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SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Charleston County

Honorable Deadra L. Jefferson, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

RAHEEM OQUENDAL GRANT,

APPELLANT

APPELLATE CASE NO. 2023-000418

RECORD ON APPEAL

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STATE’S EXHIBIT NO. 27 (CD – JAIL CALL) IS ON FILE WITH THIS COURT.

State of South Carolina	)	Court of General Sessions
County of Charleston	)	2020-GS-10-01107
	)	2020-GS-10-01108
STATE OF SOUTH CAROLINA,	)	
	)	
Plaintiff,	)	JURY TRIAL
	)	
vs.	)	TRANSCRIPT OF RECORD
	)	
RAHEEM OQUENDAL GRANT,	)	
	)	
Defendant.	)	
_____	)	

February 27-March 2, 2023
Charleston, South Carolina

B E F O R E:

The Honorable Deadra L. Jefferson and a jury

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

MS. MARIANA C. OUTTEN
and MS. STEPHANIE B. LINDER,
Assistant Solicitors,
For the Plaintiff;

MR. BENJAMIN A. MACK
and MS. KARLA C. MARTINEZ,
Public Defenders,
for the Defendant.

Jamie Bickett
Official Court Reporter

1 the plea that was scheduled at that time?

2 MR. MACK: It was a -- are you talking about the offer?

3 THE COURT: No. You said he was picked up on a bench
4 warrant for a plea you had scheduled. So if you scheduled a
5 plea, he must have contemplated something.

6 MR. MACK: In terms of an offer, Judge?

7 THE COURT: If he scheduled a plea. Right?

8 MR. MACK: Correct.

9 THE COURT: Didn't you already have what the person's
10 going to plead to and what's going to happen?

11 MR. MACK: Oh. He was going to plead to carjacking and
12 assault and battery, first degree.

13 THE COURT: Which -- for the cap of the ten?

14 MR. MACK: That's correct.

15 THE COURT: And he didn't appear?

16 MR. MACK: I'm sorry. Y'all were dismissing the assault
17 and battery, first degree. He was only pleading to
18 carjacking.

19 THE COURT: And it was a cap of ten?

20 MR. MACK: Correct.

21 THE COURT: And he didn't show up?

22 MR. MACK: Correct.

23 THE COURT: So the bench warrant was issued. So he's
24 been in detention since 9/21/22?

25 MR. MACK: Correct.

1 THE COURT: When the bench -- when was the bench warrant
2 issued, is what I'm asking? I need to know when it was
3 issued and then when was it served. Because if he failed to
4 appear on the 21st --

5 MS. OUTTEN: Your Honor, the bench warrant was issued on
6 February 11, 2022.

7 THE COURT: February 11, 2022. That's when the plea was
8 scheduled. And then it was served on 9/21.

9 MR. MACK: I'm sorry. Yes.

10 THE COURT: That's okay.

11 MS. OUTTEN: Yes, your Honor.

12 THE COURT: That's all right. They run together.

13 So is it seven months? Or my math is wrong.

14 Yeah, seven -- right at seven months, well, give or take
15 a few days. And when was he originally arrested and when did
16 he bond out?

17 MS. OUTTEN: Your Honor, he was originally arrested the
18 night of the incident. Well, it would have been in the early
19 morning hours, so December 8, 2019.

20 THE COURT: Mm-hmm.

21 MS. OUTTEN: And he bonded out, I believe, in July of
22 2020.

23 THE COURT: July when?

24 MS. OUTTEN: July 18, 2020.

25 THE COURT: 2020. So he's been just shy of a year?

1 He's been in pre-detention 384 days. He served 160
2 originally, and he served 224 on the bench warrant.

3 MR. MACK: That sounds about right, Judge. Yes.

4 THE COURT: I'm going to go ahead and let the jury go to
5 lunch until 2:30. Is there any exception? And we can work
6 on this stuff a few more minutes, and then we'll go to lunch.

7 MS. OUTTEN: No exception from the State, your Honor.

8 MR. MACK: No objection, Judge.

9 THE COURT: Please get the jury for me. I meant to do
10 this long before now. I apologize.

11 THE BAILIFF: Bring them in, your Honor?

12 THE COURT: Yes, sir. And Number 9 is the foreperson.

13 (The jury entered the courtroom at 1:13 p.m.)

14 THE BAILIFF: Judge, all jurors are present and seated.

15 THE COURT: Thank you, Mr. Pryor.

16 Ladies and gentlemen, we're going to allow you to go for
17 lunch. We still have some matters we're working through.
18 It's taking a little longer than I anticipated, and we
19 appreciate your patience. Please know we never take your
20 time for granted.

21 The bailiffs are going to show you how to exit the
22 courthouse and return to the courthouse. And again, we'll
23 resume at 2:30, which gives you about an hour and 15 minutes
24 for lunch. I would caution you not to move your car from
25 Cumberland. This is the height of -- well, every day is the

1 THE COURT: And for what purpose?

2 MR. MACK: She was a first responder.

3 THE COURT: So we have about 12 witnesses total, give or
4 take?

5 MR. MACK: Sorry, Judge. We also likely will be calling
6 Tanya Duby, the detective. She took statements from
7 witnesses.

8 THE COURT: So 12 to 13, give or take.

9 MR. MACK: Correct.

10 THE COURT: Is the State ready to proceed?

11 MS. OUTTEN: Yes, your Honor.

12 THE COURT: Is the defense ready to proceed?

13 MR. MACK: Yes, Judge.

14 THE COURT: Please bring in the jury.

15 And I need y'all to be prepared with some notebooks.

16 And also Number 9, Mr. Amoriello, is the foreperson.

17 (The jury entered the courtroom at 3:34 p.m.)

18 THE BAILIFF: Judge, all jurors are present and seated.

19 THE COURT: Thank you. You may be seated.

20 Ladies and gentlemen, we appreciate your patience. We
21 were still working through some matters of law. Please know
22 we don't take your time for granted.

23 As I have indicated, you've been selected for the case
24 of the State of South Carolina versus Raheem Oquendal Grant
25 on Indictments 2020-GS-10-1108, carjacking, and

1 2020-GS-10-1107, assault and battery, first degree.

2 What I am now going to do is give you a preliminary
3 instruction as to how we will be proceeding in the trial of
4 this case. What I say is intended to serve only as an
5 introduction. These remarks are not a charge on the law in
6 this case. I will instruct you on the law applicable at the
7 conclusion of the case.

8 And so that you know, when we use the word "charge,"
9 that's just a term of art -- a legal term of art that means
10 instructions. The terms are interchangeable.

11 And I will instruct you on the law applicable to this
12 case after you've heard all of the evidence and the closing
13 arguments of counsel and before you retire to consider your
14 verdict. Again, this is merely an explanation of the
15 procedure that we will follow in the trial of this case so
16 that you may better understand what is happening.

17 The defendant, as I've already indicated, is charged by
18 two indictments, one for carjacking and one for assault and
19 battery in the first degree, the elements of which I will
20 explain to you at the conclusion of the case. The
21 indictments, ladies and gentlemen, are simply the charge or
22 charges by which a case is brought or processed into this
23 court. They are not in any sense evidence of any of the
24 allegations they may contain.

25 The defendant has pled not guilty to the indictments.

1 The State, therefore, has the burden of proving each and
2 every element of the indictments beyond a reasonable doubt.
3 And it will be your duty, ladies and gentlemen, to decide
4 whether the State has met their burden or not.

5 Your purpose as jurors is to find and determine the
6 facts. You are the sole judges of the facts in this case.
7 If at any time I make any comment regarding the facts,
8 whether it be during instruction or ruling on objections or
9 otherwise, you must disregard it.

10 You are to determine the facts from the testimony you
11 hear and the other evidence introduced in court. It is up to
12 you to determine the inferences which you feel may be
13 properly drawn from the evidence. It is especially important
14 that you perform your duty of determining the facts
15 diligently and conscientiously because ordinarily there is no
16 way to correct an erroneous determination of acts made by a
17 trial jury.

18 On the other hand, and with equal emphasis, the same law
19 that makes you the judges of the facts makes me the judge of
20 the law. The law as given by the Court is the only law you
21 can consider. You must accept and follow it even though you
22 may disagree with it. The Court cannot tell you what the
23 facts are, and you cannot disagree with the Court about what
24 the law is or what the law should be.

25 Your responsibility, ladies and gentlemen, is to take

1 the law as I instruct it and apply it to the facts as you
2 find from the testimony of the witnesses and any other
3 evidence that may be introduced during the course of this
4 trial. After doing that, you'll render your verdict under
5 the solemn oath that you've taken as jurors in this case.

6 Until I advise you to begin your deliberations, you must
7 not discuss this case with anyone. That includes your fellow
8 jurors, friends, family members, or anyone involved in the
9 case. After the case is submitted to you, you must discuss
10 it only in the jury room with your fellow jurors.

11 The attorneys and the parties in this case have been
12 advised that they are not to speak with you at all. So if
13 you should run into them incidentally in the hallways or in
14 the elevator or even out while you're having lunch along the
15 street and they don't speak with you, please don't think
16 they're being unfriendly or untoward. They're simply
17 following the Court's instructions. Again, we would not want
18 an innocent conversation to be observed and misinterpreted.

19 During the trial, you're not to watch, listen to, or
20 read any news reports about this case. That includes
21 anything that may be in the newspaper, radio, television, or
22 Internet. You must not consider anything that you may have
23 read or heard about this case outside the courtroom, whether
24 before or during the course of this trial.

25 It is essential that you keep an open mind and not

1 decide any issue in this case until all of the evidence has
2 been presented, the parties have made their closing
3 arguments, and I have instructed you on the law of this case.
4 It is your solemn responsibility to determine whether the
5 State has met their burden of proof. And your verdict must
6 be based solely on the evidence as it is presented to you in
7 this trial and on the law as I will instruct you at the close
8 of the trial.

9 In just a moment, the solicitor will make what is called
10 an opening statement, in which the solicitor will explain to
11 you what she believes the issues to be in this case. The
12 attorney for the defense may also make an opening statement,
13 although they are not required to do so. What the attorneys
14 tell you during their opening statements is not evidence in
15 this case. It is only their contention as to what they
16 believe the issues will show in this case. The evidence will
17 be presented to you by the testimony of sworn witnesses from
18 the witness stand and/or by exhibits that may be introduced
19 into evidence.

20 From time to time during the trial, you will hear the
21 attorneys say something like, "Your Honor, I believe we have
22 a question of law or a matter of law to discuss with you."
23 Or they may ask to approach the bench. Or sometimes I may
24 ask them to approach the bench. Or it may even be necessary
25 for us to excuse you from the courtroom for a short while

1 while the attorneys and I discuss matters of law.

2 The reason we do this, ladies and gentlemen, is because
3 you are the finders of the facts, and sometimes when I
4 discuss matters of law with counsel, it might be necessary
5 for me to make some comment about the facts in connection
6 with a ruling. We exclude you from the courtroom while these
7 discussions take place because, again, you are the finders of
8 the facts and we would not want you to be influenced by
9 anything that the Court may say or do in connection with the
10 facts of the case.

11 Also from time to time you will hear the attorneys say,
12 "Your Honor, I object." Just as in sports, business, or any
13 other structured activity, there are certain rules that the
14 attorneys must obey in the presentation of evidence. These
15 rules have a different purpose. They ensure that you receive
16 the most trustworthy and reliable evidence available.

17 An objection is the procedure that is used to call a
18 possible violation of these rules to my attention as the
19 judge of this court. And for this reason you should never
20 hold an attorney's objection against them, nor should you
21 conclude from the Court overruling or sustaining an objection
22 that I favor one side or the other. I will tell you in
23 advance that you should expect objections. They're a healthy
24 part of our process.

25 In determining the facts in this case, ladies and

1 gentlemen, you must decide whether or not the testimony of a
2 witness or witnesses is believable. It is my responsibility
3 to rule as a matter of law as to whether certain testimony is
4 admissible at all or not. But once the testimony is
5 admitted, whether or not you believe it is solely a matter
6 for you to determine in your fact-finding province.

7 In deciding whether to believe a witness, you have the
8 right to consider the interest of any witness, the bias of
9 any witness, the prejudice of any witness, the opportunity
10 for the witness to have seen the matters and things about
11 which the witness may testify, and the way a witness acts on
12 the witness stand, what we commonly refer to as their
13 demeanor.

14 You have a right to consider anything that is in the
15 record that will help you evaluate the testimony. That means
16 that it is your duty to pay close attention to the witnesses,
17 to observe them, to listen to them, and to pay close
18 attention to counsel and the Court.

19 Please do not allow your thoughts to wander, although I
20 know it is difficult in a room like this, with intense
21 lights, no windows, and recirculated air. But we would ask
22 that you pay close attention to the testimony and give strict
23 attention to the case so that at the end of the testimony,
24 after the arguments of counsel and the charge given by the
25 Court, you will then be in a position to determine the facts,

1 apply the law to those facts, and render a verdict in this
2 case.

3 During the course of this trial, you will be allowed to
4 take notes. Each one of you has a notebook. There is a
5 sticker on the front of that notepad. If you would take the
6 time to go ahead and write your juror number on that sticker
7 so that you will be able to identify which notepad belongs to
8 you.

9 And as I've indicated, you will be allowed to take
10 notes. Note-taking is a privilege you may choose to exercise
11 or choose not to exercise. Please don't feel you're required
12 to take notes. Not everyone finds note-taking helpful to
13 them.

14 If you should decide to take notes, please don't try to
15 record everything that is said. As I have explained, it is
16 essential that you are allowing your powers of observation in
17 observing the witnesses and in judging their credibility and
18 believability. So please do not allow note-taking to become
19 a distraction to you. You may want to keep an outline of the
20 main points that are being made and arguments that are being
21 made so that when you retire to deliberate, you can allow
22 your notes to refresh your memory.

23 Please be reminded that your notes are for your specific
24 and your individual purpose. They're only to be used to
25 refresh your own memory. They're not to be shared with a

1 fellow juror. And also be reminded that your notes should be
2 considered just as reliable -- er, someone's memory should be
3 considered just as reliable as notes that may have been taken
4 by a fellow juror.

5 During breaks and recesses, your notes will be secured
6 so that there is no premature temptation to deliberate.

7 It is your added duty, Mr. Foreman, to fill out the
8 verdict forms. But I will give you further instructions
9 regarding that at the conclusion of the case.

10 Ladies and gentlemen, the foreperson is your
11 spokesperson. It is an administrative function that you need
12 to write out questions you may have during deliberations and
13 to fill out the verdict form. I wish there were a more
14 scientific method, but it is completely random. And I
15 reinforce that that person's vote is no greater than yours.
16 It is simply that we need someone to act in that
17 administrative capacity.

18 In order to preserve everyone's rights, I will give the
19 parties an opportunity to take exception to anything that the
20 Court has said by way of opening instructions.

21 Any exceptions from the State?

22 MS. OUTTEN: No exceptions from the State, your Honor.

23 THE COURT: Going to defense?

24 MR. MACK: No objection, Judge.

25 THE COURT: Ladies and gentlemen, I would ask that you

1 give counsel your undivided attention.

2 You may proceed when you're ready, Ms. Outten.

3 MS. OUTTEN: May it please the Court?

4 THE COURT: You're welcome, ma'am. You may proceed.

5 MS. OUTTEN: On December 7, 2019, April Ross, Jorge
6 Fuentes, and their two children -- S.F. [REDACTED], who was 11 at
7 the time, and H.F. [REDACTED], who had only been born two weeks before
8 -- drove all the way from Walterboro to Charleston to attend
9 the Holiday Festival of Lights. And what was supposed to be
10 a fun family event, what was supposed to be their first
11 opportunity to get a photo of H.F. [REDACTED] with Santa Claus, turned
12 into one of the scariest nights of their lives.

13 April, Jorge, and their children arrived at the
14 festival. They drove through the lights and they parked
15 their car. April got out of the back seat with S.F. [REDACTED] in
16 order to get H.F. [REDACTED]'s stroller set up. Jorge got into the
17 back seat in order to change H.F. [REDACTED]'s diaper.

18 The evidence will show that while April was standing at
19 the back of the car, suddenly a man ran past her. He flung
20 open the driver's-side door. He slammed it shut. And April
21 walked up to the window and knocked on it, but the defendant
22 -- and the evidence will show that he locked the door, he
23 looked right at her, and he said, "This is my car now." He
24 cranked up the car and he threw it into gear.

25 Now, the evidence will also show that while all of this

1 is going on, April becomes hysterical. She's standing
2 outside the car screaming for help for Jorge and for H.F. .
3 But thankfully, two women happened to walk up on the scene,
4 and they were able to call 911 for her.

5 At this point, such a scene had been created that a
6 bystander actually walks up. He sees what's going on, and he
7 tries to help April. But the evidence will show that that
8 bystander had to physically force the defendant out of the
9 vehicle.

10 Now, unfortunately, Jorge passed away in August of 2020,
11 about nine months after this happened. So April was never
12 able to get that photograph with Jorge, her children, and
13 Santa Claus.

14 Now, as was stated in today's case, it is not enough
15 that I stand up here and I tell you all of this. The State
16 has to prove this to you and we have to prove it beyond a
17 reasonable doubt. And at the end of the trial, Judge
18 Jefferson will instruct you on what the meaning of "beyond a
19 reasonable doubt" is, but for now I will tell you that if at
20 the end of this trial you are firmly convinced that the
21 defendant carjacked and assaulted Jorge Fuentes, you as the
22 jury must find him guilty.

23 In the State of South Carolina, carjacking is defined as
24 taking or attempting to take a motor vehicle by force and
25 violence or by intimidation while the person is inside of it.

1 A person commits assault and battery in the first degree if
2 the person unlawfully injures another person or attempts to
3 injure them during the commission of a robbery.

4 During the trial, you're going to hear from April. She
5 will describe for you just how terrifying December 7, 2019,
6 was for her and her family. And you will also hear from the
7 two witnesses who called 911 that night. And you will hear
8 from law-enforcement officers who responded to the Holiday
9 Festival of Lights that evening.

10 By the end of this trial, you will be firmly convinced
11 of the defendant's guilt and return the only appropriate
12 verdict: Guilty.

13 Thank you.

14 THE COURT: Mr. Mack or Ms. Martinez?

15 MR. MACK: Thank you, Judge.

16 THE COURT: You may proceed.

17 MR. MACK: Accidentally sitting in the wrong Kia Optima
18 at the Holiday Festival of Lights does not equate with
19 carjacking and assault and battery, first degree.

20 That's right. Raheem Grant, my client, mistakenly sat
21 in Jorge Fuentes's car. He didn't threaten Jorge. He didn't
22 hurt Jorge, even as Jorge brutally beat him in response.

23 This case is a huge misunderstanding, complicated by the
24 fact that Jorge Fuentes beat Raheem Grant to the point where
25 he couldn't even speak to police when they arrived on scene;

1 complicated by the fact that Jorge Fuentes is dead and cannot
2 walk into this courtroom, put his hand on that Bible, the
3 other to God, and testify before you to answer questions from
4 me.

5 On December 7, 2019, Deputy Beth Auer responded to a 911
6 call at the Holiday Festival of Lights at a Charleston County
7 park. She was working traffic duty at the only entrance and
8 exit to the park. Cars are lined up leaving and coming. And
9 when she arrived on scene, she sees Raheem Grant's motionless
10 body. And she secures that scene by taking his limp arms and
11 putting them in handcuffs. He is face down in the gravel.

12 Now, she tried to sort out who was taking over the case.
13 Who's jurisdiction? Was it County or City? She's been
14 working a long day.

15 Eventually, City decides to take over the case.
16 Detective Michael Galka shows up, and he takes over. He is
17 wearing his gun. He's wearing his badge. He's wearing a
18 blue jacket that says "Police" on the back. And he starts
19 taking recorded statements from Jorge Fuentes and from April
20 Ross.

21 But you won't hear Jorge Fuentes's statement in this
22 trial. Raheem Grant is protected under the confrontation
23 clause. He has a right to confront his accuser by
24 cross-examination. And that statement is hearsay, an
25 out-of-court statement if brought in here and used to show

1 that he committed carjacking and assault and battery, first
2 degree.

3 That statement aside, what we know from eyewitnesses is
4 that April Ross, yes, was removing a stroller from the trunk
5 of the car. She was outside of the car. Jorge Fuentes was
6 inside the car changing the diaper, in the back seat, of his
7 two-week-old child at 10:30 at night at the Holiday Festival
8 of Lights when Raheem Grant walked up to the car, opened the
9 door to the driver's seat, and sat down. Then April Ross
10 started screaming.

11 Codi Dennis and Ashley Vander-Ploeg rush to the scene.
12 Ashley Vander-Ploeg calls 911. None of them sees Raheem
13 Grant so much as lay a finger on Jorge Fuentes. None of them
14 hear Raheem Grant so much as utter a breath to Jorge Fuentes.

15 So what does that mean? That means without Jorge
16 testifying in this case, you have no way to know whether he
17 fabricated the story to police in order to cover up the fact
18 that he brutally assaulted Raheem Grant for mistakenly
19 sitting in his car.

20 Eventually, April Ross opens the door to the car. Jorge
21 Fuentes comes around to the driver's seat. An unknown black
22 male helps him remove Raheem Grant from that car. Then
23 Raheem Grant is -- somehow his blood spatter appears in the
24 driver's seat, and he is dragged about 25 feet from that car
25 across the parking lot, where he is kicked multiple times by

1 Jorge Fuentes in the head to the point where his body is
2 lifted off of the ground.

3 About two hours after the incident and police arrive on
4 scene, crime-scene investigation Detective Randal Unterbrink
5 shows up. That's right. Jorge Fuentes and April Ross have
6 access to their car for two hours before crime-scene
7 investigation takes pictures.

8 And he snaps photos of the inside of the car. And Jorge
9 Fuentes's broken glasses, the temple of his broken glasses,
10 are found not in the back seat where he was supposedly
11 sitting; not around the center console where the altercation
12 inside the car would likely result in them falling; but in
13 the cranny next to the driver's seat in between the driver's
14 seat and the door, that place where all your change falls and
15 you can never recover it.

16 At the hospital, Raheem Grant is in bad shape. He's in
17 a neck brace. He's got a broken nose, multiple lacerations
18 on his face. They're investigating whether he has a
19 concussion, doing multiple scans for internal bleeding.
20 Jessica Casey will testify to that, the physician's assistant
21 who treated him.

22 The State has to get inside Raheem Grant's head. They
23 stated the law on assault and battery, first degree, and
24 carjacking, but they didn't state the element of intent that
25 they have to prove in this case. They have to prove to you

1 that Raheem Grant manifested this specific intent in his head
2 to steal Jorge Fuentes's car, that he manifested the intent
3 to assault Jorge Fuentes. And they can't do it, not on these
4 facts.

5 Especially when back at the crime scene, Detective Duby
6 is talking to Ashley Vander-Ploeg, and at the conclusion of
7 their discussion, her -- Detective Duby is recording their
8 statement. Ashley Vander-Ploeg and Detective Duby both
9 acknowledge a car that looks just like the one owned by Jorge
10 Fuentes and April Ross being parked in Lot B.

11 Detective Duby does not knock on the door of that car to
12 investigate who the driver is, does not ask the driver if she
13 knows or anybody who knows the person lying limp on the
14 ground. And if she did, she didn't make a report about it.
15 She even, in the recording, took down the license plate
16 number of that car. And you will hear nothing of a follow-up
17 investigation.

18 So for those reasons, you will find Raheem Grant not
19 guilty of the charges pending against him in Charleston
20 County because accidentally getting in the wrong Kia Optima
21 at the Holiday Festival of Lights does not equate with
22 carjacking and assault and battery, first degree.

23 THE COURT: The State may proceed.

24 MS. OUTTEN: The State calls Ashley Vander-Ploeg.

25 THE COURT: Ma'am, if you'd come forward to the witness

1 stand, please, and be sworn.

2 That way. Thank you.

3 (Witness sworn.)

4 CLERK OF THE COURT: Please have a seat.

5 If you will state your full name for the record,
6 spelling your last name into that microphone, please.

7 THE WITNESS: My name is Ashley Vander-Ploeg,
8 V-A-N-D-E-R-P-L-O-E-G.

9 THE COURT: You may proceed.

10 ASHLEY VANDER-PLOEG,
11 called as a witness on behalf of the State, being first duly
12 sworn, was examined and testified as follows:

13 DIRECT EXAMINATION

14 BY MS. OUTTEN:

15 Q. Ashley, where are you from?

16 A. I'm from here, Charleston, South Carolina.

17 Q. How far did you go in school?

18 A. College.

19 Q. Where do you currently work?

20 A. UPS.

21 Q. So I'd like to bring you back to why you're here with us
22 today. Please tell the jury where you were and who you were
23 with on December 7, 2019.

24 A. I was at the Holiday Festival of Lights on James Island
25 with Codi Dennis, my best friend.

1 Q. Had you been to the Holiday Festival of Lights before?

2 A. Yeah. I go every year.

3 Q. And for those who may not know, will you explain to the
4 jury what the Holiday Festival of Lights is?

5 A. It's Christmas lights. It goes throughout the park.

6 Q. Is it just -- do you just drive through, or is there a
7 part where you walk around?

8 A. No, you park and you can walk around the park. And they
9 have, like, a Santa's Village where you can get treats and
10 stuff like that.

11 Q. On December 7, did you just drive around or did you park
12 the car?

13 A. I parked.

14 Q. About what time did you leave Santa's Village?

15 A. I'm not sure the exact time. It was around 11:30-ish.

16 Q. What happened when you left Santa's Village?

17 A. So I actually walked into the wrong parking lot, and
18 there was a woman that was screaming.

19 Q. What was she relaying?

20 A. She was saying that somebody was trying to steal her car
21 and her baby.

22 Q. What did you see when you walked in the parking lot?

23 A. Well, I saw the mother of the baby, and then I saw a
24 car. There was -- the dad was in the back seat of the car
25 with the baby, and there was a person in the front seat.

1 Q. Could you see what the father was doing in the vehicle?

2 A. Yeah. He was, like, reaching -- he was, like, reaching
3 around the front seat, like, trying to get the person who was
4 in the car, their hand off the shifter.

5 Q. Could you see what the defendant was doing?

6 A. He had one hand on the steering wheel and one hand on
7 the shifter.

8 Q. So I'd kind of like to take this piece by piece, just so
9 we can be clear about what happened. So what type of car was
10 this?

11 A. It was, like, a four-door sedan.

12 Q. Can you describe the mom that you saw?

13 A. Shorter white woman. She was short. I remember her
14 being short.

15 Q. Can you describe the dad?

16 A. Yeah. He was taller, Hispanic, long hair.

17 Q. Can you describe the person in the driver's seat?

18 A. Yeah. He was a young African-American male.

19 Q. And how would you describe his demeanor in this vehicle?
20 How would you describe how he was acting in the vehicle?

21 A. He wasn't really doing anything other than holding the
22 wheel and the shifter. I mean, he seemed -- I mean, he was
23 determined to stay in the car, but he wasn't -- he didn't
24 actually say or do anything else other than that.

25 Q. Can you describe the person who was trying -- well,

1 backing up. Did anybody else -- was there anybody else
2 around the vehicle at this time besides the mom, the dad, and
3 the person in the driver's seat?

4 A. Yeah. Some random person came up and was trying to help
5 get him out of the car.

6 Q. Can you describe that person?

7 A. Yeah. He had long black dreadlocks, African-American.

8 Q. Did you know any of these people?

9 A. No.

10 Q. What did you do when you observed all of this happening?

11 A. I called 911.

12 Q. While you were calling 911, did anything else happen?

13 A. They eventually got him out of the car.

14 Q. Did the driver easily and pleasantly get out of the
15 vehicle?

16 A. No.

17 Q. What was he doing when they were trying to get him out
18 of the vehicle?

19 A. He was just holding on. That was it.

20 Q. And who was the main aggressor in that struggle?

21 A. I would say it was probably the third person that came
22 up that was trying to get him out of the car.

23 Q. Were you still on scene when law enforcement arrived?

24 A. Yes.

25 Q. Were the mom and the dad still there?

1 A. Yes.

2 Q. Was the other guy who helped get the driver out of the
3 car still there?

4 A. No.

5 Q. Did you speak with law enforcement that night on scene?

6 A. Yes.

7 MS. OUTTEN: Thank you. I have no further questions.
8 Please answer anything that defense counsel has for you.

9 THE COURT: You may proceed.

10 CROSS-EXAMINATION

11 BY MS. MARTINEZ:

12 Q. So conditions at the festival made it difficult for you
13 and Codi to find your car initially, right?

14 A. Well, there's just multiple parking lots, and I just
15 didn't remember where I parked.

16 Q. Okay. And that's how you ended up -- that's how you
17 walked into the scene; is that right?

18 A. Yes.

19 Q. And so the area there was dark?

20 A. I mean, it was 11:30 at night, or around 11:30 at night.
21 But there's several streetlights in the parking lot, so, I
22 mean, it's -- you can see pretty well.

23 Q. Okay. And you and Codi were using benches, picnic
24 tables to find your way back to your car?

25 A. I'm sorry?

1 Q. You and Codi were using picnic benches to find your way
2 back to your car; is that right?

3 A. I don't remember that.

4 Q. As a landmark?

5 A. I don't know.

6 Q. Okay. So eventually, a police officer had to help you
7 find your car?

8 A. Yes, they did. Because the park had actually closed
9 down by the time it was all over, so they put me in the back
10 and drove me around till we found it.

11 Q. So you never saw the Kia in question started, did you?

12 A. No.

13 Q. You never saw it move from the parking spot?

14 A. No. It never moved.

15 Q. You never saw any lights in the Kia?

16 A. No.

17 Q. Okay. And as you were talking to Detective
18 Duby-Gritzuk, you also noticed another Kia; is that right?

19 A. Yeah.

20 Q. Another Kia that was similar to the Kia in question,
21 correct?

22 A. Yes.

23 Q. And you pointed it out to her?

24 A. (Indicated.)

25 Q. And she noted the license plate?

1 A. Yeah.

2 Q. And you saw it as it was driving away from the scene?

3 A. Yeah.

4 Q. Okay. So at this point, you saw Jorge inside the car?

5 A. I'm sorry?

6 Q. You saw Jorge inside the car?

7 A. Is that the defendant?

8 Q. No. Jorge is the father.

9 A. Oh. Oh. Yes, someone was in the back seat initially.
10 Sorry.

11 Q. It's fine. So you saw him exit the car?

12 A. I did see him exit the car.

13 Q. And you saw him open the driver's-side door?

14 A. No. The driver's-side door was open from the beginning,
15 from when I walked into the parking lot.

16 Q. Okay. And you saw him pull -- attempt to pull Raheem
17 out of the car; is that right?

18 A. Right. Him and the third-party person that was helping.

19 Q. And the third-party person was reaching behind him; is
20 that right?

21 A. No. The dad was in the back seat initially and was
22 reaching up trying to get his hand off the shifter, you know.
23 The third person came up and was trying to get him out of the
24 car. The dad eventually got out around and was helping pull
25 him out of the car.

1 Q. Okay. So they pulled him out of the car, right?

2 A. Right.

3 Q. And then the other individual, the third person, backs
4 away as soon as they pull him out of the car?

5 A. I don't remember if it was immediately, but it was
6 pretty quickly after that, yeah.

7 Q. And they drag him across the parking lot; is that right?

8 MS. OUTTEN: Objection.

9 THE COURT: Basis?

10 MS. OUTTEN: Relevance and 403.

11 THE COURT: I'll give her a little latitude. Overruled.

12 BY MS. MARTINEZ:

13 Q. So then you see Jorge beat the crap out of Raheem; is
14 that right?

15 MS. OUTTEN: Objection, relevance.

16 THE COURT: It's part of the res gestae of the offense.
17 Overruled.

18 BY MS. MARTINEZ:

19 A. Am I allowed to answer that?

20 Q. Yes.

21 A. Okay. Yes.

22 Q. Okay. So he takes him -- you see him slam him against
23 the truck; is that right?

24 A. Yes.

25 Q. And he slammed him so hard that you saw his faceprint on

1 the truck; is that right?

2 A. Yeah. I actually did point that out to the police
3 officer.

4 Q. Right. And that was Jorge? It wasn't the third
5 individual?

6 A. Yeah.

7 Q. And so you saw Jorge stomp Raheem?

8 A. Yeah.

9 THE COURT: I'm sorry. I couldn't hear your answer,
10 ma'am.

11 THE WITNESS: Yes.

12 BY MS. MARTINEZ:

13 Q. Not the unknown individual?

14 A. (Indicated.)

15 Q. Okay. So Jorge kicked Raheem in the head so hard that
16 you saw his head come off the ground; is that right?

17 A. Yeah, he did.

18 Q. So, in fact, he kicked him so hard that his entire body
19 turned; is that right?

20 A. I don't remember that.

21 Q. Okay.

22 A. I don't.

23 Q. Well, Jorge kept kicking Raheem while he was on the
24 ground; is that right?

25 A. He did. I actually -- I'm actually the one that told

1 him to stop kicking him.

2 Q. Okay. And he kept kicking him even after he wasn't
3 getting up?

4 A. (Indicated.)

5 Q. And you never even got a good look at Raheem, right?

6 A. When I did, he was so bloody I couldn't really see
7 anything.

8 Q. So you testified when you came to the scene, Raheem's
9 hands were in the car -- er, on the steering wheel?

10 A. One hand was on the steering wheel and one hand on the
11 shifter.

12 Q. And you never saw him say anything?

13 A. He never said anything.

14 Q. You never saw him do anything?

15 A. No.

16 Q. You never heard him make any threats?

17 A. No.

18 Q. To anyone?

19 A. No.

20 Q. While he was being beat up?

21 A. No.

22 Q. So you called 911?

23 A. I did.

24 Q. And when you called 911 and Raheem was on the ground,
25 you asked him his name; is that right?

1 A. I don't remember asking his name.

2 Q. Do you remember he looked unconscious at the time when
3 you called 911?

4 A. Yeah. I mean, the only question I remember asking him
5 is if he was alive.

6 Q. Did he answer?

7 A. He grunted.

8 MS. MARTINEZ: The Court's indulgence.

9 Q. [By Ms. Martinez] So you just testified that you saw
10 Raheem with one hand on the steering wheel and the other one
11 on the shifter; is that right?

12 A. Yes.

13 Q. Do you remember giving a statement to Detective Duby
14 that night?

15 A. I remember speaking to him, yes.

16 Q. Okay. And do you remember her asking you about where
17 his hands were?

18 A. I don't remember the entire conversation.

19 Q. Okay. Do you remember telling her that --

20 MS. OUTTEN: Objection, your Honor. I believe that she
21 needs to refresh -- she said she doesn't remember.

22 THE COURT: No speaking objections.

23 You need to follow the procedure for impeaching a
24 witness, especially if she didn't create that statement. You
25 have to give her the ability to review the statement, to

1 either admit or deny what you're asserting it, and then you
2 use the statement to impeach her. But you need to make sure
3 it's a statement she created.

4 BY MS. MARTINEZ:

5 Q. Okay. So you remember giving her a statement that night
6 shortly after the incident had occurred?

7 A. I do remember speaking to police, yes.

8 Q. Okay. And the statement -- er, the incident was fresh
9 in your memory? Was fresh in your mind?

10 A. That night?

11 Q. Yes.

12 A. Well, yeah, it was that night. It was three years ago,
13 but yeah.

14 Q. So it was fresh in your mind at the time that you gave
15 that statement?

16 A. Yes.

17 Q. Okay. Would it help to refresh your memory about the
18 statement you gave to her if I showed you a transcript of the
19 body-cam video?

20 A. Sure. It's been three years, so probably.

21 Q. So if you could just read it to yourself.

22 A. Okay.

23 Q. So do you remember telling her that his hands were on
24 the steering wheel?

25 A. Yeah, I remember telling her that his hands were on the

1 steering wheel. He was holding on as they were trying to
2 drag him out.

3 Q. And I want to clarify, was it both hands?

4 A. In that specific statement there, I said both hands,
5 yes.

6 MR. MACK: Nothing further.

7 THE COURT: Any redirect for the witness?

8 MS. OUTTEN: Yes, briefly, your Honor.

9 THE COURT: You may proceed.

10 REDIRECT EXAMINATION

11 BY MS. OUTTEN:

12 Q. Ashley, when you walked up to the vehicle, did you see
13 the defendant enter the vehicle?

14 A. No. He was already in the vehicle when I got there.

15 Q. And April was already yelling?

16 A. Yes. She was very distraught.

17 Q. So would it be fair to say that you didn't see the
18 entire event from beginning to end?

19 A. Right.

20 MS. OUTTEN: Beg the Court's indulgence.

21 No further questions.

22 THE COURT: Any objection to the witness being excused
23 from the State?

24 MS. OUTTEN: None from the State.

25 THE COURT: Any objection from the defense?

1 MS. MARTINEZ: No, your Honor.

2 THE COURT: Ma'am, you're excused. Have a good day.

3 (Witness excused.)

4 THE COURT: Call your next witness.

5 MS. LINDER: The State calls Codi Dennis.

6 (Witness sworn.)

7 CLERK OF THE COURT: Please have a seat.

8 If you'll state your full name, spelling your last name
9 into the microphone.

10 THE WITNESS: My name is Codi Dennis, D-E-N-N-I-S.

11 THE COURT: You may proceed.

12 MS. OUTTEN: Thank you, your Honor.

13 THE COURT: You're welcome.

14 CODI DENNIS,

15 called as a witness on behalf of the State, being first duly
16 sworn, was examined and testified as follows:

17 DIRECT EXAMINATION

18 BY MS. LINDER:

19 Q. Codi, where are you from?

20 A. Summerville.

21 Q. And how far did you go in school?

22 A. Some college. GED.

23 Q. And do you currently work?

24 A. Yes, ma'am.

25 Q. Now, I'm going to bring you back to why you're here with

1 us today. I'm going to bring you back to December 7 of 2019.
2 Can you please tell the jury where you were and who you were
3 with that evening?

4 A. I was at the James Island Festival of Lights with Ashley
5 Vander-Ploeg.

6 Q. And you know, I think most people know, but can you just
7 briefly tell the jury what the Holiday Festival of Lights is?

8 A. It's an event where you ride around and look at
9 Christmas lights. And you can get out and walk around
10 Santa's Village and buy stuff. There's shops.

11 Q. And back on that night, did y'all just drive around?
12 Did you park? What did y'all end up doing that night?

13 A. We drove through the lights, and then we got out and
14 went inside and went to the shops.

15 Q. Do you remember about what time you left the shops at
16 Santa's Village?

17 A. It was around 11:00, 11:30.

18 Q. Okay. And can you tell the jury what happened when you
19 left -- were leaving that area, that shop and Santa's Village
20 area?

21 A. As we were leaving the Santa's Village, we lost our car.
22 We couldn't remember where we parked. And we were heading
23 through the second parking lot when we heard somebody
24 screaming for help. We ran over to where the scream was
25 coming from, and we saw a woman yanking on a car door,

1 screaming somebody was trying to take her car and take her
2 child. The dad was in the back seat, and he was struggling
3 to get the guy and push him out of the car.

4 Q. Okay. Just to kind of slow it down a little bit, take
5 it piece by piece, what type of car was it that you were
6 looking at when you went out to that parking lot? Was it a
7 big car? Small car?

8 A. A small four-door car.

9 Q. And you said that the mom was screaming?

10 A. Yes.

11 Q. And was she standing still, or what was she doing?

12 A. She was yanking on the doors, trying to open them.

13 Q. And can you describe her, the mom?

14 A. Petite, blond hair, frantic, just screaming for help.

15 Q. And when you walked out to see all this, how far away
16 were you?

17 A. Not very far. Couple feet from the car.

18 Q. So were you in -- if you were the mom and I was you,
19 closer or this far when you first --

20 A. Close -- a little bit closer, yeah.

21 Q. Closer. Okay. And you said the dad was in the back
22 seat. Where was the dad in the back seat?

23 A. Behind the driver's seat.

24 Q. Okay. And do you remember anything about the dad's
25 appearance?

1 A. I do not.

2 THE COURT: I'm sorry, ma'am. You need to speak
3 directly into the microphone.

4 THE WITNESS: No, I do not remember.

5 BY MS. LINDER:

6 Q. And when all of this was happening and you saw the mom
7 running around, yanking the door, yelling, did you kind of
8 scamper away and run away, or did you go closer? Or what did
9 you do?

10 A. I was pretty much, like, stood in place. I was shocked.
11 I didn't know what to do.

12 Q. Okay. And at this time, were you standing with Ashley
13 or was Ashley standing with you?

14 A. Yes, ma'am. She was standing with me.

15 Q. Okay. And did anybody else ever come up to that
16 vehicle?

17 A. At one point, another gentleman came up. Whenever the
18 dad was getting out of the car and was trying to pull the guy
19 from the driver's seat, another person came up and helped him
20 get him out of the driver's seat.

21 Q. All right. And when you first walked up to the scene,
22 when you first kind of walked into that parking lot, what was
23 the person in the driver's seat doing?

24 A. He was sitting there. He had his hand -- one hand on
25 the steering wheel and the other on the gear shifter.

1 Q. And what did that indicate to you?

2 A. Like he was getting ready to try to leave with the car.

3 Q. And then did you ever call 911?

4 A. No, ma'am.

5 Q. Did anybody you know call 911?

6 A. Ashley Vander-Ploeg did.

7 Q. And when Ashley was on the phone with 911, what else did
8 you see happen as far as the car is concerned?

9 A. Just the struggle of them trying to get him out of the
10 car and getting him onto the ground.

11 Q. And did the guy in the driver's seat get out of the car,
12 like "Oops, my bad," and get on out of the car?

13 A. No, ma'am. He was forced out of the vehicle.

14 Q. And as far as pulling him out of the car, was that --
15 did that involve this, I think you called him another
16 gentleman who came up?

17 A. Yes. He was helping pull him out. He was fighting him,
18 trying to get him out.

19 Q. And were you still there on scene when law enforcement
20 arrived?

21 A. Yes, ma'am.

22 Q. And was the mom and the dad, as you referred to them,
23 were they still there?

24 A. Yes, ma'am.

25 Q. And what about that gentleman who pulled the guy out of

1 the driver's seat, was he still there?

2 A. No. He had left.

3 MS. LINDER: Beg the Court's indulgence.

4 I have no further questions at this time for you. If
5 you could please answer anything that the defense may have.

6 THE WITNESS: Yes, ma'am.

7 THE COURT: You may proceed. Defense may proceed.

8 CROSS-EXAMINATION

9 BY MS. MARTINEZ:

10 Q. Jorge beat Raheem pretty badly that night; is that
11 right?

12 A. What was that? I can't hear you.

13 Q. Jorge beat Raheem pretty badly that night?

14 A. I didn't really see fighting. I saw struggle. I didn't
15 really see any swings or anything like that.

16 Q. Do you remember that night giving a statement to two
17 different police officers?

18 A. I remember giving one. I don't recall the other, but it
19 was a long time ago. I could have.

20 Q. Okay. And when you made that statement to police
21 officers about three years ago, the incident was pretty fresh
22 in your mind?

23 A. Yes.

24 Q. What you had seen?

25 A. Yes.

1 Q. Okay. Would it help you to refresh your memory if I
2 showed you a transcript of the body-cam video about what
3 happened?

4 A. Yes, ma'am.

5 MS. MARTINEZ: May I approach the witness?

6 THE COURT: You may.

7 BY MS. MARTINEZ:

8 Q. Read here to refresh your memory.

9 A. Yes. When he got out of the car, he did beat him up
10 pretty bad, yes.

11 Q. Okay. And Jorge beat Raheem to the point where he
12 couldn't beat up; is that right -- er, where he couldn't get
13 up; is that right?

14 A. Yes, ma'am.

15 Q. He was pretty out of it by the time that police arrived?
16 Raheem was pretty out of it?

17 A. Yes, ma'am.

18 Q. And you didn't hear Raheem make any threats when they
19 were trying to pull him out of the car?

20 A. No, ma'am, I did not.

21 Q. You didn't see him try to strike any punches at anyone,
22 did you?

23 A. Not that I saw, ma'am.

24 Q. And you heard him say twice, "This is my car"; is that
25 right?

1 A. I do not recall.

2 THE COURT: I'm sorry, ma'am I can barely hear.

3 THE WITNESS: Sorry.

4 THE COURT: You need to speak directly into the
5 microphone. Now repeat your answer first, please.

6 THE WITNESS: I do not recall.

7 BY MS. MARTINEZ:

8 Q. Okay. Once again, you remember you spoke to police
9 officers that night?

10 A. Yes, ma'am.

11 Q. And you gave them an account about what you had just
12 seen?

13 A. Yes.

14 Q. And would it refresh your memory if I showed you a
15 transcript of the body-cam video when you were talking to
16 Officer Duby?

17 A. Yes, ma'am.

18 Q. If you can read here.

19 A. Because twice the guy said, "This is my car."

20 MS. MARTINEZ: The Court's indulgence.

21 Q. [By Ms. Martinez] So I want to walk you back a little
22 bit to the conditions that night at the park. So you came up
23 to the scene while you and Ashley were trying to look for
24 Ashley's car; is that right?

25 A. Yes, ma'am.

1 Q. Okay. And so you walked up to lot B from the water?

2 A. I don't remember where we walked from. We walked
3 through another parking lot as well. I don't know where we
4 walked up from.

5 Q. But you were lost?

6 A. Yes.

7 Q. Okay. So there were a lot of people; is that right?
8 The place was crowded?

9 A. Yes, ma'am.

10 Q. There was a long line, is that right? To get into the
11 park?

12 A. Yes, ma'am.

13 Q. It was taking a long time to get out of the park as
14 well; is that right?

15 A. Yes, ma'am.

16 Q. So it was difficult for people to enter and leave the
17 park?

18 A. Yes, ma'am.

19 Q. And the parking lot was dark?

20 A. For the most part, yes, ma'am.

21 Q. So when you arrived to the scene, you saw Jorge inside
22 the car?

23 A. Yes, ma'am.

24 Q. Okay. And as you were walking up, he was in the back
25 seat?

1 A. Yes, ma'am.

2 Q. And you see him exit the car?

3 A. Yes, ma'am.

4 Q. Okay. You see him going to the driver front door?

5 A. Yes, ma'am.

6 Q. Okay. You see him reach out to the front driver's-side
7 door, pulling Raheem out; is that right?

8 A. Yes, ma'am.

9 Q. With the third unknown individual?

10 A. Yes, ma'am.

11 Q. Okay. So they put him on the ground?

12 A. Yes, ma'am.

13 Q. And they beat him -- Jorge beats him pretty badly?

14 A. Yes, ma'am.

15 Q. And so I want to ask you this again. You saw Raheem's
16 hands -- both hands on the steering wheel; is that right?

17 MS. LINDER: Objection, asked and answered.

18 THE COURT: I didn't hear the whole question. Please
19 repeat the entire question.

20 MS. MARTINEZ: You saw Raheem's hands on the steering
21 wheel?

22 THE COURT: I'm going to give a little latitude.
23 Overruled. You may answer the question.

24 BY MS. MARTINEZ:

25 A. One hand was on the steering wheel. The other was down

1 on the gear shift.

2 Q. Okay. Do you remember that night you gave a statement
3 to police officers?

4 A. Yes, ma'am.

5 Q. And you had recently seen the incident, and it was fresh
6 in your mind; is that correct?

7 A. Yes, ma'am.

8 Q. If I showed you a transcript of your interview with
9 Detective Duby, can you tell me where you see what you just
10 testified to --

11 A. Yes, ma'am.

12 Q. -- that he had one hand on the steering wheel and the
13 other one on the gear shift?

14 A. Yes, ma'am.

15 (Ms. Martinez leaned over the witness box and talked
16 with the witness inaudibly.)

17 COURT REPORTER: I'm not hearing anything that either of
18 you are saying right now.

19 BY MS. MARTINEZ:

20 Q. So I just want you to tell us where you see where you
21 tell the police officer that you saw one hand on the steering
22 wheel and the other one on the shifter.

23 A. I don't see it.

24 Q. What was that?

25 A. I said I do not see it.

1 Q. Okay. Thank you.

2 MS. MARTINEZ: I have no further questions, your Honor.

3 THE COURT: Any redirect for the witness?

4 MS. LINDER: Very briefly, your Honor.

5 REDIRECT EXAMINATION

6 BY MS. LINDER:

7 Q. Codi, did you see the defendant ever enter the driver's
8 seat of the car?

9 A. The defendant?

10 Q. Did you see the individual open the door and get into
11 the driver's seat?

12 A. No.

13 Q. Before everything kind of --

14 A. No.

15 Q. Was the individual already in that car by the time you
16 came out to the parking lot?

17 A. Yes.

18 Q. And when you came out to the parking lot, was the mom
19 already screaming or hollering or yelling, whatever you had
20 said?

21 A. Yes.

22 Q. All right. So you did not see the entire incident that
23 happened in that car?

24 A. No, ma'am.

25 Q. Is that fair to say?

1 A. Yes, ma'am.

2 MS. LINDER: I don't have anything further, Judge.

3 Thank you.

4 THE COURT: You're welcome.

5 Any objection to the witness being excused from the
6 State?

7 MS. OUTTEN: None from the State.

8 THE COURT: From the defense?

9 MS. MARTINEZ: None from the defendant.

10 THE COURT: Ma'am, you're excused.

11 (Witness excused.)

12 THE COURT: Who's the State's next witness?

13 MS. LINDER: The State calls Deputy Haslip.

14 MR. MACK: Judge, we may have a matter of law with
15 Deputy Haslip.

16 THE COURT: Mr. Foreman, ladies and gentlemen, I have a
17 brief matter of law to take up with counsel. During the
18 break, please do not discuss the case. And please leave your
19 notepads in your seats. We appreciate your patience.

20 (The jury exited the courtroom at 4:40 p.m.)

21 (The following proceedings were had outside the presence
22 of the jury.)

23 THE COURT: Yes, sir?

24 MR. MACK: Thank you, Judge. I'd like to introduce
25 three photos as evidence. Perhaps --

1 ROBERT HASLIP,
2 called as a witness on behalf of the State, being first duly
3 sworn, was examined and testified as follows:

4 DIRECT EXAMINATION

5 BY MS. LINDER:

6 Q. Where do you work?

7 A. Charleston County Sheriff's Office.

8 Q. And how long have you been with the Charleston County
9 Sheriff's Office?

10 A. Since March of 2011.

11 Q. What are your current duties with the sheriff's office?

12 A. I'm a patrol supervisor.

13 Q. And were you involved with this case, the State versus
14 Raheem Grant, in any way?

15 A. Yes.

16 Q. And can you please tell the jury how you first got
17 involved?

18 A. I was working an off-duty assignment doing traffic
19 control when the call came out. I responded and I was one of
20 the first on scene.

21 Q. And what is an "off-duty assignment"?

22 A. It's where you work outside of your normal scheduled
23 hours working special events.

24 Q. And do you wear a uniform when you do off-duty?

25 A. Yes.

1 Q. And where were you working that night, location wise?

2 A. Just outside of the park at the entrance of the light
3 show there off Riverland.

4 Q. Okay.

5 A. Directing traffic.

6 Q. And the Festival of Lights off of Riverland, is that in
7 Charleston County?

8 A. Yes.

9 Q. Can you tell the jury very briefly what the Festival of
10 Lights is?

11 A. It's a light show. Families come in to drive the path,
12 looking at all the lights. And then they have an activity
13 center where you see -- visit Santa, make s'mores, different
14 family activities there.

15 MS. LINDER: Your Honor, may I approach the witness?

16 THE COURT: You may.

17 BY MS. LINDER:

18 Q. At this time I'm going to show you what's been marked
19 and already admitted as State's Exhibit 1 and 2. Will you
20 just look at those?

21 A. Mm-hmm.

22 (Exhibit displayed on screen in open court.)

23 BY MS. LINDER:

24 Q. Then if you could look at that screen in front of you.
25 It's a touch screen, so beware. All right? So feel free to

1 use your fingers if that helps you explain this at all.

2 For State's Exhibit 2, it's already been admitted. Can
3 you please tell the jury what this represents?

4 A. It's the roadways of the James Island County Park.

5 Q. And what road is this right here?

6 A. Riverland Drive.

7 Q. And this one?

8 A. Camp Road.

9 Q. All right.

10 (Exhibit displayed on screen in open court.)

11 BY MS. LINDER:

12 Q. And then State's Exhibit 1 has already been admitted.
13 What is this showing?

14 A. The center -- it's the activity center where all the
15 shows are, where you can see Santa and all that.

16 Q. Okay.

17 A. The parking lots.

18 Q. So when you first heard the call, where specifically in
19 the park did you respond to?

20 A. Parking lot B.

21 Q. And can you describe to the jury what is parking lot B?

22 A. It's a sand and mixture with dirt, gravel parking lot
23 with multiple lanes of parking spots, rows of vehicles to
24 park.

25 Q. And was a lot of law enforcement already on scene when

1 you arrived?

2 A. No.

3 Q. And what was happening on scene when you arrived?

4 A. When I arrived down there, the defendant was on the
5 ground, laying on the ground. And then there was a male and
6 a female and then a small crowd of other people at the fair
7 there.

8 Q. All right. And what was happening with the defendant
9 when you arrived on scene as far as law enforcement?

10 A. Deputy Auer detained him. He was laying on the ground.

11 Q. And "detained him," she put him in handcuffs?

12 A. Yes.

13 Q. Okay. And did you interact with the defendant or did
14 you get anything off the defendant's person?

15 A. I did. I searched him, finding a bank card in his
16 pockets. As I was rolling him over, he was conscious but he
17 wasn't responding. I asked him, like, what his name was,
18 things like that, but he wasn't responding. He just -- he
19 turned his head towards me and he rolled himself back over.

20 Q. All right. And then did you make any calls while you
21 were out on scene that night?

22 A. Requested EMS through our radio.

23 Q. And you requested EMS for just the defendant or other
24 people on scene?

25 A. For him.

1 Q. Okay. Did the defendant have a driver's license on his
2 person?

3 A. No.

4 Q. Did the defendant have any keys on his person, like any
5 metal keys on his person?

6 A. No.

7 Q. Did the defendant have a key fob, like one of those if
8 you have a push start? Did he have a key fob on his
9 person --

10 A. No.

11 Q. -- in any of his pockets?

12 A. No.

13 Q. And did you interview any witnesses in this case?

14 A. I did not.

15 Q. And why not?

16 A. City was going to be handling it.

17 Q. If City was handling it, why did you as County go out
18 there?

19 A. Because we were right outside the park.

20 Q. And once the City arrived on scene, did you and your
21 agency fall back and let them take it over?

22 A. Yes.

23 MS. LINDER: Beg the Court's indulgence.

24 THE COURT: Certainly.

25 MS. LINDER: I don't have anything further. If you

1 could answer anything the defense may have.

2 THE COURT: You may proceed.

3 MR. MACK: No questions from the defense, Judge.

4 THE COURT: Any objection to the witness being excused
5 from the State?

6 MS. LINDER: None from the State.

7 THE COURT: From the defense?

8 MR. MACK: No, Judge.

9 THE COURT: Sir, you're excused.

10 THE WITNESS: Thank you.

11 THE COURT: You're welcome.

12 (Witness excused.)

13 THE COURT: Mr. Foreman, ladies and gentlemen, we're
14 going to take advantage of this break in testimony to take
15 our evening recess. During the break, please do not discuss
16 the case among yourselves or with anyone else. Please do not
17 watch, read, or listen to any media accounts about this case,
18 if there are any. Please don't do any independent research
19 of any type on the Internet. And please refrain from making
20 any comments regarding your jury service on any social
21 networking sites.

22 The bailiffs are going to give you some instructions.
23 You're going to be able to park next door tomorrow so that
24 you won't have to traverse the street. So they'll give you
25 instructions for that, as well as how to come into the

1 (Witness sworn.)

2 CLERK OF THE COURT: You may have a seat, ma'am.

3 Please state your name for the record and spell your
4 last name into the microphone.

5 THE WITNESS: April Ross, R-O-S-S.

6 APRIL ROSS,
7 called as a witness on behalf of the State, being first duly
8 sworn, was examined and testified as follows:

9 DIRECT EXAMINATION

10 BY MS. OUTTEN:

11 Q. Good morning, April.

12 A. Good morning.

13 Q. So just to do a little introductory information, where
14 are you from?

15 A. Walterboro, South Carolina.

16 Q. And that's where you currently live?

17 A. Yes, ma'am.

18 Q. Where do you currently work?

19 A. Right now I'm in nursing school. I been a CNA for,
20 like, 12 years, so I loved it so much I decided to kind of
21 like further it along.

22 Q. And do you have any children?

23 A. Yes, ma'am. Two. My daughter, she's 14 now. And my
24 son is 3.

25 Q. What are their names?

1 A. S.F. [REDACTED] and H.F. [REDACTED].

2 Q. So I'd like to bring you back to why you're here with
3 us. Can you please tell the jury where you were on
4 December 7, 2019?

5 A. We went to see the Christmas lights in James Island.

6 Q. Who was with you at the Festival of Lights?

7 A. Jorge, my boyfriend, and my two children.

8 Q. For those who -- well, never mind. At this point I
9 think we all know what the Holiday Festival of Lights is.

10 This might be difficult to talk about, but Jorge is not
11 here today. He wasn't here yesterday. Can you tell us why?

12 A. Jorge was in a horrible car accident, and he actually
13 passed away.

14 Q. So to go back to December 2019, you testified that you
15 were at the Holiday Festival of Lights with Jorge and your
16 children. Were y'all living in Walterboro at the time?

17 A. Yes, ma'am.

18 Q. And how old were your children at the time?

19 A. Let's see. H.F. [REDACTED], he was born in November 2019, and we
20 went there December 7, 2019, so he wasn't even a month old.
21 And S.F. [REDACTED], I think she was about 11, I believe.

22 Q. And what were -- what was your main purpose for being at
23 the Holiday Festival of Lights?

24 A. Well, we wanted to do, like, family pictures with Santa
25 Claus and see the Christmas lights and all that good stuff,

1 probably take them to the Build-A-Bear workshop, go on the
2 merry-go-round. You know, stuff like that, family stuff.

3 Q. And about what time did you arrive at the festival?

4 A. Well, it -- let's see. It takes about an hour to get
5 from Walterboro to Charleston. I don't know the exact time.
6 Jorge worked six days a week, so he usually got off by around
7 6:00. And then shower, get dressed, load up the car, take an
8 hour to get there. And then by the time we got there, there
9 was so many cars, it was lined up for miles on the road. So
10 it took us two and a half hours just to get through.

11 Q. What did you do when you got there?

12 A. We drove around and we looked at the Christmas lights
13 before we parked the car.

14 Q. And what did you do when you parked the car?

15 A. Well, Jorge, he stayed in the back seat to change the
16 baby's diaper. And me and my daughter, we got the stroller
17 out the trunk of the car.

18 Q. Where was Jorge while you did this?

19 A. Jorge was in the back seat. It had been a while -- you
20 know, you realize there's a big age difference between my two
21 kids, so it'd been a while since I had another child. And
22 the safety kids, like car-seat people, they always told me
23 it's better in case you get into a car accident not to have
24 the car seat, you know, on the sides of the car; have it in
25 the center of the back seat of your car.

1 So H.F.'s car seat was in the center. And Jorge, he
2 got in the back seat. And it was the back -- not the
3 driver's side, but the other side, the passenger side. He
4 was back there changing the baby.

5 Q. And what were you doing when you got out of the car?

6 A. Well, me and S.F. was trying to figure out how to
7 get this stroller to operate, to open.

8 Q. Did anything happen while you were standing at the back
9 of the car?

10 A. Yes. A man ran past us.

11 Q. What did he do when he ran past you?

12 A. It was like a whoosh, then like running past me. And he
13 actually jumped in the driver's side of my car.

14 Q. Did he close the door?

15 A. Yes. And he locked the doors.

16 Q. What direction did the man come from?

17 A. He came from behind me on my -- he came from behind me,
18 because I was standing at the trunk, and then he ran past,
19 like, my left side right here and jumped into the driver's
20 side of the car.

21 Q. And can you describe what this man looked like for the
22 jury?

23 A. A young black male.

24 Q. What did you do after the man jumped in the driver's
25 seat?

1 A. Well, I shut the trunk, and I was, like, "Oh, my God.
2 This dude just got in the wrong car." That's what I was
3 thinking anyway. And I went and knocked on the window and I
4 said, "I'm sorry, but I think you got in the wrong car."

5 Q. What, if anything, did the man do when you knocked on
6 the window?

7 A. Well, he looked at me and said, "This is my car now,"
8 and did kind of like a snicker laugh and he smiled.

9 Q. Did he do anything else within the vehicle?

10 A. Yes. He hit the push-start button to crank up the car.
11 It's a keyless car. You have one of the -- what are they
12 called? The --

13 Q. Key fob?

14 A. Key fob. Thank you. He had -- yeah, he just hit that.
15 And I had a extra key fob in the car in the armrest of my
16 vehicle, and it cranked right up.

17 Q. And so this is kind of going on. And what did you do?

18 A. Well, he actually put the car in reverse. And my
19 daughter was standing behind the car, so that scared me. So
20 I yelled for her to get behind the vehicle that was parked
21 next to us, because I didn't know if this young man had a
22 gun. You know, I didn't know if he was going to, like, kill
23 all of us. You know? And I figured, you know, at least, you
24 know, she would live and she wouldn't, like, see if that did
25 happen.

1 I started screaming, yelling for help.

2 Q. So I kind of want to just slow down, sort of take this
3 piece by piece. What kind of car did you have at the time?

4 A. The same one I have now. It's a 2013 Kia Optima.

5 Q. What color was it -- or is it?

6 A. I think it's brown. I say it's brown.

7 Q. But fair to say it's dark in color?

8 A. Yes.

9 Q. What kind of car is it, for those who might not know?
10 You know, I'm not so familiar with cars. So for those that
11 might not know what a Kia Optima is, what kind of -- you
12 know, is it a sedan? Is it an SUV?

13 A. It's like a regular little four-door car.

14 Q. And what kind of -- you sort of touched on this before,
15 but just to kind of make sure everything is clear, which kind
16 of ignition does the car have?

17 A. A push start. You just -- as long as you have that
18 little fob thing on you or it's somewhere, like, inside the
19 vehicle, you push the little push-start button and the car
20 cranks it right up.

21 Q. How many key fobs do you have for the car?

22 A. Two.

23 Q. And on this night, where were the key fobs?

24 A. I had one on me, and I had one inside the vehicle.

25 Q. Once the defendant started the car, what did you do?

1 A. Well, I was screaming, yelling for help. And the doors
2 were locked. I couldn't get in. You know, I felt like
3 scared, helpless, started panicking.

4 My son's, like, diaper bag was next to the car because,
5 like I said, we was getting ready to leave. I looked down
6 and I saw my keys there. I tried to unlock the car, pushing
7 the little button. It wouldn't unlock. I don't know if the
8 battery was dead or if it just wouldn't work because the car
9 was cranked.

10 But there is a little button on the side of the fob. I
11 pushed that and the manual key comes out. And I stuck that
12 inside the doorknob and got the door open. And then that's
13 when, I guess, a man -- I'm sorry. My mouth is a little dry.
14 Q. Take your time.

15 A. I guess, like, a man, he was there with his family. He
16 heard me screaming and hollering. And it was wonderful too,
17 like, the way, like, he came up behind me, like, to the
18 rescue. Because as soon as I stuck the key in and I turned
19 it and got the door unlocked, I didn't know what I was going
20 to do. It's -- you know, because, I mean, it's an aggressive
21 male in my front seat. You know? So I don't know. He just
22 came over there to the rescue.

23 Q. Can you describe this good Samaritan who pulled the
24 person out?

25 A. A young, tall, darker male.

1 Q. And when you say he helped you, what do you mean?

2 A. He got him out of the vehicle.

3 Q. Now, did the person that was on the driver's side just
4 easily, pleasantly get out of the vehicle?

5 A. No.

6 Q. What was he doing? What was kind of going on between
7 those two people -- er, trying to get the person out?

8 A. He was, like, holding onto the steering wheel, like, not
9 wanting to get out at all.

10 Q. What happened after that?

11 A. Well, he got him out of the car. And I remember him
12 saying, you know, like, "You're trying to steal this girl's
13 car with her baby in it. I'll kill you, mother" -- I don't
14 really want to curse in court. I'm sorry. But "mother
15 fucker." Excuse me. I'm sorry. I apologize.

16 Q. So what was Jorge -- so just to be clear, the man comes
17 up, helps get the guy out of the car. What is Jorge doing
18 during this?

19 A. Well, before all that happened, we actually missed a
20 step in that. You know, like, when I knocked on the window
21 and I said, you know, "I'm sorry. I think you got into the
22 wrong car," I mean, he should have knew, like, if he does
23 have a Kia Optima, that it wasn't his car. Because, I mean,
24 I had the trunk wide open. I just took a stroller out of it.
25 I mean, if somebody was standing at my car removing

1 stuff from my vehicle, you know, I would be asking them
2 questions like, "Excuse me. Why are you taking stuff out of
3 my car?"

4 But I apologize. What was your question again?

5 Q. That's okay. What was Jorge doing during this time?

6 A. Well, after I had knocked on the window and I said, "I'm
7 sorry. You're in the wrong car," and he said, "It's my car
8 now," and cranked it up and put it in reverse, Jorge said
9 something to him along the lines of like "What are you
10 doing?" And Jorge stood up and, like -- like I said, the car
11 seat was in the center of the car. And Jorge is over here,
12 so he had to reach over -- I call him "Little Man," so he had
13 to reach over Little Man's car seat to try and either put the
14 gear in park or turn -- hit the push-start button to turn the
15 car off, or -- you know, trying to get the vehicle from where
16 it wouldn't be in motion.

17 And as soon as he did that, I saw Mr. Grant punch him in
18 the face. And then they started, like, going at it. And
19 that's when I started panicking because my infant was in the
20 car and there's this, you know, rustle going on. So after I
21 seen him hit him, like, once or twice, that's when I started
22 panicking, yelling, screaming, found my keys, got the door
23 unlocked.

24 So I wasn't paying attention anymore. I could see
25 movement in the car after that, but I wasn't paying attention

1 to who was hitting who anymore. I was just trying to get
2 that car unlocked and get my child out of there.

3 Q. And after Jorge got out of the car, what did you notice
4 about his physical appearance?

5 A. His face was messed up. His glasses were actually
6 broken. He wore glasses.

7 Q. Did you call law enforcement?

8 A. No, ma'am. Somebody else did. I think one of the women
9 that was here yesterday, I guess they saw what was going on
10 and they called 911.

11 Q. And you were still on scene when law enforcement
12 arrived?

13 A. Yes, ma'am. I was there for a very long time.

14 Q. Was the man who helped you get the guy out of the car
15 there when the police arrived?

16 A. Oh, no, ma'am. He did what he could to help us, and
17 then he left with his wife and his children.

18 Q. Did you speak with law enforcement that night on scene?

19 A. Yes, ma'am.

20 Q. And while law enforcement was on scene, did you ever
21 return back to your vehicle?

22 A. The only time I went back into my vehicle was to get my
23 child out of the car seat, because once Jorge had gotten out
24 of the car, the good Samaritan had pulled him out and Jorge
25 had gotten -- well, the good Samaritan had got him out, and

1 then Jorge walked around the back of the vehicle. He just
2 looked at me and said, "Get the baby."

3 And while him and the good Samaritan was over there with
4 Mr. Grant, taking care of that, I was getting my son out of
5 the car. I didn't want my children back in the car. There
6 was blood in it. I didn't know if anybody had anything. You
7 know, I didn't want my children contaminated.

8 Q. I understand.

9 MS. OUTTEN: Beg the Court's indulgence.

10 Ms. Ross, I don't have any further questions for you.
11 Please answer any questions that the defense attorney may
12 have for you.

13 THE WITNESS: Yes, ma'am.

14 THE COURT: You may proceed.

15 MR. MACK: Thank you, Judge. We have a matter of law to
16 discuss.

17 THE COURT: Mr. Foreman, ladies and gentlemen, I have a
18 brief matter of law to take up with counsel. During the
19 break, please do not discuss the case. And please leave your
20 notebooks in your seats.

21 (The jury exited the courtroom at 10:37 a.m.)

22 (The following proceedings were had outside the presence
23 of the jury.)

24 THE COURT: You may be seated.

25 Yes, sir?

1 MR. MACK: Thank you, Judge.

2 At this time the defense moves to inspect the statements
3 of the witness, Judge, based on Rule 5(a)(1)(2)(A)(1), which
4 states, "Except as provided in paragraphs (A), (B), and (D)
5 of subdivision (a)(1), this rule does not authorize the
6 discovery or inspection of reports, memoranda, or other
7 internal prosecution documents made by the attorney for the
8 prosecution or other prosecution agents in connection with
9 the investigation or prosecution of the case, or of
10 statements made by prosecution witnesses or prospective
11 prosecution witnesses provided that after a prosecution
12 witness has testified on direct examination, the Court shall,
13 on motion of the defendant, order the prosecution to produce
14 any statement of the witness in the possession of the
15 prosecution which relates to the subject matters as to which
16 the witness has testified."

17 Judge, we have multiple statements that are not
18 mentioned in the pretrial brief by the State or via e-mail at
19 6:00 p.m. on the Friday before trial, that April Ross
20 testified to. They are not stated to Detective Galka. I
21 believe I have the right, based on my client's due process
22 constitutional right under *Brady versus Maryland*, for us to
23 inspect the statements before I cross-examine April Ross.

24 And I'd like some time, Judge, to review those
25 statements in preparation for my cross-examination.

1 THE COURT: Would you like to respond, Ms. Outten?

2 MS. OUTTEN: Your Honor -- and I will tell you this as
3 an officer of the Court -- there were some details that April
4 just gave me that she had not given me in prior meetings.

5 I believe I have fully -- I don't believe; I have fully
6 complied with Rule 5 and *Brady versus Maryland*. The defense
7 has been on notice that she would say, "This is my car now."
8 He has been on notice that she would say that she saw Jorge
9 -- that she saw the defendant hit Jorge inside the vehicle.

10 I'm really not sure what else the defendant is looking
11 for, again, except for to inspect my notes, which are
12 privileged. There was no statement. There was no recording.
13 There was no memoranda. And I'm just not quite sure what
14 he's looking for here.

15 THE COURT: Mr. Mack?

16 MR. MACK: One moment, Judge.

17 THE COURT: Do you have any evidence that they have any
18 written statement, memoranda, or supplemental report? I
19 don't think this rules talks about her privileged notes that
20 she made in anticipation of preparation for trial. That's
21 not what this rule's supposed to do.

22 MR. MACK: I do not, Judge. But if they do, I believe
23 I'm entitled to inspect them.

24 THE COURT: That's not what the rule contemplates and
25 that's not what it says. It's talking about written

1 statements that may not necessarily have been exculpatory or
2 -- of prospective witnesses that you may not have been
3 provided that you're entitled to after the witness testifies.
4 This does not say that you get somebody's internal work
5 product or their internal -- their contemporaneous notes they
6 made in preparation for trial or their thought process.
7 You're not entitled to that under the rules or under the case
8 law.

9 What Ms. Outten says as an officer of the court is there
10 is no written statement. And I have to take her word for
11 that unless you have something contrary or empirical that
12 tells me that such a statement exists.

13 MR. MACK: I do not, Judge.

14 THE COURT: Then there's nothing to produce.

15 MR. MACK: Thank you.

16 THE COURT: You're welcome. And I find credible
17 Ms. Outten's representation to the Court that as soon as she
18 was aware of the change of the one word, that she provided
19 that to you.

20 Are you ready to proceed with cross-examination?

21 MR. MACK: Yes, Judge.

22 THE COURT: Please bring in the jury. Thank you.

23 MR. MACK: Actually, Judge, if I could have, like, two
24 minutes? There was a lot there, and just to highlight some
25 of the stuff.

1 THE COURT: Well, by the time the jury gets down here --
2 y'all can take your seats. I suspect somebody's in the
3 restroom, having coffee or having water or something.

4 THE BAILIFF: Are you ready, Judge?

5 THE COURT: Just give me two seconds.

6 Are you done yet, Mr. Mack?

7 MR. MACK: One moment, please, Judge.

8 Okay, Judge. I'm ready.

9 THE COURT: Please bring in the jury.

10 (The jury entered the courtroom at 10:43 a.m.)

11 THE BAILIFF: All jurors are present.

12 THE COURT: Thank you. You may be seated.

13 You may proceed with your cross-examination.

14 MR. MACK: Thank you, Judge.

15 THE COURT: You're welcome.

16 CROSS-EXAMINATION

17 BY MR. MACK:

18 Q. April, you've been watching this trial up until now,
19 correct?

20 A. Yes.

21 MS. OUTTEN: Objection.

22 THE COURT: Basis?

23 MS. OUTTEN: I mean --

24 THE COURT: Please repeat the question.

25 MR. MACK: April, you've been watching this trial up

1 until now, correct?

2 MS. OUTTEN: Your Honor?

3 THE COURT: He's entitled.

4 MS. OUTTEN: Okay.

5 THE COURT: You may proceed. Overruled.

6 BY MR. MACK:

7 A. Yes, sir. I am a victim of this --

8 Q. You've been watching --

9 A. -- so I have a right to. Yes, sir.

10 Q. You've been watching all the witnesses walk through that
11 door?

12 A. Yep.

13 Q. And you've been watching pretrial motions?

14 A. Yeah.

15 Q. You've been watching my -- you watched my opening
16 statement?

17 A. Yes.

18 Q. You watched matters of law discussed outside the
19 presence of the jury?

20 A. Yes. I have that right.

21 Q. You watched Ashley Vander-Ploeg testify?

22 A. Yes.

23 Q. You heard Codi Dennis testify?

24 A. Yes.

25 Q. You heard Codi Dennis testify that when she arrived on

1 scene you were already screaming?

2 A. Yes, sir. That I was.

3 Q. You heard Codi Dennis testify that she saw Jorge in the
4 back seat with his arms around Raheem?

5 A. Yes. He was in my vehicle, and he was doing what he
6 could to defend our --

7 Q. You testified today --

8 A. -- property -- I'm not done with my --

9 Q. Yes or no. Ms. Ross, please.

10 THE COURT: Ma'am, you can say yes or no.

11 But she is allowed to explain her answer. Do not cut
12 her off.

13 THE WITNESS: Thank you.

14 MR. MACK: Yes, Judge.

15 THE WITNESS: I appreciate that.

16 THE COURT: Do you need the question repeated, ma'am?

17 THE WITNESS: Please.

18 THE COURT: Please repeat the question.

19 BY MR. MACK:

20 Q. You heard -- you testified today that you heard Raheem
21 Grant say, "This is my car now"?

22 A. Yes.

23 Q. You saw Raheem Grant push the start button on your car;
24 you testified to that as well?

25 A. Yes.

1 Q. You testified that you saw Raheem Grant put his hands --
2 well, you testified that you saw Raheem Grant assault Jorge?

3 A. Jorge. Yes, sir.

4 Q. Excuse me. Jorge.

5 And you met with Assistant Solicitor Outten last week,
6 right?

7 A. Who?

8 Q. Assistant Solicitor Outten.

9 A. Oh, yes. Yes, sir.

10 Q. On Wednesday?

11 A. Yes, sir.

12 Q. At the solicitor's office?

13 A. Yes, sir.

14 Q. And before that meeting, you likely sat in the waiting
15 room of the solicitor's office?

16 A. No, sir.

17 Q. Did you meet at Solicitor Ana Outten's office?

18 A. We met at an office.

19 Is that your office?

20 Q. I'm sorry?

21 A. I'm sorry.

22 Q. I'm here.

23 A. Yeah, I know where you are, but I don't want to lie
24 under oath so I'm just making sure that I'm telling you the
25 right place.

1 Q. She can't coach you in your answers. You know that,
2 right?

3 A. I know that, but I don't want to lie under oath and I
4 want to make sure that --

5 Q. Did you come to 101 Meeting Street, this building, a
6 building attached to the courthouse, to speak with Solicitor
7 Outten?

8 A. We met at an office in Waltherboro for a meeting.

9 Q. What office was that?

10 A. I'm not sure if it's called, like, the sheriff's
11 office --

12 Q. Okay.

13 A. -- or what it's called. But yes, we met in an office
14 and we spoke.

15 Q. So you went to a police station to speak to Solicitor
16 Outten?

17 A. I'm not sure if that's what it's called.

18 Q. Were there police officers in this building?

19 A. I saw people in a glass window, and we walked through a
20 hallway, and there was, like, this long table with chairs in
21 it. I don't remember seeing a police officer, though.

22 Q. So it wasn't a police station?

23 A. I'm not really sure what it was called. I can't
24 remember off the top of my head. But we did meet in a
25 building and we did have a meeting, yes.

1 Q. You don't know where you met Solicitor Outten?

2 MS. OUTTEN: Objection, your Honor.

3 THE COURT: Basis?

4 MS. OUTTEN: Relevance.

5 THE COURT: I'm giving him some latitude.

6 But you've asked that question and the witness has
7 answered.

8 BY MR. MACK:

9 Q. Do you know?

10 A. Not off the top of my head, no, sir. Not the name of
11 the building.

12 Q. At the meeting, was Investigator Jon Glenn there, that
13 man right there with the laptop --

14 A. Yes.

15 Q. -- and the -- sitting there?

16 A. Yes, he was there.

17 Q. And at that meeting, was Assistant Solicitor Stephanie
18 Linder there?

19 A. Yes.

20 Q. And the meeting was not recorded, correct?

21 A. No, sir.

22 Q. Not by video?

23 A. No, sir.

24 Q. Not by audio?

25 A. No, sir.

1 Q. And that was the first time that you told them that you
2 heard Raheem Grant say, "This is my car now"?

3 A. Yes. As stuff comes back to me, I say it. You know, I
4 mean, that was a very, very traumatic event. You know,
5 sometimes you go through trauma and --

6 Q. On Wednesday --

7 THE COURT: Don't interrupt her while she's explaining
8 her answer, Mr. Mack.

9 MR. MACK: Sorry, Judge.

10 THE COURT: She's entitled to answer yes or no and then
11 she can explain her answer and then you may proceed with the
12 next question.

13 MR. MACK: Thank you, Judge.

14 THE COURT: Ma'am, are you complete in your answer?
15 Had you finished your answer, ma'am?

16 THE WITNESS: No, ma'am.

17 THE COURT: You may complete your answer.

18 BY MR. MACK:

19 A. Sometimes when you go through a traumatic event and
20 you're -- it's a lot of trauma and you're in shock, like,
21 you're not going to remember every little detail on the spot.
22 So I have answered everything I can as it comes back to me.

23 Q. So it came back to you four years after the incident --
24 almost four years after the incident?

25 A. It wasn't four years.

1 Q. Three and a half. And that was the first time that you
2 saw Raheem Grant push -- you said you saw Raheem Grant push
3 the start button on the car, correct?

4 A. I actually remembered it after we met with the officer
5 from James Island, but by then -- you know, nobody followed
6 up with me or anything, you know. I would have said
7 something, you know. But it didn't come to me when I was on
8 the spot, you know, at that event. So as it comes back to
9 me, that's when I said what happened.

10 Q. That was the first time you said that Raheem assaulted
11 Jorge?

12 A. Well, we know he assaulted him. You could see the
13 pictures. But yes, sir.

14 Q. At that meeting, you didn't tell Solicitor Outten or
15 Solicitor Linder that Raheem Grant smiled, smirked, or
16 laughed at you?

17 A. Yes, sir. Yes, sir. He did that.

18 Q. Did you tell them that at that meeting?

19 A. Which meeting?

20 Q. The one on Wednesday, last week?

21 A. I believe so.

22 Q. At that meeting you didn't tell them that he put the car
23 in reverse, correct?

24 A. That I put the car in reverse?

25 Q. Sorry. That Raheem Grant put the car in reverse.

1 A. I told them that they started it. I can't remember if I
2 told them about the reverse thing.

3 Q. At that meeting you didn't tell them --

4 A. I think -- no, I think I did tell them that he had --
5 because he had it in gear.

6 Q. At that meeting you didn't tell them that maybe the
7 battery was dead on your key fob?

8 A. I didn't know if the battery was dead on my key fob or
9 if it just wouldn't work because the car was cranked.

10 Q. Did you tell them that at that meeting?

11 A. I told them that the button wouldn't work. I didn't
12 explain why. And I told them that I pushed the little button
13 and pulled out the manual key and used that to unlock the
14 door.

15 Q. Did you tell them at that meeting that this,
16 quote/unquote, good Samaritan said, "You're trying to steal
17 this guy's mother fucking car"?

18 A. The good Samaritan said, "You're trying to steal this
19 girl's car with the baby in it. I'll kill you, mother
20 fucker." Those are his exact words. And yes, sir, I did. I
21 believe so.

22 Q. And at that meeting you told them that you said to
23 Raheem Grant after knocking on the window, "I'm sorry.
24 You're in the wrong car"?

25 A. Yes.

1 Q. And at that meeting you said that Jorge said, "What are
2 you doing?"

3 A. Yes, sir. That's correct.

4 Q. And at that meeting you said that Raheem Grant punched
5 Jorge in the face?

6 A. Yes.

7 Q. And at that meeting you said the only time you returned
8 to your vehicle was in order to get your child out of the
9 car --

10 A. Yes.

11 Q. -- that you didn't want them to get contaminated?

12 A. Yes.

13 MS. OUTTEN: Objection, your Honor.

14 THE COURT: Basis?

15 MS. OUTTEN: Improper impeachment. I also believe that
16 this may be a matter of law for outside the jury.

17 THE COURT: Mr. Foreman, ladies and gentlemen, I have a
18 brief matter of law to take up with counsel. During the
19 break, please do not discuss the case. Leave your notepads
20 in your seat. We appreciate your patience.

21 (The jury exited the courtroom at 10:54 a.m.)

22 (The following proceedings were had outside the presence
23 of the jury.)

24 THE COURT: You may be seated.

25 All right, Ms. Outten.

1 MS. OUTTEN: Your Honor, as to some of the things that
2 Mr. Mack is trying to impeach Ms. Ross on, for one, he's
3 misrepresenting that some of these things were the first
4 details. He has a complete transcript of her interview. For
5 instance, April Ross in her interview to Detective Galka
6 says, "I start banging on the window and tell him, 'Get out
7 of my car. My son's in the car. Get out of my car.'"

8 I believe that if he wants to impeach Ms. Ross on what
9 her statement is, he needs to tell her when was the
10 statement, where was the statement, and give her an
11 opportunity to explain or deny making the statement, allow
12 her recollection to be refreshed. I don't believe that he
13 can just continually characterize changes in her story in
14 this manner. I don't believe that's proper impeachment of
15 the witness.

16 THE COURT: Mr. Mack?

17 MR. MACK: Judge, I wasn't questioning her on the first
18 details of her statement. I was trying to establish when she
19 said these claims that I've never heard before. And --

20 THE COURT: Well, you implied that this is the time she
21 said them. And then according to that statement, that isn't
22 the first time she said them. She may have said it
23 differently, but the essence of it is the same, that she
24 banged on the door and said, you know, "You're not -- wrong
25 car."

1 MR. MACK: Judge, she never told Detective Galka --

2 THE COURT: She just said in the statement that she told
3 them she banged on the door -- er, on the window and was
4 screaming.

5 MR. MACK: The other statements that I referenced,
6 Judge, were never mentioned to Detective Galka: the smiling,
7 the snickering, the laughing.

8 THE COURT: I got that part, but some of it you are
9 mischaracterizing. And when you impeach someone, you need to
10 ask them the exact question that was asked of them. You give
11 them the opportunity to answer consistently or
12 inconsistently, and then you impeach them with the statement.
13 But before you do that, you give them the ability to refresh
14 their recollection of the statement. Usually it's a
15 statement that they have created.

16 However, under these circumstances, where you also
17 provided information to him that she has changed her
18 statement and, by your own admission and your argument, she
19 said today that she did not say to you previously, he is
20 considered wide -- to be given wide latitude in
21 cross-examination. It's for you to rehabilitate your witness
22 on redirect.

23 Please get the jury.

24 The objection's overruled. But be careful, Mr. Mack.
25 Stay within the rules.

1 MR. MACK: Thank you, Judge. I'm getting there.

2 (The jury entered the courtroom at 10:58 a.m.)

3 THE BAILIFF: All jurors are present.

4 THE COURT: You may be seated.

5 Ladies and gentlemen, we appreciate your patience.

6 We'll now resume testimony of the witness.

7 You may proceed.

8 MR. MACK: Thank you, Judge. Just one moment.

9 THE COURT: Mm-hmm.

10 BY MR. MACK:

11 Q. April, did you meet with Assistant Solicitor Outten in
12 January 2023?

13 A. Who?

14 Q. Assistant Solicitor Outten.

15 A. Oh, yes. I believe so. Yes, sir.

16 Q. And did that meeting take place at the solicitor's
17 office in the building next door to this courthouse?

18 A. No, sir. The same place that we went to for the
19 previous.

20 Q. And was Investigator Jon Glenn there?

21 A. Yes.

22 Q. And was Assistant Solicitor Stephanie Linder there?

23 A. Yes.

24 Q. And the meeting was not recorded?

25 A. No, sir.

1 Q. By video?

2 A. No.

3 Q. By audio?

4 A. No, sir.

5 Q. And at that meeting you never mentioned that you heard
6 Raheem Grant say, "This is my car now"?

7 A. I can't remember when I told them that, if it was the
8 last meeting or the meeting before. But I know I told them
9 that, yes, sir.

10 Q. You're saying you don't remember?

11 A. I don't remember when I told them that, but I do
12 remember telling them that, yes, sir.

13 Q. Do you -- at that meeting you never told them that
14 Raheem Grant assaulted Jorge?

15 A. I can't remember when I told them that, but like I said,
16 I say the stuff as it comes back to me.

17 Q. Do you remember if your story at that meeting was
18 consistent with the story you told Detective Galka?

19 A. I'm not sure. I'd have to see the statement and see
20 what I said and what I didn't say.

21 Q. So you don't remember what you said at that meeting in
22 January 2023 to the solicitor's office at some unknown
23 building?

24 A. Oh, I thought you was just talking about the detective.
25 Now you're talking about them. I'm sorry. Can you please

1 clarify what --

2 Q. Were the statements that you gave on January 2023
3 consistent with the statement that you gave Detective Galka
4 the night of the incident?

5 A. Not completely, because like I said, I say stuff as it
6 comes back to me. So some things might have got left out
7 when I was with the detective. The incident had just took
8 place. I was still in shock. So like I said, that was a
9 very traumatic event.

10 Q. But you can't remember January 2023 if you said that
11 Raheem Grant assaulted Jorge to the solicitor's office?

12 A. I'm not sure at which meeting I told them that.

13 Q. You met with Detective Galka the night of the incident,
14 correct?

15 A. I believe so. Yes, sir.

16 Q. He separated you from Jorge?

17 A. Yes, sir.

18 Q. He was --

19 A. He took separate statements from both of us while one of
20 us -- like, he took Jorge first. I stayed next to the car
21 with the kids, and he went and sat in the car with him and
22 got, I believe, a recorded statement. And then it was, like,
23 vice versa. We switched out and then he got my statement.

24 Q. That's when the -- and Detective Galka was wearing his
25 CPD badge?

- 1 A. I believe so.
- 2 Q. He was wearing his gun?
- 3 A. Yes, sir. I think so.
- 4 Q. He asked for your name?
- 5 A. Yes, sir.
- 6 Q. He asked you to spell your name?
- 7 A. He might have. That was, like, a conversation three
- 8 years ago.
- 9 Q. He asked for your date of birth?
- 10 A. Probably.
- 11 Q. Asked for your phone number?
- 12 A. Yes, sir, probably.
- 13 Q. By this time, Raheem Grant was under arrest, correct?
- 14 A. Yes, sir. I believe so.
- 15 Q. He's on the ground?
- 16 A. Yes, sir.
- 17 Q. He's in handcuffs?
- 18 A. Yes, sir.
- 19 Q. He's face down?
- 20 A. Yes, sir.
- 21 Q. Motionless?
- 22 A. Yes, sir.
- 23 Q. Not speaking?
- 24 A. No.
- 25 Q. Cops are trying to ask him his name?

1 A. I didn't see anybody ask him his name.

2 Q. His face is covered in blood?

3 A. Yeah. He tried to take a family's car with an infant in
4 the back seat.

5 Q. There's blood inside your car?

6 A. Yeah. But Raheem was still -- he was still conscious
7 when the good Samaritan pulled him out of my car too.

8 Q. Detective Galka pushes you aside, pushes record on his
9 recording device, and says, "I'm Detective Galka. December 8
10 at 12:10 p.m., can you start off with your name for me?" Do
11 you remember that?

12 A. Yes, sir. I think so.

13 Q. And you told Detective Galka that Raheem Grant ran
14 straight to the driver's side of your car, correct?

15 A. Yes, sir. But if we're going to -- I apologize, but if
16 we're going to keep questions about a statement, can I have a
17 copy of it? Do you have a copy of the statement?

18 Q. Sure. Yeah.

19 A. Thank you.

20 Q. No problem. Do you need some time to review it?

21 A. No, sir. You can just tell me what page we're on and we
22 can go through that.

23 Q. Sure. So you told Detective Galka that Raheem Grant ran
24 straight to the driver's seat of your car. And that's on
25 page 4, bottom of page 4, line 24.

1 A. Yes. He ran from, like, this direction, right past me,
2 and just jumped in my car.

3 Q. And you told Detective Galka that Raheem jumped in the
4 car and cranked it up. That's on page 2, line 15.

5 A. Yes, sir.

6 Q. And you told Detective Galka that Raheem didn't even
7 look at you?

8 A. At first, no.

9 Q. You told Detective Galka that it was as if you didn't
10 even exist?

11 A. Yes, at first.

12 Q. That Raheem didn't say anything to you?

13 A. Like I said, I say the stuff as it comes back to me.

14 Q. Is that a yes?

15 A. I'm sorry?

16 Q. Was that a yes, you didn't say that? Or you said that
17 Raheem -- you're saying yes, that Raheem didn't say anything
18 to you?

19 A. I said that at the time, yes.

20 Q. Okay. And you told Detective Galka that you did not
21 hear Raheem make any statements?

22 A. At the time, yes.

23 Q. Not even outside the car?

24 A. No, sir.

25 Q. You also told Detective Galka that you saw Raheem Grant

1 push the start button on your car?

2 A. Yes.

3 Q. And that you're not sure if it was in drive or neutral?

4 A. He had it in reverse.

5 Q. I'm asking you what you told Detective Galka, Ms. Ross.

6 A. What page are we on now?

7 Q. On page 7, line 16.

8 A. Yes. It sounds like I wasn't sure because I said,

9 "Yeah, I literally seen him push the button and try. And he
10 put it in, like -- it was in neutral, I think. Neutral or
11 drive." That sounds -- to me that kind of sounds uncertain.
12 But yes, sir, go ahead.

13 Q. And you told Detective Galka that at no part did the car
14 start moving?

15 A. No, sir, I don't think so, because Jorge had got up by
16 then.

17 Q. You also told Detective Galka that you don't remember if
18 Jorge jumped across the seat or he went around the car?

19 A. Where is that at?

20 Q. Page 4, line 1.

21 A. "Jorge -- I think Jorge came across the seat." Yeah,
22 "came across" I meant, like -- yes. Yes.

23 Q. And finally, April Ross, you also told Detective Galka
24 that you did not see anything else happen inside the car?

25 A. Where is that at?

1 Q. Page 7, line 22.

2 A. Yes, that is correct. That's what I said at the time.

3 MR. MACK: No further questions, Judge.

4 THE COURT: Any redirect of the witness?

5 MS. OUTTEN: Yes. Briefly, Judge.

6 THE COURT: You may proceed.

7 MS. OUTTEN: Beg the Court's indulgence one moment,
8 please.

9 REDIRECT EXAMINATION

10 BY MS. OUTTEN:

11 Q. So Mr. Mack just had you read from the bottom of page 7,
12 line 22. Can you read from page 8, line 6 -- well, excuse
13 me, lines 4 through 8?

14 A. Um --

15 Q. And you can phrase it in your own words. Just refresh
16 your recollection what you told Detective Galka right after
17 you said that.

18 A. You want me to --

19 MR. MACK: Objection, hearsay, Judge.

20 THE COURT: I'll allow it. She can refresh her
21 recollection.

22 BY MS. OUTTEN:

23 A. You want me to read 4 through 8?

24 Q. Or just you can summarize it. Whatever is easier for
25 you.

1 A. He asked me -- Detective Galka asked me if I remember,
2 like, what he was wearing. I said, "I don't really
3 remember." He said, "Okay. No problem." I said, "I was
4 just worried about, 'Hey, you're trying to steal my car with
5 my son in it.' That was my main concern.'"

6 Q. And just kind of backing up a little bit, just to sort
7 of give the jury a clear picture of what happened, when did
8 you give this statement to Detective Galka?

9 A. Right after this took place, as soon as he got there.

10 Q. And if you remember about how long that conversation
11 with Detective Galka was?

12 A. We was in his car for, I think, a good little bit. I'm
13 not exactly sure of the time.

14 Q. That's okay. And so where were you when you gave the
15 statement?

16 A. I believe I was -- I'm sorry.

17 Q. Take your time.

18 A. I believe the detective took our statements in his
19 vehicle, I believe. And it was like a recorded statement, I
20 think.

21 Q. So you were still on the scene? You were still at James
22 Island County Park?

23 A. Yes.

24 Q. Did you -- and if you need me to refer you to portions
25 of your statements, please let me know. But that night, did

1 you tell Detective Galka that you banged on the windows and
2 told the defendant to get out of your car and that your son
3 was in the car?

4 A. Yes.

5 Q. Did you tell Detective Galka that you were standing
6 towards the trunk when the defendant ran past you?

7 A. Yes.

8 Q. Did you tell Detective Galka that your car was locked?

9 A. Yes.

10 Q. Did you tell Detective Galka that your car was push
11 start?

12 A. Yes.

13 Q. Did you tell Detective Galka that you used the manual
14 key to unlock the door?

15 A. Yes.

16 Q. Did you tell Detective Galka that the defendant cranked
17 up your car?

18 A. Yes.

19 Q. Did you tell Detective Galka that the defendant put your
20 car in gear?

21 A. Yes.

22 Q. Did you ever give another statement to law enforcement
23 between that night and your meeting with me, Assistant
24 Solicitor Linder, and Investigator Glenn?

25 A. I'm sorry?

1 Q. Did you ever give another statement to law enforcement
2 between that night, the night of the incident, and when you
3 met with me, Assistant Solicitor Linder, and Investigator
4 Glenn?

5 A. Not after that night. The only other people I talked to
6 is Mr. Glenn and you and Ms. Stephanie. Nobody, you know,
7 called me or followed me up. I didn't know, like, when he
8 was released from jail. There was nobody contacted me and
9 told me anything.

10 Q. And how would you characterize your state of mind when
11 you gave your statement to Detective Galka that night?

12 A. Panicky. I was frantic. You know, I mean, that was a
13 bad situation, but it could have been much worse. You know,
14 like, what if that good Samaritan didn't come up? You know,
15 what if I just went with the kids myself that night? You
16 know? And I didn't -- you know, the state of mind and, you
17 know, my baby in the back seat, that situation could have
18 turned a whole lot worse.

19 MS. OUTTEN: Beg the Court's indulgence.

20 Nothing further, your Honor.

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

22 THE WITNESS: Thank you.

23 THE COURT: You're welcome.

24 (Witness excused.)

25 THE COURT: Call your next witness.

1 MS. LINDER: The State calls Officer Windham.

2 (Witness sworn.)

3 CLERK OF THE COURT: You may have a seat, sir.

4 Please state your name for the record and spell your
5 last name.

6 THE WITNESS: Brandon Windham, W-I-N-D-H-A-M.

7 THE COURT: You may proceed, Ms. Linder.

8 MS. LINDER: Thank you, your Honor.

9 THE COURT: You're welcome.

10 BRANDON WINDHAM,
11 called as a witness on behalf of the State, being first duly
12 sworn, was examined and testified as follows:

13 DIRECT EXAMINATION

14 BY MS. LINDER:

15 Q. Where do you work?

16 A. City of Charleston Police Department.

17 Q. And how long have you been with the City of Charleston
18 Police Department or any other law enforcement?

19 A. Since 2017.

20 Q. And what are your current duties?

21 A. I'm currently the Team 3 investigator.

22 Q. And what was your position and responsibilities back in
23 December of 2019?

24 A. I was a Team 3 patrol officer.

25 Q. And what area does Team 3 cover?

1 A. The James and Johns Island areas within the City of
2 Charleston's jurisdiction.

3 Q. And were you involved with this case, the State versus
4 Raheem Grant, in any way?

5 A. I was.

6 Q. And can you tell the jury how you first got involved in
7 this case, how you first learned about it?

8 A. I received the call for service at the Charleston County
9 park at 871 Riverland Drive.

10 Q. Is that in Charleston County?

11 A. It is within the City of Charleston's jurisdiction.

12 Q. And when you responded to that scene, were you wearing a
13 police uniform?

14 A. I was.

15 Q. And were you driving a marked police cruiser?

16 A. I was.

17 Q. And were you outfitted with body-worn camera?

18 A. I was.

19 Q. And specifically within the county park at James Island
20 there, where did you respond?

21 A. To parking lot B.

22 Q. And can you describe parking lot B as you observed it
23 when you arrived?

24 A. So it's a sandy, gravel parking lot. The parking lot
25 was full. There was a line of cars all around due to the

1 Festival of Lights. I pulled up to the aisle of --
2 containing the incident, which had a deputy's cruiser. There
3 was the county deputies who had an individual on the ground
4 detained. There was a small crowd. And there was also a
5 family at a vehicle.

6 Q. And just for the jury to understand, the police
7 department -- I want to know the difference because you just
8 said deputies were there. What agency has deputies?

9 A. Charleston County Sheriff's Office. They do the
10 off-duty at the Charleston County park for the Festival of
11 Lights.

12 Q. All right. And was your -- anyone from your agency,
13 from the Charleston City Police Department, was anyone
14 already on scene by the time you arrived?

15 A. No. I was the first city officer to arrive on scene.

16 Q. And was the suspect on scene and already detained when
17 you arrived?

18 A. He was.

19 Q. And had he been identified at that point?

20 A. Not at that point.

21 Q. And were you able to identify him?

22 A. Yes. The defendant had a credit card on his person, and
23 I referenced the name on that card to a photographic
24 database.

25 Q. And do you see that individual in the courtroom here

1 today?

2 A. I do.

3 Q. And can you describe where he is and what he's wearing?

4 A. He is at the defense table in the middle seat, wearing a
5 grayish-type shirt and possibly brown pants and brown shoes.

6 MS. LINDER: Your Honor, please let the record reflect
7 that Detective Windham identified the defendant, Raheem
8 Grant, as the individual who was at the county park that
9 night.

10 THE COURT: You may proceed.

11 BY MS. LINDER:

12 Q. And what was your specific involvement, aside from the
13 identification, with this defendant on scene?

14 A. I was the initial responding officer and the one who
15 took custody of him.

16 Q. And did you speak with anyone else on scene?

17 A. I did.

18 Q. Did you observe -- who did you speak with on scene?

19 A. I spoke with a Mr. Jorge Fuentes.

20 Q. And did you observe any injuries on Mr. Fuentes?

21 A. I did. He had a bruise on his cheek.

22 Q. Did you formally interview anybody on scene?

23 A. I did not. We were assessing the scene and holding the
24 scene for detectives.

25 Q. And did you have any involvement with this case after

1 and away from the actual Festival of Lights in the county
2 park?

3 A. I did.

4 Q. And what was that?

5 A. I transported the defendant to MUSC to receive treatment
6 and then transported him to the Charleston County detention
7 center.

8 Q. All right. So you transported him to the Charleston
9 County detention center. Just generally speaking, what do
10 you do with an individual when they are taken and processed
11 at the jail?

12 A. Once we arrive in the sally port, we verify all their
13 paperwork is in order. We escort them inside, where we
14 relinquish custody of the defendant and their paperwork. And
15 then we leave.

16 Q. And do you ever do any search prior to relinquishing
17 custody of the defendant to those at the jail?

18 A. I did.

19 Q. And in this case, did you end up searching the defendant
20 prior to transferring custody to the detention center?

21 A. I did.

22 Q. And what property did the defendant have on his person?

23 A. A credit card and some miscellaneous paper.

24 Q. Did he have a driver's license on him?

25 A. No.

1 Q. Did he have any keys on him?

2 A. No.

3 Q. Did he have any sort of key fob, like -- well, most of
4 them are rectangular. Any kind of key fob or car key fob or
5 anything like that on him?

6 A. I don't recall any such property.

7 MS. LINDER: Beg the Court's indulgence.

8 I don't have anything further. If you can please answer
9 anything the defense may have.

10 THE COURT: Mr. Mack, you may proceed.

11 MR. MACK: Thank you, Judge.

12 THE COURT: You're welcome.

13 CROSS-EXAMINATION

14 BY MR. MACK:

15 Q. Is it Deputy Windham?

16 A. Investigator.

17 Q. Investigator.

18 A. Yeah.

19 Q. Sorry. You were, Investigator Windham, in your cruiser
20 when you were dispatched to the incident location, correct?

21 A. I was, yes.

22 Q. And your BWC, your body-worn camera, was rolling when
23 you were driving to the scene, correct?

24 A. It was, yes.

25 Q. And it was rolling when you exited your cruiser?

1 A. It was, yes.

2 Q. And walked to the crime scene?

3 A. Yes.

4 Q. And when you get there, you see Charleston County
5 Sheriff's Deputy Beth Auer -- or Mary -- trying to facilitate
6 the transition between Charleston County Sheriff's Office to
7 Charleston Police Department?

8 A. Yes.

9 Q. About how many police officers are on scene?

10 A. When I initially arrived, I only recall seeing her
11 initially, but more walked in and arrived as we were there.

12 Q. About how many walked in and arrived as you were there?

13 A. I don't recall an exact number. I think around five to
14 seven.

15 Q. And Jorge and his family were surrounding their Kia
16 Optima, correct?

17 A. I believe so, yes.

18 Q. And Jorge is rummaging through the car, correct?

19 A. He was in and around the vehicle. I don't recall
20 anything along the lines that I'd refer to as "rummaging."

21 Q. Do you recall him pulling a sweatshirt from the back
22 seat?

23 A. I don't clearly recall a detail like that.

24 Q. And putting it on?

25 A. I don't clearly recall.

1 Q. If I showed you a portion of your body-cam video, would
2 that refresh your recollection?

3 A. I believe so.

4 Q. Okay.

5 MS. OUTTEN: Your Honor, we believe maybe --

6 THE COURT: I'm sorry. Mr. Mack, is this something
7 that's already in evidence?

8 MR. MACK: No, Judge. I was just going to refresh his
9 recollection.

10 THE COURT: Yeah, I thought he was.

11 Did you want to bring something to the Court's
12 attention?

13 MS. OUTTEN: Yes, your Honor.

14 THE COURT: Is it a matter of law?

15 MS. LINDER: I believe it's settled, Judge.

16 MS. OUTTEN: I believe it's settled, Judge.

17 THE COURT: All right.

18 MS. OUTTEN: I'm sorry.

19 THE COURT: Okay. You may proceed, Mr. Mack.

20 (Witness looked at a laptop, which was facing away from
21 the jury, while wearing headphones.)

22 MR. MACK: Thank you, Judge.

23 Q. [By Mr. Mack] So did that refresh your recollection?

24 A. It did, yes.

25 Q. And was Jorge Fuentes -- Jorge Fuentes rummaging through

1 the car?

2 A. I don't know if I'd call that "rummaging." It looks
3 like he was retrieving an item.

4 Q. Okay. Did he pull a sweatshirt out of the car?

5 A. He did.

6 Q. And did that refresh your recollection of the initial
7 investigation of the case when you arrived on scene and you
8 see the family surrounding the car?

9 A. Yes, it did.

10 Q. And through your investigation, your initial
11 investigation right when you arrived on scene -- I'm talking
12 about the first five minutes -- you determined that Jorge and
13 April traveled from Walterboro?

14 A. I remember, yes, them mentioning that.

15 Q. And that Jorge was in the back seat changing the baby's
16 diaper?

17 A. I remember him mentioning that, yes.

18 Q. And April was getting the stroller out of the back -- or
19 getting the stroller?

20 A. I don't clearly recall her statement.

21 Q. From that -- from the body cam I just showed you? You
22 don't recall?

23 A. She wasn't speaking in the clip you showed me.

24 Q. You sure about that?

25 A. I saw Mr. Fuentes, and he mentioned something briefly,

1 but I don't remember hearing her say anything.

2 Q. Did she say, "Yeah, he was in the back seat changing his
3 diaper. I was getting the stroller out. And then that's
4 when this guy came in"?

5 A. I remember the first half of that sentence, yes. I
6 didn't recall the back half of the sentence. Sorry.

7 Q. No problem. And through your initial investigation,
8 which I just refreshed your recollection on, there was no
9 mention of Raheem assaulting Jorge?

10 A. Not that I noticed in that clip you showed me.

11 Q. Later on in the investigation, you expressed some
12 concern about Raheem's misplaced debit card, correct?

13 A. I believe I had some concerns about that before, yes.

14 Q. Another deputy asked you if he gave you Raheem's debit
15 card?

16 A. I'm sorry. The deputy asked me if he gave me --

17 Q. Correct.

18 A. -- the debt card? I don't clearly recall that. I'm
19 sorry.

20 Q. If I showed you a transcript from your body cam, would
21 that refresh your recollection?

22 A. Perhaps.

23 Q. Tell me if that refreshes your recollection.

24 Do you need to see the body cam, Investigator Windham?

25 A. Yeah, this brings back a little bit.

1 Q. Do you need to see it?

2 A. I'll look at it if you want me to look at it.

3 Q. Is that a yes?

4 A. Yes, I'll look at it.

5 MR. MACK: The Court's indulgence.

6 (Witness looked at a laptop, which was facing away from
7 the jury, while wearing headphones.)

8 BY MR. MACK:

9 A. I can't hear it very well.

10 Q. I'm going to start over.

11 A. Okay.

12 Q. Is that too loud?

13 A. No, that's fine.

14 Q. Okay.

15 You good?

16 A. (Indicated.)

17 Q. Did that refresh your recollection, Investigator
18 Windham?

19 A. It did a little bit, yes.

20 Q. So did another deputy ask you if he gave you Raheem's
21 debit card?

22 A. He appeared to ask the group of city officers, including
23 myself, yes.

24 Q. And did you tell him "One of us got it"?

25 A. I did.

1 Q. And did you laugh when he expressed concern for losing
2 the card?

3 A. I did.

4 Q. You followed Raheem from the crime scene to the
5 hospital, correct?

6 A. I did.

7 Q. You met with an EMS worker in the ambulance before that,
8 right?

9 A. Yes.

10 Q. And Raheem's in a neck brace?

11 A. I believe I recall that, yes.

12 Q. He has cuts on his face?

13 A. I don't remember all of his injuries, but there was
14 blood.

15 Q. If I showed you a picture of his injuries, would that
16 refresh your recollection?

17 A. I believe so.

18 Q. Can you see now?

19 Need to see another one?

20 How's that? Does that refresh your recollection?

21 A. It does, yes.

22 Q. He had cuts on his face? At the hospital, did he have
23 cuts on his face?

24 A. He did.

25 Q. Was he actively bleeding from his face? You see

1 droplets of blood on his face?

2 A. I see blood on his face, but in this picture I'm not
3 sure if it's there and it's dried or if it's actively
4 dripping. It appears to be possibly dried a little bit
5 maybe.

6 Q. Is there dirt on his face?

7 A. There is, yes.

8 Q. Is there dirt in his eyes?

9 A. I don't know about in his eyes, but I know it's around
10 his eyes.

11 Q. Are his eyes closed?

12 A. Yes.

13 Q. Or were his eyes closed? Was there dirt in his hair?

14 A. Yes.

15 Q. Was there dirt on his clothes?

16 A. Yes.

17 Q. And on his shoes -- well, I guess you can't see that.
18 But do you remember there being on his shoes?

19 A. I remember he had sand all over him.

20 Q. Was there blood on his lips?

21 A. There was.

22 Q. Your body-worn camera is rolling the entire time you're
23 at the hospital, correct?

24 A. I don't recall if it was for every second, but it was
25 the vast majority of the time.

1 Q. And you learned through your investigation at the
2 hospital that Raheem was probably going to be there a couple
3 hours?

4 A. I recall being there for a substantial amount of time,
5 yes.

6 Q. Because of a head injury potentially?

7 MS. LINDER: Objection, your Honor. It's speculation.

8 THE COURT: Rephrase the question. Foundation.
9 Speculation. Sustained.

10 BY MR. MACK:

11 Q. You were still investigating a crime at the hospital,
12 correct?

13 A. I believe I -- if I recall correctly, I tried to speak
14 with the defendant but he was mostly unresponsive. So my
15 primary duty there was to get him medically cleared before
16 being transported to the detention center.

17 Q. And was he hooked up to a heart monitor while you were
18 in there?

19 A. There was a lot of medical equipment in there.

20 Q. And was he -- was he assessed on an hourly basis?

21 A. I don't recall the frequency of when medical staff
22 assessed him.

23 Q. And just to reiterate, you never got a response from
24 Raheem, right? When you were trying to speak with him?

25 He didn't --

1 A. If I --

2 Q. He didn't speak to you?

3 A. If I recall correctly, he moved around a little bit, but
4 I don't remember a conversation.

5 Q. Did he say a word?

6 A. Perhaps a word or two, but I do not recall what that
7 would have been.

8 Q. Did he groan?

9 A. I don't recall. He was silent most of the time.

10 MR. MACK: Thank you, Judge. No further questions.

11 THE COURT: Any redirect of the witness?

12 MS. LINDER: Just very briefly.

13 THE COURT: You may proceed.

14 MS. LINDER: Thank you, your Honor.

15 THE COURT: You're welcome.

16 MS. LINDER: May it please the Court?

17 THE COURT: Yes, ma'am.

18 REDIRECT EXAMINATION

19 BY MS. LINDER:

20 Q. Was it your responsibility to conduct a formal interview
21 with victims, with witnesses, with any of that with this
22 case?

23 A. No.

24 Q. And whose responsibility was it to deal with that?

25 A. Central detectives.

1 Q. And were you in central detectives at the time?

2 A. I was not.

3 Q. You were a patrol officer?

4 A. Correct.

5 Q. And did you interview April Ross on scene that night?

6 A. I believe she spoke to me, but I --

7 Q. Did you conduct an interview?

8 A. I did not interview in the way I interviewed
9 Mr. Fuentes.

10 Q. And you were with the defendant on the scene, correct?

11 A. Yes.

12 Q. And I believe you testified you were with the defendant
13 while he was receiving medical attention?

14 A. Yes.

15 Q. And did you transport him to the jail to get booked?

16 A. I did.

17 Q. And did you search him prior to booking him at the jail?

18 A. I did.

19 Q. And did he have a debit card or credit card on his
20 person when you searched him prior to turning in his personal
21 property at the jail?

22 A. He did.

23 Q. And did you turn over that personal property to the jail
24 when the defendant was booked?

25 A. I did.

1 Q. Did he have a driver's license on him?

2 A. He did not.

3 Q. Did he have any sort of key on him -- house, car,
4 anything?

5 A. No.

6 MS. LINDER: That's all I have. Thank you.

7 THE COURT: Any objection to the witness being excused
8 from the State?

9 MS. LINDER: None from the State.

10 THE COURT: From the defense?

11 MR. MACK: None from the defense, Judge.

12 THE COURT: Sir, you're excused.

13 (Witness excused.)

14 THE WITNESS: There's still pictures up here.

15 THE COURT: They'll take care of it.

16 THE WITNESS: Okay.

17 THE COURT: Thank you.

18 Mr. Foreman, ladies and gentlemen, we're going to take
19 advantage of this break in testimony to take a brief comfort
20 break. During the break, please do not discuss the case, and
21 please leave your notepads in your seats. I anticipate we'll
22 be out about ten minutes.

23 (The jury exited the courtroom at 11:44 a.m.)

24 (The following proceedings were had outside the presence
25 of the jury.)

1 THE COURT: If the witness would come to the witness
2 stand and be sworn.

3 (Witness sworn.)

4 CLERK OF THE COURT: You may have a seat, sir.

5 Please state your name for the record and spell your
6 last name.

7 THE WITNESS: Randal Unterbrink, that's with one L.
8 Unterbrink, U-N-T-E-R-B-R-I-N-K.

9 THE COURT: You may proceed.

10 MS. LINDER: Thank you, your Honor.

11 THE COURT: You're welcome.

12 RANDAL UNTERBRINK,
13 called as a witness on behalf of the State, being first duly
14 sworn, was examined and testified as follows:

15 DIRECT EXAMINATION

16 BY MS. LINDER:

17 Q. Where are you employed?

18 A. I was employed with the -- where am I currently?

19 Q. Yes.

20 A. Nowhere. I retired about a year and a couple months
21 ago.

22 Q. And where were you working back in December of 2019?

23 A. I was working for the Charleston Police Department and
24 at that particular time was with the crime scene unit.

25 Q. And how long did you work for the Charleston Police

1 Department?

2 A. Thirty-one years.

3 Q. And what were your job duties in the crime scene unit?

4 A. The responsibility is to identify, collect, and also
5 preserve evidence as it relates to the scene.

6 Q. And did you respond to the James Island County Park on
7 Riverland Drive back in December of 2019?

8 A. I did.

9 Q. And is this in the City and County of Charleston?

10 A. It is.

11 Q. What time did you arrive on scene?

12 A. I arrived a little bit after midnight. It was about 25
13 after 12:00.

14 Q. And can you explain to the jury what you observed when
15 you first arrived on scene?

16 A. I was directed toward a black-in-color vehicle and that
17 this was where an altercation between two individuals had
18 occurred. I observed a car there and also observed the
19 defendant.

20 Q. And was this -- what area of the county park was this?

21 A. In a parking space, a parking lot.

22 Q. And as part of your duties, do you document the scene?

23 A. I do.

24 Q. And how do you document the scene?

25 A. Through photography and also through a written report.

1 MS. LINDER: Your Honor, may I approach the witness?

2 THE COURT: You may.

3 BY MS. LINDER:

4 Q. At this time I'm going to show you what's already been
5 marked and entered as State's Exhibits 3 through 17. Will
6 you just take a look at them? And when you're done, I can
7 take those back.

8 A. I do recognize them.

9 Q. All right. I'm going to put these up on this overhead
10 projector. We call it the ELMO. And it's a touch screen in
11 front of you. That may give you a better view than looking
12 at these big screens.

13 (Exhibit displayed on screen in open court.)

14 BY MS. LINDER:

15 Q. State's Exhibit 3, what is in this picture?

16 A. This is the defendant standing next to the car.

17 Q. Is this the defendant or is this Mr. Fuentes, the
18 victim?

19 A. The victim, rather. This is the victim.

20 Q. Okay.

21 THE COURT: Tell us what number you're referring to.

22 MS. LINDER: State's Exhibit 3.

23 Q. [By Ms. Linder] And what are we seeing up here?

24 A. His glasses.

25 (Exhibit displayed on screen in open court.)

1 BY MS. LINDER:

2 Q. And I don't know if you can tell with the glare.

3 State's Exhibit 4, what are we seeing here?

4 A. This is also the same individual, with an injury to his
5 upper lip.

6 (Exhibit displayed on screen in open court.)

7 BY MS. LINDER:

8 Q. State's Exhibit 5?

9 A. Also -- two things are noted here. One is a small
10 linear cut to his cheek.

11 Q. Okay.

12 A. And then also the temple to the glasses on the left side
13 is missing.

14 Q. All right.

15 (Exhibit displayed on screen in open court.)

16 BY MS. LINDER:

17 Q. State's Exhibit 6?

18 A. And this is also the same thing, just also closer.

19 Q. All right.

20 (Exhibit displayed on screen in open court.)

21 BY MS. LINDER:

22 Q. State's 7?

23 A. And this is the T-shirt he was wearing. And I noted a
24 red stain on it, so I photographed that.

25 Q. All right.

1 (Exhibit displayed on screen in open court.)

2 BY MS. LINDER:

3 Q. State's Exhibit 9?

4 A. And this is the vehicle in question where the activity
5 took place.

6 (Exhibit displayed on screen in open court.)

7 BY MS. LINDER:

8 Q. State's Exhibit 10?

9 A. It's just another photo of it, slightly at a different
10 angle. But this is how it appeared to me when I was there.

11 (Exhibit displayed on screen in open court.)

12 BY MS. LINDER:

13 Q. All right. This is State's Exhibit 13.

14 A. And this would be a picture of the interior.

15 (Exhibit displayed on screen in open court.)

16 BY MS. LINDER:

17 Q. State's 14?

18 A. I wanted to take a picture of the ignition area just so
19 we could understand how it was arranged.

20 (Exhibit displayed on screen in open court.)

21 BY MS. LINDER:

22 Q. State's Exhibit 16?

23 A. And this would be a photo of the back-seat area.

24 Q. And what's this right here?

25 A. A baby seat.

1 (Exhibit displayed on screen in open court.)

2 BY MS. LINDER:

3 Q. State's 17?

4 A. Also the back seat, noting the baby seat again.

5 Q. Okay.

6 (Exhibit displayed on screen in open court.)

7 BY MS. LINDER:

8 Q. All right. And then State's 11?

9 A. This is the temple to the glasses that was missing. And
10 he indicated to me that this is where it ended up, so I
11 documented its location.

12 Q. And that's this right here?

13 A. That's correct.

14 MS. LINDER: Beg the Court's indulgence.

15 THE COURT: Yes, ma'am.

16 MS. LINDER: That's all I have for you. If you would
17 please answer anything the defense may have.

18 THE COURT: You may proceed, Mr. Mack.

19 MR. MACK: Thank you, Judge.

20 CROSS-EXAMINATION

21 BY MR. MACK:

22 Q. Is it Investigator Unterbrink?

23 A. No. It's just -- well, yes, crime-scene investigator.
24 That works.

25 Q. You said you're retired now --

1 A. I am.

2 Q. -- Investigator Unterbrink?

3 A. Yes, sir.

4 Q. And how many crime scenes have you investigated in your
5 lifetime?

6 A. Maybe hundreds.

7 Q. How many crime-scene pictures have you taken?

8 A. Thousands.

9 Q. And how many fingerprints have you lifted in your
10 lifetime?

11 A. Probably in the thousands as well.

12 Q. You collected -- did you take any blood samples from
13 that night from those stains on Jorge's shirt?

14 A. I did.

15 Q. And there's one on his shirt?

16 A. Yes.

17 Q. There was a bloodstain on the side of the back rest to
18 the driver's seat --

19 A. Yes.

20 Q. -- correct?

21 A. Yes.

22 Q. I'm showing you what's been admitted as Defendant's
23 Exhibit 1 on the ELM0.

24 (Exhibit displayed on screen in open court.)

25

1 BY MR. MACK:

2 Q. Can you see that?

3 A. I can.

4 Q. The bloodstain?

5 A. Yes, sir.

6 THE COURT: What number is that, please?

7 MR. MACK: On Defendant's Exhibit 1.

8 THE COURT: Thank you.

9 (Exhibit displayed on screen in open court.)

10 BY MR. MACK:

11 Q. And then on Defendant's Exhibit 2, we got a closer
12 picture?

13 A. Yes, sir.

14 Q. You see some more blood on Defendant's Exhibit 2 at the
15 bottom seat cushion on the driver's seat? On the side of the
16 driver's seat?

17 A. Yes, sir. I don't remember that specific spot, but
18 there was blood on that side of the chair.

19 (Exhibit displayed on screen in open court.)

20 BY MR. MACK:

21 Q. There's an up-close photo of that bloodstain on
22 Defendant's Exhibit 4, and on the back of the back-seat
23 cushion of the driver's seat. Can you see that?

24 A. Yes, sir.

25 Q. And can you zoom in on that? I don't know if I can do

1 that here.

2 Oh, okay. Does that zoom in enough for you?

3 A. I see it. Yes.

4 Q. Do you see how the, like, nubs of the leather are
5 showing through the bloodstain?

6 A. Yes, sir.

7 Q. I'm going to show you now Defendant's Exhibit 5.

8 (Exhibit displayed on screen in open court.)

9 BY MR. MACK:

10 Q. And is that you taking a blood sample --

11 A. Yes, sir.

12 Q. -- of the bloodstain?

13 A. It is.

14 (Exhibit displayed on screen in open court.)

15 BY MR. MACK:

16 Q. Here we are even closer there in Defendant's Exhibit 6.
17 And there you can really see those nubs of the leather,
18 correct?

19 A. Yes, sir.

20 (Exhibit displayed on screen in open court.)

21 BY MR. MACK:

22 Q. And then I'm going to show you Defendant's Exhibit 9.
23 And that is a picture of the front driver's seat, correct?

24 A. Yes, sir.

25 Q. And in between the driver's seat and, like, the

1 threshold of the doorway to the driver's seat you can see
2 Jorge's glasses, correct?

3 A. Yes, sir.

4 Q. Or the frame.

5 A. Yes.

6 (Exhibit displayed on screen in open court.)

7 BY MR. MACK:

8 Q. And that's a close-up of the temple to his glasses in
9 Defendant's Exhibit 10?

10 A. Correct.

11 (Exhibit displayed on screen in open court.)

12 BY MR. MACK:

13 Q. And then in Defendant's Exhibit 11, you threw down a
14 little arrow to show you had seen it?

15 A. Yes, sir.

16 Q. Okay. All right. When you were taking those -- so when
17 you took those blood samples, you initially field-tested
18 them, correct?

19 A. That's correct.

20 Q. And the field test indicated that they were O positive,
21 right?

22 A. Positive for blood, yes. Yes, sir.

23 Q. And O blood type?

24 A. No. It tested positive for blood.

25 Q. But is it the O blood type?

1 A. Not with that I don't know. That would require a lab to
2 do that.

3 Q. And did you send any of these blood-test results to
4 SLED, the South Carolina Law Enforcement Department?

5 A. That would not be part of my job, so the answer is no.
6 But I have nothing to do with that.

7 Q. Do you know if they were sent?

8 A. I have no knowledge from investigators, but I have an
9 understanding in preparing for this that they were not sent.

10 Q. And you collected DNA samples from the start button on
11 the Kia Optima, correct?

12 A. I swabbed that area, yes, sir.

13 Q. And because of your -- did you take any pics of that
14 collection process?

15 A. No, sir.

16 Q. And did you lift any fingerprints from the start button?

17 A. No, sir.

18 Q. Through your investigation, you also learned that Raheem
19 supposedly had his hand on the gear shifter in this case?

20 A. That I don't recall, sir.

21 Q. So you didn't take any DNA from the gear shifter?

22 A. No, sir.

23 Q. Did you attempt to lift any fingerprints from the gear
24 shifter?

25 A. No, sir.

1 Q. What about through your investigation in talking to Case
2 Manager Galka -- right? He's running the show -- did you
3 determine that Raheem Grant had his hands on the steering
4 wheel in that car?

5 A. That I don't know, sir.

6 Q. So no DNA tests done on the steering wheel?

7 A. No, sir.

8 Q. No fingerprints lifted on the steering wheel?

9 A. That's correct.

10 Q. And no DNA tests done on that bloodstain I showed you in
11 Defendant's Exhibit 12 on the side?

12 A. As I understand, it was not sent. But I have nothing to
13 do with that, so I don't know for sure.

14 Q. Okay. Through your investigation, you learned that
15 Jorge was sitting in the back seat of the car, correct?

16 A. Yes, sir. That's what I was told.

17 Q. And you took pictures of that back seat?

18 A. Yes.

19 Q. Did you take any other pictures of the back seat besides
20 State's Exhibit 16 and 17?

21 A. I'm not sure what they are.

22 Q. I'll show them on here. Sorry.

23 (Exhibit displayed on screen in open court.)

24 BY MR. MACK:

25 Q. That's State's Exhibit 16.

1 A. Yes, sir. I took that photo.

2 Q. Okay.

3 (Exhibit displayed on screen in open court.)

4 BY MR. MACK:

5 Q. And then we've got State's Exhibit 17, which is a bit
6 closer up.

7 A. Yes, sir.

8 Q. You didn't take any pictures from the other side of the
9 vehicle looking into the back seat?

10 A. I don't believe I have any other photos. I'm not aware.
11 I don't think I did.

12 Q. Okay. Well, let's dial in on this only picture of the
13 back seat that we've got. What are we looking at here? You
14 kind of see, like, this silver. What is that that I'm
15 pointing at?

16 A. I see that. I don't know specifically how it's related.
17 Looks like it could be a continuation of the seat, but I'm
18 not sure.

19 Q. Does it look like a bag or a purse?

20 A. I don't know, sir.

21 Q. You don't think so?

22 A. I don't know.

23 Q. Okay. What about down here? What is that?

24 A. I do not know what that is, sir.

25 Q. Does it look like a bag?

1 A. I mean, it could be.

2 Q. What about right here?

3 A. Specifically, I'm not sure what that would be.

4 Q. Does it look like a baby blanket?

5 A. That would have been my guess, but I wasn't sure.

6 Q. And then what do we got here and here?

7 A. It looks like a food item.

8 Q. Look like a french fry?

9 A. Yes, sir.

10 Q. Oh, yeah. One more. And here, from the middle of the
11 back seat underneath the baby seat?

12 A. I do not know specifically what it is.

13 Q. Does it look like a Santa hat?

14 MS. LINDER: Objection, your Honor.

15 THE COURT: Basis?

16 MS. LINDER: Speculation.

17 THE COURT: Sustained. Lack of foundation.
18 Speculation.

19 BY MR. MACK:

20 Q. And what about down here, Detective Unterbrink?

21 A. I'm not sure what that is, sir.

22 Q. Detective Unterbrink, you paid Raheem Grant a visit at
23 MUSC, correct?

24 A. I did.

25 Q. At about 1:00 a.m.

1 A. Yes, sir.

2 Q. After -- the day after the incident on December 7?

3 A. Yes. This would have been early in the morning.

4 Q. Correct. The next day. And you took pictures of Raheem
5 in the hospital bed?

6 A. Yes.

7 Q. And he was in a neck brace?

8 A. Yes, sir.

9 Q. His eyes were shut?

10 A. Yes.

11 Q. His face was covered in sand and gravel?

12 A. Yes.

13 Q. He had dirt in his mouth?

14 A. Well, it was on his lips. Whether it was in his mouth I
15 don't know.

16 Q. In his hair?

17 A. Yes, sir.

18 Q. And his clothes were covered in sand and gravel?

19 A. Yes, sir.

20 Q. And he was bleeding from his head?

21 A. Yes.

22 Q. And then what did you do with those pictures?

23 A. I submitted them into evidence.

24 Q. And any reason to believe that you did not use the
25 proper protocol in submitting those pics into the evidence

1 locker?

2 A. No, sir.

3 Q. And any reason to believe that the chain of custody was
4 broken when you submitted those --

5 A. No, sir.

6 Q. -- to the evidence locker?

7 A. No, sir.

8 Q. And you submitted those pictures into the evidence
9 locker with all the pictures that I just showed you and the
10 State showed you?

11 A. And we're referring to the photographs, correct?

12 Q. Yes.

13 A. Yes. The photographs were submitted by me into a
14 computer system. That's the chain.

15 Q. And you took those pictures with the same camera --

16 A. Yes.

17 Q. -- that you used to take the pictures at the crime
18 scene?

19 A. That's correct. It was a Nikon.

20 Q. It was what kind of camera?

21 A. Nikon.

22 MR. MACK: No further questions, Judge.

23 THE COURT: Any redirect of the witness?

24 Actually, I'm going to do this now.

25 Ladies and gentlemen, I have a brief matter of law to

1 Ladies and gentlemen, we appreciate your patience.
2 We're going to try to conclude this witness's testimony
3 before lunch so that we don't have to split it up. I know
4 you're probably hungry, so we appreciate your patience.

5 Mr. Mack, you may proceed.

6 MR. MACK: Thank you, Judge.

7 Q. [By Mr. Mack] All right. Investigator Unterbrink, I'm
8 showing you what has been admitted as Defendant's Exhibit 18.

9 (Exhibit displayed on screen in open court.)

10 BY MR. MACK:

11 Q. What are we looking at here?

12 A. Yes, sir. That's at MUSC. I took a photograph of the
13 defendant as he was lying on a bed.

14 Q. Okay. And we'll zoom in a little bit. There's a glare.
15 What do you see right here?

16 A. There was -- appeared to be blood right there on his
17 forehead.

18 Q. And what do you see here?

19 A. Also blood.

20 Q. And what do you see here?

21 A. He had an injury of some type.

22 Q. And what's that, like, stuff?

23 A. Sand, I would assume, from the parking lot.

24 Q. And what are we looking at here?

25 A. A collar.

1 Q. What kind of collar?

2 A. It would be a neck brace.

3 Q. And what's this?

4 A. I'm not sure what you're pointing at.

5 Q. Over here.

6 A. I can't see the tip.

7 Q. Okay. I'm sorry. And then, like, what's -- so where is
8 that stuff that you just identified as sand, I guess?

9 A. You're asking where it is?

10 Q. Yeah.

11 A. On his face.

12 Q. And did you see any of it anywhere else on his body?

13 A. Yeah. There was sand over him, generally speaking.

14 Q. Okay.

15 MR. MACK: Judge, may we approach actually?

16 THE COURT: Actually, we have a matter of law, ladies
17 and gentlemen.

18 Just have them step right out into hallway.

19 Please don't discuss the case. This should only take a
20 moment.

21 (The jury exited the courtroom at 1:07 p.m.)

22 (The following proceedings were had outside the presence
23 of the jury.)

24 THE COURT: All right.

25 MR. MACK: Sorry, Judge.

1 THE COURT: That's okay. What do you need?

2 MR. MACK: Judge, so I know you granted me a little more
3 time after the jury broke to go into that photo. I just
4 wanted to bring up one more point on Unterbrink's report, if
5 that's all right.

6 THE COURT: I'll allow you to complete your
7 cross-examination, but don't --

8 MR. MACK: Sure. I'll be brief. Thank you.

9 THE COURT: Please get the jury. Yes, sir. Go ahead
10 and get them.

11 (The jury entered the courtroom at 1:08 p.m.)

12 THE BAILIFF: All jurors are present.

13 THE COURT: You may be seated.

14 You may proceed, Mr. Mack.

15 MR. MACK: Thank you, Judge.

16 Q. [By Mr. Mack] Just a few more questions, Detective
17 Unterbrink -- er, Investigator Unterbrink. So we just looked
18 at Raheem's injuries. I want to take you back to Jorge's
19 injuries. When you took that pic, you conducted an
20 investigation on those injuries, correct?

21 A. I took photographs of it, yes, sir.

22 Q. And in your investigation, you determined that he was
23 not actively bleeding from his injuries, correct?

24 A. I did not see, like, any dripping of blood. That's not
25 what I saw.

1 MR. MACK: Thank you, Judge. No further questions.

2 THE COURT: Redirect?

3 MS. LINDER: No redirect, your Honor.

4 THE COURT: Any objection to the witness being excused?

5 MS. OUTTEN: None from State.

6 THE COURT: From the defense?

7 MR. MACK: No, Judge.

8 THE COURT: Mr. Unterbrink, have a good day. You're
9 excused.

10 (Witness excused.)

11 THE COURT: Ladies and gentlemen, we're going to take
12 advantage of this break in testimony to take our luncheon
13 recess. It is about 1:11. We're going to break until 2:30.
14 That gives you about an hour and 15 minutes for lunch.

15 During the break, please do not discuss the case.
16 Please don't have any contact with anyone in or about the
17 courthouse that you do not recognize to be a fellow juror.
18 Please do not read, watch, or listen to any media accounts,
19 as well as making any comments on any social networking
20 sites. If you could leave your notepads in your seats.

21 We'll resume at 2:30. And I'm sure the deputies have --
22 er, the bailiffs, rather, have already shown you how to get
23 in and out and to your jury room. So as soon as everybody
24 returns, we'll resume testimony. Have a good lunch.

25 (The jury exited the courtroom at 1:11 p.m.)

1 (The following proceedings were had outside the presence
2 of the jury.)

3 THE COURT: Anything before we break the for lunch from
4 the State?

5 MS. OUTTEN: Nothing from the State, your Honor.

6 THE COURT: Anything from the defense?

7 MR. MACK: None, Judge. Thank you.

8 THE COURT: Have a good lunch. See y'all at 2:30.

9 MS. OUTTEN: Thank you, Judge.

10 THE COURT: You're welcome.

11 (Court recessed.)

12 (Court resumed outside the presence of the jury.)

13 THE COURT: Is the State ready to proceed?

14 MS. OUTTEN: Yes, your Honor.

15 THE COURT: Defense ready to proceed?

16 MR. MACK: Yes, Judge.

17 THE COURT: Who's the State's next witness?

18 MS. OUTTEN: Detective Galka, your Honor.

19 THE COURT: Okay.

20 You said Detective?

21 MS. OUTTEN: Galka.

22 THE COURT: Galka. Okay.

23 Please bring in the jury.

24 And who's the State's witness going to be after
25 Detective Galka?

1 MS. OUTTEN: At this point we are thinking Detective
2 Galka will be our last witness. I don't like to commit to
3 anything one way or another.

4 THE COURT: I'm not going to -- I'm just asking for
5 planning purposes.

6 MS. OUTTEN: Thank you, Judge.

7 THE COURT: You're welcome.

8 (The jury entered the courtroom at 2:38 p.m.)

9 THE BAILIFF: All jurors are present, your Honor.

10 THE COURT: You may be seated.

11 Ladies and gentlemen, I hope y'all had a pleasant lunch.
12 We're now going to resume testimony.

13 The State may proceed.

14 MS. OUTTEN: The State calls Detective Michael Galka.

15 THE COURT: Sir, if you'll come stand and be sworn.

16 (Witness sworn.)

17 CLERK OF THE COURT: Thank you, sir. Please be seated.
18 Please state your first and last name, spelling your
19 last name loudly and clearly into the microphone.

20 THE WITNESS: Michael Galka. Last name is G-A-L-K-A.

21 THE COURT: You may proceed.

22

23

24

25

1 MICHAEL GALKA ,
2 called as a witness on behalf of the State, being first duly
3 sworn, was examined and testified as follows:

4 DIRECT EXAMINATION

5 BY MS. OUTTEN:

6 Q. Where do you work?

7 A. City of Charleston Police Department.

8 Q. And how long have you been with the Charleston Police
9 Department?

10 A. Just over eight years.

11 Q. What's your educational background?

12 A. I have a bachelor's degree in criminal justice and a
13 master's degree in criminal justice as well.

14 Q. What roles have you served within the CPD?

15 A. When I started here in 2014, I was a patrol officer.
16 After being a patrol officer I became a patrol training
17 officer, so trained new officers that were coming to the
18 street. Then I went into investigations where I was a team
19 investigator. And then now my current role is a detective,
20 currently assigned to the violent crimes unit, so we handle
21 all shootings and murders in the city.

22 Q. What were your positions in -- what was your position
23 and what were your responsibilities back in December of 2019?

24 A. I was a detective assigned to the burglary unit.

25 Q. Were you involved with the investigation of this case,

1 State versus Raheem Grant, in any way?

2 A. Yes, ma'am.

3 Q. What was your involvement?

4 A. So how the city does it is we have on-call detectives.
5 Basically, we have 24-hour coverage of detectives so there's
6 no lapse. That evening I was the on-call detective. And
7 basically, anytime that there's a major incident or an
8 incident that requires a detective response, the on-call
9 detective will respond. So that was me that evening.

10 Q. So please tell the jury sort of how that involvement was
11 initiated.

12 A. So basically, what happens is, you know, patrol officers
13 will respond. They respond to the scene. They assess what
14 they have. Depending on the charge, what it could be, the
15 offense that is committed, basically there's different
16 criteria of when we are notified. Once they got on scene,
17 they determined what they had. Then they let me know and
18 then I responded once I was notified by the sergeant that was
19 on scene.

20 Q. And were you told what you were responding to before you
21 arrived?

22 A. Yeah. So basically, what they'll do is I'll get a very
23 brief synopsis before I respond. And the reason is because
24 so they let me know what the offense is, which obviously at
25 this point they told me that it was a carjacking. Before I

1 go, I'm going to ask questions such as, is there -- do we
2 need to, you know, establish, like, a lineup or anything like
3 that for identity? And they said that all parties involved
4 were on scene. So basically, I just immediately responded.

5 Q. Where was the carjacking reported?

6 A. 871 Riverland Drive, which is the James Island County
7 Park.

8 Q. Is this in Charleston County?

9 A. Yes, ma'am.

10 Q. Was there any sort of event happening at the county
11 park?

12 A. Yes. The Festival of Lights.

13 Q. And where at the Holiday Festival of Lights did the
14 carjacking occur?

15 A. In lot B.

16 Q. Can you describe parking lot B at the Festival of
17 Lights?

18 A. Yes. It's basically a dirt and gravel parking lot.
19 It's an open lot for, you know, multiple cars and that.

20 Q. What did you observe immediately upon your arrival?

21 A. Upon arriving on scene, there was obviously a bunch of
22 civilian cars that were parked in the parking lot. I noticed
23 that there was Charleston County deputies that were there.
24 There was also City of Charleston patrol officers that were
25 there. I saw the victims and their family that were there.

1 And then also the defendant, I saw that he was there as well.

2 Q. Is that suspect here with us?

3 A. Yes, ma'am.

4 Q. Describe what he's wearing and where he's seated.

5 A. He's seated at the defense table wearing a gray shirt
6 and brown tie.

7 MS. OUTTEN: Please let the record reflect that
8 Detective Galka identified the defendant Raheem Grant as the
9 offender in this case.

10 THE COURT: You may proceed.

11 BY MS. OUTTEN:

12 Q. When you went on scene and law enforcement was already
13 there, did you get briefed?

14 A. Yes. And that was Sergeant Gracely, who was the --
15 basically I go to the highest ranking officer that's on scene
16 who gets a kind of understanding of everything that happens
17 on the scene.

18 Q. Were you briefed by anybody -- were you -- er, excuse
19 me.

20 Were you aware that Charleston County Sheriff's Office
21 was on scene?

22 A. Yes, ma'am.

23 Q. And why was Charleston County Sheriff's Office involved?

24 A. So weirdly enough, so they cover an off-duty assignment
25 for the Festival of Lights. So the county park falls within

1 the county, but it's actually within the city limits. So
2 they are there at the park through the entirety of when any
3 Festival of Lights night starts and then until people have
4 left.

5 So when a call is dispatched for something like this of
6 this severity -- basically, we are on two different operating
7 channels for radio. But since they are going to be the
8 closest person to get the fastest response possible, then
9 they respond. So then that's kind of how they're involvement
10 was is that our dispatcher lets them know, "Hey, this is
11 going on," and they get their first, basically.

12 Q. But then why did you take over?

13 A. Because the county park, even though it's a county park,
14 it falls within the City of Charleston by city limits.

15 Q. What was happening on scene with the defendant when you
16 arrived?

17 A. He had been subdued by law-enforcement personnel. And
18 he was sitting on the ground and was detained, which
19 basically means he was not free to leave at that point.

20 Q. Were you able to immediately identify him?

21 A. No. Basically, what we had to do is we had to -- there
22 was a debit card that was found on his person. We had to run
23 the name on that debit card through some databases where it
24 pulls up a photograph. Once that photograph of that name, we
25 were able to put the two together and say that this is who we

1 had.

2 Q. Did the defendant have any other property on him?

3 A. No, ma'am.

4 Q. Was the male victim on scene?

5 A. Yes.

6 Q. What was his name?

7 A. Jorge Fuentes.

8 Q. Did you observe any injuries on Mr. Fuentes?

9 A. Yeah. So when I walked up to him, I immediately noticed
10 that the left arm on his glasses was broken. He also had
11 abrasions and cuts on his face. And in a few different
12 spots, he had some bruising on his face. And then I also
13 noticed that there was some blood that was on his shirt -- a
14 red substance that was on his shirt.

15 Q. Did you interview Mr. Fuentes?

16 A. Yes, ma'am. Back then we used to use audio-recorded
17 statements, so I completed an audio-recorded interview.

18 Q. Are you -- were there any other victims on scene?

19 A. Yeah. There was Ms. April Ross, her 11-year-old
20 daughter S.F. [REDACTED], and the two-year-old (verbatim) baby
21 H.F. [REDACTED], who was inside the vehicle when the defendant tried to
22 take it.

23 Q. What type of car was the defendant attempting to take
24 from the owners?

25 A. It was a 2013 Kia Optima.

1 Q. What color was it?

2 A. Black.

3 Q. And is that an SUV or a sedan?

4 A. It's a four-door sedan, smaller sedan.

5 Q. Did you interview April?

6 A. Yes.

7 Q. Was her statement recorded?

8 A. Yes, ma'am, it was audio recorded as well.

9 Q. Were there any other witnesses on scene that were
10 interviewed by law enforcement?

11 A. Yeah. There was a couple of other witnesses as well.
12 Those were the two interviews that I handled. There was
13 another detective that was working with me that evening as
14 well, and she handled the other interviews.

15 Q. And were those statements recorded?

16 A. Yes, ma'am, those were also audio recorded.

17 Q. And did you ever interview the person who pulled the
18 defendant out of the car?

19 A. No. So that person, who's the good Samaritan in this,
20 he -- we were never able to get a name. The description was
21 very vague. They never contacted law enforcement. They had
22 left prior to any law enforcement arrival. And so basically,
23 we had no way of knowing who this person was or any
24 identifiers to basically help us figure out who that person
25 was.

1 Q. Does James Island County Park have any surveillance
2 cameras at the entrance?

3 A. No, ma'am.

4 Q. Are there any cameras in the parking lots?

5 A. No.

6 Q. Did you call crime scene out?

7 A. Yes, ma'am. So basically, what we do is we notify our
8 crime scene unit. We're fortunate enough that we have
9 professionals that they handle that. So basically, I
10 notified them to come and then help process the scene. So
11 that's when they responded.

12 Q. Who responded to the scene?

13 A. It was a crime-scene tech Unterbrink.

14 Q. And what did Unterbrink do on scene?

15 A. Basically, he documented the scene with pictures and
16 then also took a few swabs.

17 Q. Did you fully process the car?

18 A. No. So the victim's vehicle -- basically the steps that
19 are normally taken to process a vehicle if it needs to be
20 fully processed is we obtain a search warrant, we seize that
21 vehicle, and then basically it goes back to our crime-scene
22 office. So given that what we were dealing with was a family
23 that's from out of town, it's already midnight, it's -- you
24 know, they have a two-week-old baby that's with them.

25 You know, there was no question about the identity. All

1 the people that were involved, other than a concerned citizen
2 who was not a victim or an offender, was -- you know, had
3 been identified. We did not feel that it was appropriate to,
4 you know, inconvenience this family to the point that they'd
5 have no way of getting back home, especially with the car
6 seat being in the car. And again, basically, no way of being
7 able to leave because we would have to seize that vehicle and
8 take it to a secure location to do that.

9 Q. What did you do to ensure that the crime scene was
10 properly documented?

11 A. So again, basically, the notification of our crime-scene
12 tech is kind of how they -- that's what they do. And then I
13 just direct them as to different things that I see, if it
14 wasn't something that he had already seen.

15 Q. Did you ever request for further testing on the swabs
16 that you mentioned that CST Unterbrink collected?

17 A. We did not. And again, basically, the reason is because
18 the people who were involved in this incident were on scene.
19 Yeah, neither the defender -- er, the defendant was on scene.
20 The victims never lost sight of this person. So those are
21 all things that we take into account, that if we're not -- if
22 there's nobody that we are looking for that isn't -- that's
23 outstanding, then basically we wouldn't do that. It's just,
24 you know, not standard practice that, basically, when the
25 victims, the offenders, everybody is there and there's no,

1 basically, lapse, then we can -- we felt confident that
2 everything that we had we needed.

3 Q. And what other investigative steps did you take in this
4 case?

5 A. So we searched through multiple different databases to
6 see if the defendant had ever had any connections to a Kia
7 Optima or a vehicle of that type. And we found nothing that
8 suggested that he had a vehicle that is similar make, model,
9 anything, that he had ever been connected to.

10 Q. And when you say "connected to," what does that
11 encompass?

12 A. So to me, it basically is like if he was either a driver
13 or a passenger in a vehicle of that type.

14 MS. OUTTEN: Thank you, Detective Galka. I do not have
15 any further questions. Please answer any questions that
16 defense counsel may have for you.

17 THE COURT: You may proceed.

18 CROSS-EXAMINATION

19 BY MR. MACK:

20 Q. All right, Detective Galka. Remind us again of all your
21 credentials. You said you have a master's degree in
22 criminology; is that right?

23 A. No, sir. I said a master's in criminal justice.

24 Q. Criminal justice. Okay. And you said you started out
25 as a -- just remind us again.

1 A. I started out as a patrol officer and then went to a
2 patrol training officer, where I trained the new officers
3 that were coming to the road. Then I went into a team
4 investigator, and then now went to be a detective in violent
5 crimes.

6 Q. So how long have you been with law enforcement?

7 A. Eight years.

8 Q. And over that period of time, how many incident reports
9 have you written about crimes?

10 A. Whether I've written them or reviewed them or been
11 assigned to those cases, I would say hundreds.

12 Q. And the purpose of those incident reports is so that one
13 day you end up at trial, you're able to reference the report
14 and it will jog your memory, correct?

15 A. That's one thing. It's basically documenting a crime.

16 Q. Right. But the relevant reason is that one, right?
17 Today?

18 A. You're saying that the reason that it was documented is
19 so we could come today?

20 Q. No.

21 A. I'm sorry. Ask your question again.

22 Q. So you could review that report in preparation for trial
23 today, correct?

24 A. That's one of the things. It's a way to review.

25 Q. Right. And you drafted an incident report in this case?

1 A. I did not draft the incident report. I drafted a
2 supplemental report.

3 Q. And you testified that you did what? You ran his name
4 through a bunch of databases to see if he was connected to a
5 Kia Optima; is that right?

6 A. Yes, sir. That's right.

7 Q. And did you report on that in your supplemental report?

8 A. No. That was during the, basically, the preparing. And
9 that was not documented.

10 Q. It was for preparing?

11 A. Yeah, for today.

12 Q. Today. Oh, you did it before today?

13 A. It was during the review of the case, correct.

14 Q. And you didn't generate a report for trial?

15 A. No, sir.

16 Q. And you didn't provide it to me?

17 A. No, sir.

18 Q. In preparation for your testimony today?

19 A. No, sir.

20 Q. Or the Court?

21 A. No.

22 MS. OUTTEN: No further questions, Judge.

23 THE COURT: Any redirect of the witness?

24 MS. OUTTEN: No redirect, your Honor.

25 THE COURT: Sir, you may step down.

1 I noticed in that clip you showed me."

2 And that's the extent of it. It then goes on to the
3 debit card.

4 So actually, he was questioning him about Ms. Ross's
5 statement, and then he made a brief mention about
6 Mr. Fuentes. Then he had him refresh his memory from the
7 video. And what I just read to you was his exact response.

8 MS. OUTTEN: Thank you for your reading it, your Honor.

9 THE COURT: All right. Can we move on from that?

10 MS. OUTTEN: Yes, your Honor. The State rests.

11 THE COURT: All right. The State has rested. Are there
12 any motions?

13 MR. MACK: Yes, Judge.

14 Judge, at this time defense moves for a directed verdict
15 on carjacking and assault and battery, first degree. I'll be
16 addressing the carjacking charge, and Karla Martinez will be
17 addressing the assault and battery, first degree, charge.

18 As far as the carjacking charge goes, Judge, we got two
19 elements -- I'm sorry, three elements. Took or attempted to
20 take a motor vehicle from another person. That's 1. And 2
21 is by force and violence or by intimidation. And 3 is while
22 the person was operating the vehicle or while the person was
23 in the vehicle. I'll take that first law item first.

24 Judge, we argue that simply turning on the car is not a
25 taking or an attempted taking, that taking the car requires

1 it was when we were talking Detective Galka and Investigator
2 Windham. So I -- I honestly don't remember either.

3 THE COURT: I don't either. But you can say it just to
4 be on the safe side.

5 MS. OUTTEN: I was not -- I was really not that worried
6 about it.

7 THE COURT: That's more for the jury.

8 You can get the jury for me.

9 (The jury entered the courtroom at 3:55 p.m.)

10 THE BAILIFF: All jurors are present.

11 THE COURT: Thank you, ladies and gentlemen. We
12 appreciate your patience. You may be seated.

13 The State may proceed.

14 MS. OUTTEN: Your Honor, the State rests their case.

15 THE COURT: The defense may proceed.

16 MR. MACK: Thank you, Judge.

17 THE COURT: You're welcome.

18 KRISTEN PROCOPIO ALLEN,
19 called as a witness on behalf of the Defendant, being first
20 duly sworn, was examined and testified as follows:

21 DIRECT EXAMINATION

22 BY MR. MACK:

23 Q. Kristen, how are you?

24 A. Great. How are you?

25 Q. Fine. Thanks. Nice to finally meet you.

1 A. You too.

2 Q. Can you tell us what you do?

3 A. Sure. So I work for Charleston County Parks. I've been
4 there going on 17 years, been out at James Island County Park
5 park for the past three and a half years. And I would say
6 day to day, you never know what you're doing, which is why I
7 love my job. But I got recreation; I graduated from Clemson
8 in that. And I love it.

9 Q. And have you ever testified in court before?

10 A. I have not.

11 Q. And do you regularly work the James Island County Park
12 Holiday Festival of Lights?

13 A. I've worked it every year for 16 years.

14 Q. And what can you tell us about the hours that y'all keep
15 there for the Festival of Lights, like closing time, opening
16 time, things like that?

17 A. So we open every night at 5:30. The James Island County
18 Park closes at 5:00. We stop incoming traffic at 4:30 so we
19 can clear the park by 5:00. And then we open the Festival of
20 Lights at 5:30, so it's a quick turnaround between that one
21 hour, or 30 minutes, whatever way you look at it.

22 And then the past two years we have actually closed at
23 10:00 every night. In 2019 we closed at 10:00 on Sunday
24 through Thursday and 11:00 on Friday and Saturdays, which we
25 changed that a little bit the past two years. But I would

1 say staff probably leaves, depending on the time of year and
2 how busy we are, about 30 minutes to an hour and a half after
3 we actually close.

4 Q. And -- I'm getting a little ahead of myself. Can you
5 tell us where James Island County Park is located in terms of
6 a road map?

7 A. Sure so it's off of Riverland Drive, which is -- and
8 it's located in between Central Park and --

9 (Exhibit displayed on screen in open court.)

10 BY MR. MACK:

11 A. Well, there you go. It's located between Central Park
12 and Camp Road on Riverland Drive.

13 Q. So I'm showing you what's been admitted as State's
14 Exhibit 2. I'm trying to zoom in a bit.

15 So why don't you tell us a little bit about what's
16 around the park. Using this map as a guide, what are we
17 looking at here?

18 A. So where you're pointing is going to be a lot of
19 marshland and open space. So not a lot of development in
20 that area.

21 Q. And is there any way to access the park on foot from
22 that direction?

23 A. There is no fence, so if you came through the marsh,
24 yes, you could access the facility.

25 Q. And what does the marsh look like there?

1 A. It's the brackish water and marsh grass and pluff mud.
2 Parts of it are a little more stable that it would be
3 difficult to get through.

4 Q. And what about on this side of the park?

5 A. It's all marshland. And I would assume the only way to
6 access the facility would be by boat from the Stono River.

7 Q. Okay. And so the part that I was referring previously
8 was along James Island Parkway and Fisherman's Park, correct?

9 A. Yes.

10 Q. Okay. And the part I referred to after that is where?

11 A. That's on the Stono River side, so Johns Island would be
12 across the river from there. It's heavy marshland and deep
13 water.

14 Q. Okay. And what about the part north, I'm guessing for
15 -- on the part of the -- what about the area next to the
16 campground?

17 A. Yep. So there's actually a fence that goes on the north
18 side of this, the entire perimeter of the park from the
19 marshland all the way past the campground and then to the
20 front of the park to where the gate access is on Riverland
21 Drive. And so there is a perimeter fence that whole distance
22 with six feet and barbed-wire fence. But obviously, once you
23 get to the marshland, our property ends, so we're not able to
24 put a fence there. So the front portion and then the north
25 portion are all fenced off, because there's not marshland

1 there.

2 Q. And about how many ways are there to access James Island
3 County Park by car?

4 A. There's really only one way, and that's through the
5 front gate. There's an alternate route, but there's a gate
6 that we have that closes that off. We close that every day.
7 It's really only used for service vehicles and stuff like
8 that, which it's not even used daily. So a lot of times that
9 gate's closed.

10 Q. And about how far from that gate is lot B?

11 A. Which gate?

12 Q. The entrance.

13 A. Half a mile.

14 Q. And where is lot B located on the map?

15 A. Where you see the words "Wapoo shelter."

16 Q. So right about here?

17 A. No. That's Wando. So up to your left.

18 Q. Got it. Over here?

19 A. Yes.

20 Q. Okay. And the gate is here?

21 A. So our gate is inland from Riverland Drive. So if you
22 keep going up that James Island Parkway.

23 Keep going, keep going, keep going, keep going.

24 Basically where you meet the other road. Keep going.

25 Yep. In that vicinity is where the actual front gate

1 is.

2 Q. Okay. And what does that gate look like?

3 A. Sorry. Can I clarify something?

4 Q. Sure.

5 A. So we have a front gate and we have where employees
6 work, which is further inland from Riverland Drive. And then
7 we have a front gate that we close every night after we're
8 closed, so after the Festival of Lights closes, after -- when
9 the Festival of Lights is not happening, whenever we close
10 the facility at whatever time we close. It's very close to
11 Riverland Drive we have a gate that actually closes. So the
12 terminology is, I guess, confusing to me.

13 Q. And what do those gates look like?

14 A. The one closer to Riverland Drive, they look probably
15 more like a residential black gate that opens and closes. We
16 have one gate for the entrance side and two gates for the
17 exit side that we close on a nightly basis. And then the
18 gate that our employees stand out at to serve our customers,
19 there is no physical gate. We call it a gate because that's
20 what we call it in house. But you can travel through freely.
21 There's nothing blocking people from entering.

22 Q. And what does that gate look like during the Holiday
23 Festival of Lights? Like, what sort of security is around
24 it?

25 A. I'm sorry. Can you clarify which gate? Where our

1 employees are?

2 Q. Where, I guess, cars are entering.

3 A. Okay.

4 Q. What do they both look like, actually? Yeah.

5 A. It depends on the night, but --

6 Q. On a Saturday night.

7 A. Yeah. They're extremely busy. So it's probably
8 starting at 5:30. And on a typical Saturday night in
9 December, from 5:30 till 9:30 it's just constant flow of
10 traffic. And potentially even out of the park, so it's a lot
11 of standstill traffic that doesn't move very quickly.

12 Q. And about how many cops are around?

13 A. We employ seven deputies on certain -- not every night,
14 on certain nights, but certainly all Fridays and Saturdays in
15 December and other nights as we choose, we have seven
16 deputies on site, one that's inside James Island County Park
17 helping manage the customers inside, at our gate that our
18 employees are standing at, and then we have five -- three of
19 them at our front gate, one right outside our park on
20 Riverland Drive, and then one at Camp Road and one at Central
21 Park Road. So there's seven of them.

22 Q. And about how many parking lots are inside the park and
23 in operation during the holiday Festival of Lights?

24 A. We have three.

25 Q. And what are they called?

1 A. We call them lot A, lot B, and lot C.

2 Q. And about how many cars does each of those lots hold?

3 A. Lot A is around -- these are rough estimates -- 150.

4 Lot B I think is 170 for the Festival. And then lot C is
5 upwards of 200.

6 Q. And about how many people -- just ballpark figure
7 here -- are attending the Holiday Festival of Lights around
8 10:30 p.m. on Saturday?

9 A. A thousand, maybe less.

10 Q. And how many employees are working the facility on a
11 Saturday?

12 A. At that same time?

13 Q. At the same time.

14 A. Thirty.

15 Q. Let's focus in on lot B. What does it look like?

16 A. So we have, we call them parking bays. So as you enter
17 the parking lot, you're entering at one side of it. So we
18 have an entrance and an exit. And as you enter there's a
19 parking bay that we have parking spots that people can park
20 in. And then there's another parking bay that people can
21 park in. I think there's five or six of those separate bays
22 that we park cars in.

23 Q. And how's it look at night?

24 A. Similarly. Obviously it's at night, so it's a bit
25 darker. But we have staff there that helps direct our

1 vehicle traffic for parking. So we direct them in the
2 parking lot and then also direct them where to park once
3 they're there.

4 Q. You said it's dark. About how dark during the cold
5 December night at 10:30 in lot B?

6 A. I don't know exactly how to answer that, but I'll answer
7 it how I feel.

8 We have three parking lots. Parking lot A is probably
9 our lightest and brightest parking lot because it's right
10 near our -- you can't see it on this map, but it's right --
11 it's very close to our office building, which is a big
12 building and it illuminates a lot of light. And we have
13 trees in that parking lot that have lights in them, so it
14 helps illuminate light. We also have the parking lot lights.

15 Lot B is probably our second brightest parking lot
16 because it also has displays around the parking lot that help
17 illuminate light and it also has parking lot lights in that
18 parking lot.

19 Lot C, to me, is the -- in my opinion, is the darkest of
20 our three parking lots. It's a bit deeper and wider. Lot B
21 is a lot more elongated. It just doesn't have as many
22 displays that illuminate the parking lot.

23 Q. About how many street lights are illuminating lot B?

24 A. Maybe six.

25 Q. And about how big is it?

1 A. The parking lot?

2 Q. Yeah.

3 A. I don't know.

4 Q. Is there any signage for lot B during the Holiday
5 Festival of Lights?

6 A. There is a sign on the -- there's an entrance and exit.
7 On the entrance side, there's a sign that says "Lot B" that's
8 a light display. And then we have -- it doesn't say "Lot B"
9 on it, but it just says "Parking" or "Enter here."

10 Q. And what about pedestrian foot traffic into the Holiday
11 Festival of Lights?

12 A. It is extremely rare. I've only had it happen in my 16
13 years of experience maybe two to three times. And one time
14 it was a James Island County Park camper that the Uber didn't
15 want to wait in line anymore so they dropped them off. They
16 walked in. We took them to their campsite via golf cart.

17 And then the other time we told them we don't allow foot
18 traffic into the Festival of Lights. The deputy at the gate
19 kind of handled that and asked them to leave.

20 Q. And is it common, Kristen, for people to lose their cars
21 during the James Island County Park Festival of Lights?

22 A. My way of putting it is not being able to find their
23 car. So it is a very common question the we get from our
24 customers of which -- where they parked and they can't --
25 they don't remember how to get back to their vehicle. So we

1 use -- park staff uses identifying factors to try to trigger
2 their memory of exactly where they parked.

3 So lot A is a paved parking lot, so that's the first
4 question we ask. Was it paved or not paved? And that's our
5 only paved parking lot. If they say it's paved, we know that
6 that's lot A.

7 Lot B and lot C are both aggregate, so it's not paved.
8 So if they say that it was not paved, then the lot B, if they
9 generally -- if they have to walk by a big playground and
10 climbing wall immediately, so we kind of use those
11 identifying factors of asking them if they walked by a
12 playground. If they say they did, then we kind of know it's
13 lot B.

14 Lot C, if they say, again, that it was not a paved
15 parking lot, we identify it as one of the other two. And if
16 it's not -- if they didn't walk by the playground, then we'll
17 ask them if they walked by, we call them the dancing lights,
18 or lights that illuminate to the music. And so we -- or
19 there's a fire truck light display. So either of those, if
20 they walked by those, we know it's lot C.

21 Q. And at one point we connected about me going out to lot
22 B, correct?

23 A. Mm-hmm. Yes.

24 Q. And what did you do in terms of helping me with that
25 process?

1 A. So you asked if you could come at night and look at the
2 parking lot. I don't know verbatim exactly how it went, but
3 -- and I said that was fine, I would get you in touch with
4 our -- we have a ranger that works every single night, even
5 during the Festival of Lights. So when the park closes, we
6 always have somebody on site because we have a campground
7 there 24 hours a day. And I believe I gave you the cell
8 phone number of our ranger to put you in contact with them so
9 you could go there at night and you could also get through
10 the gate.

11 Q. And did you ever follow up with that ranger about
12 whether I met up with him or not?

13 A. I did not.

14 MR. MACK: One moment, Judge.

15 Q. [By Mr. Mack] Back to the street lights, Kristen, in
16 lot B. They're pretty distinctive, right?

17 A. They are.

18 Q. And if I showed you a picture of them, do you think
19 you'd be able to recognize them?

20 A. Perhaps.

21 Q. All right, Kristen. I'm showing you what's been marked
22 for identity purposes only as Defense Exhibits 20, 21, and
23 22. We'll start with 20. Do you recognize the gentleman in
24 that picture?

25 A. I do.

1 Q. Who is that?

2 A. He's one of our rangers.

3 Q. And do you recognize where he is standing?

4 A. Based on the lights in the background, I think he's in
5 the middle of the parking lot looking toward our maintenance
6 building.

7 Q. And which parking lot is that?

8 A. Parking lot B.

9 Q. And I'm showing you now Defense Exhibit 21 for identity
10 purposes. Do you recognize that picture?

11 A. Not right off the top of my head.

12 Q. Okay. I'm showing you Defense Exhibit --

13 A. But I will say the -- sorry.

14 Q. Go ahead.

15 A. The lights in lot B are the same as parking lot A, and
16 parking lot C is a different style of light. So I
17 automatically know -- I know it is parking lot B; I just
18 don't know exactly where it is --

19 Q. All right.

20 A. -- because of the type of light that it is.

21 Q. Perfect. So Defense Exhibit 21 is lot B?

22 A. Yes.

23 Q. Okay.

24 A. Yes.

25 Q. And what about Defense Exhibit 22?

1 A. Same thing. I would identify it as parking lot B, but I
2 don't know where in the parking lot it is.

3 Q. Thank you.

4 MR. MACK: Judge --

5 THE COURT: You need to show them to the State.

6 MR. MACK: Oh, yes.

7 THE COURT: Is there any exception to the photographs?

8 MS. OUTTEN: Yes, your Honor.

9 THE COURT: Mr. Foreman, ladies and gentlemen, I have a
10 matter of law to take up with counsel. We appreciate your
11 patience. It should be very short. If anybody needs to
12 refresh themselves, go ahead and do that while we're out.

13 (The jury exited the courtroom at 4:18 p.m.)

14 (The following proceedings were had outside the presence
15 of the jury.)

16 THE COURT: You may be seated.

17 All right, Ms. Outten.

18 MS. OUTTEN: Your Honor, we would first object on a lack
19 of foundation. The witness herself seemed a little unsure
20 about where the photos were taken. You know, I --

21 THE COURT: And who took the photos, Mr. Mack?

22 MR. MACK: Judge, I took them.

23 THE COURT: Okay. Do you have a good-faith --

24 MS. OUTTEN: Where the --

25 THE COURT: -- argument that he --

1 THE COURT: From the defense?

2 MR. MACK: No, Judge.

3 THE COURT: I think all the objections are raised in
4 good faith. I think, however, they go to the weight to be
5 given to the photos, not their admissibility. And so the
6 purpose for which Mr. Mack seeks to introduce them and the
7 issues raised by the State I think could be adequately
8 covered regarding vantage point, the fact that it was
9 different -- taken almost three years previous to the
10 incident that you all have pictures that were taken closer in
11 time -- well, at the time that accurately reflects the scene
12 as it did on that evening. I think all that stuff can be
13 covered in cross-examination. The objections's overruled.

14 3, 9 and -- er, 20, 21 and 22 are admitted subject to
15 the State's objections.

16 (Defendant's Exhibits Number 20, 21, and 22 admitted
17 into evidence.)

18 MR. MACK: Thank you, Judge.

19 MS. OUTTEN: Thank you, Judge.

20 THE COURT: You're welcome.

21 All right. We need the jury, don't we?

22 Please get the jury for me.

23 (The jury entered the courtroom at 4:39 p.m.)

24 THE BAILIFF: All jurors are present.

25 THE COURT: Thank you. You may be seated.

1 Ladies and gentlemen, we appreciate your patience.

2 We'll now resume the testimony of the witness.

3 You may proceed.

4 MR. MACK: Thank you, Judge.

5 THE COURT: You're welcome.

6 KRISTEN PROCOPIO ALLEN

7 RESUMED DIRECT EXAMINATION

8 BY MR. MACK:

9 Q. All right, Kristen. I'm showing you what has been
10 admitted as Defense Exhibit 20.

11 (Exhibit displayed on screen in open court.)

12 BY MR. MACK:

13 Q. What are we looking at there?

14 A. That is the middle of parking lot B, looking back toward
15 the entrance. And I know that because the lights in the
16 background are our maintenance building.

17 Q. And who's the gentleman in the picture?

18 A. That's one of our park rangers.

19 Q. What is on the ground in that picture?

20 A. ROC aggregate.

21 Q. What is ROC aggregate?

22 A. Material that we use in our parking lots.

23 Q. And what is it made of?

24 A. Rock.

25 (Exhibit displayed on screen in open court.)

1 BY MR. MACK:

2 Q. And I'm showing you Defense Exhibit 21. What is that?

3 A. It's parking lot B. I do not know exactly the vantage
4 point that we're looking at.

5 Q. How do you know it's parking lot B, by the way?

6 A. Again, because of the lights and I know it's not paved,
7 so I know it's parking lot B.

8 Q. And how would you -- well, and how do you know because
9 of the lights?

10 A. The lights in parking lot C, the best way I can describe
11 them are they're more of the turtle lights that you see on
12 the coastline. So they're directed down. They don't
13 illuminate quite as much. And they're a much newer style of
14 light so they look pretty different.

15 (Exhibit displayed on screen in open court.)

16 BY MR. MACK:

17 Q. And are those the same lights in Defense Exhibit 22?

18 A. Yes. Those are the same lights in parking lot B.

19 Q. So Defense Exhibit 22 is parking lot B as well?

20 A. From as much as I can tell, yes.

21 Q. And do you recognize any of the vehicles in Defense
22 Exhibit -- er, pictured in Defense Exhibit 22?

23 A. I assume the one in the forefront is our ranger vehicle,
24 but I can't tell based on the picture a hundred percent.

25 Q. And you said you assume. Why do you assume that?

1 A. I think I can see a light bar on the top, and our ranger
2 vehicle is an F-150 with a light bar on the top.

3 Q. So Kristen, these pictures weren't taken during the
4 Holiday Festival of Lights, correct?

5 A. That's correct.

6 Q. And there would probably be more light if they were
7 taken during the Holiday Festival of Lights, right?

8 A. That's correct.

9 Q. It's obvious, right? The Holiday Festival of Lights,
10 there's going to be lights --

11 A. Yes.

12 Q. -- around then?

13 A. Yes.

14 Q. Do you know when these pictures were taken?

15 A. I would assume -- this past Saturday was when you sent
16 them to me, so I would assume Saturday night.

17 Q. And when I sent them to you, did you review them?

18 A. I did.

19 Q. And how did I send them to you?

20 A. Via text message.

21 Q. And what did I ask you to do via text when I sent them
22 to you?

23 A. To orient myself in the parking lot based on the
24 photographs.

25 Q. And did you do that?

1 A. I did.

2 Q. And when did you do that?

3 A. Yesterday.

4 Q. And one last question.

5 (Exhibit displayed on screen in open court.)

6 BY MR. MACK:

7 Q. Do you know what this area is right here?

8 A. Where the lights are?

9 Q. Yes.

10 A. That's our -- I believe that's our maintenance compound.

11 Q. And how do you know that?

12 A. So around that parking lot, there's only three
13 buildings. One is our maintenance compound. One is our, we
14 call it Ashley Center, which is a rentable facility. And one
15 is our Wapoo shelter. Wapoo shelter does not have that many
16 lights on it. The Ashley Center is a different shape. And
17 our maintenance compound has probably the brightest lights
18 that you'd be able to see from that angle.

19 Q. So when you testified earlier that one lot was -- that
20 lot B was, like, the second most lit-up lot --

21 A. Mm-hmm.

22 Q. -- you were -- you mentioned the maintenance complex,
23 right? As being the reason for that?

24 A. No. I don't believe I did.

25 Q. What did you say was the reason for that?

1 A. The lights in the parking lot. And then the -- I don't
2 believe I said it earlier, but it's the second brightest
3 parking lot, in my opinion, because of the lights in the
4 parking lot and also the displays around the parking lot that
5 illuminate light.

6 Q. During the Holiday Festival of Lights?

7 A. Correct.

8 Q. Okay.

9 MR. MACK: Thank you, Judge. No further questions.

10 THE COURT: Any questions for the witness?

11 MS. OUTTEN: Briefly, Judge.

12 THE COURT: You may proceed.

13 CROSS-EXAMINATION

14 BY MS. OUTTEN:

15 Q. I'm going to show you Defendant's Exhibit 20 again.

16 (Exhibit displayed on screen in open court.)

17 BY MS. OUTTEN:

18 Q. Now, can you tell us what vantage point this photo was
19 taken from?

20 A. Again, I believe it's somewhat the middle of the parking
21 lot looking toward the entrance of our parking lot.

22 Q. And I'm showing Defendant's Exhibit 21?

23 (Exhibit displayed on screen in open court.)

24 BY MS. OUTTEN:

25 Q. Can you tell us what vantage point this photo was taken

1 from?

2 A. I would say the middle of the parking lot. I believe
3 it's an accessible parking spot in the background, and we
4 only have -- we have a limited number of those, so I -- I
5 don't know which angle it's going, but it's to the front of
6 the parking lot toward our tent or the back of our parking
7 lot toward our Wapoo shelter.

8 Q. And I'm going to show you Defendant's Exhibit 22.

9 (Exhibit displayed on screen in open court.)

10 BY MS. OUTTEN:

11 Q. And I'll ask you the same question. Do you know what
12 vantage point that photo was taken from?

13 A. I do not.

14 Q. Now, this might seem like a silly, redundant question,
15 but those photos were taken on February 25, to the best of
16 your knowledge?

17 A. Yes.

18 Q. And that's a few years after December 7, 2019, correct?

19 A. Yes.

20 Q. So you previously testified that there were six to seven
21 street lights in parking lot B?

22 A. Yes.

23 Q. And you also testified that it was the second brightest
24 parking lot in the county park?

25 A. During the Festival of Lights.

1 Q. During the Festival of Lights?

2 A. Correct.

3 Q. And you also testified that during the Holiday Festival
4 of Lights it's brighter because of these additional light
5 displays?

6 A. Correct.

7 Q. I'm showing you what's been previously admitted as
8 State's Exhibit 3.

9 (Exhibit displayed on screen in open court.)

10 BY MS. OUTTEN:

11 Q. Can you tell me what this is right here?

12 A. A light post.

13 Q. Can you -- okay. I'm actually going to show you State's
14 Exhibit 9.

15 (Exhibit displayed on screen in open court.)

16 BY MS. OUTTEN:

17 Q. Can you tell me what this is?

18 A. I would say a light post.

19 Q. And can you tell me what this is?

20 A. Light post.

21 Q. And finally --

22 (Exhibit displayed on screen in open court.)

23 BY MS. OUTTEN:

24 Q. -- State's Exhibit 10. And sorry to be redundant, but
25 can you tell me what this is?

1 A. A light post.

2 MS. OUTTEN: No further questions for this witness.

3 THE COURT: Any redirect?

4 MR. MACK: No, Judge.

5 THE COURT: Any exception to the witness being excused
6 from the State?

7 MS. OUTTEN: None from the State, your Honor.

8 THE COURT: From the defense?

9 MR. MACK: None from the defense.

10 THE COURT: Ma'am, you're excused.

11 THE WITNESS: Thank you.

12 THE COURT: You're welcome.

13 (Witness excused.)

14 THE COURT: Ladies and gentlemen, we're going to take
15 advantage of this break in testimony to take our evening
16 recess. I anticipate the next witness will take us well
17 beyond 5:00. We'll resume in the morning at 9:30. During
18 this break, please abide by my earlier instructions regarding
19 discussing the case or exposing yourselves to any media
20 coverage regarding the case or making any comments on any
21 social networking sites.

22 You'll park just as you did this morning and come to
23 your jury room. As soon as you all arrive, we'll resume
24 testimony. If you would -- actually, are you all pretty much
25 sitting in the same seats? I think you are. So if you are,

1 MR. MACK: Thank you, Judge.

2 THE COURT: You're welcome.

3 MR. MACK: The defense calls Deputy Beth Auer.

4 THE COURT: Officer, if you could come forward to be
5 sworn.

6 (Witness sworn.)

7 CLERK OF THE COURT: Please have a seat for me.

8 If you will state your full name, spelling your last
9 name, please.

10 THE WITNESS: Mary Elizabeth Auer, A-U-E-R.

11 THE COURT: Thank you.

12 You may proceed, Mr. Mack.

13 MARY AUER,

14 called as a witness on behalf of the Defendant, being first
15 duly sworn, was examined and testified as follows:

16 DIRECT EXAMINATION

17 BY MR. MACK:

18 Q. Hi. Is it Deputy Auer?

19 A. It's Sergeant Auer.

20 Q. Sergeant, where do you work?

21 A. At the Charleston County Sheriff's Office.

22 Q. And how long have you worked there?

23 A. Approximately 12 and a half years.

24 Q. And do you have any affiliation with the case before us
25 today?

1 A. Yes, sir.

2 Q. What affiliation is that?

3 A. I was the first one on the scene.

4 Q. And what were you doing that night that resulted in
5 being responding to this?

6 A. I was working the off-duty assignment at the James
7 Island County Park Holiday Festival of Lights.

8 Q. And what does that entail?

9 A. What does the job entail?

10 Q. Correct.

11 A. The Festival of Lights is a drive-through park. They
12 have Christmas lights up. It runs from about mid November to
13 December 31 every year. It's gotten quite popular and they
14 have a lot of vehicle traffic, so they've hired off-duty
15 deputies to control the traffic direction into and out of the
16 park to ease up the traffic congestion on the roadways.

17 Q. And do you recall how many deputies were working
18 December 7, 2019?

19 A. There were five of us total, myself included.

20 Q. Where were they dispersed throughout the park?

21 A. We were not inside the park. We were out on Riverland
22 Drive at the entrance to the park.

23 Q. Okay. And what were y'all doing out there?

24 A. Directing traffic.

25 Q. And how did you find out about the incident that we're

1 dealing with today?

2 A. Somebody that was working the road on patrol that was
3 looking at their computer saw the call come in. We
4 frequently will keep calls for the City of Charleston pulled
5 up on our screen so we can see things that they have -- see
6 calls that they have. Somebody saw it and called us over the
7 radio and told us there was an attempted carjacking being
8 done inside the park at that moment.

9 Q. And when you responded to that attempted carjacking, did
10 you -- were you wearing a body-cam video?

11 A. Yes, sir.

12 Q. A body camera?

13 A. Yes, sir.

14 Q. And did you activate it before you arrived on scene?

15 A. Yes, sir.

16 Q. So it was rolling when you approached the scene?

17 A. Yes, sir.

18 Q. And do you have any reason to believe that it was
19 working improperly that night?

20 A. No, sir.

21 Q. When you finished for the evening, what did you do with
22 that body-cam video?

23 A. I uploaded it.

24 Q. To what?

25 A. We have a server. I think that was probably three body

1 cams ago, three different versions of body cams that we've
2 had. But we have these servers throughout the county. You
3 simply -- you dock it and it uploads the video and it goes to
4 a server where you can access it.

5 Q. Any reason to believe that was improperly uploaded or
6 improperly downloaded onto the server?

7 A. No, sir.

8 Q. And do you remember if your body-cam video captured --
9 well, let's talk about when you arrived on scene. What did
10 you see when you arrived on scene?

11 A. When I got to the parking lot -- I believe it was
12 parking lot B -- there was a bunch of people, you know,
13 flagging us in the direction of where the incident had
14 occurred. So when I pulled up on scene, I got out of my car
15 and asked something to the effect of, you know, "Where's the
16 victim? Where's the car?" stuff like that. And they said
17 the car was still here, and they pointed to the defendant who
18 was laying in the parking lot.

19 Q. And about how many people flagged you down that night?

20 A. It was more -- I don't know the exact number because
21 people were, like, kind of pointing me in the direction. The
22 parking lot is not a typical parking lot. It's kind of
23 wooded. It's not paved. It's gravel. So they were just
24 kind of flagging me in the direction. I'm not sure how many
25 people were actually out there.

1 Q. Was it pretty cold that night? Were you wearing -- what
2 were you wearing?

3 A. I don't remember the temperature. I mean, I can't say
4 it was cold because it might not have been.

5 Q. Okay.

6 A. I don't remember the temperature directly.

7 Q. Were you wearing a stocking cap that night?

8 A. I'm not sure.

9 Q. Okay. So you said you saw Raheem on the ground. Do you
10 recall if your body cam captured image of him on the ground?

11 A. Yes, sir.

12 (Defense Exhibit Number 23 marked for identification.)

13 BY MR. MACK:

14 Q. And does this image I'm showing you, what's been marked
15 as Defendant's Exhibit 23, does that image accurately capture
16 what you saw and what your body camera saw?

17 A. Yes, sir, it appears to.

18 Q. And do you think that's a fair and accurate
19 representation of what you saw?

20 A. Yes, sir.

21 MR. MACK: Judge, at --

22 THE COURT: You need to show your opposing counsel.

23 MR. MACK: They've seen it, Judge. But I'll show it to
24 them again.

25 THE COURT: Mr. Foreman, ladies and gentlemen, I have a

1 brief matter of law to take up with counsel. During this
2 matter -- er, during this time, please don't discuss the
3 case. Leave your notepads in your seats. We appreciate your
4 patience.

5 (The jury exited the courtroom at 10:05 a.m.)

6 (The following proceedings were had outside the presence
7 of the jury.)

8 THE COURT: You may be seated.

9 I assume that -- what number is that picture?

10 MR. MACK: It's Defense Exhibit 23, Judge. I went back
11 to the office because of some issues we had with the previous
12 exhibits related to the image I'm trying to portray here. I
13 tried to refocus it and make it more clear.

14 THE COURT: Are you seeking to introduce the photograph?

15 MR. MACK: Yes, Judge.

16 THE COURT: Does the State have any exceptions?

17 MS. OUTTEN: Yes, Judge. We would object under 403 as
18 it being cumulative. There's nothing in this photo that has
19 not -- that has not already been communicated to the jury.
20 We would also object for a lack of completeness, to just show
21 a still from a body cam without any context.

22 But also possibly confusing and misleading the jury
23 because the -- that photo makes it look extremely dark. It's
24 my understanding that the quality of the body camera might
25 lead to that, and that could lead the jury to believe that

1 THE BAILIFF: They're all in, your Honor.

2 THE COURT: Thank you. You may be seated.

3 Ladies and gentlemen, we really appreciate your
4 patience. Please know that we do not take your time for
5 granted. We'll now resume testimony of the witness.

6 Mr. Mack, you may proceed.

7 MR. MACK: Thank you, Judge.

8 THE COURT: You're welcome.

9 BY MR. MACK:

10 Q. Sergeant Auer, we were talking a little bit about your
11 body cam earlier, correct?

12 A. Yes, sir.

13 Q. And you were wearing that the night of the incident?

14 A. Yes, sir.

15 Q. And it captured the first -- well, when you arrived on
16 scene --

17 A. Yes, sir.

18 Q. -- at the incident location? Do you believe that the
19 first two minutes of your body cam accurately captures what
20 you saw the night of the incident?

21 A. Yes, sir.

22 Q. Is there any reason to believe that it's been altered in
23 any way?

24 A. No, sir.

25 Q. And do you think it's a fair and accurate representation

1 of what you saw that night?

2 A. Yes, sir.

3 MR. MACK: Judge, at this point, defense moves to admit
4 into evidence Sergeant Auer's body-cam video as Defendant's
5 Exhibit 31.

6 THE COURT: Any further objection?

7 MS. OUTTEN: No further objection from the State, your
8 Honor.

9 THE COURT: Admitted subject to the State's objection.
10 (Defendant's Exhibit Number 31 admitted into evidence.)

11 THE COURT: You may proceed.

12 MR. MACK: Permission to publish?

13 THE COURT: You may proceed.

14 (Video played in open court.)

15 BY MR. MACK:

16 Q. Is that your body cam, Sergeant Auer?

17 A. Yes, sir.

18 Q. And let's take it step by step through there. I want
19 you to talk about what we're seeing and what you saw that
20 night, using the body cam as a reference. Okay?

21 A. Yes, sir.

22 Q. When you arrived on scene, is there another officer
23 there?

24 A. There is. Deputy Haslip is the other voice, the one
25 that said that he found the bank card.

1 Q. And is he the one holding the flashlight that's shining
2 down on Raheem Grant?

3 A. I believe so. I wasn't looking at the deputy. I was
4 looking at the -- Mr. Grant on the ground. But I think
5 that's him.

6 Q. He works for the sheriff's office, though, correct?

7 A. He does.

8 Q. And he was wearing a sheriff's office uniform that
9 night, right?

10 A. Yes, sir.

11 Q. And when -- is he asking Raheem Grant a question when
12 you arrived on scene?

13 A. No. Mr. -- I never knew Mr. Grant to be conscious or
14 talking at all while we were there.

15 Q. And when you were shining your flashlight on Raheem's
16 body, are you seeing him moving at all?

17 A. Not that I remember.

18 Q. Okay. And then you sort of turn around from where
19 Raheem was located and look across the parking lot, correct?

20 A. Yes, sir.

21 Q. And there's a marked sheriff's office vehicle in the
22 frame of the body cam?

23 A. Yes, sir.

24 Q. And then we see the alleged victim, Jorge Fuentes, walk
25 in front of that?

1 A. Yes, sir.

2 Q. And he sort of walks around the car? The vehicle?

3 A. Yes.

4 Q. Towards another vehicle on the other side of the parking
5 lot?

6 A. Yes, sir.

7 Q. And does he appear to open a door?

8 MS. OUTTEN: Objection.

9 THE COURT: Basis?

10 MS. OUTTEN: Leading.

11 THE COURT: Sustained. Leading.

12 BY MR. MACK:

13 Q. What does he appear to do, Sergeant Auer?

14 A. It appears that he is at a vehicle. I believe that was
15 his vehicle.

16 Q. Do you recall doing anything to -- what did you do to
17 Raheem to sort of check on him?

18 A. You mean when I first got there?

19 Q. Yes.

20 A. When I first got there, the witnesses and everybody were
21 pointing at him in the parking lot. And so I went over and
22 saw that he was face down on the ground. He was still
23 breathing, but I put handcuffs on him because he was a
24 suspect, even though he was unconscious. And I turned him in
25 such a manner so that he wasn't breathing in the parking lot,

1 the gravel dust.

2 Q. And then did you or Detective Haslip call anybody due to
3 his physical state?

4 A. Did we call for EMS?

5 Q. Correct.

6 A. I don't recall off the top of my head.

7 Q. You made a report for this case, correct?

8 A. I did.

9 Q. As a -- you call it an assisted --

10 A. Agency assist.

11 Q. Agency assist. Right. And did you bring it with you?

12 A. I did.

13 Q. Oh, great.

14 A. Yeah.

15 Q. You want to take a minute to look at it?

16 A. It says Deputy Haslip called for EMS.

17 Q. Thank you. And what was the reason for that?

18 A. The fact that Mr. Grant was unconscious.

19 Q. What else?

20 A. He was unconscious with multiple injuries to his face.

21 MR. MACK: No further questions, Judge.

22 THE COURT: Any questions from the State?

23 MS. OUTTEN: Yes, your Honor.

24 THE COURT: You may proceed.

25

1 CROSS-EXAMINATION

2 BY MS. OUTTEN:

3 Q. Good morning, Sergeant Auer.

4 A. Good morning.

5 Q. All right. So you were working off duty at the Holiday
6 Festival of Lights?

7 A. Yes, ma'am.

8 Q. And you came on scene as one of the first responders?

9 A. I was the first responder.

10 Q. But instead of walking to the car where the carjacking
11 occurred, you first walked over to the defendant; is that
12 correct?

13 A. Yes, ma'am.

14 Q. And you cuffed the defendant, correct?

15 A. Yes, ma'am.

16 Q. But none of that is captured on your body-worn camera?

17 A. No, ma'am.

18 Q. And where the defendant was in this video that we just
19 saw, that is not the spot where the carjacking occurred; is
20 that correct?

21 A. Correct.

22 Q. And your agency did not take the investigative lead in
23 this case; is that correct?

24 A. Yes, ma'am.

25 Q. You never formally interviewed anyone?

1 A. Correct.

2 Q. And would it be fair to say that it had been a pretty
3 long day for you at that point?

4 A. I'm not sure if I worked prior to. It would depend on
5 what day of the week it was.

6 Q. Would it be fair to say that your primary concern was
7 whether City of Charleston was going to take over the case?

8 A. It would have determined the rest of the investigation,
9 yes, ma'am.

10 Q. And to be clear, you arrived after the carjacking had
11 concluded?

12 A. Yes, ma'am.

13 Q. And you were told by citizens -- you were told that
14 citizens had to subdue him before you had arrived on scene;
15 is that correct?

16 A. I'm not sure what you're asking. But when I got on
17 scene, I asked where the suspect was and everybody pointed to
18 him.

19 Q. I'm showing you what's been already admitted into
20 evidence as State's Exhibits 3, 9, and 10.

21 A. Yes, ma'am.

22 (Exhibit displayed on screen in open court.)

23 BY MS. OUTTEN:

24 Q. Now, this is parking lot B, where the carjacking took
25 place, correct?

1 A. I'm not sure. I mean, it was in parking lot B. I'm not
2 sure where this photo was taken.

3 Q. Well, this is the victim of the carjacking?

4 A. Okay.

5 Q. This is the victim's car?

6 A. Okay.

7 Q. Would you agree with me that this is parking lot B,
8 where the carjacking took place?

9 A. Yes, ma'am.

10 Q. What is this?

11 A. Looks like a streetlight or a light.

12 Q. And underneath that, what is this glow?

13 A. Light. The ground.

14 Q. And this is the victim's vehicle from the carjacking,
15 correct?

16 A. Yes, ma'am.

17 Q. And what's this?

18 A. It's a streetlight.

19 Q. And what's underneath?

20 A. The ground.

21 Q. And over here?

22 A. Looks like another streetlight.

23 Q. And underneath?

24 A. The ground.

25 Q. Finally, State's Exhibit 10, the victim's car from the

1 carjacking?

2 A. Yes, ma'am.

3 Q. And what's this?

4 A. A light pole. The ground.

5 Q. And the ground illuminated by the light, correct?

6 A. Yes, ma'am.

7 MS. OUTTEN: No further questions for this witness.

8 THE COURT: Any redirect?

9 MR. MACK: No, Judge.

10 THE COURT: Any objection to the officer being excused
11 from the State?

12 MS. OUTTEN: None from the State.

13 THE COURT: From the defense?

14 MR. MACK: None from the defense, Judge.

15 THE COURT: Thank you so much. You're excused.

16 THE WITNESS: Thank you.

17 (Witness excused.)

18 THE COURT: Call your next witness.

19 MR. MACK: Judge, if I may have a moment, actually, the
20 witness would like to be -- we may have a matter of law,
21 Judge.

22 THE COURT: Mr. Foreman, ladies and gentlemen, we have a
23 matter of law. During the break, please do not discuss the
24 case. And we appreciate your patience. Leave your notepads
25 in your seats.

1 (The jury exited the courtroom at 11:29 a.m.)

2 (The following proceedings were had outside the presence
3 of the jury.)

4 THE COURT: You may be seated.

5 Are you telling me that you're not calling Officer
6 Glenn?

7 MR. MACK: That's correct, Judge. He's been dismissed.

8 THE COURT: Sir, if you would stand, please. I'll
9 remind you you're still under oath.

10 Have you had a full opportunity to discuss with your
11 lawyers whether you should or should not testify?

12 THE DEFENDANT: No, I haven't.

13 THE COURT: I can't hear you.

14 THE DEFENDANT: No, I haven't.

15 THE COURT: Do you need to take a minute --

16 THE DEFENDANT: Wait. What?

17 THE COURT: Have you had a full opportunity to discuss
18 whether you should or should not testify with your lawyer?

19 THE DEFENDANT: No, I have not.

20 THE COURT: Do you need additional time to speak with
21 him?

22 THE DEFENDANT: Yes, I do.

23 THE COURT: We'll be at ease about ten minutes.

24 MR. MACK: Thank you, Judge. Appreciate it.

25 (Court recessed.)

1 (Court resumed outside the presence of the jury.)

2 THE COURT: Sir, stand and I'll remind you you're still
3 under oath.

4 Have you had sufficient time to discuss whether you
5 should or should not testify with your lawyers?

6 THE DEFENDANT: Yes, I have.

7 THE COURT: Do you need any additional time to speak
8 with your lawyers?

9 THE DEFENDANT: No, I don't.

10 THE COURT: And sir, do you wish to testify or do you
11 not wish to testify?

12 THE DEFENDANT: I wish to testify.

13 THE COURT: Okie doke.

14 Are we ready to proceed from the State?

15 MS. OUTTEN: Yes, your Honor. The State's ready to
16 proceed.

17 THE COURT: Are we ready to proceed from the defense?

18 MR. MACK: Yes, Judge. The defense is ready.

19 THE COURT: And we've agreed there's no record you have
20 to impeach him, correct?

21 MS. OUTTEN: Correct. Yes, your Honor.

22 THE COURT: Okay. Please bring in the jury.

23 And actually, go ahead and have him take the witness
24 stand before the jury comes in.

25 Sir, I need you to go over there with the deputy,

1 please, and be by the witness stand.

2 He needs to be standing so he can be sworn.

3 They can go ahead and bring them in.

4 (The jury entered the courtroom at 11:46 a.m.)

5 THE BAILIFF: All present, your Honor.

6 THE COURT: Thank you. You may be seated.

7 Ladies and gentlemen, we appreciate your patience.

8 We'll now resume testimony.

9 Mr. Mack, you may proceed.

10 MR. MACK: Thank you, Judge.

11 The defense calls Raheem Grant.

12 THE COURT: Please swear the witness.

13 (Witness sworn.)

14 CLERK OF THE COURT: Please have a seat.

15 If you will state your full name for the record,
16 spelling your last name.

17 THE WITNESS: My name is Raheem Oquendal Grant,
18 G-R-A-N-T.

19 THE COURT: You may proceed.

20

21

22

23

24

25

1 RAHEEM GRANT,
2 called as a witness on behalf of the Defendant, being first
3 duly sworn, was examined and testified as follows:

4 DIRECT EXAMINATION

5 BY MR. MACK:

6 Q. Raheem, did you assault Jorge Fuentes?

7 A. No, I did not.

8 Q. Did you intend to intimidate Jorge Fuentes?

9 A. No, I definitely did not.

10 Q. Did you intend to carjack Jorge Fuentes's Kia Optima?

11 A. No, I did not.

12 Q. Tell us a little bit about yourself, Raheem.

13 A. I'm 33 years old. I have two kids, two beautiful kids.

14 My son is 13. His is R.G. [REDACTED]. My
15 daughter, she's 10 years old, and her birthday is in about

16 four days. Her name is K.G. [REDACTED]
17 (phonetic).

18 Q. And how far did you go in school, Raheem?

19 A. I went to, like, 11th grade.

20 Q. And have you ever thought about going back?

21 A. Yes, I did.

22 Q. What would you do if you went back?

23 A. I'd probably be, like, a botanist or I probably would do
24 some kind of computer technician thing. I thought about
25 aviation, that type of thing.

1 Q. And where did you grow up, Raheem?

2 A. Charleston and the surrounding areas.

3 Q. Where exactly?

4 A. Charleston. I lived in Summerville before that and
5 Goose Creek before that. And also Moncks Corner.

6 Q. And do you have family in town?

7 A. Yes, I do.

8 Q. Are any of them in the courtroom today?

9 A. Yes. The mother of my kids is back there.

10 Q. And what family members do you have in the Charleston
11 area?

12 A. My mother, who was here yesterday. My brother, who was
13 here the day before yesterday with my mother. I have
14 sisters. I have three brothers and three sisters also.

15 Q. And what do you do for work?

16 A. Right now, I don't have a job right now because I'm
17 incarcerated. But at the time of the incident, I was doing
18 staffing and looking for a job because I was going through,
19 like, a temporary breakup with my significant other.

20 Q. Let's talk about the night in question. Okay, Raheem?

21 A. Yes.

22 Q. I want to focus on your arrival at the Festival of
23 Lights or how you got there.

24 A. Mm-hmm.

25 Q. How did you get there?

1 A. I rode with a friend of mine.

2 Q. And why did you decide to go to the Festival of Lights?

3 A. We just wanted to get out the house. She asked me can
4 we go to the -- she wanted to get out of the house, and we'd
5 go to the festival and stuff. You know?

6 Q. And who was your friend?

7 A. Her name's Tutu.

8 Q. And what did y'all do before y'all went to the Festival
9 of Lights?

10 A. We went to the liquor store. We went and stopped and
11 got some Wendy's. We went to Hampton Park. And then she
12 made the idea we maybe should go to the Festival of Lights,
13 so we went to the Festival of Lights.

14 Q. And how long have you known Tutu?

15 A. For about two weeks before that incident. Like I said,
16 this was, like, a time I was separated from my significant
17 other.

18 Q. And how did you connect with her?

19 A. On the phone.

20 Q. Whose idea was it to go to the Festival of Lights?

21 A. It was her idea.

22 Q. And who drove?

23 A. She drove there.

24 Q. And from where were you driving?

25 A. From Hampton Park.

1 Q. And did you drive through the entrance of the park?

2 A. No, I did not. She did.

3 Q. Sorry. Did she drive through the entrance to the park?

4 A. Yeah, she did.

5 Q. And what did you see when you drove through the
6 entrance?

7 A. Officers, traffic, a lot of people, and a lot of cars.

8 Q. And --

9 A. And lights.

10 Q. And did you park in lot B?

11 A. Yes, I did.

12 Q. And how many cars were in lot B?

13 A. If I had to guess, I would say close to 200.

14 Q. And what was the lighting like in lot B?

15 A. It was not very good, not very good at all.

16 Q. And how many people were around you when you parked
17 there?

18 A. Lots of people.

19 Q. And have you ever been to the Festival of Lights before
20 this incident?

21 A. No, I have not.

22 Q. And before this incident, when was the last time you
23 were on James Island?

24 A. I would say like 2013 or '14 maybe. Years.

25 Q. Let's talk about right before the incident, Raheem.

1 What did you do after you parked the car?

2 A. We walked around for a little while.

3 Q. And what did you do after that?

4 A. We were -- we walked around until it was almost time for
5 us to leave.

6 Q. And when you were leaving, what happened?

7 A. When we were leaving, she went to hit the button and
8 unlock the car doors. So out the front of my eyes, I saw
9 that vehicle. When you hit the key fob, the car light
10 flashes. Like, you know what I'm saying? So that's what I
11 thought I saw, and I proceeded to the vehicle which I thought
12 was the vehicle because it was a similar vehicle. Well, same
13 make, but different model. So I proceeded to what I now know
14 was the wrong vehicle.

15 Q. And where was your phone at the time?

16 A. It was supposed to be inside the vehicle, inside Tutu's
17 car.

18 Q. And does Tutu -- why was it in the car?

19 A. I think I left it in the charger. I don't want to say
20 for sure why. I also had to give -- like, if I'm a be with
21 her, I wanted to give her my full attention.

22 Q. And whose car was it?

23 A. It was her rental car.

24 Q. And where was your wallet?

25 A. I didn't have a wallet at that time.

1 Q. So jumping ahead a little bit, we talked a lot about
2 what happened to you. Why -- we're still on the topic of
3 Tutu here. Why don't you think she stuck around that night?

4 A. Maybe because -- I know she was right, like, a few feet
5 from me before I got into the vehicle. But maybe because
6 embarrassment. Maybe she didn't want to be involved with law
7 enforcement or anything like that. Maybe she saw what was
8 taking place.

9 I do believe that she stuck around because it was
10 actually -- well, a car was actually seen leaving the scene
11 which was the same kind, same make and model. So I believe
12 that was her seen leaving the scene. I can't -- I'm not for
13 sure, so I won't be able to say why she didn't stick around.

14 Q. And why didn't you call Tutu after this incident to
15 clear it all up?

16 A. I didn't have her number. That was inside my cell
17 phone, which was inside her car.

18 Q. Let's talk about what happened inside Jorge's car.

19 A. Mm-hmm.

20 Q. How did you approach the car?

21 A. I walked up to the car and I pulled the handle and I sat
22 down in the car.

23 Q. And why -- what did you do when you sat down in Jorge's
24 car?

25 A. I sat down and went to reach for the push start button,

1 because like I said, we were getting ready to leave. And I
2 didn't expect her to be in close proximity; I expected her to
3 be getting into the passenger seat. So I jumped in and I
4 went to press the button. But before I even got to press the
5 button, he was on me and I got hit.

6 Q. And did Jorge punch you from the back seat?

7 A. Yes, he did.

8 Q. And did you punch Jorge while you were inside the car?

9 A. No, I did not.

10 Q. Who pulled you from the car?

11 A. I believe it was Jorge and another male.

12 Q. And so it was two on one?

13 A. Yes. I wouldn't say two on one because I was not
14 fighting or anything, so I would say two on zero because I
15 was not doing anything.

16 Q. And what were your injuries as a result of this
17 incident?

18 A. Broken nose, lacerations, like, cuts all over my head
19 and face. I want to say I was concussed, but I don't think
20 they actually did a test on concussion. But that's all I
21 really can recall right now.

22 Q. Did you try to protect yourself while you were being
23 beaten up by Jorge?

24 A. I tried to cover my head, yes. I wish I could get,
25 like, under the steering wheel, because it seemed like that

1 would be the best place to try to take all them punches and
2 stuff that was coming at me.

3 Q. And did you break Jorge's glasses?

4 A. No, I did not.

5 Q. Did you threaten Jorge?

6 A. No, I did not.

7 Q. Did you curse at him?

8 A. No, I did not.

9 Q. Did you gesture at him?

10 A. No, I didn't.

11 Q. Without telling me what Jorge said to you --

12 A. Mm-hmm.

13 Q. -- I want you to tell me what you said to him when you
14 got in the car.

15 A. When I set in the car and I reached for the button, I
16 told him, "Hey, I thought it was my car. I thought it was my
17 vehicle."

18 Q. What did you say exactly?

19 A. I said, "No, I think it's my car."

20 Q. And were you able to start the car?

21 A. No, I was not. I never got the car started.

22 Q. Did you think you were being carjacked?

23 A. I was wondering why another male was inside the car that
24 I wasn't supposed to be in -- I mean, that I wasn't supposed
25 to be in, but I didn't know what was going on.

1 MR. MACK: No further questions, Judge.

2 THE COURT: Any questions for the witness?

3 MS. OUTTEN: Yes, your Honor. Beg the Court's
4 indulgence one moment.

5 CROSS-EXAMINATION

6 BY MS. OUTTEN:

7 Q. So you testified on direct that you came to the Festival
8 of Lights with Tutu?

9 A. Yes, I did.

10 Q. How did you meet her?

11 A. I met her at a corner store I was in.

12 Q. And did y'all have any friends in common?

13 A. No, we did not.

14 Q. So you just met her at the corner store --

15 A. Yeah. I --

16 Q. -- and started talking to her?

17 A. I was sitting by myself. So yes, I did.

18 Q. All right. And so on December 7, 2019, she picked you
19 up for the Holiday Festival of Lights?

20 A. Yeah, she did.

21 Q. Where did she pick you up?

22 A. She pick me up on East Montague, my residence at the
23 time.

24 Q. Okay. And then you testified that y'all went to
25 Wendy's?

1 A. Yeah. We went to Wendy's and we went to the liquor
2 store.

3 Q. What did you get at Wendy's?

4 A. I want to say two for four. That's what I usually get.

5 Q. And then when you left Wendy's and went to the liquor
6 store, Tutu was still driving?

7 A. Yes, she was.

8 Q. And then you went to the liquor store?

9 A. Mm-hmm.

10 Q. What did you get there?

11 A. A bottle of tequila, bottle of Lunazul.

12 Q. And then when you went from the liquor store to the
13 Holiday Festival of Lights, Tutu was still driving?

14 A. Yes, she was. But I would drive back.

15 Q. So you get to the Holiday Festival of Lights?

16 A. Mm-hmm.

17 Q. You go through the gate.

18 THE COURT: Sir, if you could say yes or no. Thank you.

19 THE WITNESS: Yes. I'm sorry.

20 THE COURT: No worries.

21 BY MS. OUTTEN:

22 Q. So I'll repeat that. So you get to the Festival of
23 Lights?

24 A. Yes, ma'am.

25 Q. You go through the gate?

1 A. Yes, ma'am.

2 Q. And then did you drive around the lights --

3 A. Yes, ma'am.

4 Q. -- first and see them all?

5 A. Yes, ma'am.

6 Q. And then you parked your car?

7 A. Yes, ma'am.

8 Q. And then you got out of the car?

9 A. Yes.

10 Q. Now, did you go into the Santa's Village?

11 A. No, I never went into the Santa's Village. We just
12 walked around and just walked.

13 Q. So you just walked around in parking lot B?

14 A. No. We walked around and -- just looking at the lights
15 and stuff we could see. We never went into the actual
16 Santa's Village building.

17 Q. Now, after this all happened --

18 A. Mm-hmm.

19 Q. -- you were --

20 A. I'm sorry. Yes. Yes, ma'am.

21 Q. You were interviewed at the Charleston County detention
22 center?

23 A. Yes, I was.

24 Q. By Detective Huffman with the City of Charleston Police
25 Department?

1 A. I was.

2 Q. And that statement was recorded, wasn't it?

3 A. Yes, it was.

4 MR. MACK: Objection, Judge.

5 THE COURT: Mr. Foreman, ladies and gentlemen, we have a
6 brief matter of law to take up. During the break, please do
7 not discuss the case. Again, we appreciate your patience
8 with us.

9 (The jury exited the courtroom at 12:03 p.m.)

10 (The following proceedings were had outside the presence
11 of the jury.)

12 THE COURT: You may be seated.

13 Where are you going with this, Mr. Mack, especially in
14 light -- I mean, I'm sorry, Ms. Outten -- in light of the
15 fact that we haven't had hearing on the admissibility of any
16 portion of his statement?

17 MS. OUTTEN: We would --

18 THE COURT: And sir -- and I apologize. Did you tell me
19 -- you said y'all picked up a bottle of tequila and what
20 else? I know if I didn't hear it, the court reporter didn't
21 hear it.

22 THE WITNESS: I said Lunazul. That's -- you know the
23 bottle of tequila is called Lunazul.

24 THE COURT: Okay. And how -- do you know how that's
25 spelled?

1 before you brought the jury back in.

2 THE COURT: Sure. Go right ahead.

3 (Off the record.)

4 MS. OUTTEN: Oh, sorry, your Honor. We're finished
5 talking. I apologize.

6 (The jury entered the courtroom at 12:13 p.m.)

7 THE BAILIFF: Jurors are all seated, your Honor.

8 THE COURT: Ladies and gentlemen, we appreciate your
9 patience.

10 Ms. Outten, you may proceed.

11 BY MS. OUTTEN:

12 Q. Okay. Mr. Grant, actually, I want to go back a little
13 bit. So you said that you met Tutu at a corner store?

14 A. I answered that question already.

15 Q. Which corner store did you meet her at?

16 A. I can't recall.

17 Q. But was it a corner store near your house?

18 A. Yes, I would say so.

19 Q. So you meet Tutu there?

20 A. Mm-hmm.

21 Yes, ma'am. I'm sorry.

22 Q. What did she look like?

23 A. Pretty, but not prettier than my ex, so yeah.

24 Q. Was she tall? Short? What color hair --

25 A. I would say about 5-6.

1 Q. What color hair did she have?

2 A. Black hair.

3 Q. But how would you communicate with her?

4 A. On the phone.

5 Q. But you didn't know her phone number.

6 A. I didn't know her phone number by heart. Her phone
7 number was saved into my phone.

8 Q. And then you said so she picks you up for the Holiday
9 Festival of Lights. You go to Wendy's.

10 A. Mm-hmm.

11 Q. Which Wendy's did you go to?

12 A. I cannot recall which one.

13 Q. And then you said you went to the liquor store after
14 that?

15 A. Yes, I did.

16 Q. Do you remember which liquor store you went to?

17 A. No, I can't recall.

18 Q. And then you said that she was driving there, but you'd
19 drive back?

20 A. Yes.

21 Q. Why?

22 A. I did earlier that day. I did drive to one of the
23 locations. I can't tell you exactly which one it was, but I
24 did drive to one of the those locations.

25 Q. But you planned --

1 A. Yes, I planned it.

2 Q. -- that she was going to drive there and you were going
3 to drive back?

4 A. Yes.

5 Q. Why the change in drivers?

6 A. Possibly because we had began drinking alcohol, and
7 whoever would be less intoxicated or whatever would be the
8 one who drive back.

9 Q. So to go back to what I was talking about before, you
10 testified that you were interviewed at the Charleston County
11 detention center?

12 A. Yes.

13 Q. And that the statement was recorded?

14 A. Yes.

15 Q. Now, you were told about your right to remain silent?

16 A. Yes.

17 Q. And Detective Huffman asked you if you understood what
18 that meant?

19 A. Yes.

20 Q. And you told him that you did?

21 A. Yes, I believe so.

22 Q. And you were told that you had a right to an attorney?

23 A. I believe so.

24 Q. And Detective Huffman asked you if you understood?

25 A. I believe so.

1 Q. And you told him that you did?

2 A. I believe so. I believe it, yes.

3 Q. And you signed a card. Detective Huffman had you sign a
4 card that you --

5 A. I can't recall.

6 Q. And you told Detective Huffman you were driving your
7 girlfriend's rental car?

8 A. I can't recall, but I believe I did.

9 Q. And well, would it help you to look at a transcript?

10 A. Yeah, it would. But I believe I did say that. I don't
11 think I need it.

12 Q. Okay. And Detective Huffman asked you what your
13 girlfriend's name was?

14 A. Yes.

15 Q. But you paused for a long time before you answered that
16 question.

17 A. Yes, I may have.

18 Q. But then you -- Detective Huffman asked you again what
19 her name was?

20 A. Yes.

21 Q. And you told Detective Huffman her name was Tutu?

22 A. Yes, because I only knew her nickname. I didn't know
23 her full name.

24 Q. So you told Detective Huffman you didn't know her full
25 legal name?

1 A. I told the detective I did not know her real name.

2 Q. But you also told Detective Huffman that the rental car
3 was silver?

4 A. Yes. It was a dark silver car.

5 Q. You told him it was Tutu's rental?

6 A. Yes. Mm-hmm.

7 Q. But you didn't know what kind of car it was?

8 A. I didn't know the model of the car, but I did know the
9 make.

10 Q. And you also told us that --

11 A. I'm not really good with cars. I also said that.

12 Q. Me neither. But you also told us that you didn't know
13 where she rented it from?

14 MR. MACK: Objection, Judge.

15 THE COURT: Basis?

16 MR. MACK: This is what was brought up in our pretrial
17 brief as being excluded.

18 THE COURT: I said no speaking objections.

19 Mr. Foreman, ladies and gentlemen, I have a brief matter
20 of law to take up with counsel. If you would just stand in
21 the hallway for me, I'd appreciate it. Please leave your
22 notepads.

23 (The jury exited the courtroom at 12:18 p.m.)

24 (The following proceedings were had outside the presence
25 of the jury.)

1 strike the question.

2 MS. OUTTEN: Understood, your Honor.

3 THE COURT: You can rephrase it.

4 We can get the jury back in.

5 MS. OUTTEN: Thank you, Judge.

6 THE COURT: You're welcome.

7 (The jury entered the courtroom at 12:24 p.m.)

8 THE BAILIFF: They're all present, your Honor.

9 THE COURT: Ladies and gentlemen, we appreciate your
10 patience. You may be seated.

11 Ladies and gentlemen, you're to disregard counsel's last
12 question and give it absolutely no consideration in your
13 deliberations.

14 You may proceed, Ms. Outten.

15 BY MS. OUTTEN:

16 Q. But you do not know what kind of car you and Tutu
17 arrived in that night?

18 A. I was told -- I do know what kind of car it was. I
19 didn't know the exact model, but -- because I'm not really
20 good with cars.

21 Q. Now, going back to your statement, you told Detective
22 Huffman you jumped in the car?

23 A. Yes, I did.

24 Q. You told him you tried to crank it up?

25 A. Yes, I did.

1 Q. Now, you just testified on direct that Tutu was only a
2 few feet away?

3 A. Yes.

4 Q. You said that you expected Tutu to get in the passenger
5 seat?

6 A. Yes, I did. On direct I did.

7 MS. OUTTEN: Beg the Court's indulgence.

8 Q. [By Ms. Outten] You said Tutu was a few feet away. Can
9 you be a little more specific?

10 A. Close enough in proximity that I would be able to crank
11 the car.

12 Q. But so, just trying to make sure we're clear on
13 everything, you drive through the lights?

14 MR. MACK: Asked and answered, Judge. Objection.

15 THE COURT: I haven't heard the question. Repeat the
16 question.

17 MS. OUTTEN: I said, "You drove through the lights?"

18 THE WITNESS: Did we drive through the lights?

19 THE COURT: I still didn't hear what you said.

20 MS. OUTTEN: "You drove through the lights?"

21 THE COURT: Overruled. You may proceed, sir. You may
22 answer the question.

23 BY MS. OUTTEN:

24 A. No, I did not drive through the lights.

25 Q. You rode through the lights?

1 A. Yes, I did.

2 Q. Excuse me. You rode through the lights and parked the
3 car?

4 A. Mm-hmm.

5 Q. Where --

6 THE COURT: Sir, you have to --

7 THE WITNESS: I'm sorry. I'm sorry. I'm sorry.

8 THE COURT: That's okay. I know it's a habit, but the
9 court reporter can't take down mm-hmm.

10 THE WITNESS: Yes, ma'am.

11 THE COURT: Thank you.

12 BY MS. OUTTEN:

13 Q. Where in the parking lot did you park the car?

14 A. In parking lot B.

15 Q. Where in parking lot B?

16 A. I can't recall. I can't really tell you where.

17 Q. Um --

18 A. If I did know where it was at in parking lot B, I
19 obviously wouldn't have gotten into the wrong vehicle. So I
20 obviously didn't know exactly where it was.

21 Q. So y'all get out of the car?

22 A. Mm-hmm.

23 I'm sorry. Yes, ma'am.

24 Q. It's okay. So you get out of the car. You start
25 walking around?

1 A. Yes, ma'am.

2 Q. What did you do when you were walking around?

3 A. Just walked around.

4 Q. Walking around where?

5 A. Walking around the festival. Walking around that big --
6 like, I want to say they have a little walkway and, like,
7 ponds and stuff down there and all kinds of stuff.

8 Q. So you are walking around down by the ponds, but not in
9 Santa's Village?

10 A. I don't believe it was Santa's Village. I don't
11 believe. I don't know for sure.

12 Q. So you didn't do any of the Holiday Festival of Lights
13 activities that night?

14 A. We did the drive through the light show.

15 Q. But you park the car, you get out of the car.

16 A. Mm-hmm. And we just walked -- yeah, we just walked
17 around --

18 Q. But the --

19 A. -- for, like, 25 minutes.

20 Q. So it --

21 A. It was basically like a transition of being in Hampton
22 Park just to being somewhere else. But we didn't really too
23 much care for the festivities. We just wanted to walk
24 around.

25 Q. You wanted to walk around but you didn't want to walk

1 around the Holiday Festival of Lights?

2 A. We were at the Festival of Lights. That was good enough
3 for us.

4 Q. Maybe I'm a little confused. Did you walk around the
5 portion of the Holiday Festival of Lights where you can walk
6 around --

7 A. Yes.

8 Q. -- or did -- so you did walk around Santa's Village?

9 A. Yes.

10 Q. What did you do when you were in there?

11 A. I didn't know that's what Santa's Village was called,
12 but I did walk around. We just walked.

13 Q. But there are activities in there.

14 A. I didn't go inside the actual building, but I did do the
15 walk around.

16 Q. You park the car, you walk around, but you don't do any
17 of the activities?

18 MR. MACK: Objection. Asked and answered. Relevance.

19 THE COURT: Overruled.

20 Sir, you may answer the question.

21 And Ms. Outten, you may finish your question.

22 BY MS. OUTTEN:

23 Q. So you park the car, get out, you go to walk around.
24 Yes?

25 A. Mm-hmm. Yes.

1 Q. But you don't do any of the activities?

2 A. No, I did not.

3 Q. Does it cost money to get in the Holiday Festival of
4 Lights?

5 A. Yes, it does.

6 Q. Do you remember how much it costs?

7 A. I want to say around about 20 bucks.

8 Q. So you paid 20 bucks to get in there?

9 A. Yes.

10 Q. And all you did --

11 A. Is do the drive-through light show, yes.

12 Q. -- was do the drive-through?

13 A. Yes.

14 Q. But you didn't just do that because you also parked and
15 then didn't do anything.

16 A. I don't understand what you're trying to say.

17 Q. You parked and then you --

18 A. Walked around, yes.

19 Q. -- walked around --

20 A. Mm-hmm.

21 Q. -- and didn't participate in any of those activities
22 that you paid for?

23 A. No, I didn't.

24 Q. What made you decide to leave?

25 A. Because we were ready to go and -- we just were ready to

1 go.

2 Q. So you decide to leave. About how long did it take you
3 to get to your car from where you were?

4 A. I can't recall.

5 Q. You don't remember how close or how far away you were?

6 A. No, I don't.

7 Q. But to be clear, you do remember that Tutu was only a
8 few feet away from the vehicle when you went to get in it?

9 A. Yes, I do.

10 MS. OUTTEN: Beg the Court's indulgence.

11 THE COURT: Yes, ma'am.

12 BY MS. OUTTEN:

13 Q. Just a few more questions for you.

14 Did you tell Detective Huffman about going to Wendy's?

15 A. No, I did not.

16 Q. Did you tell Detective Huffman about going to Hampton
17 Park?

18 A. No, I did not.

19 Q. Did you tell Detective Huffman about going to the liquor
20 store?

21 A. No, I did not.

22 Q. Did you tell Detective Huffman that Tutu was so close
23 that the car would have started up?

24 A. No, I did not.

25 Q. Okay. So you get in the car?

1 A. Mm-hmm. Yes, ma'am.

2 Q. And then you testified that your -- that you thought
3 your phone was going to be in the car?

4 A. I'm sorry. Say -- you're talking about on direct
5 testimony?

6 Q. Yes.

7 A. Yes, I did.

8 Q. But you didn't see your phone in the car?

9 A. No, I did not.

10 Q. Did you see your phone charger in the car?

11 A. No. I never really got a chance to pay attention to any
12 of that before I started getting hit.

13 Q. Did you see your liquor in the car?

14 A. No, I did not.

15 Q. Did you see that Wendy's bag in the car?

16 A. No, I did not. Actually, there wasn't a Wendy's bag
17 anymore, because we just throw that in the trash bags inside
18 the car.

19 Q. Did April walk up to the door of the car when you got
20 in?

21 A. I don't recall.

22 Q. Did April knock on the window?

23 A. I don't recall. I don't recall.

24 Q. Did April start screaming and crying?

25 A. I didn't hear any of that.

1 Q. Mr. Grant, who's Tony?

2 A. Tony? I don't know.

3 Q. You don't have a friend named Tony?

4 A. No, I do not.

5 MR. MACK: Objection. Relevance.

6 THE COURT: I'll give her some latitude to connect the
7 dots.

8 You may proceed. Overruled.

9 BY MS. OUTTEN:

10 Q. Your friend named Tony didn't have your phone after this
11 incident?

12 A. I can't recall.

13 MS. OUTTEN: No further questions for Mr. Grant.

14 THE COURT: Any redirect?

15 REDIRECT EXAMINATION

16 BY MR. MACK:

17 Q. Raheem, you were hurt pretty badly during this incident?

18 A. Yes, I was.

19 Q. And do you think you were concussed?

20 A. I believe I was.

21 Q. And why do you think that?

22 A. Because I was being beat across the head and I was --

23 MS. OUTTEN: Objection, your Honor.

24 THE COURT: Basis?

25 MS. OUTTEN: Speculation.

1 THE COURT: He can testify about what he thinks his own
2 condition is.

3 But really, this is outside the cross. Redirect is to
4 address cross, Mr. Mack.

5 BY MR. MACK:

6 Q. You said "I don't recall" to a lot of her questions,
7 correct?

8 A. Yes, because I -- yes.

9 Q. And do you think you were concussed?

10 A. Yes. That's one of the reasons why I believe I was
11 concussed, because it's hard for me to remember much after
12 what happened once he hitting me aside my head.

13 Q. And why do you think you were concussed?

14 A. Because I can't remember much right after the incident
15 and when I got to the hospital and everything, like, all that
16 I was hurting.

17 MS. OUTTEN: No further questions, Judge.

18 THE COURT: Sir, you may step down.

19 Sir, you may step down.

20 THE WITNESS: Oh, I'm sorry.

21 (Witness excused.)

22 THE COURT: Defense may proceed.

23 MR. MACK: Defense rests, Judge.

24 THE COURT: Mr. Foreman, ladies and gentlemen, the
25 defense has rested their case. There's some matters of law I

1 need to take up with counsel. During this break, please do
2 not discuss the case. And please leave your notepads in your
3 seats. Again, we appreciate your patience.

4 (The jury exited the courtroom at 12:35 p.m.)

5 (The following proceedings were had outside the presence
6 of the jury.)

7 THE COURT: You may be seated.

8 Should I assume, Mr. Mack, that you all have abandoned
9 calling any of the physician's assistants, nurses, or other
10 medical personnel who saw Mr. Grant at the emergency room?

11 MR. MACK: That's correct, Judge.

12 THE COURT: And any reference to him being impaired,
13 that being his blood alcohol test?

14 MR. MACK: Yes, Judge.

15 THE COURT: Okay. And you understand, however, that if
16 you wanted to call those witnesses, you have not been
17 precluded from doing that?

18 MR. MACK: Yes, Judge. We understand.

19 THE COURT: Okay. All right. Is the State going to
20 have any rebuttal witnesses?

21 MS. LINDER: Yes, Judge, we are.

22 THE COURT: Okay. How many?

23 MS. LINDER: I would say two, maybe three.

24 THE COURT: Okay.

25 MS. LINDER: There are -- just for the Court to know --

1 and obviously, all of this just kind of came up as the
2 defendant elected to testify. One person that we would call,
3 and they are on their way, is somebody -- the jail call
4 records custodian. There is a jail call where the defendant
5 is talking with his sister, and he is talking about how his
6 friend Tony has his phone and his wallet from that night.
7 That records custodian is on their way here.

8 Furthermore, we have not decided yet, but there are a
9 few items before the 10 minute and 22 mark within the
10 defendant's statement. And we have Huffman here. And there
11 were a few items that Mr. Grant, during his direct and then
12 when specifically asked by Ms. Outten -- after being given
13 the time, the date, the location, the person who did the
14 interview -- asked, and it was about the color of the car and
15 the make and model. And this is well prior to the part that
16 Mr. Mack earlier objected to about the rental car.

17 And during that time, when Ms. Outten tried to confirm
18 items and she asked him again about silver, then he insisted
19 it was dark silver and he said he knew the make but not the
20 model. In the interview with Huffman, it is confirmed as
21 silver multiple times. Also, he indicated he does not know
22 the make nor model of the car. And that's prior to any of
23 the -- any question that ultimately had the defendant stop
24 talking which dealt with the rental car company.

25 And then we may or may not want to recall very briefly

1 Galka to then discuss what further investigation, or lack
2 thereof, was done based on the defendant's statement to law
3 enforcement prior to that 10 minute and 22 second spot that
4 Mr. Mack agreed was admissible.

5 And your Honor, obviously Galka's here. Huffman is
6 sitting outside. The jail call person is here. It's been
7 kind of crazy, I know, today. And it's 12:40. We are going
8 to need to clip down the jail call, and we'll obviously have
9 Mr. Mack -- I mean, he has them, but we can show him exactly
10 which one we're discussing. If your Honor is so inclined, if
11 we can take our brief lunch and do this over lunch?

12 THE COURT: I had planned to break for lunch after we
13 did -- actually, I planned to break for lunch, let them go
14 now, do motions, and then y'all can work on all that other
15 stuff.

16 MS. OUTTEN: Yes, Judge. But those are the three
17 people. And again, obviously, in any trial all this is
18 happening in real time. Those are the three people. I would
19 say that definitely it will be the records person and then
20 potentially Huffman and Galka. But those are the three
21 individuals, and they are all present or en route here at
22 this time. So that will not be a delay on our end.

23 THE COURT: Okay. Please get the jury for me.

24 (The jury entered the courtroom at 12:40 p.m.)

25 THE COURT: You may be seated.

1 Ladies and gentlemen, we're going to take advantage of
2 this break in testimony to take our lunch recess. We'll
3 resume at 2:00. I hope y'all enjoy it. It should be pretty
4 outside. It was 85 yesterday, and I think it's probably
5 about the same today. Of course, you know we're at the
6 height of pollen season. Pretty flowers, pollen.

7 In any event, I hope y'all have a good lunch. We are
8 not going to lunch just yet. We still have some matters of
9 law we need to work through. And I don't think it's an
10 efficient use of your time to have you all sitting while we
11 do that and we're still at the luncheon hour. If you would
12 leave your notepads in your seats, we'll secure them. You
13 will return directly to your jury room as you've done, and
14 then we'll resume testimony at 2:00.

15 For your planning purposes, I anticipate that we will
16 finish the testimony today. But the lawyers and I still have
17 some matters of law we will need to work through. And I
18 anticipate we will have closing argument and instruction in
19 the morning, for your planning purposes.

20 I hope y'all have a great lunch. We'll see you at 2:00.

21 (The jury was released for lunch and exited the
22 courtroom at 12:42 p.m.)

23 (The following proceedings were had outside the presence
24 of the jury.)

25 THE COURT: You may be seated.

1 All right. The defense has rested. Are there any
2 motions?

3 MR. MACK: Judge, we just renew all prior motions
4 throughout the trial at this point.

5 THE COURT: Would the State like to respond?

6 MS. LINDER: Your Honor, I believe that there hasn't
7 been anything presented in the defense's case that would undo
8 or cause the direct and substantial circumstantial evidence
9 that are viewed in the light most favorable to the State
10 during this directed verdict motion, I don't think anything
11 kind of goes against that. I think we're in the same
12 position. I think that anything there is is going to be a
13 factual consideration for the jury to decide.

14 Thank you, Judge.

15 THE COURT: You're welcome.

16 Anything further, Mr. Mack?

17 MR. MACK: No, Judge.

18 THE COURT: The Court will deny the motion based on its
19 previous ruling, considering the evidence in the light most
20 favorable to the State. The Court is concerned with the
21 existence of evidence, not its weight. And there's certainly
22 direct and substantial circumstantial evidence reasonably
23 tending to prove the defendant's guilt on the offenses of
24 carjacking and assault and battery, first.

25 All right. Can y'all make sure that the court reporter

1 has all the exhibits?

2 MS. OUTTEN: I believe you have everything from us,
3 Judge.

4 THE COURT: Yeah, I just always ask that. Somebody puts
5 one on --

6 MS. OUTTEN: You never know, Judge.

7 THE COURT: -- the table or it's on the witness stand,
8 and then we have to sort of find it later.

9 We'll resume at 2:00. I hope y'all have a good lunch.
10 We'll see you then.

11 MS. OUTTEN: Thank you, Judge.

12 MS. LINDER: Thank you, Judge.

13 THE COURT: You're welcome.

14 (Court recessed.)

15 (Court resumed outside the presence of the jury.)

16 THE COURT: You may be seated.

17 Is the State ready to proceed?

18 MS. OUTTEN: Yes, your Honor. We're just checking some
19 of the technology real quickly just to make sure everything's
20 working.

21 THE COURT: Okay.

22 (Off the record.)

23 THE COURT: Are you ready to proceed, or are y'all still
24 working on that?

25 MS. OUTTEN: We're doing our very best to go as quickly

1 as we can.

2 MS. LINDER: The disk is stuck in -- one of the disks is
3 stuck in here right now.

4 MS. OUTTEN: We're just trying to figure it out.

5 MS. LINDER: Judge, what we are happy to do while
6 they're addressing the disk situation is, just so the jury
7 doesn't come in and then all of a sudden be kind of kicked
8 back out, we wanted to -- we can just kind of take witness by
9 witness.

10 The first rebuttal witness that we would seek to call
11 would be Detective Huffman from the City of Charleston Police
12 Department. It is our position that on direct the defendant
13 was asked a number of questions. And then while on cross,
14 Ms. Outten -- I believe that we're able to impeach him
15 through extrinsic evidence by having Huffman on the stand and
16 then playing a very short clip of the interview. That clip
17 is from 4 minutes and 6 seconds to 4 minutes and 45 seconds
18 within the recorded statement. That falls before the 10
19 minute and 22 mark that the defense took issue with.

20 THE COURT: You said 4 minutes 6 seconds to what?

21 MS. LINDER: To 4:45. And your Honor, our position is
22 that during cross-examination, Ms. Outten crossed the
23 defendant and, specifically with subsection (a) of 613,
24 talked about the date, the time, the place, and who the
25 interview was conducted with. She talked about that it was

1 at the jail and all those items. And she went through --
2 didn't have to, but went through and he was asked a bunch of
3 questions as far as Miranda rights are concerned.

4 And then after that, Ms. Outten directly asked the
5 defendant, as far as the car being silver, that in that
6 interview did he say it was silver. She asked that, I
7 believe, two times. She also was asking him about if he knew
8 the make and model in that, and did he tell Huffman the make
9 and model. And he was insistent that it was dark silver and
10 that he knows -- he knew the make but not the model. We
11 believe that he did not --

12 THE COURT: But did you show him that to refresh his
13 memory after you asked him those questions? Because you're
14 suppose to give them the time and date, give them the
15 statement itself, and give them a chance to refresh their
16 memory.

17 MS. LINDER: Yes, Judge.

18 THE COURT: And then they can change their statement if
19 they want to.

20 MS. LINDER: Yes, Judge. Frankly, I was right and
21 Ms. Outten right here has a great memory. She told me that
22 she did ask if it would help for him to refresh him by
23 reviewing it.

24 THE COURT: She asked if it would help refresh with his
25 whole statement. She didn't ask about that specific

1 statement. What you have to do is when you ask a question,
2 they either answer consistently or inconsistently. If they
3 answer inconsistently, you're supposed to give them the
4 statement to give them the opportunity to review it and then
5 ask them, after they've seen that, do they want to change
6 their answer.

7 And she didn't. She asked him a generalized question at
8 the beginning of her statement -- er, the beginning of a
9 portion of her questioning. "Would you like to see your
10 statement? Would that help you refresh your memory."

11 MS. LINDER: Right.

12 THE COURT: But it wasn't -- it was one question, but it
13 wasn't that whole series of questions. And he said as to
14 that particular question, "No, I don't need it. I remember."

15 MS. LINDER: Okay. I believe him indicating that he
16 remembers that he indicates his statement, and it had already
17 been offered to him to help refresh him.

18 That aside, I believe that with the defense -- so our
19 position is still that under 613(b) we are able to play the
20 portions about him not knowing the make and model, when on
21 the stand he said that he did, and also that he was insistent
22 that it was dark silver, whereas he said at least two times
23 in this very short clip that it was silver. I think that the
24 defendant was given the opportunity and was asked those
25 specifics.

1 If your Honor does not believe under -- for impeachment
2 in that way that we can do it, then we would ask that we are
3 able to call Detective Huffman as a rebuttal, as the defense
4 has already agreed that up until the 10 minute and 22 mark,
5 they do not have an issue with Miranda. We are happy to
6 proffer his testimony if we want to briefly go through some
7 of the *Denno* items -- which I do not believe is necessary but
8 we're happy to do that -- and to enter that portion just of
9 39 seconds in through Huffman on his own. I believe that
10 also would be able to come in.

11 So under two different ways, I believe that's able to
12 come in.

13 THE COURT: Is there something else you wanted to cover?

14 MS. LINDER: Well, that's that witness.

15 The next witness is the -- one of the custodians --
16 Melissa High, one of the custodians from the jail. And she
17 may --

18 THE COURT: How is her last name spelled?

19 MS. LINDER: H-I-G-H.

20 THE COURT: Mm-hmm.

21 MS. LINDER: And she is one of the records custodians at
22 the jail. And specifically with that, there is a call. I
23 believe it's the first call that he makes once he's in the
24 jail on 12/13/19 at 20 minutes and one -- no, 20 hours, 1
25 minute, 59 seconds is what I have written down here.

1 And what we seek to enter is the initial clip, which is
2 the kind of the toll-free instructions and dialing, up
3 through where it asks the name of the caller and the
4 defendant says "Raheem Grant." He identifies himself. And
5 then there's an extremely short clip from -- I have written
6 down 2 minutes and 44 seconds to 2 minutes and 59 seconds.
7 And we do have those, not just the disk of all the calls and
8 records, but we do have the clip of just those two portions
9 that we are --

10 THE COURT: What do you purport he's saying?

11 MS. OUTTEN: Pardon?

12 THE COURT: Why are you seeking to admit it?

13 MS. LINDER: So in that clip, there is an exchange that
14 is, "Have you called him?" You know, it talks about calling
15 Tony. "You need to call him ASAP. He's got my phone." And
16 that's what that clip is.

17 We believe that is important. The defendant testified
18 on the stand that his phone was being charged in Tutu's car,
19 and then that's where it was. He then further, on direct,
20 was testifying, you know, the reason he never called Tutu,
21 the reason he never got ahold of Tutu, the reason that
22 whatever he was alleging didn't happen is because he didn't
23 have his phone because Tutu had his phone and he had no way
24 to get ahold of Tutu.

25 And that's also why at the very end of Ms. Outten's

1 direct she asked who Tony was. And the defendant said -- I
2 don't remember exactly. He indicated he didn't know who Tony
3 was or "I don't know who Tony was," but he appeared
4 surprised, from my perspective, about even bringing up the
5 name "Tony." And that was actually right after Ms. Outten
6 was, again, conferring with the defendant on cross as far as
7 "And your phone was in Tutu's car?" So not only did he talk
8 about where his phone was and why he didn't get ahold of Tutu
9 on direct, but on cross he was directly asked about that.

10 So we believe that, again, this very short portion, it's
11 35 seconds in the beginning, which is all the calling and
12 saying his name, and then the 15 seconds within the call, so
13 it's less than a minute total where there is conversation
14 about need to get ahold of Tony, Tony has his phone. And we
15 think that's extremely important.

16 THE COURT: And what else?

17 MS. LINDER: Beg the Court's indulgence.

18 THE COURT: Mm-hmm.

19 MS. LINDER: Your Honor, I believe that those are the
20 two witnesses that we would be intending to call as rebuttal.

21 THE COURT: Mr. Mack, do you take exception to any --
22 the portion that Ms. Linder seeks to play, which is 39
23 seconds, a portion of your client's statement, as well as the
24 jail call?

25 MR. MACK: Judge, starting with the 39 seconds of the

1 phone call, I haven't heard the phone call yet. However --

2 THE COURT: Have y'all not played it for him?

3 MS. OUTTEN: Your Honor, he was given it in discovery.

4 It took us -- I mean, we had a brief break. It took us a
5 minute to figure out which phone call. I mean, the defendant
6 was in Al Cannon for a significant period of time. As soon
7 as I had the portion of the phone call, I sent an e-mail to
8 defense counsel. I will admit that it was right before I
9 walked over here myself, but that was not an intentional
10 delay on my part. It just took us that long to figure out
11 that that's the portion we were going to play. But he has
12 had the defendant's jail calls in discovery.

13 THE COURT: Do you need to hear it before you make your
14 argument?

15 MR. MACK: Yes, Judge. I'd appreciate that.

16 THE COURT: Please play the phone call.

17 MS. OUTTEN: Beg the Court's indulgence while I get this
18 set up.

19 THE COURT: Mm-hmm.

20 MS. OUTTEN: Your Honor, we've got it up and running.

21 THE COURT: Go ahead and play it.

22 (Audio played in open court outside the presence of the
23 jury.)

24 THE COURT: You've got to turn that up. We can't hear
25 it.

1 (Audio continued.)

2 MS. LINDER: Judge, that's it.

3 THE COURT: I need you to play it again. It was very
4 low. I could barely hear it.

5 MS. OUTTEN: I understand, Judge.

6 (Audio played in open court outside the presence of the
7 jury.)

8 THE COURT: All right. Mr. Mack, any exception to that
9 portion of the jail call?

10 MR. MACK: Judge, we object to the admission of the
11 phone call.

12 THE COURT: What's the basis of the objection?

13 MR. MACK: Judge, we think it's not relevant in this
14 case because he's simply saying that he needs to get in touch
15 with these people. It doesn't suggest that he has access to
16 it. It almost sounds like he's trying to get access to it
17 from these people.

18 And I don't -- I can't even make out the names of the
19 people that he's mentioning, whether one of them is Tony or
20 not. And the basis for the impeachment is to establish that
21 he knows a Tony. I don't think, by any means, the State can
22 claim that he says the word "Tony" -- or name "Tony" in that
23 call.

24 THE COURT: I don't think they said whether Tony was the
25 impeachment or not.

1 Did you?

2 MS. LINDER: No, ma'am.

3 THE COURT: Mm-hmm. What's the State's response to
4 Mr. Mack's objection?

5 MS. LINDER: Your Honor, as far as Mr. Mack's objection
6 to the relevance, we think it's absolutely relevant. The
7 defendant took the stand. Aside from spending a majority of
8 the trial talking about the defendant's injuries, they talked
9 about how Tutu was right next to him, he came with Tutu, the
10 reason he didn't have more on him was that Tutu had the key
11 with her, so -- and she was close enough with him when he
12 entered the car, which is how he was able to get it in -- er,
13 to get in the car and to crank it and whatnot.

14 And then furthermore, he said that he -- he explained
15 that he didn't have his phone because he left his phone on
16 the charger in Tutu's car. And he testified to all that on
17 direct.

18 And then during cross, when Ms. Outten was asking him a
19 bunch of questions, on more than one occasion, especially
20 toward the end of her cross, just prior to asking about Tony,
21 she again went over with him, you know, the fact that his
22 testimony is that his phone was on the charger in Tutu's car,
23 which is the car he claimed to have been entering.

24 And so we believe it is absolutely relevant when there's
25 been a lot of testimony about his phone and where it is,

1 because the defendant's allegation is that the phone's in the
2 car. And then earlier there were intimations by the defense
3 that the reason the defendant didn't have more on his person
4 was because he was beaten so badly. And I think all of that
5 kind of goes with what their whole theory and strategy of
6 this is.

7 And I think that the defendant was very clear where his
8 phone was. Never did he say on direct or cross that his
9 phone must have fallen off or that he had a phone on his
10 person while he was wandering the parking lot but not
11 engaging in the things in Santa's Village. But in fact, he
12 said that it was in that car and that he was insistent that
13 the reason he could not get ahold of Tutu later was that Tutu
14 must have driven off in that random car and, therefore, he
15 didn't have his phone. And he testified that he only got
16 ahold of her because her phone number was in his phone, and
17 therefore -- her phone number was in his phone, his phone was
18 in her car with her, who left him, and therefore, that's why
19 there's just such a misunderstanding.

20 And I think that it's vital that we are able to show
21 that this is different.

22 THE COURT: How does it impeach his testimony? How is
23 it different?

24 MS. LINDER: I think it impeaches his testimony because
25 I believe that when asked by Ms. Outten, he's insistent on

1 where his phone is, which is different from this portion of
2 the jail phone call. Furthermore, he insists that the phone
3 is with Tutu, which this jail phone call does not indicate.
4 And then when asked directly on cross by Ms. Outten as far
5 who Tony is, he acted like he never heard the name before in
6 his life. So I think in this extremely short clip, we're
7 able to impeach him on multiple fronts.

8 THE COURT: How do you know that Tony and Tutu are not
9 the same person?

10 MS. LINDER: Are you asking --

11 THE COURT: Although he does refer to it as a male while
12 he's speaking.

13 MS. LINDER: Right. I mean, we did not ask at all --
14 when he was asked about Tutu, he was very clear that he only
15 knows her as Tutu. And albeit they met in the same corner
16 store, they don't know anybody in common. And so he knew
17 Tutu, and that was a girl he was kind of talking to because
18 he was on a break or was apart from his child's mother. But
19 he never -- he didn't know her by anything else. He didn't
20 know her name. He didn't know anything else aside from
21 "Tutu" when he was asked those questions.

22 And also, Judge, we believe that as far as that's
23 concerned, we think that's a question that should be left up
24 to the jury. They can give this evidence the weight that
25 they think it deserves. And we don't think it has to do with

1 the admissibility of it. We think it has to do with the
2 weight of it, and that's for the jury to determine.

3 And the defense is welcome to argue that Tony and Tutu
4 are one and the same.

5 THE COURT: No, I have to determine preliminarily how it
6 impeaches his testimony. In other words, how is it
7 inconsistent from what he testified to in cross-examination?
8 And that's what I'm trying to discern right now.

9 MS. LINDER: Yes, ma'am. I believe --

10 THE COURT: So how is it different from what he
11 testified to?

12 MS. LINDER: It's different than what he testified to --

13 THE COURT: Will it contradict in what he testified to?

14 MS. LINDER: It would contradict in what he testified to
15 because he testified that his phone was with Tutu when Tutu
16 left. The phone was left in Tutu's car, and Tutu left him
17 there. That is his testimony. He, furthermore, in his
18 cross-examination said he did not know Tony. And then in
19 this jail call, he is talking about Tony, a "him," and
20 getting that phone back ASAP.

21 That is how I believe it contradicts what his testimony
22 is, Judge.

23 THE COURT: Please play it for me again.

24 MS. OUTTEN: One moment, your Honor.

25 THE COURT: Mm-hmm.

1 (Audio played in open court outside the presence of the
2 jury.)

3 THE COURT: Any objection -- well, any further argument,
4 Mr. Mack, on the admissibility of the phone call?

5 MR. MACK: Yes, Judge. I believe I failed to stress why
6 it doesn't impeach Mr. Grant.

7 First of all, the call takes place five days after the
8 incident date, when Mr. Grant claims that Tutu was in
9 possession of it. The phone could have changed hands
10 multiple times, ended up in Tony's hand. Raheem could have
11 found out about that and made a call trying to get it from
12 him because he's trying to get in touch with Tutu.

13 THE COURT: Anything else?

14 MR. MACK: No, Judge.

15 THE COURT: There are some parts of the audio that it
16 could be argued are inaudible, that being who he said get the
17 phone back from.

18 But it does bear on his credibility, because he did --
19 which makes it relevant because credibility is always
20 relevant. He put his credibility in play when he testified,
21 because he did make the statement that he did not know where
22 the phone was; that it had been left on the charger; that his
23 phone left the park when she left; that he had no way of
24 getting in touch with her because her number was on his
25 phone; that he did not know her full name, he only knew her

1 by this nickname; that he had no way of getting in touch with
2 her.

3 So the statement on the recording does contradict that
4 because he gives whomever he's speaking to a direct command
5 to get his phone from a "him." And he's indicated he was
6 with a female when he was at the park. So to the extent it
7 contradicts his testimony that he had a lack of knowledge of
8 where his phone was, it is relevant. And it is -- it's
9 probative value is not outweighed by any potential prejudice
10 to the defendant.

11 As we know, they're advised when they talk on the phone
12 at the jail that it is being recorded. And this conceivably
13 would be an admission against interest.

14 All right. What about the four -- the 39-second clip of
15 Detective Huffman's statement?

16 MS. LINDER: Yes, Judge. And we can play that, and then
17 I just thought of one more thing. We would also like to call
18 Galka for one tiny item in rebuttal that I will get into.
19 But yes, we will play that small portion of the Huffman
20 interview.

21 THE COURT: And Mr. Mack, did you get your recording
22 videos for the court reporter?

23 MR. MACK: Yes, Judge. Thank you for the reminder.

24 THE COURT: Sure. You can give it to the court reporter
25 so she can mark it.

1 Detective Huffman or Officer Huffman -- I apologize for not
2 knowing the correct title -- the objections of the defense is
3 overruled based on the Court's previous rulings and findings
4 of facts and conclusions of law.

5 As well as Melissa High who's the record custodian from
6 the jail, that objection is overruled based on the Court's
7 previous findings of facts and conclusions of law regarding
8 that.

9 And as regards Officer Galka, the objection is sustained
10 based on the Court's previous rulings and findings of facts
11 and conclusions of law.

12 All right. Are we ready to proceed?

13 Is the State ready to proceed?

14 MS. LINDER: Yes, ma'am.

15 THE COURT: Defense ready to proceed?

16 MR. MACK: Judge --

17 THE COURT: Yes, sir.

18 MR. MACK: -- so our notes are reflecting that the color
19 of the car is dark silver. That he testified to that.

20 THE COURT: That's not what I wrote down. I can go back
21 and listen to it.

22 MR. MACK: If you wouldn't mind, Judge.

23 THE COURT: There's several people that testified about
24 several things about the color of the car. Ms. Ross
25 testified that the car was a brown 2013 Kia Optima.

1 MR. MACK: That's correct, Judge.

2 THE COURT: Your client testified that it was dark in
3 color, like a brownish color. That's what my notes reflect
4 and my clerk's notes reflect.

5 What do the State's notes reflect regarding the
6 defendant's testimony of the color of the vehicle?

7 MS. LINDER: Judge, I wrote down "dark," and then my
8 comment was "double down." And then I wrote "play." So
9 these are my notes. It's so bad.

10 THE COURT: That's okay.

11 MS. LINDER: To be frank, that's what my notes say.

12 THE COURT: I understand. No worries. You don't have
13 to give any further explanation.

14 MS. LINDER: Sorry, Judge.

15 THE COURT: No worries. No worry at all. I only write
16 down what I can't remember.

17 Madam Court Reporter, will you find this?

18 (Off the record.)

19 THE COURT: I reviewed both his direct and
20 cross-examination. And on cross he said he told Huffman the
21 car was dark silver, that he didn't know the model, he did
22 know the make, but he was not good with cars.

23 He said he knew Tutu for two weeks. They met over the
24 phone. It was her idea to go to the park. She drove into
25 the park. He said he left his phone inside Tutu's car on the

1 charger. He didn't have a wallet with him at the time. He
2 said he didn't have his wallet "on me." And he said he
3 thinks he saw a car leave the park, but he can't be sure. It
4 looked like it was the same make and model, but he couldn't
5 be sure. But he didn't call her because he left his phone in
6 her car.

7 So that's the testimony. So now the issue then becomes,
8 is there an appreciable difference between "silver" and "dark
9 silver"? He told Huffman in his statement it was a silver
10 car. His testimony was that it was dark silver.

11 MS. LINDER: I would say absolutely there's a
12 difference. I think when a regular person -- I guess I can
13 only speak for myself. When I think of silver, I think of
14 silver like jewelry colors. And I think of something light,
15 and I think of something metallic. And when I think of
16 dark -- you know, if he had said gray, I think there is a
17 light and dark gray. But he said silver, and I think silver
18 gives an absolute different connotation than dark.

19 I think that he's, you know, trying to add some details
20 now, which it's understandable. He's in a tough spot right
21 now, being on trial for this case. And I think that it's
22 important that the jury hears that there is a difference.
23 And I think that if the jury ends up hearing it and they
24 decide that silver and dark silver are the same, then that's
25 up to them. But I think that dark silver is much different

1 than silver.

2 THE COURT: Mr. Mack?

3 MR. MACK: Judge, we respectfully disagree. There isn't
4 much of a difference in terms of the color in silver or dark
5 silver. Detective Huffman didn't ask him, you know, what
6 shade of silver. And if he had, I think that would be a
7 little more probative to this case.

8 THE COURT: I'll stick with my original ruling. I think
9 there is a difference between silver and dark silver.
10 Silver, you are thinking of a more lighter-colored vehicle,
11 more metallic. And a darker silver would be toward more like
12 a deep gray. There is a difference in the statement based on
13 what he said to Detective Huffman and what he said today.

14 But as it regards to Detective Galka, my ruling is the
15 same because even his testimony is that he can't remember
16 whether a car went by or not. He thinks it may have, may not
17 have. But he really couldn't say for sure.

18 MS. LINDER: Yes, Judge. We'll just go with the other
19 two. Thank you.

20 THE COURT: All right. Are we ready to proceed from the
21 State?

22 MS. LINDER: Yes, ma'am.

23 THE COURT: From the defense?

24 MR. MACK: Judge, actually, my client's begging me to
25 hear the phone call one more time. Is that possible since he

1 didn't have time to --

2 THE COURT: Sure. Play it for him one more time,
3 please.

4 (Audio played in open court outside the presence of the
5 jury.)

6 THE COURT: Does he need to hear it again or is he good?

7 MR. MACK: Just one more time, Judge, if that's all
8 right.

9 (Audio played in open court outside the presence of the
10 jury.)

11 THE COURT: I assume he's heard it sufficiently?

12 MR. MACK: I'm sorry, Judge. I know you've already
13 ruled, but I'm just at a loss here. I'm not hearing "Tony"
14 in the call.

15 THE COURT: I heard it.

16 MR. MACK: You did?

17 THE COURT: Mm-hmm.

18 MR. MACK: Okay.

19 THE COURT: And --

20 MR. MACK: It's one part --

21 THE COURT: And I think what is more germane to the
22 issue is not necessarily the name, but the fact that he
23 refers to a "him" that has his telephone and to call him
24 immediately to get it. His sister says that she tried to
25 call him.

1 Play it one more time. I forget the part where I heard
2 it at. But I don't know that his name is necessarily --

3 (Audio played in open court outside the presence of the
4 jury.)

5 THE COURT: Yeah, he said "him." He said, "Did you call
6 him?" His sister said, "I tried to call Tony" and somebody
7 else and couldn't reach them.

8 The point is he said he left his phone in her car. Now
9 we have a subsequent call that appears his phone is someplace
10 else. The Court stands by its previous ruling.

11 All right. Are we ready to proceed from the State?

12 MS. LINDER: Yes, ma'am.

13 THE COURT: From the defense?

14 Is the defense ready to proceed?

15 MR. MACK: Judge, my client is telling me that he wants
16 me to tell you what the phone call says.

17 THE COURT: You can handle that in any examination you
18 have of the witness, because she's not going to know anything
19 firsthand about it. But I'm sure you know how to handle a
20 cross-examination sufficiently to address that issue. And
21 you can always argue to the jury this is subsequent to the
22 event that he came to the knowledge that his phone was
23 someplace else.

24 But he had the opportunity to testify about that and
25 clarify his answer, and he didn't. And I'm sure you knew

1 they had a phone call. You could have asked him that on
2 redirect --

3 MR. MACK: Thank you, Judge.

4 THE COURT: -- about who may have had his phone
5 subsequently.

6 All right. Is there anything else we need to take up
7 before we resume from the State?

8 MS. LINDER: None from the State, Judge.

9 THE COURT: From the defense?

10 MR. MACK: Nothing from the defense, Judge.

11 THE COURT: Please bring in the jury.

12 (The jury entered the courtroom at 3:28 p.m.)

13 THE BAILIFF: All jurors are present and seated, your
14 Honor.

15 THE COURT: Ladies and gentlemen, we appreciate your
16 patience. We've been working on matters of law since about
17 2:05. We had some technical issues we needed to work
18 through. So please know we do not take your time for
19 granted. And the time that we've taken to deal with some of
20 those matters, we're hoping we'll be able to call witnesses
21 without interruption. So again, we do not take your time for
22 granted and we greatly appreciate your patience.

23 The defense has rested. Does the State have any
24 rebuttal testimony?

25 MS. LINDER: Yes, Judge. The State does have rebuttal

1 witnesses.

2 THE COURT: You may proceed.

3 MS. LINDER: Thank you, your Honor. The State calls
4 Detective Huffman.

5 (Witness sworn.)

6 CLERK OF THE COURT: Please have a seat for me.

7 If you'll state your full name, spelling your last name,
8 please.

9 THE WITNESS: My name is Lucas Huffman. That's
10 H-U-F-F-M-A-N.

11 THE COURT: You may proceed.

12 And sir, if you could speak directly into the microphone
13 for us. I know it's kind of -- yeah, we can't move that mic.
14 I apologize.

15 THE WITNESS: Yes, ma'am.

16 THE COURT: You may proceed, Ms. Linder.

17 LUCAS HUFFMAN,
18 called as a rebuttal witness on behalf of the State, being
19 first duly sworn, was examined and testified as follows:

20 DIRECT EXAMINATION

21 BY MS. LINDER:

22 Q. Where are you employed?

23 A. With the Charleston City Police Department.

24 Q. And how long have you been with the city police
25 department?

1 A. I got hired there in 2003.

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

3 A. I'm a detective with the City of Charleston Police
4 central investigations unit.

5 Q. And what were your duties back in December of 2019?

6 A. Robbery detective with central investigations.

7 Q. Did you conduct any interviews in this case, the State
8 versus Raheem Grant?

9 A. Yes, ma'am, I did.

10 Q. And who did you interview?

11 A. The defendant Raheem Grant.

12 Q. And where did that interview take place?

13 A. At the Charleston County detention center.

14 Q. When was that interview?

15 A. December 19 -- er, I'm sorry, December 9, 2019.

16 Q. So it was December 9, 2019. And was that interview
17 recorded?

18 A. It was, by audio.

19 Q. All right. And did you advise the defendant of his
20 Miranda rights?

21 A. Yes, I did.

22 Q. And did you do those written or verbal?

23 A. Verbal.

24 Q. Did you use a card?

25 A. I did. That's provided by the City of Charleston.

1 Q. And did you use a card and did you allow the defendant
2 to read along?

3 A. I did. I provided him a copy of another card while I
4 read along his rights first.

5 MS. LINDER: May I approach the witness, Judge?

6 THE COURT: Yes.

7 BY MS. LINDER:

8 Q. At this time the State shows you what's been marked as
9 State's Exhibit 20. Do you recognize it?

10 A. I do. That's a Miranda card that I used.

11 Q. And is it in substantially the same condition that it
12 was when you first saw it?

13 A. Yes.

14 MS. LINDER: Your Honor, at this time the State would
15 seek to admit State's Exhibit 20 into evidence.

16 THE COURT: Admitted subject to the objection.

17 MR. MACK: No objection, Judge.

18 THE COURT: You said that's State's 20?

19 MS. LINDER: Yes, ma'am.

20 THE COURT: Oh, I'm sorry. Defense -- all right.

21 Without objection.

22 (State's Exhibit Number 20 admitted into evidence.)

23 (Exhibit displayed on screen in open court.)

24 BY MS. LINDER:

25 Q. Okay. State's 20. Can you tell the jury what is this

1 right here that they're seeing?

2 A. So that is all the Miranda rights that you have, that I
3 would have read that day.

4 Q. And you read these rights -- these enumerated rights to
5 the defendant back on December 9, which is two days after
6 this incident?

7 A. Yes, directly from the card.

8 Q. And then right here, what is this?

9 A. So that is the date and time that I -- of when I
10 actually read the defendant his rights.

11 Q. All right. And whose signature is this?

12 A. That is my signature.

13 Q. And whose signature is this?

14 A. That's the defendant's, Raheem Grant.

15 Q. And I believe you testified that the statement that the
16 defendant gave you that day was audio recorded?

17 A. That's correct.

18 Q. At this time I'll show you what's been marked as State's
19 Exhibit 22. Do you recognize that?

20 A. Yes. It has my initials on it.

21 Q. And how do you recognize it?

22 A. Because of my initials.

23 Q. And does this disk fairly and accurately represent a
24 clip from the interview that you conducted with the defendant
25 two days after this incident?

1 A. Yes, ma'am.

2 MS. LINDER: Your Honor, at this time the State would
3 seek to admit State's Exhibit 22 into evidence and publish
4 for the jury.

5 THE COURT: Marked and admitted subject to the
6 objection.

7 (State's Exhibit Number 22 admitted into evidence.)

8 (Audio played in open court.)

9 MS. LINDER: Those are all the questions I have. If you
10 could please answer anything the defense may have.

11 THE COURT: Any questions, Mr. Mack?

12 CROSS-EXAMINATION

13 BY MR. MACK:

14 Q. Detective Huffman --

15 A. How you doing?

16 Q. -- how are you?

17 A. I'm good, sir.

18 Q. When you were talking to Raheem, you met with him in
19 person, right?

20 A. I did.

21 Q. Did you get a look at his face?

22 A. Yes.

23 Q. Is that a yes?

24 A. Yes, sir.

25 Q. Bandages on his face?

1 A. There were.

2 Q. And did he appear to be lucid? Was he concussed at all?

3 A. No. He did not appear so.

4 Q. Okay. And was his nose swollen?

5 A. I don't remember seeing it being swollen. I just don't
6 remember that.

7 Q. And did you ask him what shade of silver the car was?

8 A. I did not. I just asked him what color the vehicle was.

9 Q. You didn't ask him if it was dark silver or light
10 silver?

11 A. He just said silver.

12 MR. MACK: No further questions, Judge.

13 THE COURT: Any redirect of the witness?

14 MS. LINDER: No redirect, your Honor.

15 THE COURT: Any objection to the witness being excused
16 from the State?

17 MS. LINDER: None from the State.

18 THE COURT: From the defense?

19 MR. MACK: None from the defense, Judge.

20 THE COURT: I'm sorry?

21 MR. MACK: None from the defense. Sorry.

22 THE COURT: Sir, you're excused.

23 THE WITNESS: Thank you, ma'am.

24 (Witness excused.)

25 THE COURT: Call your next witness.

1 MS. LINDER: The State calls Melissa High.

2 (Witness sworn.)

3 CLERK OF THE COURT: Please have a seat for me.

4 If you'll state your full name, spelling your last name.

5 THE WITNESS: Melissa Fay High, last name H-I-G-H.

6 THE COURT: You may proceed.

7 MS. LINDER: Thank you.

8 MELISSA HIGH,

9 called as a rebuttal witness on behalf of the State, being
10 first duly sworn, was examined and testified as follows:

11 DIRECT EXAMINATION

12 BY MS. LINDER:

13 Q. And this air is pumping because I guess it's beautiful
14 outside, so try your best to be loud. Okay?

15 Ms. High, where do you work?

16 A. Sheriff Al Cannon Detention Center.

17 Q. And how long total have you been employed there?

18 A. Four years.

19 Q. And do your duties include dealing with records of jail
20 phone calls --

21 A. Yes.

22 Q. -- that are made?

23 A. Yes, ma'am.

24 Q. And upon receipt of a subpoena, what do you do to comply
25 with that subpoena for jail calls?

1 A. We pull up the records to see, you know, what calls
2 there are. We download them onto a disk and then put them up
3 front for whoever to come pick them up.

4 Q. And how are those calls maintained at the jail?

5 A. They're saved on a computer.

6 Q. And they're saved on a computer. How are they, I guess,
7 organized or separated? How do you know who's making calls?

8 A. When the inmates arrive at the jail, they are given a
9 PIN number that allows them to make calls. So the calls are
10 separated -- well, we can look them up by inmate number.

11 Q. And are there phones throughout the jail that inmates
12 can use to place phone calls?

13 A. Yes, ma'am.

14 Q. Is there anything posted near those phones that
15 indicates that the calls may be recorded?

16 A. Yes.

17 Q. And at any point on the phone call, is there an
18 opportunity for an inmate to identify him- or herself?

19 A. Yes.

20 (State's Exhibits 26 and 27 marked for identification.)

21 MS. LINDER: May I approach the witness?

22 THE COURT: You may.

23 BY MS. LINDER:

24 Q. At this time I'll show you what's been marked State's
25 Exhibits 26 and 27. Do you recognize those?

1 A. I do.

2 Q. And how do you recognize them?

3 A. That's my handwriting on there.

4 Q. And do these disks fairly and accurately represent jail
5 calls belonging to this defendant, Raheem Grant?

6 A. Yes, ma'am.

7 MS. LINDER: Your Honor, at this time the State would
8 seek to admit Number 27, leaving number 26 for ID purposes
9 only.

10 THE COURT: Admitted subject to the objection.

11 (State's Exhibit Number 27 admitted into evidence.)

12 (Audio played in open court.)

13 MS. LINDER: I don't have any more questions for you.
14 If you could please answer anything the defense may have.

15 THE COURT: Any questions from defense?

16 MR. MACK: Yes, Judge.

17 CROSS-EXAMINATION

18 BY MR. MACK:

19 Q. Ms. High, how are you?

20 A. Good. How are you?

21 Q. What's the date of that call?

22 A. I'm not certain.

23 Q. If I showed you -- if I show you the call log, would
24 that refresh your recollection?

25 A. Sure.

1 Okay.

2 Q. The solicitor tells me it's the highlighted one. Does
3 that help?

4 A. December 13, 2019.

5 Q. And how many days is that after December 9?

6 A. Four.

7 MR. MACK: No further questions.

8 THE COURT: Any redirect?

9 MS. LINDER: No redirect, Judge.

10 THE COURT: Any objection to this witness being excused
11 from the State?

12 MS. LINDER: None from the State.

13 THE COURT: From the defense?

14 MR. MACK: No, Judge.

15 THE COURT: Ma'am, you're excused.

16 THE WITNESS: Thank you, ma'am.

17 THE COURT: You're welcome.

18 (Witness excused.)

19 THE COURT: The State may proceed.

20 MS. OUTTEN: Judge, there are no further rebuttal
21 witnesses from the State.

22 THE COURT: Does the State rest?

23 MS. OUTTEN: Yes, the State rests.

24 THE COURT: Mr. Foreman, ladies and gentlemen, both the
25 State and the defense have rested their cases. I have some

1 your undivided attention.

2 You may proceed, Ms. Outten.

3 MS. OUTTEN: "This is my car now." Those were the words
4 that this defendant threatened April Ross with after he ran
5 past her, after he flung open her driver door and jumped in
6 and locked himself in and then proceeded to carjack her and
7 assault her boyfriend Jorge Fuentes.

8 On December 7, 2019, April Ross, her children, and Jorge
9 came to Charleston to the Holiday Festival of Lights in order
10 to have a fun night as a family, in order to take a photo
11 with Santa Claus. Sadly, they'd never be able to get that
12 photo with Santa Claus.

13 Before they could get inside the festival, while April
14 was outside the car just trying to put up her baby's stroller
15 and Jorge was inside the car trying to change H.F.'s diaper,
16 this defendant ran up behind her. He flung open the door of
17 her car. He jumped in the driver's seat. He slammed that
18 door shut.

19 April walked up to the window. She knocked on it. She
20 gave this defendant an opportunity to calmly and peacefully
21 exit the car, but the defendant refused to get out of the
22 car. Instead, he looked right at her. He threatened her:
23 "This is my car now." He locked the doors of the car, he
24 cranked it up, and he threw it into gear.

25 April began screaming hysterically for help for Jorge

1 and for her newborn baby who was trapped inside the vehicle.
2 Thankfully, Ashley Vander-Ploeg and Codi Dennis heard her,
3 stopped to help, and called 911. Thankfully, another
4 bystander came up when he heard April.

5 During all of this commotion, the defendant still would
6 not get out of the car. In fact, you heard how April had to
7 frantically take her manual key out to unlock the door to get
8 even closer to the man who had just locked himself inside her
9 vehicle. And then you heard from April and Ashley and Codi
10 how the defendant had to be physically forced out of the
11 vehicle, how he held onto that steering wheel. The defendant
12 refused to get out of the car.

13 Now, at the beginning of this trial I told you that as
14 the State in this case, it was not enough that I stand up
15 here and I just tell you a story about December 7, 2019. We
16 have to prove our case beyond a reasonable doubt. And I
17 submit to you, members of the jury, that we have proven
18 beyond a reasonable doubt that the defendant is guilty of
19 carjacking and assault and battery, first degree.

20 Shortly, Judge Jefferson is going to instruct you on the
21 law to be applied in this case and what "beyond a reasonable
22 doubt" means. Judge Jefferson is the ultimate authority on
23 what law you apply in this case. But I would like to take a
24 moment and explain some of that law right now.

25 If, when you go back to deliberate, you are firmly

1 convinced of the defendant's guilt, we as the State have met
2 our burden. "Beyond a reasonable doubt" does not mean beyond
3 all doubt. It does not mean beyond every doubt. It does not
4 mean beyond any doubt.

5 Now, in any criminal trial there are two types of
6 evidence that the State can rely on to prove their case:
7 direct evidence, which is the testimony of somebody who has
8 actual knowledge of a fact; or circumstantial evidence, which
9 is proof of a chain of facts and you base it on inferences.
10 But I want to be clear that the law makes absolutely no
11 distinction in these types of evidence and between the weight
12 that you give them.

13 In South Carolina, a person commits the offense of
14 assault and battery in the first degree when they unlawfully
15 injure another person during the commission of a robbery,
16 burglary, kidnapping, or theft. Carjacking is a common-law
17 robbery. Carjacking is defined as taking or attempting to
18 take a motor vehicle from another by force and violence or by
19 intimidation while the person is operating the vehicle of
20 while the person is in the vehicle.

21 In the context of a carjacking, force can be actual or
22 constructive. So actual force means exactly like it sounds:
23 physical violence. But constructive force can be any
24 demonstration of force, menace, or any other means by which
25 the person robbed is put in fear sufficient to suspend the

1 free exercise of his will to prevent resistance to the
2 taking.

3 Now, during the course of the trial, you've heard from
4 several witnesses and seen evidence that proves beyond a
5 reasonable doubt the defendant is guilty of carjacking and
6 assault and battery in the first degree.

7 You heard from Ashley Vander-Ploeg. Ashley got up on
8 the stand and she told you about how she couldn't find her
9 car and she was wandering through the parking lot. She walks
10 into parking lot B, and she hears this woman hysterically
11 screaming about someone trying to take her car and take her
12 baby.

13 She told you that the parking lot was not that dark. In
14 fact, she said you could see very well. She testified that
15 she saw Jorge in the back seat and the defendant in the front
16 seat. The defendant had one hand on the steering wheel and
17 one hand on the gear shift. She testified how the defendant
18 resisted being pulled out of that vehicle by gripping the
19 steering wheel with both of his hands.

20 And you also heard from Codi Dennis. Her testimony
21 mirrors Ashley's almost exactly. She testified also to
22 April's hysteria, where the defendant was in the car, where
23 Jorge was in the car, how the defendant resisted being pulled
24 out.

25 You next heard from Deputy Robert Haslip with the

1 Charleston County Sheriff's Office. He was one of the first
2 responders to the scene. And he went through with you this
3 is what the Holiday Festival of Lights looks like, this is
4 how parking lot B is. And he told you parking lot B is a
5 gravel and sand parking lot.

6 But the most important part of his testimony is that he
7 told you that when he arrived on the scene and searched the
8 defendant, he did not find a driver's license, keys, or a key
9 fob. He testified that he got pretty up close and personal
10 with the defendant. He searched him. And his testimony was
11 clear that the defendant was not unconscious. He was able to
12 make deliberate movements like moving his body and rolling --
13 like rolling his body over and turning his head away.

14 And then you heard from April Ross. She described in
15 detail for you how the defendant ran past her and flung the
16 car door open and slammed it shut. She told you she gave the
17 defendant an opportunity to get out of the vehicle. But when
18 she gave him that opportunity, he said, "This is my car now,"
19 snickered, and locked the door.

20 And so April tells you how she's right there. She is
21 locked outside of her vehicle, and her baby is inside. But
22 instead of this nightmare ending, she watched the defendant
23 crank up her car and throw it into gear. She stood by
24 helpless as Jorge had to come up over H.F.'s seat to put the
25 car in park. She watched in horror as the defendant struck

1 Jorge on the side of his face.

2 Of course she became hysterical. And it was such a
3 scene that not one, not two, but three different people
4 stopped to see what was going on. Like Ashley and Codi, she
5 told you how fiercely this defendant resisted being pulled
6 out of that car, how unwilling he was to get out. She also
7 told you that when Jorge got out of the vehicle, his glasses
8 were broken.

9 Then you heard from Investigator Windham, the first
10 responder from the Charleston Police Department. He
11 described the scene that he walked up on: standing around in
12 a parking lot, full of people, family standing by their car.
13 He went with the defendant to MUSC and then transported him
14 to the Charleston County detention center. And like Deputy
15 Haslip, he testified that when he booked the defendant into
16 the Charleston County detention center, he did not find a
17 driver's license, keys, or a key fob on his person.

18 You then heard from Crime Scene Investigator Unterbrink,
19 and he told you about what his job was: to properly document
20 a crime scene. And he told you he's done this hundreds of
21 times and he has taken thousands of pictures. And he told
22 you how thoroughly he documented this scene.

23 And you got to see some of these photos: photos of
24 injuries to Jorge's face, photos of inside the car. These
25 photos show that, like April told you, the baby seat was

1 right in the middle of the car, almost touching the driver's
2 seat. They show how close Jorge would have been to the
3 defendant, how impossible it would have been once he got into
4 that car to not realize that Jorge was in there. And he also
5 documented the arm of Jorge's glasses, which had broken off
6 inside the car and fallen into that place in your car where
7 you cannot get anything out of.

8 Finally, you heard from Detective Galka, the lead
9 detective on this case. He described the investigation into
10 the crime. He took steps to ensure that evidence would be
11 preserved. He took and recorded statements from April and
12 Jorge. He also ensured that Ashley and Codi were formally
13 interviewed. He made sure that this investigation was fair
14 so he also made sure that the defendant had an opportunity to
15 give his statement. But most importantly, he told you that
16 an expansive database search revealed that this defendant was
17 never connected to a Kia Optima or any similar vehicle,
18 whether as a driver or a passenger.

19 Now, you then heard from Kristen Allen. The defense
20 called her to the stand. She works at James Island County
21 Park, and she knows that park like the back of her hand. She
22 said she's worked the Holiday Festival of Lights for 16
23 years. And rather than coming in here and saying, "Yeah, you
24 know what? Parking lot B, it's pretty dark out there." She
25 said that it was the second brightest parking lot at the

1 Holiday Festival of Lights.

2 And when she looked at the photos, she pointed out six
3 or seven different light poles in the lot. And then she told
4 you there would have been even more light on December 7,
5 2019, because of the festival. And if you look at the
6 State's photos in evidence, they corroborate Ms. Allen's
7 description. And I want you to remember that Investigator
8 Unterbrink took those photos with the objective of capturing
9 the scene accurately on a professional Nikon camera.

10 Now, the defense tried to lead you into thinking that
11 the parking lot was darker than the State's photos reflect
12 because the photos they brought in were taken by Mr. Mack
13 over three years later at a different time of year and at a
14 different time of night on his iPhone 6. I submit to you
15 that the defendant's parking lots -- the defendant's
16 pictures, excuse me, do not accurately capture parking lot B
17 and what it would have looked like on December 7, 2019. Not
18 only are they not consistent with photos that were actually
19 taken that night, they're also not consistent with what
20 witnesses who were there told you the parking lot was like.

21 Now, the defense also tried to insinuate with
22 Investigator Windham that Jorge and April could have tampered
23 with evidence and placed the broken arm of the eyeglass in
24 the vehicle because Jorge went back to the car to get his
25 sweatshirt. This is ridiculous. It was December and it was

1 freezing cold outside. Jorge probably hadn't put his
2 sweatshirt on yet because he was still in the car when all
3 this happened. So of course he was going to get his jacket
4 now that he had to stand out here -- out behind his car while
5 being interviewed by law enforcement, allowing law
6 enforcement to take photos of the inside of his car.

7 But further, what point would there have been in doing
8 that? I don't want you to be distracted from the actual
9 issues in this case by such ridiculous assertions.

10 The defense also spent a lot of time in this trial
11 accusing the State's witnesses of being inaccurate in their
12 stories. Specifically, Mr. Mack stood up here trying to
13 impugn April Ross's credibility because the story she told
14 Detective Galka more than three years ago and the story that
15 she told on the stand were not the exact same.

16 When April Ross gave that interview to Detective Galka,
17 she had just experienced one of the scariest nights of her
18 life. Her baby was in a car that was carjacked. Her
19 statement was only nine minutes long, and it was given right
20 on that scene less than an hour after this whole thing had
21 taken place.

22 And she told you law enforcement never came back and
23 talked to her again. The next time she relayed the details
24 of the story was to the State in preparation for this trial.
25 Naturally, when you're asked different questions under

1 different circumstance, you might relay some different
2 details.

3 But even after all this time, April's story was
4 essentially the same. The defendant ran past her. He got in
5 the car. He locked the doors. He cranked it up. He threw
6 it into gear. The only new details were the defendant
7 telling her "This is my car now" -- a question which she was
8 never asked -- and that the defendant beat Jorge. It is not
9 at all unreasonable that she would share these new details
10 years later after having time to think. And again, she was
11 asked different questions.

12 And the defense also indicated some inconsistencies in
13 Ashley and Codi's stories. I submit to you, members of the
14 jury, that just like with April Ross, these are mostly minor
15 differences. For the most part, Ashley and Codi's stories
16 were exactly the same in 2019 as they were on the stand.
17 They matched each other, and they also matched April's story.

18 Members of the jury, I urge you not to be distracted by
19 minor differences which are completely understandable and
20 reasonable, and to instead focus on the major consistencies
21 in these witnesses' stories.

22 Now, the defense also called Sergeant Auer with the
23 Charleston County Sheriff's Office to the stand. You got to
24 watch a portion of her body-worn camera. She told you that
25 she was the first on the scene, but she also told you that

1 from the beginning she knew this case was not going to be
2 investigated by the sheriff's office. She was not going to
3 be responsible for this case.

4 She asserted that the defendant was unconscious when she
5 arrived, but admittedly all she did was cuff him. She didn't
6 search him. And she didn't stay on scene very long.
7 Conveniently, there's no body-worn camera or footage of her
8 cuffing the defendant. Conveniently, out of all the
9 law-enforcement personnel who responded to that scene, she
10 was the only person who described the defendant as
11 unconscious. Deputy Haslip and Investigator Windham, both of
12 whom actually searched the defendant and had contact with
13 him, testified that when they were there the defendant was
14 conscious and he was making deliberate movements.

15 Finally yesterday, you heard from the defendant himself,
16 Raheem Grant. The defendant told you that he met his
17 girlfriend Tutu two weeks prior at a convenience store. But
18 he couldn't tell you the name of the corner store where he
19 met her. He also apparently doesn't know her full name.

20 The defendant testified that on the night in question,
21 Tutu picked him up in her dark silver rental car. He put his
22 phone on the charger in the car, and then they went to
23 Wendy's. Now, he wasn't sure which Wendy's, but he
24 definitely remembers that they got four-by-four combos. Then
25 they went to the liquor store. He can't tell you which

1 liquor store, but they definitely got a bottle of tequila.

2 Then they went to Hampton Park for some reason before
3 deciding to go to the Holiday Festival of Lights. The
4 defendant testified that he or Tutu paid the \$25 entry fee
5 for the lights, and Tutu drove them around the light display
6 show.

7 Then they parked their car, but they didn't go inside
8 Santa's Village? They didn't partake in any of the numerous
9 activities that they had paid the entry fee for? They didn't
10 drink any hot chocolate. They didn't go see Santa Claus.
11 They didn't make any s'mores. They just walked around the
12 parking lot for a little while before they decided to leave?

13 The defendant next claimed that he and Tutu had
14 prearranged that he would drive home. So he walks back to
15 Tutu's rental car. According to the defendant, Tutu is
16 within a few feet of him, so close that he would have
17 expected her to be right near him getting in the passenger
18 seat. Now, and conveniently also, Tutu had the key fob on
19 her person even though the defendant was supposed to be
20 driving. So he gets in the driver's side of what he thinks
21 to be Tutu's rental car when Jorge Fuentes supposedly just
22 attacks him without any provocation at all.

23 I submit to you, members of the jury, that the
24 defendant's story is completely implausible.

25 As a preliminary matter, how is someone your girlfriend

1 when you don't know their full name, nor do you remember
2 where you met them, nor do you know their phone number? It's
3 a bit ridiculous. We have no idea who this Tutu person is or
4 if she even exists.

5 He testified that the reason he didn't have any
6 belongings on him and never contacted her was that his phone
7 was in the rental car and she must have just driven away.
8 It's completely ridiculous to think that someone would see
9 their boyfriend get in the wrong vehicle, be forced out of
10 it, but fail to say anything to anyone and then just drive
11 away. You heard how crowded it was at the Holiday Festival
12 of Lights that night. She wouldn't have been able to just
13 speed on out of there. If she was as close as the defendant
14 claims that she was, she would have seen something, at least
15 part of this altercation taking place.

16 Further, you heard a portion of the phone call made by
17 the defendant only a few days after he was arrested. Now, I
18 know that phone call is really hard to hear, but you're going
19 to have a copy of it with you in the deliberation room. So I
20 urge you to listen to it again yourselves.

21 I submit to you, members of the jury, that in that phone
22 call you hear the defendant ask a female, whose phone number
23 he does know, about his belongings and whether or not she has
24 gotten them back for him. When he asked whether she's been
25 able to contact anyone, she said, "No. I called Tony but he

1 didn't answer." The defendant asked if he's locked up and
2 then proceeds to reiterate to whoever he's speaking with that
3 "he," in context to Tony, has his stuff and she needs to get
4 it back.

5 The defendant also testified that the color of Tutu's
6 rental car was dark silver and that she knew it was -- he
7 knew it was the same make as April's car but he didn't know
8 the model. Now, you were able to hear portions of the
9 defendant's interview with Detective Huffman. In that
10 interview, the defendant tells him that he had been driving
11 his girlfriend's rental car. When asked to describe the
12 vehicle, he says he doesn't know the make or model but he
13 knows that it's silver -- not dark silver. Whatever that
14 means. But silver. Again, you'll have a copy of this
15 portion of the defendant's statement in the jury room with
16 you, and I urge you to listen to it.

17 Now, putting all of that aside, the defendant is able to
18 recount very specific details of his story right up until the
19 point where it becomes problematic for him. He remembers
20 exactly what combo he ordered from Wendy's, but he doesn't
21 remember whether April banged on the window? He doesn't
22 remember hearing her scream? Even though she screamed so
23 loud that three different people came over to help her?
24 That's pretty convenient.

25 It's also convenient that he doesn't actually remember

1 cranking the car and putting it into gear and that he denies
2 hitting Jorge. The exact details of this night, which make
3 his actions a carjacking and an assault instead of a mistake,
4 are the only details that he can't remember.

5 The defense also wants you to focus on the defendant's
6 injuries after the fact. And Mr. Mack asked every single
7 witness about it and the defendant himself testified to it.
8 As a preliminary matter, nearly every witness has testified
9 that the parking lot was gravel and sand. I submit to you
10 that the extent of the defendant's injuries can be at least
11 partially blamed on the fact that he chose to carjack
12 somebody in a gravel parking lot.

13 I also submit to you, members of the jury, that the
14 extent of the defendant's injuries can tell you a lot about
15 what Jorge was thinking that night. Why else would he
16 respond to the defendant in that way if he didn't feel there
17 was a threat to his family? And you have the right in South
18 Carolina to defend yourself, your property, and your family
19 when somebody unlawfully enters it. And you may meet force
20 with force. You don't have a duty to retreat.

21 And this defendant dispossessed April Ross and Jorge
22 Fuentes of their vehicle, and he did so by force and by
23 intimidation. You heard testimony from April Ross that her
24 baby was still in the vehicle. Jorge was in the middle of
25 changing his diaper. You also heard testimony from April

1 that the defendant told her, "This is my car now."

2 Jorge had to come up over H.F.'s car seat, through the
3 center of the vehicle, and put it back in park. And you
4 heard that the defendant was just completely undeterred by
5 this. You heard that he struck Jorge in the face when he
6 came up through the front seat, instead of calmly and quietly
7 exiting the vehicle.

8 Now, members of the jury, Jorge Fuentes is not on trial
9 today. You didn't get the opportunity to hear from him
10 during the trial because, tragically, he passed away nine
11 months after this happened. I wish, and I know April wishes
12 more than anyone, that he could have been here today to tell
13 you his side of the story so that he and his family could
14 have justice for what happened that night. But he's not here
15 to give you his side of the story.

16 And so I urge you to not be distracted by the
17 defendant's injuries and to remember that you are here today
18 to decide the defendant's guilt, not Jorge's. Based on the
19 evidence presented, we have proven beyond a reasonable doubt
20 that the defendant attempted to take a motor vehicle from
21 April Ross, with Jorge Fuentes inside, by force and violence
22 and by intimidation.

23 Now, we only have to prove that this defendant acted
24 with force and violence or by intimidation, but I submit to
25 you that we have shown both. The defendant used force

1 because he struck Jorge. We have proven that beyond a
2 reasonable doubt with April's testimony and the crime scene
3 photos in evidence. This assault took place while the
4 defendant was carjacking -- in essence robbing -- Jorge's
5 vehicle.

6 We've also shown that this defendant intimidated Jorge
7 by getting in his car while he was changing his baby's
8 diaper, locking the door, cranking it up, and throwing it
9 into gear. What could be more intimidating than being
10 interrupted mid diaper change by a stranger in your car who
11 proceeds to take control of it? What could be more
12 intimidating than having to physically crawl over your infant
13 child's seat to put the car back in park after a stranger has
14 started it up and thrown it into gear?

15 I ask that you return the only appropriate verdict in
16 this case and find the defendant guilty.

17 Thank you.

18 THE COURT: Does anyone need a restroom break, or is
19 everybody good?

20 All right. Mr. Mack, are you ready to proceed?

21 JUROR: Actually --

22 THE COURT: You need a restroom break?

23 JUROR: Please.

24 THE COURT: No worries. We'll take a comfort break.

25 During this break, please do not discuss the case. Please

1 leave your notepads in your seats. As soon as you're done,
2 let us know and we'll resume argument.

3 (The jury exited the courtroom at 11:47 a.m.)

4 (The following proceedings were had outside the presence
5 of the jury.)

6 THE COURT: You may be seated. We'll be -- I'm going to
7 take five minutes.

8 (Court recessed.)

9 (Court resumed outside the presence of the jury.)

10 THE COURT: All right. You may be seated.

11 All right. The jury's ready?

12 THE BAILIFF: Yes, ma'am.

13 THE COURT: Please bring in the jury.

14 Is the State ready to proceed?

15 MS. OUTTEN: Yes, your Honor.

16 THE COURT: Is the defense ready to proceed?

17 MR. MACK: Waiting for my client.

18 (The defendant entered the courtroom.)

19 MR. MACK: Okay.

20 (The jury entered the courtroom at 11:55 a.m.)

21 THE BAILIFF: All jurors are present.

22 THE COURT: You may be seated.

23 Ladies and gentlemen, I would ask you to give counsel
24 your attention.

25 Mr. Mack, you may proceed when you're ready.

1 MR. MACK: Thank you, Judge.

2 THE COURT: You're welcome.

3 MR. MACK: School is out for summer. An MUSC med
4 student has just finished exams, and his brother is in town
5 to celebrate. They decided to spend the evening on King
6 Street. They go down there, and they get separated. The
7 brother of the med student loses his wallet and his phone.
8 It's one of those cases that hold it together.

9 So he stumbles back to the med student's dormitory near
10 the hospital. It's one of those dormitories where the rooms
11 are similar layout and the doors are also similar. And he
12 accidentally walks into the wrong dorm. And when he crosses
13 the threshold of the doorway to that dorm, he manifests the
14 intent to grab a beer from the fridge. He doesn't realize
15 there's a baby sleeping in the dark of the room.

16 Mom hears the commotion and comes rushing into the
17 living room and starts screaming. Boyfriend comes out of the
18 bedroom and says, "What are you doing here? This is not your
19 apartment." The brother says, "This is my apartment." And
20 then the boyfriend proceeds to beat him up. He makes that
21 personal choice to beat him up inside his house, only the
22 boyfriend doesn't beat him up so badly that he goes
23 unconscious.

24 And as the mom is calling 911 and the police are coming
25 through the door, she throws on the lights and the brother of

1 the med student realizes his mistake and he starts
2 apologizing profusely. "Oh, my God. I am so sorry." The
3 cops pat him down, wondering why he doesn't have a phone and
4 he doesn't have a wallet. And he says, "I'm staying with my
5 brother. He lives in this dorm, and I lost track of him on
6 King Street. I'm so sorry. I did not mean to come in here."
7 "Where's your keys?" "Again, my brother lives here."

8 In the commotion, his brother is a few doors down and he
9 comes out and he corroborates his story. Case closed.
10 Everybody goes home. No burglary charge. No harm done
11 except maybe a few facial injuries and a wasted beer. This
12 case is a huge misunderstanding.

13 The only difference between that story and this case is
14 you are there, I'm here, and he is seated at that table.
15 It's a huge misunderstanding brought to you by the Ninth
16 Circuit Solicitor's Office, complicated by Jorge Fuentes's
17 death, complicated by the State dropping all before and after
18 his investigation, complicated by the fact that Raheem was
19 knocked unconscious and his girlfriend abandoned him that
20 night.

21 There was not a threat and there was not an assault
22 inside that car. And we know that because April Ross cannot
23 be trusted. She gave two stories. One story the night of
24 the incident, she told Detective Galka she didn't see my
25 client assault Jorge or hear him make any threats. She told

1 Detective Galka, who was investigating a crime, "He didn't
2 even look at me. It was as if I didn't exist." A statement
3 -- story that lines up with what Codi Dennis told you, and
4 the same as Ashley Vander-Ploeg.

5 The other story from April you heard in trial two days
6 ago -- four years later, potentially reported to the
7 solicitor's office on last Wednesday before trial. I have to
8 say "potentially" because April Ross cannot remember if she
9 said it seven days ago on Wednesday last week or if she said
10 that story to the solicitor's office three months ago.

11 An incident so traumatic that it has affected her memory
12 four years later so much so that she can't remember where she
13 said what in an unrecorded interview with three
14 representatives of the solicitor's office in preparation for
15 trial, knowing that she would have to sit right there and
16 answer questions right here. She broke a beautiful system.

17 I hope you were paying attention to April Ross's
18 demeanor. Off the rip, she didn't see it coming. Despite
19 watching the entire trial, three questions in about her
20 serious Wednesday meeting with the State at a building
21 unknown to her, she's looking at the solicitors for answers.
22 "What do I say?" Ask yourselves why that might be. Did the
23 State know about Jorge's death before trial, or did the case
24 fall apart after his death?

25 Compare that to Raheem's demeanor. He was on the stand.

1 Not once did he look at me for answers. He couldn't. The
2 computer screen was in the way. His eyes were locked on the
3 solicitor the entire time, only every once in a while
4 glancing at you.

5 Then there are Jorge's injuries. It looks like a fever
6 blister on his lip, a cat scratch on his cheek. Definitely
7 no way to prove they were caused by Raheem, not without him
8 testifying. It could have been caused by the unknown black
9 man on the scene helping Jorge pull Raheem from the car,
10 breaking his glasses. It could have been caused three days
11 prior to the incident. Detective Unterbrink said he was not
12 actively bleeding.

13 There was no taking of the car. Because the State can't
14 meet their burden, they didn't put up much of a case, did
15 they? Pretty much some pictures of a botched crime scene,
16 investigation, and my favorite: a mysterious report
17 conducted by Detective Galka on how he ran Raheem's name
18 through some nondescript database to show he didn't own a Kia
19 Optima four years ago. Somehow that database accounts for
20 his friends, his family, his cousins, girlfriends.

21 Who steals a car at the Holiday Festival of Lights?
22 Where the traffic coming and going is ridiculous? A place
23 fortified by pluff mud, marsh grass, the Stono River, and
24 barbed wire? Where park rangers run down kids for noise
25 violation in an ocean of blue lights at the gate and

1 wandering the area.

2 They are grasping at straws. No fingerprints collected
3 on the start button, no fingerprints collected on the gear
4 shift, no DNA analysis on the blood, no followup
5 investigation on the car that looked like Jorge's driving
6 through the crime scene and seen by Ashley Vander-Ploeg and
7 Detective Duby. The State had every right to walk Detective
8 Duby through that door, put her right there, and refute what
9 Ashley Vander-Ploeg said. A detective, and they did not.

10 That's right. There was a car that looked like Jorge's
11 on the scene that night. And Detective Duby didn't even so
12 much as -- we don't even know if Detective Duby even so much
13 as knocked on the window and said, "Hey, do you know this
14 man?" Could have clarified a big misunderstanding that lay
15 at her feet.

16 Compare their case to mine. I had to set the scene for
17 you, show you the lay of the land through Kristen Allen,
18 demonstrate that it is incredibly difficult to walk onto
19 James Island County Park. That is tax dollars well spent.
20 Kristen knew everything about that park and identified the
21 light posts. I had to show you what lot B looked like when
22 it's not lit up like a crime scene. I had to show you what
23 Raheem looked like when placed under arrest. And I had to
24 show you Raheem's injuries in an assault case.

25 Also, the State made a big deal about how Raheem didn't

1 have a key in his pocket to a Kia Optima. But at the same
2 time, how in the world is he supposed to know that April Ross
3 keeps a key in the center console of her car and that her car
4 is a push start, capable of driving away without the key that
5 she said was in her pocket?

6 Finally, the State made a big deal about Raheem not
7 knowing the exact color of the car when speaking to Detective
8 Huffman and somebody other than Tutu potentially being in
9 possession of his phone five days after the incident. Could
10 it be that Tutu gave the phone to somebody else to give to
11 Raheem? Especially since they've only known each other for
12 two weeks? Could it be that Raheem didn't say the name Tony
13 on that call and, in fact, said the name of somebody else?

14 Also, the State has the lawful ability to play Raheem
15 Grant's statement to police to you. We consented that it was
16 voluntary and unprovoked. And you know why they didn't play
17 it? Because it hurts their case. Because everything Raheem
18 told you on the stand aligns with the statement he made,
19 apart from being able to recognize the shade of silver of
20 Tutu's car in a pitch-black park.

21 The State has not met their burden. They have to
22 convince you beyond a reasonable doubt that Raheem committed
23 the carjacking and assault. That means if you have a doubt
24 in your mind about his innocence, you cannot convict him.
25 The State has to move you beyond that. The proof has to move

1 beyond that doubt in your mind. They can't do it, not with
2 an untrustworthy baby mama, not with a mysterious unrecorded
3 meeting, not with a botched crime-scene investigation, not
4 with a record of a similar car driving through the crime
5 scene.

6 April and her family did not get to see Santa that
7 night. That is unfortunate. We are sorry for her loss. But
8 mistakes happen. Forgiveness is divine. My favorite
9 ethicist Lewis Smedes said, "To forgive is to set the
10 prisoner free and discover that the prisoner was you."

11 April Ross and her family did not get to see Santa that
12 night. Raheem went through hell. It continues till this day
13 for him and her.

14 THE COURT: Ms. Outten, are you ready to proceed?

15 MS. OUTTEN: Yes, your Honor.

16 THE COURT: You may proceed when you're ready.

17 MS. OUTTEN: I'm going to take a moment and maybe
18 address some of the things that Mr. Mack said to you just
19 now.

20 So Mr. Mack started that story off with a lovely analogy
21 about two brothers who went drinking downtown and then one
22 brother lost his phone. And then he made a mistake and went
23 into the wrong house and suffered for his troubles. Now,
24 that person was able to say, "I'm staying with my brother.
25 My brother lives right here, right near here. Here's my

1 brother's phone number. Why don't you call him?" To equate
2 that situation to the defendant is quite honestly laughable.

3 In that story, our supposed defendant had corroboration
4 for his story. Here, the defendant only had a nickname and
5 no further details. No details he provided to law
6 enforcement and, honestly, no details that he could even give
7 me. Where did you meet her? What did she look like? Lots
8 of details missing. Not possible for police to corroborate.
9 Police can't chase down a nickname and go off no other
10 information.

11 And the defendant also, just like our would-be defendant
12 in Mr. Mack's analogy, had the opportunity to talk to law
13 enforcement. He would not. Mr. Mack wants you to believe
14 that the police just arrested Mr. Grant and just left him to
15 languish in jail, and that is not accurate. Detective
16 Huffman interviewed him. If he could have given details that
17 the police could have followed up on, Detective Huffman and
18 Detective Galka would have done that. And to insinuate
19 differently is, quite frankly, insulting.

20 As to the, you know, possible mistake that the defendant
21 made, you know, in my experience, rental cars are normally
22 new vehicles. They're normally not six-year-old vehicles.
23 And, you know, the park ranger told you that over 170 cars --
24 cars are everywhere. So it's not surprising that cars may
25 look similar. But then when you think about this car that's

1 driving out of the parking lot, well, that car looked similar
2 to April's car. That car didn't look similar to the car that
3 the defendant admitted to coming in. I would say again "dark
4 silver" is not a real color. Cars are usually either silver
5 or it is gray.

6 And I would submit to you again that Tutu probably
7 doesn't exist and that there was no rental car. That it's a
8 convenient lie. Mr. Mack stood up here and said, "Well, you
9 know, Detective Duby could have knocked on the window of that
10 Kia Optima that was driving out of the parking lot." Okay.
11 Well, if that car was driving by so slowly that Detective
12 Duby can knock on the window, then clearly Tutu is seeing
13 everything that is going on and she's driving away anyway.
14 So Detective Duby didn't follow up? Well, why didn't the
15 defendant's alleged girlfriend, who he came with, get out of
16 the car and stop to check on him?

17 You know, quite honestly, I take offense to Mr. Mack's
18 characterization of April. You know, he makes it sound like
19 she's coming down here and she's getting on the stand because
20 this is fun for her. You, members of the jury, have seen
21 April every single day. And in case it wasn't made clear
22 from her testimony, she lives in Walterboro. It is about an
23 hour each way that she drives, that she has been in this
24 courtroom every single day. She has two young children. She
25 has had to arrange childcare for them.

1 MR. MACK: Objection, Judge.

2 THE COURT: Basis?

3 MR. MACK: Facts not in evidence.

4 THE COURT: I'm going to give her a little latitude
5 because it's in response to your closing where you brought
6 certain aspects of her credibility into play. Overruled.

7 MS. OUTTEN: And contrary to Mr. Mack's assertion, April
8 Ross did not have to talk. She did not have to talk to me.
9 She did not have to talk to Ms. Linder. She did not have to
10 talk to Investigator Glenn. She didn't have to talk to any
11 of us. It may surprise you that that happens to us, as the
12 State, in more and more cases that witnesses don't want to
13 talk to us.

14 Thankfully, April did want to talk to us. You know,
15 April is here because she wants to get justice for what
16 happened to her on December 7, 2019. And she wants to get
17 justice for Jorge, who isn't here to tell his story.

18 And again, April's story is mostly consistent. Three
19 years later, it is mostly the same. There are two things
20 that Mr. Mack wants to focus on, and I submit to you that,
21 like I told you in my argument, there's not a lot here. And
22 I don't want you to be distracted by these two meager things
23 and think, "Oh, man. She just, like, can't be trusted." She
24 didn't do a complete 180. She didn't all of a sudden start
25 saying, "No. It was some other person." She gave mostly the

1 same story.

2 And I don't know about y'all, but when someone asks me
3 different question about a situation years later, I'm going
4 to say something different. My friend can -- I can tell my
5 friend a story, and two weeks later she'll ask me about it
6 and I might tell her something that I never told her before.
7 I think that that's a normal human experience. I don't think
8 that it means that April is here somehow fabricating this.

9 Because what does she gain from that? You know, if this
10 hadn't happened the way that she wanted, she could just --
11 she could just wash her hands of it. She didn't have to be
12 here. She wants to be here. And she has been here.

13 As to the, you know, the defendant's belongings and
14 where they were and what happened, well, you know, Mr. Mack
15 wants you to think, you know, maybe Tutu gave the phone to
16 Tony and maybe Tony not ever -- maybe Tony doesn't exist or
17 -- I wasn't sure I really followed. But you heard the
18 defendant say that he had no friends in common with Tutu and
19 he didn't know her full name and he didn't know her phone
20 number. So how was that supposed to happen? I don't think
21 it could.

22 And to just clarify, we never said -- we never came in
23 here and said that the defendant didn't have any keys to a
24 Kia Optima. We said the defendant didn't have any keys on
25 him at all. And I think that that is an important detail.

1 And the last thing that I would say before I sit down so
2 that you can deliberate is that, you know, Mr. Mack tried to
3 talk about DNA and prints and, you know, tried to say that
4 the Charleston Police Department didn't do a thorough
5 investigation. Identity was never an issue in this case.
6 And it hasn't been an issue really by the defense either.
7 The defendant admits that he was in the car. That's a
8 distraction and that's meant to distract you from the actual
9 issues in this case.

10 So I'm coming before you again and I'm saying that the
11 State has met their burden in this case. We have proven
12 beyond a reasonable doubt that this defendant carjacked -- as
13 in "took or attempted to take" -- April Ross's vehicle while
14 Jorge Fuentes was inside, and that he hit Jorge Fuentes
15 within the vehicle while he was perpetrating this assault.
16 And we ask that you please return the only appropriate
17 verdict in this case, which is guilty.

18 Thank you.

19 THE COURT: Ladies and gentlemen, why don't you stand up
20 and stretch a little before we begin instruction.

21 Ladies and gentlemen, during this trial, you and I have
22 had certain duties to perform. As the presiding judge, it is
23 my responsibility to preside over the trial of this case. I
24 also have the duty to pass upon -- the duty to rule on or
25 pass upon the admissibility of evidence offered during this

1 trial.

2 You are to consider only the competent evidence before
3 you. You are to disregard and disabuse your mind from any
4 testimony which has been ordered stricken from the record
5 during the progress of the trial of this case, if there has
6 been any. You are to consider only the testimony which has
7 been presented from the witness stand, together with any
8 exhibits which have been made a part of the record in this
9 case and any stipulations which have been made into the
10 record by counsel.

11 I have the additional duty, ladies and gentlemen, to
12 instruct you on the law applicable to this case. As the
13 presiding judge, I'm the sole judge of the law in this case.
14 And it is your duty as jurors to accept and apply the law as
15 I now state it to you. If you have a preconceived idea as to
16 what the law is or what the law ought to be in a case or in
17 this case and it should not agree with what I now tell you
18 the law is, you are obligated under your oath to abandon this
19 preconception on your part because you are sworn to accept
20 the law and apply the law precisely as I now state it to you.

21 In every case tried in this court before a jury, the
22 jury becomes the sole and exclusive judges of the facts.
23 You, the jury, are the judges of the facts in this case.
24 This Court is the judge of the law. The constitution of our
25 state has declared that a trial judge shall not intimate,

1 state, comment upon, or make any statement to a trial jury
2 about the facts in a case.

3 Since you, the jury, are the sole judges of the facts in
4 this case, you are not to infer anything from what I have
5 said during the progress of this trial in ruling upon the
6 admissibility of evidence or otherwise, or anything that I
7 say now to you during the course of this instruction that I
8 have any opinion about the facts. The law does not permit me
9 to have an opinion about the facts. This is a matter solely
10 for you, the jury, to determine.

11 As jurors then, it is your duty, as I've instructed, to
12 determine the effect, the value, the weight, and the truth of
13 the evidence presented during this trial. Necessarily, you
14 must assess the credibility of witnesses who have testified
15 in this case. Credibility is simply a legalistic term which
16 means credibility and belief which means -- I'm sorry. I
17 apologize. Credibility is simply a legalistic term which
18 means believability. It becomes your duty as jurors to
19 analyze and to evaluate the evidence and determine the
20 credibility of that evidence.

21 Some of the things you may consider as you decide
22 whether or not to believe a witness's testimony about a
23 particular matter include, What was the manner and appearance
24 of the witness who testified? Was he or she straightforward
25 or hesitant in answering? Was the testimony of a witness

1 consistent or inconsistent? How did the witness come to know
2 the facts that he or she testified to? Or what was his or
3 her ability to know these facts? Is there some reason a
4 witness would want to give testimony which would help or hurt
5 one side or the other? In other words, was the witness
6 biased or prejudiced? And was the testimony of a witness
7 strengthened or weakened by other testimony or evidence?

8 I further instruct you that in determining the question
9 of the credibility or believability of witnesses who have
10 testified, you may believe one witness as against several
11 witnesses or several witnesses as against one witness. You
12 may believe a part of the testimony of a witness and reject
13 the remaining part of that testimony of that same witness.
14 If you have a good and sound reason, you may believe the
15 testimony of a witness in its entirety or reject the
16 testimony of a witness in its entirety.

17 You may consider the demeanor of a witness. That is
18 their manner and appearance from the witness stand. Ladies
19 and gentlemen, you can believe as much or as little of each
20 witness's testimony as you think proper. You have but one
21 objective: to find the facts regardless of their source,
22 which is certainly -- which is fully within your discretion.

23 Ladies and gentlemen, there is a statement alleged to
24 have been made by the defendant which has been admitted into
25 evidence. While the Court has determined that the statement

1 is admissible, I instruct you that you make the ultimate
2 decision of whether or not the defendant made the statement.

3 If the defendant did make the statement, you must
4 determine whether the statement was made by the defendant
5 voluntarily of his own free will. This means that the
6 statement was not caused by pressure, force, fear, threats,
7 coercion, or intimidation, or by hope of a promise of
8 leniency or a reward of any kind. In determining whether the
9 statement was voluntary, you should consider both the
10 characteristics of the defendant and the details of the
11 questioning.

12 Some of the factors you must consider are the age of the
13 defendant, the defendant's education or lack of education,
14 the defendant's mental ability or capacity, the defendant's
15 IQ or intelligence, the defendant's background and
16 environment, the place and length of detention, the nature of
17 the questioning, and the advice or lack thereof to the
18 defendant of his constitutional rights, including but not
19 limited to the right to remain silent; that any statement
20 could be used against him in a court of law; the right to
21 have an attorney present; that if he could not afford an
22 attorney, an attorney would be appointed to represent him
23 without any cost; and that he could stop making a statement
24 at any time. You must carefully consider all of the
25 surrounding circumstances before you give any weight to an

1 alleged statement.

2 The State has the burden of proving beyond a reasonable
3 doubt that the statement was voluntary. If you determine it
4 was, you may give the statement any further consideration
5 that you deem proper. You must decide what weight, value,
6 and effect, if any, should be given to the alleged statement.
7 If you determine the statement was not a free and voluntary
8 statement of the defendant, you should not consider the
9 statement at all.

10 Ladies and gentlemen, there are two types of evidence
11 which are presented during a trial: direct evidence and
12 circumstantial evidence. Direct evidence is the testimony of
13 a person who asserts or claims to have actual knowledge of a
14 fact, such as an eyewitness. Circumstantial evidence is
15 proof of a chain of facts and circumstances indicating the
16 existence of a fact.

17 The law makes absolutely no distinction between the
18 weight or value to be given to either direct or
19 circumstantial evidence, nor is a greater degree of certainty
20 required of circumstantial evidence than of direct evidence.
21 And as I've instructed, crimes may be proven by
22 circumstantial evidence. And again, the law makes no
23 distinction between the weight or value to be given to either
24 direct or circumstantial evidence.

25 However, to the extent the State relies on

1 circumstantial evidence, all of the circumstances must be
2 consistent with each other and, when taken together, point
3 conclusively to the guilt of the accused beyond a reasonable
4 doubt. If these circumstances merely portray the defendant's
5 behavior as suspicious, the proof has failed. The State has
6 the burden of proving the defendant guilty beyond a
7 reasonable doubt. This burden rests with the State
8 regardless of whether the State relies on direct evidence,
9 circumstantial evidence, or some combination of the two.

10 You should consider all of the evidence in this case.
11 After weighing all of the evidence, if you're not convinced
12 of the guilt of the defendant beyond a reasonable doubt, you
13 must find the defendant not guilty. Conversely, if you're
14 convinced of the guilt of the defendant beyond a reasonable
15 doubt, then you must find him guilty.

16 I instruct you, ladies and gentlemen, the fact that the
17 defendant was arrested, charged, and indicted is not evidence
18 and cannot be considered by you as evidence of guilt, nor
19 does it create any presumption or inference of guilt. This
20 documentation, ladies and gentlemen, is simply the formal
21 written instrument or instruments which contain the charge or
22 charges made against the defendant. They simply serve as the
23 formal documentation by which the case is processed or
24 brought into this court. The defendant has pled not guilty
25 to the indictments, and that plea casts the burden on the

1 State to prove the defendant guilty because a person charged
2 with committing a criminal offense in South Carolina is never
3 required to prove himself or herself innocent.

4 I instruct you that it is a cardinal and important rule
5 of the law of evidence that the defendant in a criminal
6 trial, no matter what the seriousness of the charge or
7 charges made against him may be, will always be presumed to
8 be innocent of the crime or crimes for which he is indicted
9 unless his guilt has been proven by evidence satisfying of
10 that guilt beyond a reasonable doubt. This presumption of
11 innocence does not cease when you retire to deliberate, but
12 it accompanies the defendant from the time of his appearance
13 throughout the trial until you reach a verdict in this case.

14 Our Supreme Court has said that the presumption of
15 innocence is like a robe of righteousness placed about the
16 shoulders of the defendant, and it remains with him and
17 assigns him to that class, the innocent, until that
18 presumptive robe of righteousness has been stripped from his
19 person by evidence satisfying you of that guilt beyond a
20 reasonable doubt.

21 The presumption of innocence is not mere legal theory.
22 It is not just a legal phrase. It is a substantial right to
23 which every defendant is entitled unless you, the jury, are
24 satisfied from the evidence of his guilt beyond a reasonable
25 doubt. The State has the burden of proving the defendant

1 guilty beyond a reasonable doubt.

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

8 Proof beyond a reasonable doubt is proof that leaves you
9 firmly convinced of the defendant's guilt. There are very
10 few things in this world that we know with absolute
11 certainty. And in criminal cases the law does not require
12 proof that overcomes every possible doubt.

13 If, based on your consideration of the evidence, you are
14 firmly convinced that the defendant is guilty of the crime
15 charged, you must find the defendant guilty. If, on the
16 other hand, you think there is a real possibility that the
17 defendant is not guilty, you must give the defendant the
18 benefit of that doubt and find him not guilty.

19 The defendant is charged by an indictment filed with
20 this Court with the offense of assault and battery, first
21 degree. The State must prove beyond a reasonable doubt that
22 the defendant unlawfully injured another person and the act
23 occurred during the commission of a robbery, burglary,
24 kidnapping, or theft, or offered or attempted to injure
25 another person, with the present ability to do so, and the

1 act occurred during the commission of a robbery, burglary,
2 kidnapping, or theft.

3 Ladies and gentlemen, if you decide that the State has
4 failed to prove that the defendant is guilty of assault and
5 battery, first degree, you may then decide whether the State
6 has proven that the defendant is guilty of assault and
7 battery, third degree. In order to prove assault and
8 battery, third degree, the State must prove beyond a
9 reasonable doubt that the defendant unlawfully injured
10 another person or offered or attempted to injure another
11 person, with the present ability to do so.

12 Ladies and gentlemen, the defendant is charged with
13 carjacking. In order to prove carjacking, the State must
14 prove beyond a reasonable doubt that the defendant took or
15 attempted to take a motor vehicle from another person by
16 force and violence or by intimidation while the person was
17 operating the vehicle or while the person was in the vehicle.
18 I instruct you that carjacking is a form of common-law
19 robbery.

20 Ladies and gentlemen, the element of force may be actual
21 or constructive. Actual force implies physical violence.
22 Constructive force includes all demonstrations of force,
23 menaces, and other means by which the person robbed is put in
24 fear sufficient to suspend the free exercise of his will or
25 prevent resistance to the taking.

1 Ladies and gentlemen, in order to establish criminal
2 liability, criminal intent is required. For example, the
3 mental state required to be proven by the State for a
4 particular crime might be purpose, intent, knowledge,
5 recklessness, or criminal negligence. Criminal intent must
6 be proven by the State beyond a reasonable doubt.

7 Criminal intent is always a matter that must be
8 determined by the jury from the circumstances surrounding the
9 situation. There is no way to prove intent to a mathematical
10 certainty. There's no medical science -- there is no way
11 medical science can dissect a person's brain and determine
12 what the person had in mind. So the law says that criminal
13 intent may be inferred from the circumstances shown to have
14 existed. This is how you make a determination of whether or
15 not the element requiring intent was present.

16 It is not necessary to establish intent by direct and
17 positive evidence, but intent may be established by inference
18 in the same way as any other fact, by taking into
19 consideration the acts of the parties and all the facts and
20 circumstances of the case. Criminal intent is a mental
21 state, a consciousness of wrong -- a conscious wrongdoing.
22 It is up to you to determine what the defendant intended to
23 do based on the circumstance shown to have existed.

24 Criminal intent may arise from action or failure to act.
25 It may arise from negligence, recklessness, or an

1 indifference to duty or to consequences that are considered
2 by the law to be the equivalent of criminal intent.

3 Ladies and gentlemen, insanity caused by the use of
4 drugs or alcohol may be a defense if the insanity is
5 permanent and destroys the defendant's ability to know right
6 from wrong. However, when voluntary intoxication does not
7 produce permanent insanity, it is not a defense to a crime.
8 A person who voluntarily becomes intoxicated is just as
9 responsible for the acts committed while intoxicated as when
10 the person is not intoxicated.

11 The defendant has raised the defense of mistake of fact.
12 The State must prove beyond a reasonable doubt that the
13 defendant intended to commit carjacking. However, where a
14 person in ignorance or honest mistake as to a fact commits an
15 act which, but for the mistake, would be a crime, there's no
16 criminal intent and the person cannot be found guilty of the
17 crime. An example of a possible mistake of fact would be if
18 I took someone's umbrella, mistakenly thinking that it was my
19 umbrella.

20 The mistake of fact must be reasonable and cannot be due
21 to the defendant's carelessness. The defendant must have
22 been honestly mistaken. After using reasonable diligence to
23 determine the truth, you must determine whether the
24 defendant's purported mistake of fact was reasonable based on
25 the facts as they appeared to the defendant at the time of

1 the alleged crime.

2 Ladies and gentlemen, there are two indictments in this
3 case. Each alleges a different offense against the
4 defendant. Those offenses are Indictments 2020-GS-10-1107,
5 assault and battery, first degree; and 2020-GS-10-1108,
6 carjacking.

7 Each indictment, ladies and gentlemen, charges a
8 separate and distinct offense. You must decide each
9 indictment separately on the evidence and the law applicable
10 to it, uninfluenced by your decision as to any other
11 indictment. The defendant may be convicted or acquitted on
12 any or all of the offenses charged, and you will be asked to
13 write a separate verdict of guilty or not guilty for each
14 indictment.

15 I will go over the verdict forms with you in a moment.
16 There's absolutely no significance whatsoever to the order in
17 which I'll state the potential verdict. It is simply that
18 one must be stated first.

19 Ladies and gentlemen, in order to reach a verdict, all
20 12 of you must agree. In other words, your verdict must be
21 unanimous. Your verdict cannot be based on sympathy,
22 passion, prejudice, emotion, or any other consideration not
23 found in the evidence of this case.

24 Mr. Foreman, when the jury reaches a verdict, it is your
25 responsibility to fill out the verdict form, to sign and date

1 the form, and knock on the door and advise the bailiffs that
2 the jury has reached a unanimous verdict in the case. It is
3 also your responsibility that if the jury has any questions
4 during deliberations, that you write out those questions on
5 the notebook that you have and you sign and date the note and
6 follow the same process and knock on the door and advise the
7 bailiffs that the jury has a question. Any notes that you
8 send to the Court should never indicate a numerical breakdown
9 of the jury, as the jury's deliberations should be confined
10 to the jury room and should never be disclosed outside of the
11 jury room.

12 Ladies and gentlemen, if you have any questions during
13 deliberations, please know that there will be a delay. And
14 that's because there's a process that we must follow in
15 answering your question. So know if you have a question,
16 we're not ignoring you. There will be a delay, and that's
17 because we are adhering to that procedure prior to answering
18 any questions you may have.

19 And the possible verdicts are as follows.

20 As to Indictment 2020-GS-10-1107, we, the jury, by
21 unanimous consent find the defendant guilty of assault and
22 battery, first degree; or guilty of assault and battery,
23 third degree; or not guilty.

24 As to Indictment 2020-GS-10-1108, we, the jury, by
25 unanimous consent find the defendant guilty of carjacking or

1 not guilty.

2 Again, there's no significance whatsoever to the order
3 in which these potential verdicts are stated. And ladies and
4 gentlemen, in order to reach a verdict all 12 of you must
5 agree.

6 I'm going to ask that you return to your jury room but
7 do not yet begin your deliberations. I have brief matters of
8 law that I need to take up with counsel that may require
9 further instruction or clarification of an instruction. If
10 there's no further instruction, we will send in your
11 notepads, the evidence, and the verdict forms. At that time
12 we will excuse the alternate and you will be allowed to begin
13 your deliberations.

14 We appreciate your patience. If you would go with the
15 bailiff.

16 (The jury exited the courtroom at 12:38 p.m.)

17 (The following proceedings were had outside the presence
18 of the jury.)

19 THE COURT: You may be seated.

20 Any exceptions from the State regarding the charge?

21 MS. OUTTEN: No exceptions from the State, your Honor.

22 THE COURT: And from the defense, any exceptions other
23 than what we've already covered?

24 MR. MACK: Judge, just one minor one. I thought we
25 agreed we weren't going to say --

1 THE COURT: I'm sorry. I can't hear you.

2 MR. MACK: Just one minor one. I thought we weren't
3 going to say "drugs" in the voluntary intoxic charge.

4 THE COURT: I sure did, and I apologize. But I don't
5 think it really the makes an appreciable difference. We say
6 "alcohol and drugs," but alcohol is a drug. As an aside, you
7 know, but it is. I mean, it impairs your ability to have
8 clear thinking and it's a drug. It's a legal drug, but just
9 like cigarettes are considered a drug as well, and I'm
10 certain we haven't breached new territory. It's legal, but
11 it's still a drug.

12 But we made that distinction, and I think it's not -- I
13 mean, I don't know that you want me to --- do you want me to
14 draw attention to it in the instructions?

15 MR. MACK: I was just making the record, Judge.

16 THE COURT: Well, I mean if you're make an exception,
17 there has to be a way to fix it. You can't just leave it
18 hanging in the air, so I need to know what you want, what
19 you're asking.

20 MR. MACK: What is the remedy, Judge, for that?

21 THE COURT: To reinstruct and leave out "drugs." I just
22 think it might reinforce that point, which you might not want
23 to do.

24 MR. MACK: We're good. Thanks.

25 THE COURT: Okay. And I apologize because that was just

1 my oversight.

2 All right. Can y'all make sure all the evidence is
3 there for me.

4 Y'all go ahead and start collecting their notebooks,
5 except leave the alternate's in the seat.

6 Y'all make sure that -- do you have all the exhibits?

7 COURT REPORTER: Yes, your Honor.

8 THE COURT: Y'all didn't use any in your closing?

9 MS. OUTTEN: Correct.

10 MR. MACK: Right.

11 THE COURT: But I still need y'all to make sure what
12 goes -- you have those marked as ID with you, right?

13 COURT REPORTER: It's separated from --

14 THE COURT: And you've set those over here?

15 COURT REPORTER: Yes. It's separated.

16 THE COURT: Just make sure for me one more time.

17 Madam Bailiff, that's the rest of the evidence. You can
18 take that right there with you. And if you can bring the
19 alternate to me, I appreciate it.

20 (The jury was instructed to begin deliberations on their
21 verdict at 12:43 p.m.)

22 (The alternate juror entered the courtroom.)

23 THE COURT: Sir, we thank you for your time and your
24 attention to this case. I know being an alternate may seem
25 thankless, but it's such a vital service to the Court. If

1 you want, you can take your -- you know, rip your notes out
2 and take them with you or they shred them. So nobody's going
3 to read them if you want to just leave them with us.

4 If you'd like to stay with us, sir, and eat your lunch
5 in one of the multipurpose rooms, you're welcome to. Or
6 you're welcome to go about your life.

7 This will conclude your jury service. It's the last
8 trial that we're going to have for the week. You're welcome
9 to discuss this case if you like, but I would ask that you
10 not do it until the entire panel is excused. If anyone
11 should approach you and make you uncomfortable, please
12 contact us so we can take the appropriate action to preserve
13 your privacy.

14 I hope it's been an educational experience for you.
15 You've been very patient and we appreciate. I hope you have
16 a great rest of the week. Thank you.

17 (The alternate juror was released from service and
18 exited the courtroom at 12:45 p.m.)

19 THE COURT: Okay. The jury has been given their lunch.
20 How long do y'all need to go get some lunch? But I kind of
21 need you to stick close in case they have a note.

22 MS. OUTTEN: Your Honor, we'll just -- we can stay in
23 our offices on standby.

24 THE COURT: Okay. Can y'all give the clerk y'all's cell
25 numbers?

1 MS. OUTTEN: We wrote them down and gave them to her.

2 THE COURT: Appreciate it. Because usually, once they
3 start eating, within a few minutes of that they usually have
4 a question if they have one. So I appreciate y'all being
5 available. And we'll keep you posted.

6 (Court recessed.)

7 (Court resumed outside the presence of the jury.)

8 (Court's Exhibit Number 4 marked for the record.)

9 THE COURT: I have a note from the jury. And it reads
10 as follows: "The jury is split on one charge. Can you
11 please confirm we are to keep deliberating until a unanimous
12 decisions is reached?"

13 I interpret this as a hung jury note and would be
14 inclined, pursuant to 14-7-1330, to give them an *Allen*
15 charge. Any exception from the State?

16 MS. OUTTEN: One moment, your Honor.

17 THE COURT: Mm-hmm.

18 MS. OUTTEN: No exception from the State, your Honor.

19 THE COURT: Any exception from the defense?

20 MR. MACK: Yes, Judge. We object.

21 THE COURT: I'm sorry?

22 MR. MACK: We object, Judge.

23 THE COURT: What's the basis of the objection?

24 MR. MACK: Just a standard objection, Judge.

25 THE COURT: Well, I have to have a specific objection

1 for the record.

2 MR. MACK: They seem that they've had enough time to
3 deliberate.

4 THE COURT: 14-7-1330 gives the Court the discretion as
5 to whether to give an *Allen* charge when the jury comes and
6 advises the Court that they are unable to reach a verdict, as
7 I interpret this note to be communicating to the Court. And
8 I am going to give them an *Allen* charge because I think it is
9 appropriate pursuant to 14-7-1330. And having heard no
10 specific objection from the defense, it's noted and
11 overruled.

12 For the record, they began their deliberations at 12:43,
13 and they have not yet been deliberating two hours.

14 Oh, would you get the jury for me, please? I'm sorry.
15 And the note has been marked as a Court's exhibit.

16 (The jury entered the courtroom at 2:39 p.m.)

17 THE BAILIFF: All jurors are present.

18 THE COURT: You may be seated.

19 Ladies and gentlemen, I have received your note. As a
20 result, I'm going to give you an additional instruction. It
21 has to do with your note and the fact that you've indicated
22 that you're split on one of the charges. There's some brief
23 comments that I would like to make by way of further
24 instruction on the matter.

25 As I've already instructed you, ladies and gentlemen,

1 you are the sole judges of the facts and the evidence in this
2 case. As the Judge, I'm not permitted to even give you a
3 hint as to how I might feel about the facts and circumstances
4 of this case. And as I've explained, the Court has no
5 opinion about the facts -- the constitution does not allow me
6 to have one -- and certainly could give you no hint about
7 what -- and have no opinion about what verdict should be
8 brought in this case. It is my duty to state the law of the
9 case as I have done, and it is your responsibility, ladies
10 and gentlemen, to deliberate and attempt to reach a verdict
11 in this case.

12 But I can say this, that when a matter is in dispute, it
13 is not always easy for even two people to agree, two persons,
14 two men or two women. And when 12 must agree, it becomes
15 obviously and correspondingly more difficult. But it is
16 important that litigation, and this litigation, be ended if
17 it may be ended without a single one of you doing violence to
18 your own conscience. No juror is expected to give up an
19 opinion based on reasoning satisfactory to himself or herself
20 merely for the purpose of being in agreement.

21 And I want to be very clear and understood on that fact.

22 You are not called upon often to try cases. There are
23 more than 53 circuit judges whose work it is to try cases
24 from day to day throughout the year. It is very unusual,
25 almost unheard of, for a jury to go out and immediately

1 return a verdict. This is what would happen if a jury only
2 was in agreement to begin with.

3 At the same time, we usually are able to have a jury
4 reach a verdict. What that means is that it is normal for
5 jurors to disagree at first. But the fact that we normally
6 get a verdict also means that after reasonable persons lay
7 aside all extraneous matters and determine to decide a case
8 on the basis of the law and the evidence, most juries are
9 able to come to a common understanding and are able to write
10 a verdict.

11 It has never been intended that the verdict of a jury
12 should be the verdict of any one person. On the other hand,
13 the verdict of the jury is the collective reasoning of all
14 persons put together. And that is why we have a jury, so
15 that we may have the benefit of collective thought and
16 collective reasoning.

17 It becomes your duty, ladies and gentlemen, to tell the
18 other jurors how you feel about the case and why you think as
19 you do. And I'm sure that you all have been doing that. On
20 the other hand, it becomes the other jurors' duty to exchange
21 views with you. And you should listen to each other and give
22 to others' thoughts such meaning as you think they should
23 have. To some degree, it could be said that jury service is
24 a matter of give and take.

25 If you do not agree on a verdict, it just means that at

1 some future term of court, before some other judge perhaps,
2 that some other jury will sit where you are. The same
3 participants will come, and the same lawyers probably will
4 come and, presumably, they will ask basically the same
5 questions and probably they will get much the same answers.
6 And we will go through the whole process again.

7 I have no reason now to think that any other 12 citizens
8 of Charleston County will be more capable of solving this
9 controversy than you. So I'm going to ask you at this time
10 to deliberate further and see if you cannot reach a verdict
11 in this case.

12 And I want to close this additional instruction by
13 reminding you again that while it is important that
14 litigation be ended, it should be ended in the form of a
15 verdict by no juror doing violence to his or her own
16 conscience. No juror is expected to give up an opinion based
17 on reasoning satisfactory to himself or herself merely for
18 the purposes of being in agreement.

19 And with that added instruction, I'm going to ask you to
20 retire and deliberate further. If you have any further
21 questions, just let us know.

22 (The jury exited the courtroom to resume deliberations
23 on their verdict at 2:43 p.m.)

24 (The following proceedings were had outside the presence
25 of the jury.)

1 THE COURT: You may be seated.

2 Any exception from the State?

3 MS. OUTTEN: No, your Honor.

4 THE COURT: Any from defense?

5 MR. MACK: No, Judge.

6 THE COURT: All right. We'll wait and see what happens.

7 If they come back again and they're still hung, I will follow

8 the procedures set forth and mandated by state law in

9 14-7-1330, which is to have the foreperson inquire as to

10 whether they think additional instruction would be helpful.

11 And if not, then we'll take a verdict on whichever one

12 they've reached an agreement on and we'll declare a mistrial

13 on the one they haven't.

14 (Court recessed.)

15 (Jury indicated they reached a verdict at 4:47 p.m.)

16 (Court resumed outside the presence of the jury.)

17 THE COURT: We have a verdict. Anything from the State?

18 MS. OUTTEN: No, Judge.

19 THE COURT: From the defense?

20 MR. MACK: No, Judge.

21 THE COURT: Bring in the jury, please.

22 (The jury entered the courtroom at 4:55 p.m.)

23 THE BAILIFF: All jurors are present.

24 THE COURT: Thank you. You may be seated.

25 Mr. Foreman, has the jury reached a verdict?

1 JURY FOREPERSON: We have, your Honor.

2 THE COURT: If you would give the verdict form to the
3 bailiff for me, please.

4 Sir, if you would stand.

5 Madam Clerk, would you publish the verdict of the jury.

6 CLERK OF THE COURT: State of South Carolina, Charleston
7 County, State of South Carolina versus Raheem Oquendal Grant.

8 As to Indictment Number 2020-GS-10-01107, we the jury,
9 by unanimous consent, find the defendant not guilty of
10 first-degree battery.

11 As to Indictment Number 2020-GS-10-01108, we the jury,
12 by unanimous consent, find the defendant guilty of
13 carjacking.

14 Signed Foreperson of the jury, March 2, 2023.

15 Mr. Foreman, ladies and gentlemen of the jury, if this
16 is your verdict, please raise your right hand.

17 Thank you.

18 THE COURT: Is there any request to poll the jury from
19 the State?

20 MS. OUTTEN: None from the State, your Honor.

21 THE COURT: From the defense?

22 MR. MACK: Yes, Judge.

23 THE COURT: Madam Clerk, please proceed with polling the
24 jury.

25 Ladies and gentlemen, the clerk is going to ask you two

1 for lack of a better way to phrase this, at least a
2 double-digit active sentence. We believe that the evidence
3 presented in the trial makes that appropriate. And we would
4 -- we leave the exact number in your Honor's discretion. But
5 that would be the State's argument on sentencing.

6 THE COURT: And why do you think that his rap sheet may
7 have changed from that which you provided to the Court
8 earlier?

9 Do you have the sentencing sheets? I need them.

10 MS. OUTTEN: Yes, your Honor.

11 I just didn't want to misquote it on the record.

12 THE COURT: Does Ms. Ross wish to address the Court?

13 MS. OUTTEN: Yes, your Honor. I believe Ms. Ross does
14 wish to address the Court.

15 THE COURT: Ms. Ross, we'll be glad to hear from you.
16 Please tell else your full name for the record.

17 THE WITNESS: April Vanessa Ross.

18 THE COURT: All right. Yes, ma'am. Glad to hear from
19 you.

20 THE WITNESS: I have sat here on the edge of my seat in
21 sadness, anger, and grief. I have listened to this trial and
22 listened to Mr. Grant and Mr. Mack. On the first day,
23 Mr. Mack and Mr. Grant wanted me to be removed from this
24 courtroom. On the second day, Mr. Grant turned around,
25 looked at me, and shook his head as if I were the one who did

DOCKET NO. 2020-GS-10-01107

The State of South Carolina
County of Charleston

FILED

3/16/2020 3:47:42 PM
JULIE J. ARMSTRONG
CLERK OF COURT

COURT OF GENERAL SESSIONS

MARCH TERM 2020

THE STATE

VS.

RAHEEM OQUENDAL GRANT A.K.A.
Raheem Grant, Raheem O Grant
B/M DOB: [REDACTED] 1989

Indictment for

ASSAULT & BATTERY, 1ST DEGREE

SC Code § 16-03-0600(C)(1)
CDR Code 3412

SBL/0362909
WITNESSES

Charleston City Police Department

AGENCY CASE NUMBER

2019-18636

ARREST WARRANT NUMBER

2019A1020100397

DATE OF ARREST

12/08/2019

ACTION OF GRAND JURY
TRUE BILL

[Signature]
Foreperson of Grand Jury

MAR 02 2020

VERDICT

[Signature]
Foreperson of Petit Jury

Date

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

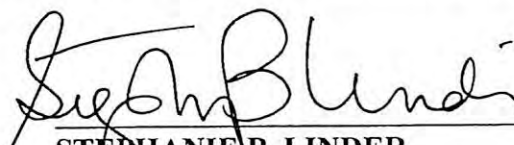
INDICTMENT

At a Court of General Sessions, convened March 2020, the Grand Jurors of Charleston County present upon their oath:

ASSAULT & BATTERY, 1ST DEGREE

That in Charleston County, South Carolina, on or about December 7, 2019, the Defendant, Raheem Oquendal Grant, did commit an unlawful act of injury upon the victim, Jorje Fuentes, and the act either (1) involved nonconsensual touching of the private parts of the victim, either under or above clothing, with lewd and lascivious intent; or (2) occurred during the commission of a robbery, burglary, kidnapping, or theft; or (3) the defendant offered or attempted to injure the victim with the present ability to do so, and the act was accomplished by means likely to produce death or great bodily injury; or occurred during the commission of a robbery, burglary, kidnapping, or theft. This is in violation of Section 16-3-600(C)(1) of the South Carolina Code of Laws (1976) as amended.

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


STEPHANIE B. LINDER
ASSISTANT SOLICITOR

SBL/0362909
WITNESSES

Charleston City Police Department

AGENCY CASE NUMBER

2019-18636

ARREST WARRANT NUMBER

2019A1010206380

DATE OF ARREST

12/08/2019

FUNCTION OF GRAND JURY
TRUE BILL

MAR 02 2020

Foreperson of Grand Jury;

Date

VERDICT

Foreperson of Petit Jury

Date

DOCKET NO. 2020-GS-10-01108

The State of South Carolina
County of Charleston

FILED

3/16/2020 3:47:42 PM
JULIE J. ARMSTRONG
CLERK OF COURT

COURT OF GENERAL SESSIONS

MARCH TERM 2020

THE STATE

VS.

RAHEEM OQUENDAL GRANT A.K.A.
Raheem Grant, Raheem O Grant
B/M DOB: [REDACTED] 1989

Indictment for

CARJACKING

SC Code § 16-03-1075(B)(1)
CDR Code 2599

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

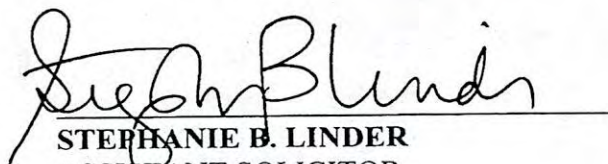
INDICTMENT

At a Court of General Sessions, convened March 2020, the Grand Jurors of Charleston County present upon their oath:

CARJACKING

That in Charleston County, South Carolina, on or about December 7, 2019, the Defendant, did take, or attempt to take, a motor vehicle from Jorje Fuentes by force and violence or by intimidation while Jorje Fuentes was operating the vehicle or inside of the vehicle in violation of Section 16-3-1075(B)(1) of the South Carolina Code of Laws (1976) as amended

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


STEPHANIE B. LINDER
ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF CHARLESTON

STATE

INDICTMENT/CASE#: 2020-GS-10-01108

VS.

RAHEEM OQUENDAL GRANTAKA: Raheem Grant, Raheem O GrantRace: Black Sex: M Age: 33DOB: 1989SS#: [REDACTED]Address: [REDACTED]

City, State,

Zip: Summerville, SC 29483-8954DL#* [REDACTED] SID# [REDACTED]A/W#: 2019A1010206380Date of Offense: 12/07/2019S.C. Code §: 16-03-1075(B)(1)CDR Code #: 2599

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the above indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADSTO: CarjackingIn violation of § 16-03-1075(B)(1) of the S.C. Code of Laws, bearing CDR Code # 2599☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS ☐ § 17-25-45
(CSC w/minor 1st or CSC w/minor 3rd)The charge is: ☒ As indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (def.'s initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Mariana C. Otten
Mariana C. Otten, Assistant
Solicitor

105320

SC Bar #

Defendant

Attorney for Defendant

102068

SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Correction ☐ County Detention Center,for a determinate term of 6 days/months/years/Time Served ☐ Youthful Offender Act not to exceed yearsand/or to pay a fine of \$, provided that upon the service of days/months/years/Time Served and or paymentof \$; plus costs and assessments as applicable*; the balance is suspended with **probation** for

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

The sentence shall run

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by SCDOC.
days/months☐ To include time spent on monitored house arrest prior to trial and sentencing.☐ The Defendant Shall be Released from County Detention Center.

Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

STATE RAHEEM
VS. OQUENDAL
CRANTINDICTMENT/CASE#: 2020-GS-10-01108☐ **PTUP** after _____ months/years**And Other Terms Listed Below:**

- ☐ Substance Abuse Counseling ☐ Completion of GED ☐ Random Drug/Alcohol Testing
- ☐ Attend Voc. Rehab. Or Job Corp ☐ No Contact with Victim ☐ Domestic Violence Intervention Program
- ☐ Mental Health Counseling ☐ May serve W/E beginning: _____
- ☐ Sex Offender Registry pursuant to S.C. Code § 23-3-430 ☐ Public Service Employment _____ days/hours
- ☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

☒ Other: ATU☐ **RESTITUTION:** ☐ **Deferred** ☐ **Def. Waives Hearing** ☐ **Ordered**

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

Payment Terms: _____ ☐ Set by SCDPPPS

Recipient: _____

*Fine:	\$	
Fine may be pd. in equal consecutive weekly/monthly pmts. of \$ _____ Beginning _____		
§14-1-206 (Assessments 107.5%)		\$
§14-1-211 (A)(1)(Conv. Surcharge)	\$100	\$ <u>100</u>
§14-1-211 (A)(2)(DUI Surcharge)	\$100	\$
§56-5-2995 (DUI Assessment)	\$12	\$
§56-1-286 (DUI Breath Test)	\$25	\$
§14-1-212 (Law Enforce. Funding)	\$25	\$ <u>25</u>
§14-1-213 (Drug Court Surcharge)	\$150	\$
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)	\$41	\$
§50-21-114 (BUI Breath Test Fee)	\$50	\$
§56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
3% to County (if paid in installments)	TBD	\$ <u>3.75</u>
☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees	\$500	\$
☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund	TBD	\$

TOTAL \$ 128.75Clerk of Court/Deputy Clerk: Lindsey Helm
Court Reporter: Jame BickettPresiding Judge: Al Jefferson
Judge Code: 2128
Sentence Date: March 2, 2023

CERTIFICATE OF COUNSEL FOR APPELLANT

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

Respectfully Submitted,

s/ Lara M. Caudy

Lara M. Caudy

Appellate Defender

South Carolina Commission on Indigent Defense

Division of Appellate Defense

PO Box 11589

Columbia, SC 29211-1589

ATTORNEY FOR APPELLANT

This 29th day of March, 2024.

RECEIVED

Mar 29 2024

SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Charleston County

Honorable Deadra L. Jefferson, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

RAHEEM OQUENDAL GRANT,

APPELLANT

APPELLATE CASE NO. 2023-000418

CERTIFICATE OF SERVICE

Pursuant to Rule 262(a)(3) and Rule 262(c)(3), SCACR, the undersigned hereby certifies a true copy of the Record on Appeal in the above referenced case has been served upon Andrew D. Powell, Esquire, at his primary email address listed in the Attorney Information System (AIS), this 29th day of March, 2024.

s/ Lara M. Caudy _____
Lara M. Caudy
Appellate Defender

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

ATTORNEY FOR APPELLANT

From: [Mcinnis, Sara](#)
To: [Andrew Powell](#)
Cc: [Grace Sommer](#); [Caudy, Lara](#)
Subject: 2023-000418 The State v. Raheem Grant Record on Appeal
Date: Friday, March 29, 2024 9:25:00 AM
Attachments: [2023-000418 The State v. Raheem Grant Proposed Transporation Order.pdf](#)
[2023-000418 The State v. Raheem Grant Record on Appeal.pdf](#)

Good Morning Mr. Powell,

Please find attached for service in the above-referenced case the Record on Appeal and a proposed transportation order. These will be filed with the Court of Appeals today, March 29, 2024, via email filing.

Thank you!

Sara McInnis

Administrative Assistant
South Carolina Commission on Indigent Defense
Appellate Division
(803) 734-1330