig that holds itself onto the head is a headband approximately one inch in width and covers the circumference of the head, and it's that portion that I swabbed and scraped and took cuttings of to perform DNA analysis.

Q. Are you aware of any best practices for extracting DNA from a hat or a headband?

A. Well, the goal of any DNA technician is to extract enough DNA to perform the analysis. However, there has to be a balance in doing that. For example, if one has an item that needs to be extracted to the maximum, but yet the item would never be needed or used for any other purpose, then the procedure would be to consume the entire evidence item to maximize extraction and, therefore, in finding enough DNA to perform an analysis.

However, typically and commonly and somewhat universally, the procedure in forensics is to only take a portion that is needed to perform the analysis, and the reason for that is it is important to retain enough of the evidence item for any subsequent analysis that might be needed for forensic purposes.

And this is a procedure that is standard procedure in

the world of forensics. In all of my dealings with colleagues, in all of my training and all of my education, it's routinely accepted that you only use enough of the evidence item that you have to complete the analysis, mainly for the purpose that if any subsequent analysis needs to be performed, that evidence item is available to have that analysis performed.

Q. So is it your opinion that the better practice would be to scrape a section of it, test it, and depending on what are the results of that, to go back and scrape it or try to obtain more DNA?

A. In my opinion, yes. Because if a portion of the evidence item is used for DNA extraction and no evidence is found, no DNA is found, there's nothing to prevent you from going back and getting more. It's there. You have it.

You just -- the only restriction is the economics behind that, because if you use a portion of the evidence item for DNA analysis and don't find any DNA and then you have to go back and do an additional extraction and subsequent additional DNA analysis, and that takes time and resources to do that.

So if you're in a situation where you have to economically maximize your resources, then a DNA technician might opt to consume the entire evidence item in an attempt to get the job done the first time.

Q. But is it your opinion that there was no reason for them to try and consume all the DNA first without saving a portion for retesting?
A. It's my opinion that the procedure that should have been used is to use a portion of the item and attempt to characterize the DNA on that portion with the goal of saving sufficient amount of the evidence for any subsequent analysis.
Q. And the amount when you went back for the cutting, about how big a piece did you remove from the visor?
A. This visor shows a good example in which the portion that I cut for extraction is approximately a tenth of the entire surface available, but it was a portion that was inch, inch and a half, which is plenty of material for extraction of DNA.

And it's on the portion that would contain the most amount of DNA, the portion right at the front of the head, touching the skin, as opposed to the remainder touching the hair.

MR. FALK: I have no further questions.

THE COURT: Cross-examination.

MR. SORENSON: May it please the Court, Your Honor.

THE COURT: Yes, sir.

CROSS-EXAMINATION BY MR. SORENSON:
Q. Good afternoon, Dr. Bennett.

A. Good afternoon, Mr. Sorenson.
Q. I've got a few things for you, questions about -- and you hold yourself out as a forensic scientist; is that correct?
A. Correct.
Q. And as a result, I mean, you offer your services in a variety of fields; is that correct?
A. Correct.
Q. I'm kind of looking through your website. Toxicology?
A. That's my main focus.
Q. Drug testing?
A. Yes.
Q. DNA analysis?
A. Yes.
Q. Hair and fiber comparisons?
A. Correct.
Q. Blood spatter analysis?
A. Yes.
Q. Shoe print and tire print comparisons?
A. I can provide that service, yes.
Q. Questioned documents, in other words to determine whether an individual wrote a particular document by comparing it to known handwriting samples?
A. I have performed that service for forensic cases in the past, yes.

Q. Fingerprint analysis?
A. Yes.
Q. Gunshot residue analysis?
A. I have that capability, yes.
Q. Firearm and ballistic analysis?
A. I can assist in that, yes.
Q. Okay. And crime scene reexamination?
A. Yes.
Q. So that's a little bit of -- that's basically what every department out at State Law Enforcement Division handles; is that correct?
A. It's fairly comprehensive, yes.
Q. Of course, State Law Enforcement Division, you're aware that they, in each of those departments, have individuals that have dedicated their entire lives to those particular fields that they are then experts in, as opposed to kind of a jack of kind of all fields, jack-of-all-trades, correct?
A. Correct. That's correct.
Q. Okay. And in this case, you testified that you were provided two items to look at. That's the wig and the visor; is that correct?
A. Correct.
Q. In fact, you did receive other items besides those two; is that correct?
A. Correct.

Q. All right. You received State's Exhibit No. 15, this latex glove; is that correct?
A. Correct.
Q. You haven't done any testing at all on this latex glove; is that correct?
A. I have not touched that item, correct.
Q. And also, in addition to being provided those items, you were, prior to, I think, probably even getting possession of those items, you received, and I don't know if it was given to you in a CD form or if it had been printed out and given to you, but basically SLED's entire case file dealing with their processing and analyzing those items; is that correct?
A. Correct.
Q. Okay. So you had an opportunity to then review the procedures that they used and the results of their analysis and ultimately the opinions that were reached by the DNA analysts at SLED?
A. Yes.
Q. And it's your testimony then that your attempt then initially was to essentially repeat, attempt to repeat what SLED did in processing just those two items, not -- you said you didn't mess with the latex glove at all; is that correct?
A. That's correct.
Q. It's my understanding, I know you've testified about this prior also, that ultimately you were unable to get a DNA

profile when you basically repeated exactly what SLED did on those two items as far as swabbing and scraping those two items, the wig and the visor; is that correct?

A. Correct.

Q. And it's my understanding that your -- and I believe Mr. Falk asked you this, that the steps that were used by Ms. Betty Butler at SLED are the -- otherwise basically the common practice used when processing items such as this in an attempt to determine ownership or who may have worn that item, that the steps that she took were the common practice within the field?

A. They are common practice in order to maximize DNA extraction.

Q. Okay. And I'm going to get -- not necessarily how much was processed but just the steps that were taken?

A. Correct, yes.

Q. And let me ask you this: When you're dealing with an item of evidence, such as a hat or a visor or a wig, or even if you had initially a shirt, but I think more so with a hat, a visor or a wig, and you're trying to -- and it's submitted to you in an attempt to determine who may have been wearing that item, what exactly are you looking for? What are you trying to collect off of that item when you process it?

A. Skin cells.

Q. And are those skin cells visible to the naked eye?

A. No.
Q. So you can't look at -- like when those items arrived out at SLED back shortly after this bank robbery in -- on April 1st of 2013, when Ms. Butler, you know, took that visor out of the packaging and began to process it, she couldn't look at it and say, "Oh, there are the skin cells, so I'm going to collect them from right here"?
A. Correct. You can't see DNA.
Q. Now obviously it's just a little different situation if let's say you had a T-shirt that was submitted that had a large blood stain on it. That would be a different situation because that's something that's visible to the naked eye, so you kind of know where you're targeting on that item; is that correct?
A. Essentially correct. You can't see the DNA there, but you can see the items that caused the stain, which most likely contain the DNA.
Q. So you'd have, yet again, kind of a target. I mean, you wouldn't -- I mean, if a T-shirt was submitted to you with an apparent stain that tested positive for blood with a, you know, presumptive test on it, if you were going to process that item, then obviously you're not going to take cuttings from all of those parts of the item, you're going to focus your attention on that stain; is that correct?
A. Initially, yes. But if I didn't find any DNA on that

stain, for whatever reason, such as potential degradation, then I would actually look at nonstained portions.

Q. Okay.

A. But you're right, the first target would be the visible stain.

Q. But when you're dealing with an item that you're solely dealing with trying to determine ownership looking for skin cells, you don't have that luxury of having something focus your attention to a specific part of the item initially, though; is that correct?

A. That is correct.

Q. And I guess what I kind of get out of your testimony, Dr. Bennett, is that with regards to what Ms. Butler did, and you had an opportunity, and you mentioned this in your direct examination, that not only did you review all of the paperwork and all that was submitted to you from SLED, but they -- I mean, you were able to call up there and talk to the -- Ms. Betty Butler, the analyst that processed those items and then also Catherine Leisy, the DNA analysis that ultimately performed the DNA testing?

A. Yes.

Q. And they were cooperative with you?

A. Yes.

Q. Spoke to you and answered whatever questions you had about how they went about processing those items; is that

correct?
A. Correct. They answered all my questions, provided details that I needed.
Q. And what I get out of your testimony is that basically your only kind of criticism of how they went about doing their job was that they were overly thorough in how they did their job?
A. That's one way to put it, yes.
Q. And I'm not sure how much, because I don't know what was provided to you in talking to the defense counsel, but let me ask you this: Would it change things in any way, because you talked about this economic -- I mean, obviously if you have to do DNA testing, I mean, you obviously could do a tiny swab, and then if you didn't get anything, could do another tiny swab. And it could go on forever and ever before you finally maybe tested the whole item. I mean, and that just is not economically sound?
A. That is correct, yes.
Q. And, of course, you're dealing with, in this case, a bank robbery that happened on April 1st of 2013. These items were processed by Ms. Butler, and that should have been in the paperwork you were provided on June 5th of 2013. And of course, at that point in time, the bank robbery hadn't been solved. I mean, he hadn't been arrested yet. He hadn't been identified as a suspect.

So law enforcement's goal, would you agree with me, at that point in time, is trying to -- I mean, there is a bank robber on the loose. There is potential evidence that might help identify that bank robber. I mean, that should be law enforcement's goal at that point in time; is that correct?

A. That is correct, in my opinion.

Q. And ultimately, they did a thorough job. Now, let me ask you this: You said when you dealt with taking the cuttings, and I'm going to kind of get to that, but it kind of reminded me of something, the subsequent testing you did of the hat, hat and the visor where you took, you know, the cutting --

A. Correct.

Q. -- from around. You didn't -- I mean, your results from what you tested, you didn't get any DNA, correct?

A. Correct.

Q. But you said -- I mean, you didn't ultimately end up testing that entire cutting; is that correct?

A. Correct. The cutting was just too much volume to test.

Q. And part of that is where you obviously focused, because while it's a visor and while it's a wig, they're typically -- that headband, there's only a portion of it that's going to come into contact necessarily with the skin typically?

A. Right, typically the forehead portion.

Q. Right. I mean, unless you got kind of like my head, now

obviously a little more skin's going to come into contact?
A. Yes.
Q. And it's your suggestion that they should have only, when they initially swabbed and scraped the item, should have only done a third to a half of the item; is that correct?
A. Correct.
Q. Now, would it be your suggestion if they did that, then they still should be focusing, I mean, on the area that would most likely come in contact with skin; is that correct?
A. Correct, yes.
Q. So even if they had done that, if they had processed, you know, the front half of the visor and the front half of the wig and got the DNA results they got, if you went back and attempted to then swab and scrape the rest of the item that wouldn't necessarily come into contact with the skin if the person had hair, you may still not find any DNA results, is that correct, on the other part of the item?
A. Correct. But let me clarify. The portion that comes in contact with the skin on the forehead portion, that item, a third of that item is what should be tested.
Q. Okay. So they should only be testing and swabbing a very small section of that whole object then to start with is your testimony?
A. In this case example where we're assuming that the wearer of the item had hair and only the forehead portion was

in contact with the headband portion, then the forehead portion, only a third of that should have been used for testing is my opinion.

Q. Okay. Yet again, obviously you're looking at it coming from a different standpoint as an expert hired by the defense kind of after the fact as opposed to law enforcement on the front end when they are trying to solve an unsolved crime?

A. Correct.

Q. And you testified about that kind of subsequent testing that you did. And yet again, the State, you didn't -- nobody objected to you getting those items back into your possession and doing whatever additional testing you wanted to do on those items, on the latex glove?

A. Correct.

Q. Or any other items that were in evidence at North Charleston Police Department; is that correct?

A. That is correct.

Q. And you testified about that kind of subsequent testing you did. You're looking for DNA that would be -- that's embedded into the fabric?

A. Correct.

Q. Is that correct? And that is something, I believe you testified about it today, but you would typically find more commonly in an item that's, you know, repeatedly worn?

A. Correct.

Q. And I think I asked you the other day in the pretrial hearing we had, you know, I've got a softball hat that, I mean, I wear every time I play softball. It's in the trunk of my car and probably hasn't been washed in the last ten years. I mean, you're more likely to find my DNA embedded in the headband of that hat; is that correct?

A. Much more likely.

Q. As opposed to an item such as a wig and a visor that somebody wore one time as a disguise during a bank robbery; is that correct?

A. That is correct.

Q. And Mr. Falk asked you about there had been some testimony earlier from one of the responding officers that had a K-9 out there, that the K-9 had gone over and actually alerted initially on the visor and had initially picked the visor up, then was given a command, dropped it and then it was collected after that.

If I understand your testimony correct, I mean, you can tell the difference between human DNA and animal DNA; is that correct?

A. Correct.

Q. Especially K-9 DNA?

A. Correct.

Q. And if anything, you said -- I mean, obviously I guess if a dog got ahold of that and, you know, went to town

gnawing on it, it could essentially degrade whatever human DNA was on there and affect your ability to get DNA and get results off of the item; is that correct?

A. That potential does exist, yes.

Q. Okay. A dog picking up an item and putting it back down is not going to suddenly turn the DNA that's on it into somebody else's DNA, though, are they?

A. That's correct.

Q. Okay. So if an expert's testified that Tyrone Ellison's DNA is on that visor, the fact that the dog picked it up isn't going to really have an affect on that; is that correct?

A. That's correct.

Q. The last thing, Dr. Bennett, now, you testified as part of what you received out in your lab for you to go over was not only those two items to attempt to test them but also all the worksheets and everything basically that SLED created in result as part of this case; is that correct?

A. Correct.

Q. And you had an opportunity, as part of your review, to review all that stuff; is that correct?

A. Yes.

Q. And I think you've already said this, but it's your opinion that they did a thorough job; is that correct?

A. Correct.

Q And, if anything, in your opinion might be they did too thorough of a job or tested -- did a little more than they should have done to start with; is that correct?
A Correct.
Q. Okay. So anything in the stuff, though, that you have reviewed about the procedures used by SLED that suggests that they did anything inappropriate?
A. I reviewed the SLED reports and I reviewed many, many SLED reports over the years. The SLED report in this case, all the SLED reports in this case, after thoroughly reviewing those reports, I find no anomalies or discrepancies in this report as compared to all the other SLED reports issued that I've reviewed over the years. So no evidence of any abnormalities or any causes of concern within the report.

In subsequent communication with the DNA analyst, I was not able to pick up on any indication that any unknowns were there or any confusions were there or if any discrepancies were brought to light.
Q. So there's nothing, I mean --

And you had been retained on other cases in the past to review SLED's results? I mean --
A. Many times.
Q. -- DNA cases specifically?
A. Yes, many times.
Q. So you're aware of, you know, they're an accredited

agency?
A. Yes.
Q. And they have guidelines that they have to follow before they can issue a report?
A. Yes.
Q. And you're aware those were all followed in this case?
A. It was.
Q. So other than the fact that you, you know, weren't able to kind of go back behind them and attempt to retest and see if you could develop DNA, there's nothing, you're telling this jury, that they did as far as -- basically to contradict the results they got, however; is that correct?
A. I was unable to either confirm or refute their findings because there was insufficient DNA to create a profile.
Q. Let me ask you this: If you had, in swabbing, because you're aware, in looking at the report or the reports, that there was a mixture, right?
A. Correct.
Q. Okay. And that -- and Ms. Leisy testified yesterday that Tyrone Ellison was the major contributor on that mixture, a pretty significant major contributor, would you agree?
A. Correct.
Q. 1 in 2.2 quintillion?
A. According to SLED reports, yes.

Q. I mean, if that's accurate, that means he came in contact with those items, correct?
A. Most likely.
Q. If you had been able to recreate, let's say you went back and you got a DNA profile, a minor DNA profile that didn't match the defendant's, that would mean obviously that somebody else had contact with that item at some point in time, correct?
A. That is correct.
Q. And of course SLED's results already tell us that, right?
A. Correct.
Q. Because there's a minor contributor, so somebody somewhere along the line has either had contact with that wig or contact when they put it on somewhere or in a store, wherever it was bought, or the previous owner or somebody has already had contact with it?
A. Correct.
Q. So if you were able to get results from some independent testing, that would basically just confirm that; is that correct?
A. Correct.
Q. It would -- still wouldn't say that he wasn't wearing it on April 1st; is that correct?
A. If we're assuming that the results I obtained would be

the same that SLED obtained, then you are correct.
Q. Well, even if your results came back, as I said, that you didn't find his DNA on wherever you were able to swab or whatever was left on there, that still wouldn't say that he wasn't wearing the item on April 1st of 2013, correct?
A. That is true, yes.
MR. SORENSON: Beg the Court's indulgence.
Thank you, Dr. Bennett.
THE COURT: Any redirect?
REDIRECT EXAMINATION BY MR. FALK:
Q. The purpose to double-check a scientific experiment is not just to read the procedure that the scientist did but is actually to try and recreate it; is that correct?
A. That standard scientific principle is taught from high school on up, yes.
Q. So if you recreated the procedure as SLED did and you got a different result, that could mean that SLED didn't follow the procedure that they'd written down or that there was a mistake in the procedure; is that correct?
A. That's correct.
Q. But the way to be sure is to retest?
A. That's the only way to be assured.
MR. FALK: No further questions.
THE COURT: Mr. Sorenson?
MR. SORENSON: Just briefly.

RECROSS-EXAMINATION BY MR. SORENSON:

Q. But yet in this case, you're dealing with an item where it's not visible to the naked eye, so you don't know if you've taken all the item off of it or anything, right, when you're processing it?

A. That's correct.

Q. All right. So there's no way for Ms. Butler to have known if she'd removed all the DNA when she swabbed and scraped it, is that correct, looking at the item?

A. Yes. Since DNA is not visible and there was no visible spots or stains, such as blood, then she has essentially no idea where the DNA is on the item. She can only go by using logical thinking of where the DNA most likely would or should be, based on the function of the item.

MR. SORENSON: Okay. Thank you.

THE COURT: Doctor, you may step down. Thank you.

THE WITNESS: Thank you.

THE COURT: Call your next witness, please.

MR. FALK: We would call Ms. Chunte Green.

THE COURT CLERK: If you'll place your left hand on the Bible and raise your right hand and state your full name for the record.

THE WITNESS: Chunte Green.

CHUNTE GREEN,

being first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. FALK:

Q. Ms. Green, what is your current occupation?

A. I'm a shift manager at Burger King.

Q. And how long have you been a shift manager at Burger King?

A. For 14 years.

Q. So have you been -- so you were obviously a shift manager at Burger King on April 1st, 2013?

A. Yes, I was.

Q. Okay. What are the duties of the shift manager?

A. I control inventory. I do the schedules. I make sure my crew, I have enough crew basically to take care of the whole restaurant. Customer service.

Q. Can you tell me -- can you sort of describe the workforce that you had at -- what Burger King are you at?

A. I'm at 3262, which is at 6889 Dorchester Road, North Charleston 29418.

Q. All right. Thank you.

Can you sort of describe the work crew that you had in April of 2013?

A. We didn't have crew. It was a handful of us. We was going through managers trying to get a GM. It was hard. Basically we had, like, a minimum of people that came to work, and all of us was -- the same people was working every day, every other day, except, you know, I didn't work on

Mondays because I take care of my mom, but we didn't have anyone. It was awful.

Q. Did Tyrone Ellison ever work at that Burger King?

A. Yes. Tyrone was a big help, one of our biggest help.

Q. If you could just limit your response to my question. So he did work at that Burger King?

A. Yes.

Q. Okay. And was he working at that Burger King in the first part of 2013?

A. Yes.

Q. Was he working there in April of 2013?

A. Yes.

Q. Can you explain what his responsibilities were at the Burger King?

A. Tyrone was our grill guy, our porter. He did the truck. He handled the maintenance, any maintenance we had. He was a big help.

Q. Was he the only male that was working at that time?

A. Yes.

Q. When you said he was the porter, what does that mean?

A. The porter, he -- he controls the fryers, the maintenance of the building, like, he did our trucks, he did, like, a lot of stuff. Like, he was the only guy, so we relied on him a lot.

Q. Can you tell me when deliveries would come to the store?

A. Deliveries are on Monday and Thursdays.
Q. Okay. And so did you get a delivery at that store on April 1st, 2013?
A. Yes.
Q. But you had testified that you don't work on Monday; is that correct?
A. I do not -- I didn't work on Monday.
Q. But you know that the store got replenished; is that right?
A. Yes.
Q. So you know the delivery was made?
A. Yes.
Q. Do you have any other way to know that the delivery was made?
A. I mean.
Q. Did you look at the receipts?
A. You can check the receipts. You can even check the books. Monday and Thursdays are our delivery days.
Q. Who would take care of the delivery trucks?
A. Tyrone.
Q. And when did the -- when does the delivery truck show up?
A. Anytime from 6 a.m. in the morning to 12:00 at night.
Q. Okay. Do you know who unloaded the delivery truck on April 1st, 2013?

A. Tyrone did.

MR. SORENSON: I'm going to object to that.

THE COURT: Grounds for your objection?

MR. SORENSON: No personal knowledge.

THE COURT: Well, see if you can lay the foundation for that.

Q. How long had you worked at the Burger King?

A. 14 years.

Q. Was it ever your experience that the truck drivers would unload their own trucks?

A. No.

Q. Would any -- has a truck ever -- did anyone else ever unload the trucks?

A. No. We had one guy, that guy was Tyrone. In April he did it.

MR. SORENSON: I'm going to still object, Your Honor.

THE COURT: Can the lawyers approach?

(Judge and attorneys confer.)

THE COURT: Go ahead, Mr. Falk.

Q. Did Tyrone ever come to work when he wasn't clocking in?

A. Yes.

Q. On what occasions would that be?

A. When, you know, he would reach 40 max, because we called him in because we were shorthanded and we didn't have any help, he would come in off the clock and help us out.

Q. What do you mean by "40 max"?
A. He got his -- he worked his 40 hours and he know we didn't have anybody, he would come in. So we called him, "Can you please come help us out?" He came and helped us out.

MR. FALK: No further questions.

THE COURT: Cross-examination.

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

THE COURT: Yes, sir.

CROSS-EXAMINATION BY MR. SORENSON:

Q. Ms. Green, let me ask you, at Burger King, you all have latex gloves at Burger King?
A. Um --
Q. Gloves such as this that you would have access to working back in the kitchen preparing food?
A. Mm-hmm, yes.
Q. And it's your testimony that you did not work on Mondays; is that correct?
A. I didn't work on Monday.
Q. All right. And I think we've heard testimony, I don't think there's any dispute, April 1st of 2013 was a Monday, so you did not work that day?
A. But I did help do the schedule. I did do the schedule.
Q. Okay. And it's your testimony that Tyrone Ellison was

on the schedule --
A. Yes, he was.
Q. -- for that day?
Okay. And it's your testimony, but obviously you were not there, so you do not know --
A. I wasn't there.
Q. -- firsthand knowledge whether he was at work that morning or not; is that correct?
A. No.
Q. Okay. And your testimony a short while ago was that Tyrone Ellison was the only male that worked there?
A. In the morning times.
Q. Okay. How about a young man by the name of -- and I don't know if the name is backwards or forward on here, but Tyrone Bailey?
A. Tyrone Bailey is a young guy. He worked at nighttime. Tyrone was -- Tyrone Ellison was the adult that worked in the morning time that helped. Tyrone Bailey barely got hours.
Q. Okay. So if the Burger King records show that Tyrone Bailey worked on April 1st of 2013 from 6:18 in the morning to 10:28 in the evening, that would be inaccurate?
A. That would be inaccurate. Tyrone Ellis would work early in the morning.
Q. Tyrone Ellis?
A. Tyrone Ellison would work early in the morning.

Q. Okay. But you weren't there, so you don't know that for a fact?
A. But I know Tyrone Bailey is not a morning person.
Q. Okay. And how about Christopher Coburn, do you know Mr. Coburn?
A. Yes.
Q. Okay. So that's another male, right?
A. Yes. But Chris rarely comes to work.
Q. Okay.
A. It was always Tyrone Ellison that came to work and did our truck, sir.
Q. And that could have been every other Monday --
A. No.
Q. -- but specifically on Monday, April 1st of 2013, you don't have any firsthand knowledge who was at work unloading the trucks that morning; is that correct?
A. That is correct.
Q. Because you were not there?
A. I was not there.
Q. Okay. And as far as -- I mean, other than getting called up about this, I mean, there's nothing else about April 1st of 2013 that stands out to you, right? Other than the fact that you've been called to court to testify about things?
A. But if he didn't had showed to work, they would have

called my phone and asked did I hear from Tyrone, did he come, do I know what's going on, because he's always come to work.

Q. Okay. All right. But, of course, the records from your corporate office would help kind of clarify all that, is that correct also, about who worked that day and actually got paid for working what hours?

A. Like I stated, there was times he came to work and he didn't get paid because he already did his 40 hours, but he still helped us out. And Mondays was the truck day, so he always came.

Q. Okay. So he would just show up on Mondays whether -- it's your testimony, even though you weren't there on Mondays, but he would show up on Mondays whether he was scheduled and whether he was going to get paid or not and he would just work?

A. Because we had a minimum of people, and everybody knew their schedule, and he knew that Mondays and Thursday was the truck day and we needed help, with the women needed help because we couldn't do it, so he would be there and he would help us.

Q. And if the records show that Tyrone Bailey and Christopher Coburn worked that morning, then that's obviously inaccurate, despite the fact that you were not there that morning; is that correct?

A. It wasn't him, but he always worked on Mondays.

MR. SORENSON: I have nothing further from this witness, Your Honor.

THE COURT: Any redirect?

MR. FALK: No, Your Honor.

THE COURT: Ma'am, you may step down. Thank you.

THE WITNESS: Thank you, sir.

THE COURT: Call your next witness, please.

MR. FALK: Defense would call Candida Hocog Payne.

CLERK OF COURT: Please place your left hand on the Bible and raise your right hand, state your full name for the record.

THE WITNESS: Candida Hocog Payne, C-A-N-D-I-D-A, H-O-C-O-C-O-G, P-A-Y-N-E.

CANDIDA HOCOG PAYNE,

being first duly sworn, testified as follows:

THE WITNESS:

THE COURT: Mr. Falk.

DIRECT EXAMINATION BY MR. FALK:

Q. Do people frequently call you Ms. Candida or Ms. Candy?

A. Candy.

Q. Is it okay if I go forward on that?

A. Yes, sir.

Q. Okay. Ms. Candida, do you know Tyrone Ellison?

A. Yes, sir, I work with him.

Q. And where do you work?
A. Burger King. On Dorchester Road.
Q. Okay. He doesn't work there anymore; is that correct?
A. Well, he's not there.
Q. Yes. Did you work there in April of 2013?
A. Yes, sir.
Q. Were you working there on April 1st of 2013?
A. Yes, sir.
Q. How do you know that you were working on April 1st?
A. Because it's April Fool's Day.
Q. Was there -- okay. And were you on the clock that day?
A. No. Our system was down, and our supervisor just write our name.
Q. Okay. Did you ever -- do you recall -- do you recall Mr. Ellison ever being driven to work, somebody driving him?
A. I can't hear you.
Q. You are currently working at the Burger King?
A. Yes, sir.
Q. Okay. Now, you've had -- and you are sure that on April 1st, 2013 Mr. Ellison was working with you on that day?
A. Yes, sir, because that's our truck day.
Q. Okay. And who usually would unload the truck?
A. Sir?
Q. Who would unload the truck?
A. Tyrone and another fellow.

Q. Now, have you had a brush with the law? Do you have a criminal record?
A. Yes, sir.
Q. Can you tell me what that is?
A. It's shoplifting.
Q. Beg your pardon?
A. Shoplifting.
Q. Do you realize today that you are giving sworn testimony?
A. Sir?
Q. Do you realize today that you've taken an oath to tell the truth?
A. Yes, sir.
Q. Do you realize today that if you are not telling the truth that that could be a felony?
A. Sir, I do have a felony record.
Q. Do you realize -- do you appreciate that if you are not telling the truth today that that would be a felony?
A. Yes, sir.

MR. FALK: No further questions.

THE COURT: Cross-examination.

MR. SORENSON: Please the Court.

CROSS-EXAMINATION BY MR. SORENSON:

Q. Ms. Hocog Payne, you told the jury you had a conviction for shoplifting; is that correct?

A. Yes, and other charges.
Q. Yes, it's a little more than just the shoplifting, isn't it?
A. Yes, sir.
Q. Okay. Let's kind of go through that, if we could, okay?
A. Yes, sir.
Q. In kind of looking at the records that I've been able to find, you've got from 2000 -- just going back the last ten years, from 2005, a defrauding a hotel or a restaurant conviction?
A. Yes, sir.
Q. Okay. Financial transaction card fraud conviction?
A. I believe so.
Q. Okay. False statement to obtain some sort of license?
A. Yes, sir.
Q. That was all in 2005. Got a shoplifting conviction from 2006, another shoplifting from 2008?
A. Yes, sir.
Q. Is that correct? You've got, let's see here, two more counts of basically shoplifting third or greater from 2008?
A. Yes, sir.
Q. Another one of the same thing from 2009?
A. Yes, sir.
Q. Another one from 2013?
A. Yes, sir.

Q. In fact, that was just a couple months prior to what you're testifying about now, right?
A. Yes, sir.
Q. Okay. Now, it's your testimony, if I understand this, that you were working on April 1st of 2013; is that correct?
A. Yes, sir.
Q. All right. And so the Burger King records would show that, is that correct, that you were working?
A. It should.
Q. Okay. And, in fact, those records have you working from 11:43 to 4:30 in the afternoon that day; would that be accurate?
A. Well, I come in early when my supervisor call me.
Q. All right. But so those records, though, it wouldn't surprise you that they have you working because your testimony is that you worked that day; is that correct?
A. Yes, sir, I worked.
Q. Okay. And it's your testimony that Mondays are truck day, and you know that Tyrone Ellison and another fellow unloaded the truck; is that correct?
A. Yes, sir.
Q. Who is that other fellow?
A. I believe, I'm not -- I'm not sure. I can't say the person's name. It most likely is him and Christopher.
Q. Okay. It's most likely him and Christopher? Let me --

A. Yes. But I know Tyrone was there to unload the truck.
Q. Okay. So you're positive that the man that's sitting over here charged with a bank robbery, you're positive it was him, but you're unsure about who the other person was?
A. Yes, sir.
Q. All right. And you -- ma'am, obviously we're talking about something that happened, I guess, 18 and a half months ago; is that correct? I mean, April 1st of 2013, you realize we're talking about last year, right, 2013?
A. Yes, sir. Yes, sir.
Q. Okay. So we're talking, you know, a significant period of time ago; is that correct?
A. Yes, sir.
Q. All right. And you did you also give kind of an affidavit about that day; is that correct?
A. Yes, sir.
Q. And who did you give that affidavit to? Do you remember?
A. I'm not sure.
Q. You're not sure? Do you know -- do you know the document I'm talking about? Do I need to show it to you to refresh your memory?
A. Yes, sir.
MR. SORENSON: May I approach, Your Honor?
THE COURT: Yes.

Q. Do you recall giving that affidavit?
A. Oh, yes, sir, that was to another attorney.
Q. Okay. And that was for Mr. Ellison; is that correct?
A. Yes, sir.
Q. Okay. And what is the date that you gave that affidavit about the events of April 1st of 2013? What's the date on there, ma'am? And I'm not sure if it's on the front page or the last page where you signed it.
A. This say 3/19.
Q. So March 19th, and that would be of this year, of 2014?
A. Yes, sir.
Q. So that was almost a year after the day we're talking about; is that correct?
A. Yes, sir.
Q. And this affidavit you gave is basically about what you're saying you're swearing to be the truth about what happened on April 1st of 2013; is that correct?
A. Yes, sir.
Q. And in that you indicated that obviously you were working at the Burger King, that you knew Mr. Ellison; is that correct?
A. Yes, sir.
Q. Okay. That your manager was Ms. Green, who just testified, you kind of talked about your duties there and the fact that you were working almost every day; is that correct?

A. Yes, sir.
Q. And let me get to the part I wanted to get at here. And you told when you gave this affidavit that you were sure that Mr. Ellison was working that day, right?
A. Yes, sir.
Q. Okay. And you reference because it was April Fool's Day; is that correct?
A. Yes, sir.
Q. Okay. And that ultimately after work that he took you home in a black Ford Taurus; is that correct?
A. I'm not -- I'm not sure of -- I'm not -- I'm not really sure of the car, the make and model. I'm not that good.
MR. SORENSON: Okay. May I approach, Your Honor?
THE COURT: Yes.
Q. Okay. And this -- yet again, this is sworn by you to be the truth back on March the 19th of 2014. Looking at Item 11, Section 11, when you gave that sworn affidavit to Mr. Ellison's lawyer, I mean, what did you say he took you home in that day?
A. It looked like a Ford Taurus.
Q. I mean, what did you put on there?
A. Taurus.
Q. Okay. It was a black Ford Taurus also. It was a black vehicle, right?
A. It's dark color.

Q. All right. So when you gave this affidavit that you said that you took you home on -- that he took you home that day after work in the black Ford Taurus. That's what you told his lawyer. I mean, you provided -- the police didn't get this from you, right?
A. Yes, that's what I said.
Q. All right. And let me ask you this: You also put in here that you remembered a young man by the name of Chris Coburn working that day also; is that correct?
A. Yes, Christopher was there.
Q. Okay. Was he the other person unloading the truck?
A. Well, he came in a little bit later.
Q. All right. And yet again, I mean, the first time you talked to anybody and gave any kind of statement about the events of April 1st of 2013 was when you gave this affidavit on March 19th of 2014; is that correct?
A. Yes, sir.
Q. So almost a year later. And you've been in contact with the defendant's mother, right? I mean, she's been in contact with you?
A. Today to bring me to court.
Q. Okay. Have you all talked about what you were going to testify about?
A. No, sir.
MR. SORENSON: That would be all I'd have, Your Honor.

Thank you.

THE COURT: Any redirect?

REDIRECT EXAMINATION BY MR. FALK:

Q. Did you know that Tyrone had a black Taurus?

A. No, sir.

Q. Did you know that he had a black car?

A. Sir?

Q. Did you ever see him driving a black car?

A. Well, I wear glasses, so, you know, I'm also colorblind.

MR. FALK: No further questions.

MR. SORENSON: Just real briefly, Your Honor.

RECROSS-EXAMINATION BY MR. SORENSON:

Q. As to that last thing, well, who told you to put -- I mean, if you're saying you're colorblind, you're colorblind and you're not sure about the type of vehicle, who told you in this affidavit to put black Ford Taurus then?

A. Because I know a lot about cars.

Q. Okay. Well, I guess let me go back to my original question then on cross-examination. Did he give you a ride home in a black Ford Taurus that day?

A. It's a dark color car, sir.

Q. Okay. Well, is it a Ford Taurus?

A. I'm not sure. But because the Ford -- a lot of cars are made similar to the Taurus.

Q. Well, I guess I'm a little confused. In one sentence

you're saying you know a lot about cars and then --
A. Yes, I do.
Q. -- in another one you're saying you don't know about cars.
A. I know a lot about the shape of the cars, that different cars are made but the same shape.
Q. Okay. My question then is who told you to put black Ford Taurus on here?
A. Myself.
Q. Okay. Because that's the car that you remember him giving you a ride home that day?
A. Yes, sir.
MR. SORENSON: Okay. Thank you.
THE COURT: Ma'am, you may step down. Thank you.
Call your next witness.
MR. FALK: Call Dennis McKinney.
CLERK OF COURT: Please place your left hand on the Bible, raise your right hand and state your full name for the record.
THE WITNESS: Dennis Calvin McKinney.

DENNIS MCKINNEY,

being first duly sworn, testified as follows:
DIRECT EXAMINATION BY MR. FALK:
Q. Mr. McKinney, could you tell me where you work?
A. I am a DOD police officer at the naval weapon station.

I'm a staff sergeant United States Army Reserves. I'm a boxing trainer at Title Boxing Club and a professional fighter.

Q. With DOT?

a. DOD, Department of Defense.

Q. Oh, Department of Defense.

And are you related to Tyrone Ellison?

A. Yes, sir, I am.

Q. Can you tell us how?

A. I'm his father.

Q. All right. He's your stepson?

A. Yes.

Q. Okay.

A. But I don't consider him my stepson. I treat him like my own blood ran through his veins. That's my son.

Q. Were you aware that -- and you're married to Annette McKinney?

A. Yes, sir.

Q. And you all live in the same house?

A. Yes.

Q. Okay. Were you aware that she bought him a car in March of 2013?

A. Yes.

Q. Do you know anything about that?

A. I know when she bought it for him. I think it was a

Saturday morning, and then shortly after that, he sold it to one of his friends. I know she was upset about it.

Q. Did you ever see the car after it showed up at your house on -- the car showed up at your house; is that correct?

A. Yes, it did.

Q. And how many times did you see that car?

A. Just that Saturday morning.

Q. Okay. And did you ever get any information -- did you have any firsthand information that he had -- was no longer driving that car?

A. I had no idea.

Q. Okay. Did you ever see somebody else driving him?

A. I think once I seen it that morning, you know, because I work on Sunday, Monday, Tuesday, Wednesday. I seen it Saturday morning, and then I didn't see my son again until maybe that Monday. And I found out probably by that Monday or Tuesday that the car was gone, so --

Q. Okay. So by Monday or Tuesday, he was no longer driving that car?

A. No. He had sold it. His mom was asking why did he sell it. She was kind of upset with him.

Q. And that was a couple of days after it showed up?

A. Yes.

MR. FALK: No further questions.

THE COURT: Cross-examination.

MR. SORENSON: Beg the Court's indulgence.

I have no questions, Your Honor.

THE COURT: Sir, you may step down. Thank you.

THE WITNESS: Thank you, sir.

THE COURT: Call your next witness.

MR. FALK: Defense rests.

THE COURT: Will the lawyers approach at sidebar for a minute?

(The following was held on the record, out of the hearing of the jury.)

MR. FALK: Your Honor, we would renew our motion for directed verdict. We believe that the defense has put on evidence regarding an alibi, and he can't be in two places at one time. And we put on further evidence that he was no longer in possession of the car after March 23rd, 2013, and that car was clearly identified as being located outside the bank.

THE COURT: The Court's rulings remain the same. Court is not authorized to weigh the evidence, not authorized to weigh it. There is sufficient evidence for the case to go to the jury, and I will let it go to the jury now. I remind you on your rebuttal, keep them confined to what they're rebutting, so to speak.

MR. SORENSON: It's a records custodian from Burger King.