

VOLUME I OF III

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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Certiorari to Saluda County

S.C. SUPREME COURT

Honorable J. Cordell Maddox, Circuit Court Judge

ABIN LOWMAN,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2024-001761

APPENDIX

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INDEX

TRIAL TRANSCRIPT DATED JUNE 18-22, 2018.....	1
INDICTMENTS AND SENTENCE SHEETS.....	1065
ORIGINAL APPLICATION FOR POST-CONVICTION RELIEF.....	1080
RETURN.....	1103
APPLICANT’S AMENDED APPLICATION FOR POST-CONVICTION RELIEF	1124
POST-CONVICTION RELIEF HEARING TRANSCRIPT DATED MARCH 19, 2024	1128
COURT’S EXHIBIT #1 (JOSHUA DARIEN INTERVIEW)	1255
PETITIONER’S EXHIBIT #1 (LETTER DATED 7/24/19 FROM ROBERT DUDEK)	1257
PETITIONER’S EXHIBIT #2 (PLEA AGREEMENT).....	1258
PETITIONER’S EXHIBIT #3 (SLED REPORT).....	1274
PETITIONER’S EXHIBIT #4 (STATEMENT BY CHAD BLEGGI).....	1278
PETITIONER’S EXHIBIT #5 (VOLUNTARY STATEMENT).....	1280
PETITIONER’S EXHIBIT #6 (TEXT MESSAGES)	1282
PETITIONER’S EXHIBIT #7 (STATEMENT BY JESSE QUATTLEBAUM).....	1284
PETITIONER’S EXHIBIT #8 (SEARH WARRANT AFFIDAVIT).....	1285
REPOUDENT’S EXHIBIT #1 (REPORT OF INVESTIGATION)	1287
REPOUDENT’S EXHIBIT #2 (COVER LETTER)	1289
ORDER OF DISMISSAL.....	1290

1	State of South Carolina	)	In the Court
		)	Of General Sessions
2	County of Saluda	)	Indictment No.: 2018-GS-42-00116,
		)	00117, 00118, 00119, 00120,
3		)	00121, 00122, 00123
	State of South Carolina,	)	
4		)	
	Plaintiff,	)	
5	vs.	)	Transcript of Record
		)	
6	Abin Lee Lowman,	)	
		)	
7	Defendant.	)	
	_____	)	

8

9

June 18th through 22nd, 2018

10

Saluda, South Carolina

11

12 BEFORE:

The Honorable Eugene C. Griffith, Junior,
Judge, and a Jury

15

16 APPEARANCES:

17

Richard Samuel Hubbard, Solicitor, Eleventh
Judicial Circuit
Sutania Fuller, Assistant State Solicitor
Attorneys for the State

20

Robert Theodore Williams, Senior, Esquire
Attorney for the Defendant

22

23 ALSO PRESENT:

24 Abin Lee Lowman

25

1	INDEX	
2	JUNE 18, 2018	
3	JACKSON v. DENNO HEARING	
4	WITNESS	PAGE
5	JAMES CLINTON BUSBEE	
6	Direct Examination by Mr. Hubbard	67
7	Cross Examination by Mr. Williams	76
8	WILLIAM RUSSELL PADGETT, JUNIOR	
9	Direct Examination by Mr. Hubbard	85
10	Cross Examination by Mr. Williams	88
11	JAMES RUTLAND	
12	Direct Examination by Mr. Hubbard	93
13	Cross Examination by Mr. Williams	106
14	Redirect Examination by Mr. Hubbard	113
15	AUSTEN HARDING	
16	Direct Examination by Mr. Hubbard	114
17	Cross Examination by Mr. Williams	123
18	JUNE 19, 2018	
19	JURY SELECTION	
20	JURY SWORN	143
21	OPENING STATEMENT	
22	By Ms. Fuller	150
23	By Mr. Williams	156
24		
25		

1	JUNE 19, 2018	
2	WITNESS	PAGE
3	DANNY TIDWELL	
4	Direct Examination by Mr. Hubbard	162
5	Cross Examination by Mr. Williams	221
6	LYNDA TIDWELL	
7	Direct Examination by Ms. Fuller	255
8	Cross Examination by Mr. Williams	291
9	GARRY HITT	
10	Direct Examination by Ms. Fuller	305
11	MICHAEL RAFFIELD	
12	Direct Examination by Ms. Fuller	310
13	BOBBY LONG	
14	Direct Examination by Ms. Fuller	322
15	Cross Examination by Mr. Williams	335
16	SHARON O'BRIEN	
17	Direct Examination by Mr. Hubbard	336
18	Cross Examination by Mr. Williams	340
19	HENRY HERRON	
20	Direct Examination by Ms. Fuller	343
21	Cross Examination by Mr. Williams	350
22	Redirect Examination by Ms. Fuller	358
23	WILLIAM RUSSELL PADGETT, JUNIOR	
24	Direct Examination by Mr. Hubbard	360
25		

1	JUNE 20, 2018	
2	WITNESS	PAGE
3	WILLIAM RUSSELL PADGETT, JUNIOR	
4	Direct Examination by Mr. Hubbard	373
5	Cross Examination by Mr. Williams	391
6	Redirect Examination by Mr. Hubbard	405
7	SHEILA RUTLAND	
8	Direct Examination by Ms. Fuller	407
9	Cross Examination by Mr. Williams	419
10	Redirect Examination by Ms. Fuller	426
11	JAMES RUTLAND	
12	Direct Examination by Mr. Hubbard	427
13	Cross Examination by Mr. Williams	449
14	Redirect Examination by Mr. Hubbard	474
15	Recross Examination by Mr. Williams	477
16	AUSTEN HARDING	
17	Direct Examination by Mr. Hubbard	480
18	Cross Examination by Mr. Williams	496
19	JAMES MOSLEY	
20	Direct Examination by Mr. Hubbard	508
21	Cross Examination by Mr. Williams	519
22	STEVEN BROWN	
23	Direct Examination by Mr. Hubbard	528
24	Cross Examination by Mr. Williams	533
25		

1	JUNE 20, 2018	
2	WITNESS	PAGE
3	JOSHUA PRICE	
4	Direct Examination by Ms. Fuller	543
5	Cross Examination by Mr. Williams	578
6	Redirect Examination by Ms. Fuller	601
7	NICHOLAS SPROUSE	
8	Direct Examination by Mr. Hubbard	607
9	Cross Examination by Mr. Williams	623
10	Redirect Examination by Mr. Hubbard	635
11	Recross Examination by Mr. Williams	637
12	JAMES CLINTON BUSBEE	
13	Direct Examination by Mr. Hubbard	639
14	Cross Examination by Mr. Williams	647
15	JUNE 21, 2018	
16	TOBY HORNE	
17	Direct Examination by Mr. Hubbard	651
18	Cross Examination by Mr. Williams	668
19	Redirect Examination by Mr. Hubbard	684
20	Recross Examination by Mr. Williams	686
21	JAMES CHRISTOPHER WILSON	
22	Direct Examination by Ms. Fuller	689
23	Cross Examination by Mr. Williams	797
24		
25		

1	JUNE 21, 2018	
2	WITNESS	PAGE
3	DORCAS BRAXTON	
4	Direct Examination by Ms. Fuller	836
5	Cross Examination by Mr. Williams	841
6	TOMMY HINES	
7	Direct Examination by Ms. Fuller	846
8	Cross Examination by Mr. Williams	857
9	JASON HENSON	
10	Direct Examination by Ms. Fuller	860
11	Cross Examination by Mr. Williams	874
12	NICHOLAS MATKINS	
13	Direct Examination by Mr. Hubbard	878
14	Cross Examination by Mr. Williams	886
15	JUNE 22, 2018	
16	JOSHUA DARIEN	
17	Direct Examination by Mr. Hubbard	891
18	Cross Examination by Mr. Williams	949
19	Redirect Examination by Mr. Hubbard	977
20	Recross Examination by Mr. Williams	980
21	JAMES ARMSTRONG	
22	Direct Examination by Ms. Fuller	981
23	Cross Examination by Mr. Williams	985
24		
25		

1	JUNE 22, 2018	
2	WITNESS	PAGE
3	RUSSELL PADGETT	
4	Direct Examination by Mr. Hubbard	986
5	Cross Examination by Mr. Williams	993
6	ABIN LEE LOWMAN	
7	Examination by the Court	997
8		
9	CHARGE OF THE COURT	1001
10	CLOSING ARGUMENTS	
11	By Mr. Hubbard	1025
12	By Mr. Williams	1038
13	VERDICT OF THE JURY	1056
14	SENTENCE OF THE COURT	1061
15	Certificate of Reporter	
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

1	EXHIBITS			
2	COURT'S			
3	NO.	DESCRIPTION	ID	EVDS.
4	1	Johnston PD Policy And Procedures	120	
5	STATE'S			
6	NO.	DESCRIPTION	ID	EVDS.
7	1	Aerial Map Golf Course	64	187
8	2	Aerial Map of Johnston	64	444
9	3	"	64	187
10	4	Miranda Sheet	64	987
11	5	Poster, Diagram Tidwell Residence	64	178
12	6	Photo - Front Entrance Tidwell House	64	178
13	7	" Carport Tidwell House	64	178
14	8	" Back of Tidwell House	64	179
15	9	" North End of Tidwell House	64	179
16	10	" From Golf Course Back of Tidwell House	64	179
17	11	" Back of Tidwell House, 3rd Green Pond	64	179
18	12	" Living Room/Great Room Tidwell House	64	188
19	13	" Where Tidwells Made To Lie Down	64	188
20	14	" Green Sofa	64	188
21	15	" Pillow In Half Bath	64	196
22	16	" Laundry Room	64	264
23	17	" Danny Tidwell's Wrists/Zip Ties	64	205
24	18	" Lynda Tidwell's Wrists/Zip Ties	64	205
25	19	" GMC Yukon	64	206

1	20	" Driver's Side Door GMC Yukon	64	206
2	21	" Carport With Other Vehicle	64	210
3	22	" Carport With Storage Room	64	210
4	23	" Carport With Storage Room Door	64	210
5	24	" Inside Storage Room	64	210
6	25	" Lynda Tidwell's Keys	64	211
7	26	" Two Key Fobs	64	211
8	27	" .410 Shell or .45 Bullet	64	212
9	28	" Gerber Tool Pocket Knife	64	212
10	29	" Lynda Tidwell's Cell Phone	64	213
11	30	" Danny Tidwell's Cell Phone	64	213
12	31	" Suspicious Car	214	348
13	32	" Suspicious Car	214	348
14	33	" Distant Shot Window/Dining Area	64	216
15	34	" Closer Shot Window/Dining Area	64	216
16	35	" Broken Window From Inside	64	216
17	36	" Broken Window From Outside	64	216
18	37	" Broken Window From Outside	64	216
19	38	Gun	185	658
20	39	Black Zip Ties	64	619
21	40	Danny Tidwell's Keys And Fob	64	208
22	41	Money Clip	64	208
23	42	Photo Laundry Room to Great Room	64	266
24	43	" Cleaning Supplies	64	286
25	44	" Cleaning Supplies	64	286

1	45	" Master Bedroom	64	266
2	46	" Master Bedroom w/Dresser	64	266
3	47	" From Laundry Room	64	266
4	48	" Pocketbook	64	274
5	49	" Clorox Bottle In Nature	64	660
6	50	" Items By Side Of The Road	64	660
7	51	" Items	64	660
8	52	" Pocketbook	64	274
9	53	" Pocketbook	64	274
10	54	" Danny Tidwell's Keys	64	285
11	55	Louie Vuitton Pocketbook	64	277
12	56	Zip Ties	64	619
13	57	Photo White GMC Yukon In Aiken	64	313
14	58	CD	64	340
15	59	Photo Waffle House w/Light Skin Guy	64	334
16	60	" Waffle House w/Light Skin Guy	64	334
17	61	" Glove And Money Clip	64	338
18	62	CD Son-In-Law's Security Camera	64	347
19	63	Poster Robert Goodwin	64	381
20	64	" Abin Lee Lowman	64	381
21	65	" Joshua Darien	64	381
22	66	" James Wilson	64	381
23	67	" Close Aerial Shot Pull Over Location	64	486
24	68	Jerry Kirk State ID Card	64	388
25	69	Photo Mercury Grand Marquis At Impound Yard	64	408

1	70	GPS Agreement Form	64	411
2	71	Photo Close Up/Narrow Road And Golf Course	64	433
3	72	Box Nine Millimeter Ammo	494	517
4	73	Photo Where Keys Found	64	531
5	74	" Area Of Tire Impressions	64	551
6	75	Robert Goodwin ID Maryland	64	576
7	76	Abin Lee Lowman ID South Carolina	64	576
8	77	Walkie-Talkie	64	576
9	78	James Wilson ID Maryland	64	576
10	79	Nine Millimeter Shell Casing	64	576
11	80	Cell Phone	64	576
12	81	White Box	64	576
13	82	Gloves	64	576
14	83	Pair Of Gloves	64	576
15	84	Jacket And Black T-Shirt	64	576
16	85	Photo Radio Next To Footprint	64	603
17	86	" Radio Next To Footprint	64	603
18	87	White Zip Ties	64	619
19	88	White Glove From Waffle House	64	646
20	89	Photo Diver In Pond Where Keys Found	64	663
21	90	" Diver In Pond w/Lynda Tidwell's Phone	64	663
22	91	" Diver In Pond w/Danny Tidwell's Phone	64	663
23	92	Poster Calendar	64	
24	93	Photo Lowman @ Walmart, N. Augusta, GA.	64	729
25	94	" Joshua Darien @ Walmart, N. Augusta, GA.	64	729

1	95	" Abin Lee Lowman @ Cash Register	64	729
2	96	" Abin Lee Lowman @ Cash Register	64	729
3	97	" Abin Lee Lowman @ Walmart, N. Augusta, GA.	64	729
4	98	" Mercury Grand Marquis	64	729
5	99	" Mercury Grand Marquis/N. Augusta w/Lowman	64	729
6	100	" Abin Lee Lowman w/Bag Of Ammo	64	729
7	101	" Abin Lee Lowman @ Walmart N. Augusta	64	729
8	102	" Joshua Darien @ Walmart Aiken, SC	64	722
9	103	" Robert Goodwin @ Walmart Aiken, SC	64	722
10	104	" Abin Lee Lowman Wearing Work Clothes	64	722
11	105	" James Wilson @ Walmart Aiken, SC	64	722
12	106	" All Four @ Walmart Aiken, SC	64	722
13	107	" Bible And Gun	64	791
14	108	" Abin Lee Lowman ID Card	64	789
15	109	James Wilson's Phone	792	792
16	110	Knights Inn Quest Registration	64	838
17	111	Knights Inn Registration Card Folder	64	838
18	112	Copy Guest Registration ID	64	838
19	113	CD Of Footage @ Walmart N. Augusta	64	863
20	114	Copy Of Receipt For Ammo Purchase	64	872
21	115	Stipulation Abin Lee Lowman Two Prior Burgs	64	996
22	DEFENDANT'S			
23	NO.	DESCRIPTION	ID	EVDS.
24	1	Photo James Wilson's Face	953	953
25				

1 June 18, 2018

2 Thereupon, the following proceedings were had,

3 BAILIFF: All rise. Court come to order.

4 THE COURT: Be seated please. All right.

5 Solicitor, ready to call the first case?

6 MR. HUBBARD: Yes, sir, Your Honor.

7 THE COURT: All right.

8 MR. HUBBARD: Thank you. The State calls for trial
9 indictment 2018-GS-41-116, State versus Abin Lee Lowman
10 indicted for burglary first degree. 2018-GS-41-123,
11 State versus Abin Lee Lowman indicted for armed robbery.
12 2018-GS-41-122, State versus Abin Lee Lowman indicted for
13 kidnapping. 2018-GS-41-121, State versus Abin Lee Lowman
14 indicted for kidnapping. 2018-GS-41-114, State versus
15 Abin Lee Lowman indicted for criminal conspiracy. Your
16 Honor, all indictments have been true billed
17 (proffering.)

18 THE COURT: All right. Ladies and Gentlemen of the
19 jury panel, the State has called several indictments,
20 five indictments against Abin Lee Lowman. Mr. Lowman is
21 here in the courtroom represented by his attorney. What
22 I'm going to do now is I'm going to publish the
23 indictments to you and then I'm going to introduce the
24 parties to you and then we are going to proceed forward.

25 Now, as I read you the indictments my questions are

1 going to have a similar rhythm to them in the following
2 manner. The case is, the name is, the facts alleged are,
3 the witnesses and investigators, the lawyers are named
4 thus and so and thus and so. Do you know, do you have
5 any personal knowledge, is there anything relationship
6 wise with any of the witnesses potentially that would
7 create an issue for you not being able to be fair and
8 impartial.

9 Now, some people can have a relationship or a little
10 bit of knowledge about something going on and still be
11 fair and impartial but what I need to know is can you be
12 fair and impartial in spite of the relationship. If you
13 can't, you know, I'm very close to that person or this
14 member of the family, that's fine. What I don't need is
15 someone to tell me after the trial, you know what, I
16 can't do it. So I'm trying on the front end right now to
17 select a fair and impartial jury to both the State and
18 the defense.

19 Now, here is what I don't need also. I'm going to
20 ask questions about this. Have you heard anything about
21 this case? Oh, yeah. I read on Facebook. I heard in
22 the beauty parlor this, that and the other. This, that
23 and the other. All this carrying on. I don't want to
24 hear what you heard, just if you heard something. I
25 don't need it repeated to me because then once you repeat

1 it, then everybody's heard it and it might be total
2 hogwash what you have heard. It maybe who knows what.
3 But I don't need what you heard to be repeated here in
4 the courtroom. I need to just ask you the question.
5 Whatever it is you have heard, would it create an issue
6 for you being fair and impartial. Can you listen to the
7 testimony here in court from the live witnesses on the
8 witness stand questioned by the attorneys and listen and
9 make a conscientious decision as to what you believe
10 after you have heard the testimony.

11 That's what I'm looking for. Jurors who are going
12 to be good listeners, not anyone who comes into court
13 with a preconceived notion one way or the other. And
14 I'll tell you a little story before I read the
15 indictments. I had a gentleman and I didn't realize it,
16 I went to church with him and he was over in Newberry and
17 we had a car wreck case and in car wreck cases jurors
18 determine when a car wreck happened more or less who was
19 at fault or who was partially at fault, what percentage
20 the other people were at fault. You may be 75 percent at
21 fault and the other guy is 25 percent at fault and the
22 one that is 75 percent at fault pays 75 percent of the
23 medical bills for the other party.

24 Anyway, the gentleman in the jury panel, yes, sir,
25 Judge, I can't be fair and impartial because insurance

1 companies, they're the biggest bunch of racket makers,
2 they make money and they're no good thieves and they're
3 just underhanded and I hate dealing with them. My dad
4 had a car wreck and they tried to Jew him out of his car
5 and this and that. I couldn't shut him up. I was about
6 to put him in jail because he was just telling me what a
7 bunch of racket makers the insurance guys were. Well, I
8 didn't need everybody in the courthouse to hear he had a
9 bad relationship with some insurance company. And I said
10 please don't tell me anymore about this. You need to
11 hush and sit down. No. I want to tell you. I said,
12 look. I know we go to church together but I'm fixing to
13 put you in jail because I don't need all the information
14 because you're making all the other jurors think, well,
15 maybe the insurance companies are a bunch of... And
16 that's not what I wanted. He couldn't be fair and
17 impartial because something bad happened to his dad with
18 an insurance company.

19 Well, the truth of the matter was we had a week of
20 criminal court coming up in two weeks. He could sit on a
21 criminal jury and not heard anything about an insurance
22 company. So if there's anybody out there that's going to
23 tell me I think everybody is guilty because they wouldn't
24 be arrested if they weren't, well, I've got something for
25 you. It's called civil court. So I don't buy that.

1 I've been around the block for ten years. I know what's
2 going on. None of y'all volunteered to come in here on
3 this jury. I get it. I'm gonna try to minimize your
4 time. I promise you. If you listen to my questions,
5 follow my instructions, you'll learn a lot of how court
6 is really handled, how cases are really managed, how
7 parties are represented. You'll learn a huge amount of
8 information and you'll be impressed and proud that you
9 are part of that system and not imposed upon unduly
10 because of the system. So be patient with me and I
11 promise you you will find your jury service very
12 rewarding.

13 All right. Now that I'm off my soap box. I have to
14 teach people that court is like court in South Carolina,
15 it's not like it is on TV. So that's just how it is.

16 All right. First indictment, 116, Abin Lee Lowman,
17 burglary first degree. These indictments, these are
18 allegations the State is making. An indictment is an
19 allegation. It's an accusation. It's not proof of
20 anything. To these indictments already Mr. Lowman has
21 pled not guilty and by that plea has asked the State be
22 required to meet their burden of proving its case.
23 That's all the indictments are, allegations. He's pled
24 not guilty so he gets a trial.

25 Burglary first degree. Mr. Abin Lee Lowman with

1 others in Saluda County on March 8th, 2017 did enter a
2 dwelling at 106 Birdie Court, a dwelling owned by Lynda
3 and Danny Tidwell without their consent, caused some harm
4 or injury to them and appeared to be displaying a
5 firearm. He has a prior record of convictions of
6 burglary on two or more occasions prior to that night.
7 This all being in violation of section 16-11-311. To
8 those allegations Mr. Lowman has pled not guilty.

9 Next indictment, 123 for armed robbery. That
10 indictment alleges that Mr. Abin Lee Lowman in Saluda
11 County on March 8th of '17 did while armed with a weapon
12 take from the person or presence of Lynda and Danny
13 Tidwell some jewelry, cash and other personal items
14 including vehicle keys, household items from the house
15 located on Birdie Court within Saluda County in violation
16 of 16-11-330 sub part (A). To that indictment Mr. Lowman
17 has pled not guilty.

18 Indictment 122 for kidnapping. That indictment
19 alleges that Mr. Abin Lee Lowman with some others on
20 March 8th of '17 did unlawfully seize or kidnap one Lynda
21 Tidwell without her consent during the commission of a
22 burglary or an armed robbery in violation of 16-3-910.
23 To that indictment Mr. Lowman has pled not guilty.

24 Indictment 121 kidnapping. Mr. Abin Lee Lowman with
25 others on March 8th of '17 in Saluda County did

1 unlawfully kidnap one Danny Tidwell while in the
2 commission of a burglary and armed robbery on Birdie
3 Court in Saluda County in violation of 16-3-910. To that
4 indictment he has also pled not guilty.

5 And lastly indictment 120 for criminal conspiracy.
6 This indictment alleges that Mr. Lowman while in Saluda
7 County on March 8 of '17 did conspire with James Wilson,
8 Joshua Darien, Robert Goodwin, and perhaps others for the
9 unlawful accomplishment of burglary first degree, armed
10 robbery, kidnapping at Birdie Court within Saluda County
11 in violation of 16-17-410. To that indictment also Mr.
12 Lowman has pled not guilty.

13 Now, the first question is, I ask these questions,
14 it's appropriate for you to stand up and respond. Let me
15 call on you, get your name and juror number and then I
16 will ask you questions. Yes, no answers. Like I
17 discussed before, I don't want to hear about the
18 insurance man, all right?

19 Now, is there any member of the jury panel who has
20 read anything, heard anything, television, radio,
21 newspaper, Internet, doesn't matter your source, you have
22 heard anything about the allegations involving this
23 incident on March 8th of 2017 in Saluda County? If so,
24 please stand.

25 All right. I'll start on the right. Ma'am, tell me

1 your name again.

2 KEYWANNA BURT: Keywanna Burt.

3 THE CLERK: Number 34.

4 THE COURT: Juror 34. All right. Ms. Burt, tell

5 me, you have heard about the allegations in these five

6 indictments.

7 KEYWANNA BURT: Yes.

8 THE COURT: Did you hear about it locally? Did you

9 read about it in the paper or something.

10 KEYWANNA BURT: Yes, sir.

11 THE COURT: Have you heard anything since that

12 initial report.

13 KEYWANNA BURT: No.

14 THE COURT: Now, what you read or heard, would that

15 affect your ability to be fair and impartial in this

16 case? Or asked another way, can you listen to the facts

17 and testimony and the evidence in the trial and disregard

18 whatever you heard earlier? Can you do that.

19 KEYWANNA BURT: Yes, sir.

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

21 Ma'am in the green. Tell me your name please.

22 TANJA BRYAN: Tanja Bryan.

23 THE CLERK: Number 33.

24 THE COURT: Number 33. One up on the list. Same

25 question to you. You have read, heard or seen something

1 in the newscast about this incident? Did you hear about
2 it back in March of '17?

3 TANJA BRYAN: Yes.

4 THE COURT: Now, have you heard anything about it
5 since.

6 TANJA BRYAN: I haven't.

7 THE COURT: Now, can you set aside what you heard or
8 read back in March of 2017 and listen to the testimony
9 during the trial and make a decision and be a fair and
10 impartial juror and a good listener in this case.

11 TANJA BRYAN: Yes, sir.

12 THE COURT: Thank you, Ms. Bryan. Ma'am in the
13 middle. Tell me your name.

14 MARJEAN PADGETT: Marjean Padgett.

15 THE COURT: Mrs. Padgett, same question to you.
16 Have you read or heard something about this case back in
17 March of '17.

18 MARJEAN PADGETT: Yes, sir.

19 THE COURT: Now, whatever it is you read or heard,
20 can you set that aside and listen attentively to the
21 testimony, evidence in the case, the witnesses who get
22 called to testify and be fair and impartial and disregard
23 whatever you heard back in 2017? Can you do that.

24 MARJEAN PADGETT: Well, my son was one of the
25 officers.

1 THE COURT: Oh. Well, that would make a difference.
2 I'm coming to that. You heard something about it from
3 your son who is in law enforcement.

4 MARJEAN PADGETT: Yes, sir.

5 THE COURT: Would that fact that your son is
6 involved in law enforcement in this case make it
7 difficult for you to be fair and impartial.

8 MARJEAN PADGETT: Yes, sir.

9 THE COURT: All right. That's fair enough. And
10 he's sitting up here in the courtroom with me.

11 MARJEAN PADGETT: Yes, sir.

12 THE COURT: That's makes it real tough.

13 MARJEAN PADGETT: Yes.

14 THE COURT: That's a perfect example. You can be
15 seated. Any other questions that you need to respond to
16 you need not because I have already set you aside for the
17 case. All right. That's an excellent example of what
18 I'm looking for. All right. Ma'am in the striped shirt,
19 tell me your name please.

20 BELINDA GILLIAM: Belinda Gilliam.

21 THE COURT: All right. Mrs. Gilliam, You have heard
22 or read something about this case.

23 BELINDA GILLIAM: Yes, sir.

24 THE COURT: Did you hear or read about it back in
25 March of '17.

1 BELINDA GILLIAM: Yes, sir.

2 THE COURT: All right. Now, can you, if selected as
3 a juror, be fair and impartial in this case and listen to
4 the witnesses and the evidence presented and disregard
5 anything from 2017.

6 BELINDA GILLIAM: Yes, sir.

7 THE COURT: Thank you very much. The gentleman in
8 front. Tell me your name.

9 BRAD BLACK: Brad Black. 21.

10 THE COURT: All right. Mr. Black, same question.
11 You heard something about this case back in 2017.

12 BRAD BLACK: Yes, sir.

13 THE COURT: Can you set whatever you heard aside and
14 listen to the facts presented in during the trial this
15 week and make a decision based upon those facts and
16 disregard whatever you heard back in '17.

17 BRAD BLACK: I can.

18 THE COURT: Thank you very much. Ma'am in the blue,
19 tell me your name.

20 MELVIA KERBY. Melvia Kerby, 111.

21 THE COURT: Mrs. Kerby, you heard something about
22 this case in '17.

23 MELVIA KERBY: Yes, sir.

24 THE COURT: Can you set that aside and listen to the
25 testimony and the evidence presented this week and make a

1 decision based upon the sworn testimony and evidence
2 received in the court.

3 MELVIA KERBY: Yes, sir.

4 THE COURT: And be fair and impartial?

5 MELVIA KIRBY: Yes, sir.

6 THE COURT: Thank you very much. Ma'am right there.
7 Tell me your name.

8 OMEGA SWEAT: Omega Sweat, 184.

9 THE COURT: You're 184, Ms. Sweat.

10 OMEGA SWEAT: Sweat.

11 THE COURT: Ms. Sweat, you heard something about
12 this case in '17.

13 OMEGA SWEAT: Yes, sir.

14 THE COURT: Can you set that aside.

15 OMEGA SWEAT: Yes, sir.

16 THE COURT: Listen attentively to the testimony and
17 evidence presented during the trial this week.

18 OMEGA SWEAT: Yes, sir.

19 THE COURT: And be fair and impartial.

20 OMEGA SWEAT: Yes, sir.

21 THE COURT: Thank you, Ms. Sweat. The gentleman in
22 the blue and black. I got that one.

23 PHILLIP JONES: Phil Jones.

24 THE COURT: What's your number.

25 PHILLIP JONES: 107.

1 THE COURT: 107.

2 PHILLIP JONES: Yes, sir.

3 THE COURT: Mr. Jones, you heard something about
4 this case back in '17.

5 PHILLIP JONES: Yes, sir.

6 THE COURT: Can you set whatever you heard or read
7 aside and listen to the testimony and the evidence
8 presented in the trial this week and be fair and
9 impartial to both sides.

10 PHILLIP JONES: Yes, sir.

11 THE COURT: Thank you so much. All right. The
12 parties involved in the case, I'm gonna let Solicitor
13 Hubbard introduce his lawyers, investigators and the
14 victims and then I'll come to Mr. Williams and do the
15 same for him. So, Solicitor Hubbard, introduce the
16 parties at your table.

17 MR. HUBBARD: Yes, Your Honor. Sutania Fuller,
18 Assistant Solicitor. She will be trying the case with
19 us. We have Jesse Quattlebaum who is our investigator.
20 And Carly who will be in and out, our paralegal. That's
21 our team. Of course, law enforcement, we have Russ
22 Padgett and other members of law enforcement will be
23 participating.

24 THE COURT: Would you like to introduce the Tidwells
25 also?

1 MR. HUBBARD: Oh, yes, sir. Mr. and Mrs. Tidwell.
2 Danny Tidwell and Lynda Tidwell. Thank you.

3 THE COURT: All right, folks. All right.
4 Mr. Williams.

5 MR. WILLIAMS: I'm Theo Williams. I have a law
6 office in Lexington. I live in Batesburg. My law firm
7 in Lexington is Williams, Stitley and Brink. Seated at
8 my table is a young lawyer who has been with us about two
9 weeks. He's been practicing law for about three weeks.
10 His name is Jason Young. Next to him is my client Abin
11 Lowman.

12 THE COURT: All right. Ladies and gentlemen of the
13 jury, I'm gonna start with the lawyers. Any member of
14 the jury panel ever been represented by any of the
15 lawyers just introduced? If so, please stand. Got one.
16 Tell me your name please, sir.

17 DANIEL LEYDEN: Daniel Leyden, 116.

18 THE COURT: Which lawyer have you been involved
19 with?

20 DANIEL LEYDEN: Mr. Williams.

21 THE COURT: Mr. Williams. Is the matter he
22 represented you on now ended.

23 DANIEL LEYDEN: Yes, sir.

24 THE COURT: How long ago was his representation.

25 DANIEL LEYDEN: 2014.

1 THE COURT: 2014. Several years ago. The fact that
2 he represented you in the past does that affect your
3 ability to be fair and impartial in this case.

4 DANIEL LEYDEN: No, sir.

5 THE COURT: All right. You can do that for both
6 sides.

7 DANIEL LEYDEN: Yes, sir.

8 THE COURT: Very well. Thank you so much. Any
9 member of the jury panel related by blood, marriage,
10 close personal friends to any of the folks meaning the
11 lawyers, law enforcement, the employees at the
12 Solicitor's Office, the Tidwells or anyone at Mr.
13 Williams' table? If so, please stand. Got a couple.
14 Ma'am in the striped blouse.

15 TONIA HUDSON: Tonia Hudson, 93.

16 THE COURT: Ms. Hudson, which person or people are
17 you related to or closely connected to.

18 TONIA HUDSON: Donovan Shealy works for the
19 Sheriff's Department and he's my third cousin.

20 THE COURT: Third cousin. The fact he's your third
21 cousin would that affect your ability to be fair and
22 impartial in this case?

23 TONIA HUDSON: No.

24 THE COURT: Is he a potential witness, Solicitor?

25 MS. FULLER: No, Your Honor.

1 THE COURT: Thank you, ma'am. Sir, tell me your
2 name again.

3 BRAD BLACK: Brad Black.

4 THE COURT: Mr. Black, which person are you closely
5 contacted to.

6 BRAD BLACK: Family friend with the Padgetts here
7 and the Quattlebaum family.

8 THE COURT: Did you grow up here in Saluda County.

9 BRAD BLACK: I did.

10 THE COURT: The fact that you're connected with them
11 as friends, would you be able to be fair and impartial in
12 this case.

13 BRAD BLACK: I can.

14 THE COURT: All right. Thank you so much. Any
15 member of the jury panel related by blood or marriage to
16 Mr. Abin Lee Lowman? He's lived in Greenville and
17 Edgefield counties. Anyone related to him or his family?
18 If so, please stand. No one is standing.

19 All right. I'm going to call out a list of
20 potential witnesses and basically ask a very similar
21 question, related by blood, marriage, close or personal
22 friends to those potential witnesses. If I read -- I'll
23 try to skip, for instance, Mr. Quattlebaum or Mr.
24 Padgett. They've been introduced. If I read them again,
25 we'll just out of abundance of caution make certain

1 there's full disclosure on both sides.

2 Potential witnesses in the case, of course, Mr. and
3 Mrs. Tidwell, Danny and Lynda Tidwell. Captain Toby
4 Horne. If you're in the courtroom, if y'all stand so the
5 jury can see you. They may know you by name or by face.
6 Thank you, Captain. Lieutenant Russ Padgett. Already
7 introduced. Sergeant Garry Hitt, Deputy Evan Garris,
8 Corporal Chris Miller, Deputy Michael Raffield,
9 Lieutenant Chuck Padgett, Corporal Joshua Price, Sergeant
10 Scott Wilson, Investigator Stephen Byrd.

11 All right. That's not all of them. Any member of
12 the jury panel related by blood, marriage, close personal
13 friends to any of those potential witnesses? If so,
14 please stand. No one is standing except for the two that
15 we have already disclosed a relationship with the police.

16 Additional witnesses. Deputy Austen Harding, Ashley
17 Turner, Roger Bush, Janice Ergle, Investigator James
18 Smith. He's with the Edgefield Sheriff's Department.
19 Lieutenant Randy Doran, also Edgefield Sheriff's
20 Department. Investigator Curtis Burton, Sergeant James
21 Florida, Chief Gerry Greiner, Chief Lamaz Robinson,
22 Lieutenant Bettis Herlong, Corporal James Mosley. Any
23 member of the jury panel related by blood, marriage,
24 close personal friends to any of those potential
25 witnesses, please stand. No one is standing.

1 Additional witnesses. Officer Andrea Dublin, James
2 Shorter, Lieutenant John Clough, Deputy Moses Brown,
3 Detective Chad Bleggi, Sergeant Thomas Tippet, Officer
4 Charles Ros, Agent Nicholas Matkins, Agent David Pait,
5 Agent Kenny Jordan, Agent Mark Gage, Terry Casey. Any
6 member of the jury panel related by blood, marriage,
7 close personal friends to any of those potential
8 witnesses please stand. No one is standing.

9 Additional potential witnesses. Sergeant Rhett
10 Bickley, Willis Bowers, Bradley Miller, Daniel Bridges,
11 Preston Garner, James Busbee, Nicklaus Sprouse, Melinda
12 Worley, Tommy Hines, Sara Goodman, Kimberly Mears, Verona
13 Herrera. Any member of the jury panel related by blood,
14 marriage, close personal friends to any of those
15 potential witnesses? If so, please stand. No one is
16 standing.

17 Additional potential witnesses -- The parties are
18 required under the rules to tell the Court any witness
19 that might be called likely or unlikely. That's
20 required. Both sides have to say, Judge, this is a
21 potential witness who we might call so that the jury can
22 be fully notified of who there may be a conflict with, so
23 that doesn't mean all of these witnesses will be called.
24 They could be called. All right.

25 Additional witnesses. Amy Black, Charlotte Pitts,

1 Lesa Chapman, James Armstrong, Kara Bennick, Clarissa
2 Dubard, Jason Hinson, Cindy Hommers, Wallace Keisler,
3 Mike Desai, Henry Herron, James Rutland, Sheila Rutland.
4 Any member of the jury panel related by blood, marriage,
5 close personal friends to any of those potential
6 witnesses, please stand. No one is standing.

7 Additional witnesses potentially. Joseph Havird,
8 Charles Harmon, Ted Martin, Colby Strickland, Frederick
9 Wideman, Roberta Lowman, Steven Brown, Nikki Mason,
10 George Jones, Bobby Long. Any member of the jury panel
11 related by blood or marriage, friends with any of those
12 potential witnesses? Ma'am in the blue, tell me your
13 name again.

14 OMEGA SWEAT: Omega Sweat.

15 THE COURT: Ms. Sweat, which of those potential
16 witnesses are you connected with?

17 OMEGA SWEAT: Joseph Havird.

18 THE COURT: How are you connected to Mr. Havird.

19 OMEGA SWEAT: He's my nephew, my sister's son.

20 THE COURT: And he's a potential witness in the
21 case. Would the fact that your nephew is a potential
22 witness affect your ability to be fair and impartial in
23 this case?

24 MS. SWEAT: Would not.

25 THE COURT: It would not. Thank you so much.

1 Gentleman in the plaid tell me your name.

2 ROBERT BOUKNIGHT: Bob Bouknight. Ted Martin is my
3 uncle.

4 THE COURT: Ted Martin is your uncle?

5 ROBERT BOUKNIGHT: Yes, sir.

6 THE COURT: And the fact that your uncle is a
7 potential witness, would that affect your ability to be
8 fair and impartial, Mr. Bouknight?

9 ROBERT BOUKNIGHT: No, sir.

10 THE COURT: Thank you so much. The gentleman right
11 behind Mr. Bouknight in the plaid, tell me your name.

12 MAURICE GRIFFITH: Maurice Griffith.

13 THE COURT: Mr. Griffith. I'm not so sure I have
14 ever seen you so we can't be kin.

15 MAURICE GRIFFITH: We are.

16 THE COURT: See. You see how you don't know your
17 cousins. Mr. Griffith, which witness are you connected
18 with?

19 MAURICE GRIFFITH: Ted Martin.

20 THE COURT: Are you friends with him?

21 MAURICE GRIFFITH: Just friends.

22 THE COURT: Would the fact that you are friends with
23 Mr. Martin who is a potential witness affect your ability
24 to be fair and impartial?

25 MAURICE GRIFFITH: No.

1 THE COURT: Okay. Thank you so much. And, ma'am,
2 standing up, tell me your name.

3 MELANIE WHITE: Melanie White, 202. Did you say
4 Strickland?

5 THE COURT: I said Colby Strickland.

6 MELANIE WHITE: Yes.

7 THE COURT: Are you connected with, is it Ms. or
8 Mrs.? I mean Strickland? Is it a male or a female?

9 MELANIE WHITE: Female.

10 THE COURT: Okay. Colby could go both ways. Do you
11 know Ms. Strickland?

12 MELANIE WHITE: Yes. I know her.

13 THE COURT: So my book told me it was a male; is
14 that right?

15 THE CLERK: No. It's a female.

16 THE COURT: Oh, okay. I didn't hear. It's hard to
17 hear in these big courtrooms sometimes. Ms. Strickland
18 is a friend?

19 MELANIE WHITE: Yes.

20 THE COURT: Would that friendship affect your
21 ability for you to not be fair and impartial in this
22 case.

23 MELANIE WHITE: No, sir.

24 THE COURT: Okay. Thank you very much. Anybody
25 else? All right. Last of the list. Sharon O'Brien,

1 Ashley Renew, Charles Strong, Travis Legons, Robert
2 Goodwin, James Christopher Wilson, Joshua Lee Darien,
3 Nikki Huggins, Roberta Lowman, Trico Lowman. Any member
4 of the jury panel related by blood, marriage, close
5 personal friend to any of those potential witnesses,
6 please stand. No one is standing.

7 Any member of the jury panel, a member of your
8 immediate family employed in any capacity as a law
9 enforcement officer? If so, please stand. Got a couple.
10 Okay. We'll start over here with Mr. Griffith. What's
11 your number again?

12 MAURICE GRIFFITH: 81.

13 THE COURT: 81. Mr. Griffith, who is employed in a
14 law enforcement capacity with your family?

15 MAURICE GRIFFITH: My brother, Matt Griffith,
16 probation officer.

17 THE COURT: The fact that your brother is a
18 probation agent be a factor or can you be fair and
19 impartial in this case?

20 MAURICE GRIFFITH: Won't be a factor.

21 THE COURT: You will be able to be fair?

22 MAURICE GRIFFITH: It won't be a factor.

23 THE COURT: Won't be a factor. So you can be fair
24 and impartial to the State and to Mr. Lowman?

25 MAURICE GRIFFITH: Yes, sir.

1 THE COURT: Very well. All right. Ma'am, tell me
2 your name again.

3 MARJEAN PADGETT: Marjean Padgett.

4 THE COURT: I have already disqualified you because
5 your son is involved. You're good to stay seated. Ma'am
6 in the front, tell me your name again.

7 TONJA HUDSON: Tonja Hudson.

8 THE COURT: Ms. Hudson, who is connected to you in
9 law enforcement?

10 TONJA HUDSON: Jonathan Strickland is my third
11 cousin.

12 THE COURT: Third cousin. Would that fact affect
13 your ability to be fair and impartial in this case?

14 TONJA HUDSON: No.

15 THE COURT: Thank you so much. The gentleman in the
16 suspenders tell me your name.

17 JOEL MAFFETT: Joel Maffett.

18 THE COURT: And your number?

19 JOEL MAFFETT: 120.

20 THE COURT: Who in your family is connected to law
21 enforcement?

22 JOEL MAFFETT: My son.

23 THE COURT: What does he do?

24 JOEL MAFFETT: Agent with SLED.

25 THE COURT: The fact that your son is a SLED agent

1 would that affect your ability to be fair and impartial
2 in this case?

3 JOEL MAFFETT: No, sir.

4 THE COURT: Thank you so much. Ma'am standing last,
5 tell me your name.

6 MICHELLE MOYER: Michelle Moyer.

7 THE COURT: And your number?

8 MICHELLE MOYER: 140.

9 THE COURT: Who in your family is connected to law
10 enforcement.

11 MICHELLE MOYER: My brother for the Edgefield County
12 Sheriff's Department.

13 THE COURT: And would the fact that your brother
14 works for Edgefield Sheriff's Department affect your
15 ability to be fair in this case?

16 MICHELLE MOYER: No.

17 THE COURT: You can be fair and impartial?

18 MICHELLE MOYER: Yes.

19 THE COURT: Thank you so much. Any member of the
20 jury panel ever been a witness to a case where you were
21 called as a witness in a trial? If so, please stand. No
22 one is standing.

23 Any member of the jury panel, a member of your
24 immediate family ever been accused of or a victim of a
25 crime of violence? Now, what I'm looking for here a

1 member of your family or you ever been involved, accused
2 of or a victim of a violent crime. I don't need to know
3 the crime or the person but if so, can you still be fair
4 and impartial. So is there any member of the jury panel
5 either you or a member of your immediate family has ever
6 been accused of or a victim of a violent crime, please
7 stand. Got one. Tell me your name.

8 TINA CROUCH: Tina Crouch.

9 THE COURT: Ms. Crouch. Your number?

10 TINA CROUCH: 54.

11 THE COURT: 54. And need not tell me whether it was
12 you or a member of your family but would the fact that
13 you had involvement with an accusation or a victim of a
14 violent crime, can you still be fair and impartial in
15 this case?

16 TINA CROUCH: Yes, sir.

17 MR. HUBBARD: Is it possible to separate those two?

18 THE COURT: Victim of or accused of?

19 MR. HUBBARD: Yes, Your Honor.

20 THE COURT: Ms. Crouch, can you tell me victim of or
21 accused of?

22 TINA CROUCH: Accused of.

23 THE COURT: Okay. Fair enough. Any member of the
24 jury panel or a member of your immediate family ever been
25 a victim of a house breaking or a burglary type offense?

1 If so, please stand. All right. We'll start back
2 with you, ma'am. I'll start with you every time. Tell
3 me your name again.

4 KEYWANNA BURT: Keywanna Burt.

5 THE COURT: Ms. Burt. Tell me, you or a member of
6 your family a victim of a house breaking type crime?

7 KEYWANNA BURT: Family.

8 THE COURT: Is it now resolved?

9 KEYWANNA BURT: Yes.

10 THE COURT: Would that affect your ability to be
11 fair and impartial in this case?

12 KEYWANNA BURT: No.

13 THE COURT: You can be fair?

14 KEYWANNA BURT: Mm-hmm.

15 THE COURT: Thank you so much. Ma'am right beside
16 her, tell me your name.

17 TONYA RODGERS: Tonya Rodgers.

18 THE COURT: Ms. Rodgers, You or a member of your
19 immediate family ever been involved with a house breaking
20 type crime?

21 TONYA RODGERS: Yes.

22 THE COURT: Would that affect your ability to be
23 fair and impartial in this case? Can you?

24 TONYA RODGERS: I'm not sure.

25 THE COURT: Not sure. Okay. Well, that's good

1 enough for me. I'll stand you aside for this case. If
2 you are not sure, I want you to be sure. No harm with
3 your answer, okay? That's exactly what I want really is
4 candor so thank you. Ma'am, your daughter, right? Y'all
5 are connected?

6 CAROLYN PETERSON: She's my grandson's mother.

7 THE COURT: All right. You or a member of your
8 family involved in a house breaking as a victim?

9 CAROLYN PETERSON: My sister.

10 THE COURT: Sister. Would that affect your ability
11 to be fair and impartial in this case?

12 CAROLYN PETERSON: No, sir.

13 THE COURT: That was 148. Thank you, Ms. Peterson.
14 Gentleman in the dark shirt tell me your name.

15 BRANDEN MORRIS: Branden Morris.

16 THE COURT: Mr. Morris. You or a member of your
17 family been involved as a victim of a house breaking type
18 crime?

19 BRANDEN MORRIS: Yes.

20 THE COURT: Would that affect your ability to be
21 fair in this case?

22 BRANDEN MORRIS: No, sir.

23 THE COURT: Thank you very much. Come across from
24 the front to the back. Ma'am in the blue tell me your
25 name.

1 EDITH BRYAN: Edith Bryan, 32.

2 THE COURT: Ms. Bryan, 32. You or a member of your
3 family has been involved in a house breaking type crime
4 as a victim, would that affect your ability to be fair
5 and impartial in this case?

6 EDITH BRYAN: No, sir.

7 THE COURT: Thank you, Ms. Bryan. Gentleman in the
8 black shirt, tell me your name.

9 THOMAS SMOAKE: Thomas Smoake. 176.

10 THE COURT: Mr. Smoake. 176. You've been involved
11 as a victim of a house breaking or a member of your
12 family has, would that affect your ability to be fair in
13 this case?

14 THOMAS SMOAKE: No.

15 THE COURT: Thank you, sir. Ma'am right beside him,
16 tell me your name again.

17 OMEGA SWEAT: Omega Sweat.

18 THE COURT: Ms. Sweat. You or a member of your
19 family been involved as a victim of a house breaking?

20 OMEGA SWEAT: My sister.

21 THE COURT: Your sister. Would that affect your
22 ability to be fair in this case?

23 OMEGA SWEAT: No, sir.

24 THE COURT: Okay. Ma'am, you stood up. Tell me
25 your name again.

1 MICHELLE MOYER: Michelle Moyer.

2 THE COURT: Ms. Moyer. You or a member of your
3 family as a victim of a house breaking?

4 MICHELLE MOYER: A member of my family.

5 THE COURT: Would that affect your ability to be
6 fair and impartial.

7 MICHELLE MOYER: No.

8 THE COURT: Okay. Thank you so much. Ma'am in the
9 white, tell me your name.

10 DORIS COLEMAN: Doris Coleman.

11 THE COURT: Ms. Coleman. You or a family member has
12 been a victim of a house breaking?

13 DORIS COLEMAN: Yes, sir.

14 THE COURT: Would that affect your ability to be
15 fair in this case?

16 DORIS COLEMAN: I don't believe so.

17 THE COURT: All right. Last but not least, tell me
18 your name.

19 BILLY MOREFIELD: Billy Morefield.

20 THE COURT: Mr. Morefield. You or a member of your
21 family has been a victim of house breaking, can you be
22 fair and impartial in this case?

23 BILLY MOREFIELD: I'm not sure on that one.

24 THE COURT: All right. I'll excuse you for this
25 case. Thank you for your candor. Any member of the jury

1 panel, member of your immediate family a patron of the
2 Tidwell Jewelry Store? If so, please stand. No one is
3 standing.

4 Any member of the jury panel, a member of your
5 immediate family a member of any organizations,
6 temperance organizations and/or groups that advocate
7 victims' rights or crimes against violence such as MADD,
8 Mothers Against Drunk Drivers, SADD, Students Against
9 Drunk Drivers, CAV, Citizens Against Violent Crimes,
10 BACA, Bikers Against Child Abuse, any groups that
11 advocate for victims of crimes, any member of the jury
12 panel, a member of your family a member of any of those
13 type groups, please stand. Got one. All right. Ma'am,
14 which group?

15 TONJA HUDSON: Tonja Hudson, number 93. My
16 husband's aunt is Laura Hudson and she's a victim's
17 advocate.

18 THE COURT: All right. And she's involved with MADD
19 mothers?

20 TONJA HUDSON: Yes.

21 THE COURT: Okay. And would that affect your
22 ability to be fair in this case.

23 TONJA HUDSON: No, sir.

24 THE COURT: Okay. Thank you very much. All right.
25 I made a comment earlier about educating, telling people

1 how a trial is conducted, criminal procedures and
2 different things. This question is important and I ask
3 all my jury panels this anymore so they can understand
4 it. Television, the Internet, movies create courtroom
5 scenes os advocacy and all that sort of thing. In the
6 criminal procedure in a trial it's the Court's
7 responsibility to instruct the law to the jurors. The
8 law of South Carolina is 1, 2, 3, 4. The State must
9 prove the following elements 1, 2, 3. The Court, meaning
10 the trial judge, is the instructor of the law. Is any
11 member of the jury panel not going to be able to accept
12 an oath that says the law of South Carolina is thus and
13 such? If you have a belief or an understanding of what
14 the law is that disagrees with the judge's instructions,
15 are you going to be able to disregard your
16 misunderstanding or differing understanding of the law
17 and accept the law as instructed by the Court?

18 It's very common that people see something on
19 television and go I thought that was the law. Well, not
20 everything you see on TV is identical to South Carolina
21 law. It's just not. The jury who is selected in this
22 case must accept an oath that says I agree to disregard
23 any misunderstanding I have in criminal law and accept
24 the law as instructed by the trial judge.

25 Is any member of this panel not going to be able to

1 accept that type of oath? If so, please stand. No one
2 is standing.

3 Is there any member of the jury panel know of any
4 reason whatsoever, any reason they can't be fair and
5 impartial to both the State and its case and its victims,
6 the Tidwells, and the defense and Mr. Lowman who both
7 sides are entitled to a fair and impartial jury and it's
8 my responsibility to accommodate that in every trial I
9 conduct? Is there any member of the jury panel know of
10 any reason whatsoever they cannot be fair and impartial
11 to both sides, please stand. No one is standing.

12 All right. Any of the lawyers want to come up and
13 discuss any voir dire that I have abbreviated or combined
14 with other questions?

15 MR. HUBBARD: I have a couple, if we can approach.

16 THE COURT: Sure.

17 (Side bar off the record.)

18 THE COURT: Okay. One I overlooked that I normally
19 ask. Let me ask this one. Is there any member of the
20 jury panel have any moral or religious beliefs that would
21 affect their ability to stand in judgment of another? If
22 so, please stand. No one is standing.

23 Okay. All right. Folks, here's what's going to
24 happen next. Ms. Coleman is going to generate a list
25 randomly from your group, the whole group and once that

1 happens, then the normal procedure in Saluda is this as
2 in most counties, they're gonna generate a list from
3 y'all and they're gonna call you up one at a time
4 whichever way is closer, but you walk up. I want you to
5 stand right here, okay? Each side has a certain number
6 of please excuse the juror and they use them. The State
7 goes first, then the defense. We go through that, then
8 we have, and I'll probably take 14, 12 jurors and two
9 alternates because I don't think we're gonna get done
10 today so they're gonna generate that list. They'll call
11 you up here momentarily. That's the way it goes. You
12 ready?

13 THE CLERK: When I call your name, make sure you
14 bring all your personal belongings. This next step might
15 you might be a juror. All right. Juror number 133, Tony
16 L. Miller.

17 (Whereupon, Tony L. Miller, a white male, was called
18 forward.)

19 THE CLERK: What say ye for the State?

20 MR. HUBBARD: Please present Mr. Miller.

21 THE CLERK: What say ye for the defense?

22 MR. WILLIAMS: Please excuse the juror from the
23 trial of this case.

24 THE CLERK: Please take your seat back. Juror
25 number 18, James C. Bedenbaugh, Junior.

1 (Whereupon, James C. Bedenbaugh, Junior, a white
2 male, was called forward.)

3 THE CLERK: What say ye for the State?

4 MR. HUBBARD: Please present the juror.

5 THE CLERK: What say ye for the defense?

6 MR. WILLIAMS: Please excuse the juror from the
7 trial of this case.

8 THE CLERK: Please take your seat. Juror number
9 152, Allison J. Price.

10 (Whereupon, Allison J. Price, a white female, was
11 called forward.)

12 THE CLERK: What say ye for the State?

13 MR. HUBBARD: Please present the juror.

14 THE CLERK: What say ye for the defense?

15 MR. WILLIAMS: Please swear the juror.

16 THE CLERK: Take a seat in the jury box please.
17 Juror number 22, Sandra S. Black.

18 (Whereupon, Sandra S. Black, a white female, was
19 called forward.)

20 THE CLERK: What say ye for the State?

21 MR. HUBBARD: Please present the juror.

22 THE CLERK: What say ye for the defense?

23 MR. WILLIAMS: Please swear the juror.

24 THE CLERK: Have a seat in the jury box please.
25 Juror number 55, Joseph D. Cruz.

1 (Whereupon, Joseph D. Cruz, a Hispanic male, was
2 called forward.)

3 THE CLERK: What say ye for the State?

4 MR. HUBBARD: Please present the juror.

5 THE CLERK: What say ye for the defense?

6 MR. WILLIAMS: Please swear the juror.

7 THE CLERK: Take a seat in the jury box please.

8 Juror number 140, Michelle B. Moyer.

9 (Whereupon, Michelle B. Moyer, a white female, was
10 called forward.)

11 THE CLERK: What say ye for the State?

12 MR. HUBBARD: Please present the juror.

13 THE CLERK: What say ye for the defense?

14 MR. WILLIAMS: Please excuse this juror from the
15 trial of this case.

16 THE CLERK: Please take your seat. Juror number 39,
17 Tyrone W. Cannon.

18 (Whereupon, Tyrone W. Cannon, a black male, was
19 called forward.)

20 THE CLERK: What say ye for the State?

21 MR. HUBBARD: Please present the juror.

22 THE CLERK: What say ye for the defense?

23 MR. WILLIAMS: Please swear the juror.

24 THE CLERK: Take a seat in the jury box please.

25 Juror number 19, Ashton L. Berry.

1 (Whereupon, Ashton L. Berry, a white female, was
2 called forward.)

3 THE CLERK: What say ye for the State?

4 MR. HUBBARD: Please present the juror.

5 THE CLERK: What say ye for the defense?

6 MR. WILLIAMS: Please swear in the juror.

7 THE CLERK: Have a seat in the jury box please.

8 Juror number 204, Chantora M. Williams.

9 (Whereupon, Chantora M. Williams, a black female,
10 was called forward.)

11 THE CLERK: What say ye for the State?

12 MR. HUBBARD: Please present the juror.

13 THE CLERK: What say ye for the defense?

14 MR. WILLIAMS: Please swear the juror.

15 THE CLERK: Take a seat in the jury box please.

16 Juror number 158, Polly N. Ridings.

17 (Whereupon, Polly N. Ridings, a white female, was
18 called forward.)

19 THE CLERK: What say ye for the State?

20 MR. HUBBARD: Please present the juror.

21 THE CLERK: What say ye for the defense?

22 MR. WILLIAMS: Please excuse the juror from the
23 trial of this case.

24 THE CLERK: Take your seat back in the audience.

25 Juror number 27, Raigene M. Boyd.

1 (Whereupon, Raigene M. Boyd, a black female, was
2 called forward.)

3 THE CLERK: What say ye for the State?

4 MR. HUBBARD: Please present the juror.

5 THE CLERK: What say ye for the defense?

6 MR. WILLIAMS: Please swear the juror.

7 THE CLERK: Take a seat in the jury box please.
8 Juror number 160, Arti D. Rodgers.

9 (Whereupon, Arti D. Rodgers, a white male, was
10 called forward.)

11 THE CLERK: What say ye for the State?

12 MR. HUBBARD: Please present the juror.

13 THE CLERK: What say ye for the defense?

14 MR. WILLIAMS: Please excuse the juror from the
15 trial of this case.

16 THE CLERK: Return to your seat please. Juror
17 number 105, Jeanette Jones.

18 (Whereupon, Jeanette Jones, a black female, was
19 called forward.)

20 THE CLERK: What say ye for the State?

21 MR. HUBBARD: Please present the juror.

22 THE CLERK: What say ye for the defense?

23 MR. WILLIAMS: Please swear the juror.

24 THE CLERK: Take a seat in the jury box please.
25 Juror number 107, Phillip S. Jones.

1 (Whereupon, Phillip S. Jones, a white male, was
2 called forward.)

3 THE CLERK: What say ye for the State?

4 MR. HUBBARD: Please present the juror.

5 THE CLERK: What say ye for the defense?

6 MR. WILLIAMS: Please excuse the juror from the
7 trial of this case.

8 THE CLERK: Return to your seat please. Juror
9 number 13, Rebecca J. Bailey.

10 (Whereupon, Rebecca J. Bailey, a white female, was
11 called forward.)

12 THE CLERK: What say ye for the State?

13 MR. HUBBARD: Please present the juror.

14 THE CLERK: What say ye for the defense?

15 MR. WILLIAMS: Please excuse the juror from the
16 trial of this case.

17 THE CLERK: Please return to your seat. Juror
18 number 93, Tonia M. Hudson.

19 (Whereupon, Tonia M. Hudson, a white female, was
20 called forward.)

21 THE CLERK: What say ye for the State?

22 MR. HUBBARD: Please present the juror.

23 THE CLERK: What say ye for the defense?

24 MR. WILLIAMS: Please excuse the juror from the
25 trial of this case.

1 THE CLERK: Return to your seat. Juror number 21,
2 Brad B. Black.

3 (Whereupon, Brad B. Black, a white male, was called
4 forward.)

5 THE CLERK: What say ye for the State?

6 MR. HUBBARD: Please present the juror.

7 THE CLERK: What say ye for the defense?

8 MR. WILLIAMS: Please excuse the juror from the
9 trial of this case.

10 THE CLERK: Return to your seat. Juror number 149,
11 Felisha A. Phillips.

12 (Whereupon, Felisha A. Phillips, a black female, was
13 called forward.)

14 THE CLERK: What say ye for the State?

15 MR. HUBBARD: Please present the juror.

16 THE CLERK: What say ye for the defense?

17 MR. WILLIAMS: Please swear the juror.

18 THE CLERK: Take a seat in the jury box please.
19 Juror number 111, Melvia S. Kerby.

20 (Whereupon, Melvia S. Kerby, a white female, was
21 called forward.)

22 THE CLERK: What say ye for the State?

23 MR. HUBBARD: Please present the juror.

24 THE CLERK: What say ye for the defense?

25 MR. WILLIAMS: Please swear the juror.

1 THE CLERK: Take a seat in the jury box please.

2 Juror number 8, Gaye M. Amey.

3 (Whereupon, Gaye M. Amey, a white female, was called
4 forward.)

5 THE CLERK: What say ye for the State?

6 MR. HUBBARD: Please present the juror.

7 THE CLERK: What say ye for the defense?

8 MR. WILLIAMS: Please swear the juror.

9 THE CLERK: Take a seat in the jury box please.
10 Juror number 116, Daniel F. Leyden.

11 (Whereupon, Daniel F. Leyden, a white male, was
12 called forward.)

13 THE CLERK: What say ye for the State?

14 MR. HUBBARD: Please present the juror.

15 THE CLERK: What say ye for the defense?

16 MR. WILLIAMS: Please swear the juror.

17 THE CLERK: Have a seat in the jury box please.
18 Juror number 11, Kevin L. Ashley.

19 (Whereupon, Kevin L. Ashley, a white male, was
20 called forward.)

21 THE CLERK: What say ye for the State?

22 MR. HUBBARD: Please present the juror.

23 THE CLERK: What say ye for the defense?

24 MR. WILLIAMS: Please swear the juror.

25 THE CLERK: Take a seat in the jury box please.

1 Juror number 3, Wendell W. Adams.

2 (Whereupon, Wendell W. Adams, a white male, was
3 called forward.)

4 THE CLERK: What say ye for the State?

5 MR. HUBBARD: Please present the juror.

6 THE CLERK: What say ye for the defense?

7 MR. WILLIAMS: Please excuse the juror from the
8 trial of this case.

9 THE CLERK: Return to your seat. Juror number 131,
10 Teddy M. Miller.

11 (Whereupon, Teddy M. Miller, a white male, was
12 called forward.)

13 THE CLERK: What say ye for the State?

14 MR. HUBBARD: Please present the juror.

15 THE CLERK: What say ye for the defense?

16 MR. WILLIAMS: Please swear the juror.

17 THE CLERK: Take a seat in the jury box.

18 THE COURT: Are there any matters of law the Court
19 needs to take up regarding the selection process employed
20 by the Court and/or the composition of the jury from the
21 State?

22 MR. HUBBARD: Not from the State, Your Honor.

23 MR. WILLIAMS: None from the defense, Your Honor.

24 THE COURT: All right. Should we have this jury
25 pool call back tomorrow night?

1 MR. HUBBARD: You mean tonight?

2 THE COURT: Tonight. Have them call back tonight.

3 MR. HUBBARD: Can we approach?

4 THE COURT: Yes.

5 (Side bar off the record.)

6 THE COURT: All right. Folks, I've got some
7 housekeeping matters to tend to on this case this
8 afternoon. I was going to make y'all call in tomorrow
9 night just in case I needed you. I don't think I'm gonna
10 need you. Y'all are free to go, need not call back, need
11 not come back. That's your service for the week. Y'all
12 don't go so fast. I have instructions for y'all. See
13 you later.

14 (Whereupon, the remainder of the jury venire panel
15 was excused from further service.)

16 THE COURT: All right. I've got some preliminary
17 instructions for you to kind of give y'all some ground
18 rules and what to expect, that kind of thing. I've got
19 some preliminary matters to deal with with the lawyers on
20 some things that are going to come up in court and I've
21 got to get a little preview of those issues so that I
22 know what's coming down the train track at me.

23 These folks, both sides, they know the case. I'm
24 new to it. The first I knew about it other than the name
25 of the case was this morning. So I've heard about the

1 facts of the case that y'all have heard, a very brief
2 outline of the facts. Now here's what's very, very
3 important is what y'all need to decide this case y'all
4 will get here in the courtroom as a group of 14.
5 Collectively we'll call y'all the juror of 14. I've two
6 alternates. I don't know if I'll need them but in case I
7 do, sometimes something happens during the court week,
8 somebody will get sick, upset stomach, whatever, and I
9 have alternates to come in and they have to listen and
10 act and behave, come to and from the courthouse just like
11 you as a group.

12 Now, what y'all need to try this case you will get
13 in the courtroom, the sworn testimony from the witness
14 stand, evidence introduced during the trial, instructions
15 from the Court, but you get it altogether at the same
16 time it's presented to you.

17 Now, what I don't want because I want a fair trial
18 for both sides, what I don't want is someone -- Now, the
19 lawyers, their job is to try to influence you, present
20 the facts and evidence. Their job is to influence you in
21 here as to what they believe the facts and evidence
22 shows. They're going to talk to you. They're going to
23 present stuff for you to consider. Both sides are.
24 That's their job. But what I don't want is someone
25 outside the courtroom trying to convince you, suggest to

1 you, tell you, hint to you, talk to you in any way,
2 influence you in any way. That goes on in here on the
3 court record so we know what was said, how it was said.
4 Y'all get to hear it together not in pieces and parts at
5 the fence at the back of your property, in the garden, at
6 the barbershop, on Facebook. All of that does not come
7 into play. Y'all get to hear the case here in the
8 courtroom.

9 That's what's so important is I can't be assured
10 that I'm giving someone a fair trial if I'm not managing
11 how y'all are getting the information that y'all are
12 deciding. Some information out there is not allowed for
13 y'all to be considered. I'm going to use that example of
14 the insurance guy. In a car wreck case the jurors aren't
15 told about who has insurance and who doesn't. There's a
16 reason for it. If you think about it, it makes sense.
17 It's a car wreck. Somebody is at fault. Somebody is
18 somewhat at fault. Both are at fault. Neither is at
19 fault. There's some mixed bag of facts as to who caused
20 a bump up.

21 Well, if one side has the insurance and the other
22 side doesn't, well, let's just find for the first one
23 with the insurance because you know they can pay. Well,
24 that's not fair to insurance companies. So juries aren't
25 told about insurance companies. You decide the case.

1 Who's at fault. 60/40, a hundred/zero percentage wise,
2 and then the insurance company sorts out how much to pay
3 not the jury. So for that reason -- And guess what else?
4 In a traffic case you don't get to know who the trooper
5 wrote the ticket to. You might imply because he wrote
6 the ticket, he must know more than me about the car wreck
7 and therefore I'm gonna go his way. The jury gets to
8 decide based upon what he said happened. I think it's
9 pretty neat. If you think about it, you don't get a
10 preconceived notion about who was at fault. It's based
11 upon something that you hear altogether.

12 All right. So that's my best example of there are
13 certain things that don't come into play in a trial. I'm
14 the one who is the gatekeeper of what's allowed under the
15 laws to be presented to the jury to influence you to make
16 the right decision, the proper decision, who proved their
17 case to you or not. That's what juries do.

18 Now, so I'm asking you when you go home tonight,
19 don't talk about the case. You can say Judge Griffith
20 told us not to talk about the case. As a matter of fact,
21 we don't even know anything about the case yet because we
22 didn't take testimony today. I'm sending y'all home for
23 the afternoon right now. But I want you to know not to
24 go home and talk about it. Don't go get on the Internet.
25 Let me read that news article that came out last March.

1 Don't do that.

2 I'll give you another example. I love examples. I

3 was holding court in Laurens during an accessory after

4 the fact to murder and I had a murder case, same case, it

5 was the accessory and murder after the fact that come the

6 following week. The newspaper wrote in there that Judge

7 Addy ruled against the motion to continue the murder case

8 to another time of court and it was starting Monday in a

9 week and they published that in the paper on that

10 Wednesday that Judge Addy did this. Judge Addy did that.

11 I was the judge. I'm Judge Griffith. I was in the

12 courtroom. I ruled on it. I said it wasn't going to be

13 continued. It was going to be tried the following

14 Monday. The newspaper had it wrong. But it was in the

15 newspaper so it must be true and one of my bailiffs in

16 Laurens brought me the newspaper and said, Judge, they

17 think you're Judge Addy. I was amused by it but it's

18 just proof that the newspapers don't get it right just

19 because they can print it up and sell it. They just

20 didn't bother to call or come down to the courthouse and

21 see who was presiding. They presumed it was Judge Addy

22 who is over in Greenwood. We both hold court there all

23 the time but it wasn't him. It was me. What do you

24 know. I told the newspaper they had it wrong. Well,

25 they wrote an article about me later. I think they got

1 me back. I took something under advisement for about six
2 months and they called me a sitting judge because I was
3 sitting on my decision. So thank you very much.

4 In any event, I want y'all to be influenced and
5 decide this case based on what you hear in this courtroom
6 altogether. Please don't go home and look up on the
7 Internet, go back and look on your DVR to see any news
8 reports, don't go on Facebook, don't talk to anybody
9 about the case. Don't talk to your spouse. You can tell
10 your spouse I'm on the jury. The Judge told me not to
11 discuss it. Simple as that. Just leave it at that.

12 Now, as we go through the case I'm gonna let y'all
13 take notes. I'm gonna let y'all sit wherever you want.
14 Just because you sat in this seat and that seat this
15 morning, when y'all come in tomorrow, y'all sit wherever
16 you like and wherever you're comfortable, okay? Mix and
17 match. Most times juries coming in and out of the
18 courtroom they kind of migrate, kind of like going to
19 church, kind of sit in the same area of the church.
20 Y'all find your own comfort zone and y'all stick there
21 and whoever is in the corner might stay in the corner.
22 That's just how it is. But I want y'all to be
23 comfortable because I want you to listen.

24 If you want to take notes, take notes. You're not
25 required to. When you get here in the morning, the

1 bailiff will have note pads. Ms. Coleman will get them
2 for me. So if you want to take notes, jot down notes,
3 you're more than welcome to do that. I've got to take
4 notes. Y'all are welcome to take notes. You don't have
5 to.

6 You're not allowed to ask questions so sometimes
7 notes just help you when you start deliberations. Say I
8 remember that witness and they testified a little bit
9 about this and that. I'll tell you later the note
10 takers' notes don't trump the listeners' memory.
11 Everybody is on even footing. My son, I can say
12 something to him. If he's heard it, he can repeat it
13 back to you like that. He doesn't take notes. He's just
14 a good auditory learner if you know what that is.
15 Everybody takes information in different ways. Some
16 people got to see it, some people got to hear it, some
17 people use a combination. Whatever your method or
18 preference, be comfortable, okay?

19 Now, as y'all are coming in and out of the
20 courthouse, the bailiffs in the red will speak to you,
21 greet you, offer you water, cup of coffee or something.
22 That's their job. Everybody else because I'm telling you
23 they're not to influence you in the courtroom. If you
24 see them walking in the courthouse, they're gonna be kind
25 of standoffish. Saluda is a small community just like

1 Newberry. Everybody knows most people and so if you see
2 any lawyers or any witnesses and y'all know them and they
3 really don't speak or say anything more than good
4 morning, that's because they're not supposed to. They're
5 supposed to not interact with you so that they think,
6 well, here's what I want you to know about the case.
7 This is top secret. Now, the sky is not really blue.
8 They can't talk to you. That just can't happen so that's
9 why none of the parties, witnesses, police officers, they
10 won't interact with you. So they're not being rude.
11 They're doing what they're being told. That's just the
12 Court rules. You influence the jury in the courtroom,
13 not coming to and from the cars through the front gate,
14 okay?

15 So don't take any offense to people not being as
16 friendly coming in and out of the courthouse because
17 they're not supposed to be. The bailiffs are. You'll
18 notice they are. They'll get you in here and take care
19 of you. That's what they do.

20 What am I missing? I'll give you more instructions
21 on the law tomorrow, tell you who goes first, who calls
22 witnesses first, second. Oh, another thing. There will
23 be times when we go through the trial that somebody might
24 say, Judge, I have a matter of law or an objection I want
25 to be heard on the record. That's kind of code to me

1 that they want to put something on the court record with
2 Mr. LeBlanc. He takes down everything I'm saying right
3 now. You can hear his fingers going. But that's what he
4 does. If a lawyer wants to argue a rule of law or a
5 statute or something a little more in depth, they may
6 say, Judge, I have a matter of law. That means I would
7 like to talk to you more in depth like we're back in law
8 school and see if you'll agree with me the law means that
9 I can go in this scenario or this line of questioning.

10 Sometimes I don't have a clue because I haven't
11 heard the case yet. I don't know where they're going or
12 where they want to go or what they're trying to prove so
13 y'all have to tell me more. I don't know what you're
14 trying to do. When I start asking those questions and
15 making a record of it to make a determination whether
16 it's allowed or disallowed, I don't need y'all in here
17 listening, too.

18 For instance, the insurance question. Judge, I want
19 to ask about insurance. You know that's not allowed.
20 Well, the witness mentioned that her insurance was paid
21 up in full during the testimony. I want the jury to
22 understand that they still got to decide the case based
23 upon the facts. Well, if I had that discussion in y'all's
24 presence, you might think, well, why didn't you let us
25 hear that? What was wrong? So that's my job is to hear

1 the arguments, rule it in or out, balls and strikes kind
2 of deal, play the game, okay? Because once y'all get the
3 case and all the evidence, y'all make y'all's decision.
4 That's the decision of 12 people reaching a unanimous
5 verdict. That's doesn't change ever. If a judge makes a
6 mistake on what was allowed in or out, that can be
7 changed. If I made a mistake, they can correct it later.
8 That's what the record is for, okay?

9 But the jury's decision, once it's a decision, it's
10 solid. The only question is did the court make a mistake
11 in allowing evidence in or out or applying the law right
12 or wrong, left or right. That kind of thing. So Y'all's
13 decision won't be disturbed because 12 people make a
14 conscientious and unanimous finding of fact. That's how
15 our constitution is written. That's how matters are
16 resolved. All right. Now, the rest of the day go on
17 your merry day. Eat lunch. Go back to work. Do
18 whatever you like. I need to see you back in here in the
19 courthouse at 9:00?

20 MR. HUBBARD: Yes, sir.

21 MR. WILLIAMS: Yes, sir.

22 THE COURT: If y'all get here just before 9:00, I'll
23 try to start promptly at 9:00. So get here at a quarter
24 to nine. Be in your jury room. You'll see it going out.
25 Report directly to the jury room. The bailiff will show

1 you in here. If y'all can get here by 9:00, we'll start
2 promptly at 9:00 with opening comments, okay? See in the
3 morning. Remember, y'all can sit anywhere you want to.

4 (Whereupon, the jury was released at 12:30 for the
5 remainder of the day.)

6 THE COURT: Lunch until 1:45?

7 MR. HUBBARD: Yes, sir.

8 THE COURT: 1:45 for lunch.

9 MR. WILLIAMS: Yes, sir.

10 THE COURT: Okay. Everybody we're down until 1:45
11 then.

12 (Lunch recess.)

13 (Whereupon, State's Exhibits #1 through #115 marked
14 for identification.)

15 BAILIFF: All rise. Court is now in session.

16 THE COURT: Thank you. Please be seated. Ready to
17 go?

18 MR. HUBBARD: Yes, sir.

19 MR. WILLIAMS: Your Honor, I have one matter I would
20 like to place on the record. It's out of an abundance of
21 caution that I bring this up. Jason, my young lawyer in
22 my office and I were in McDonald's for lunch and a
23 gentleman with a red shirt came up to us while we were in
24 the McDonald's and made the following comment. He said,
25 "I'm glad you didn't put me on the jury. I read all

1 about the case and for me it looks like it's clear-cut."
2 It was not someone that is on the jury because I think I
3 would have recognized him. We don't think it's somebody
4 on the jury. Not really sure if it's somebody that we
5 would have struck, but it was a comment that was made to
6 me.

7 I think it should be placed on the record that this
8 person came up to me and just made that comment and out
9 of that, Your Honor, a desire comes that I would request
10 the Court whenever the jury comes back in that the Court
11 always, you may do it out of just because you do it every
12 time, Your Honor, I don't know, but there's at least one
13 individual in this jury panel that we have chosen that
14 did express that she had actually read articles about it.
15 You properly inquired as to whether or not that would
16 make a difference to her or not. But the fact that this
17 guy just comes up to me in McDonald's and says it was
18 clear cut, and you better be glad, or I wanted to get on
19 that jury. In essence it was I wanted to get on that
20 jury because I saw everything against him and I think
21 they have got a clear cut case. So it's somebody who
22 actually went out of his way to tell me that.

23 THE COURT: Yeah. Well, I think the Court can use
24 its normal customary inquiries as to whether anybody has
25 tried to contact you, influence you about the case,

1 anything going on in the case. I'll do that continuously
2 as well and remind them like I did that I want this case
3 to be decided from what's presented in the courtroom and
4 not consider anything from outside the courtroom. So I'm
5 going to continually do that because that's always a
6 concern for me is to make a determination as to what is
7 actual evidence in the case and not supposition and guess
8 work and gossip. That's not fair to anybody.

9 MR. WILLIAMS: The lawyer in my office was present
10 at the same table. If Your Honor needs any further
11 information from him, he was there also. Thank you, Your
12 Honor.

13 THE COURT: All right. We recognize Saluda is a
14 small community and we will be aware and we'll
15 continually try to emphasize the importance of how to
16 resolve and find facts. All right. Mr. Hubbard, what
17 you got?

18 MR. HUBBARD: We have a Jackson v. Denno on a
19 statement.

20 THE COURT: I was talking about in response. Ms.
21 Fuller, she was coming through like she was about ready
22 to stand up and go forward. I guessing I guess.

23 MR. HUBBARD: No. She's keeping me organized
24 which is a full-time task. Your Honor, we do have a
25 Jackson v. Denno.

JAMES CLINTON BUSBEE - DIRECT BY MR. HUBBARD

67

1 THE COURT: Mr. Williams, are you ready to go
2 forward on that?

3 MR. WILLIAMS: Yes, Your Honor.

4 THE COURT: All right. Solicitor, call your
5 witnesses.

6 MR. HUBBARD: The State calls Agent Clinton Busbee.
7 Thereupon,

8 JAMES CLINTON BUSBEE
9 after having been first duly sworn, testified as follows,
10 DIRECT EXAMINATION

11 BY MR. HUBBARD:

12 Q. Agent Busbee, if you would, state your name and
13 please tell the Court where you work.

14 A. James Clinton Busbee. I work for South Carolina Law
15 Enforcement Division.

16 Q. Agent Busbee, I just want to cut to the chase. You
17 remember on March 8th of last year 2017 having an opportunity
18 to work on this case and to actually interview Mr. Lowman?

19 A. Yes, sir.

20 Q. Do you know about what time that interview took
21 place?

22 A. Shortly after 1:00 p.m.

23 Q. Was he in custody?

24 A. He was.

25 Q. Where did this interview take place?

1 A. At the Edgefield County Sheriff's Office.

2 Q. Who was with you?

3 A. At the time, he works for the South Carolina
4 Enforcement Division now, but at the time Lieutenant Russ
5 Padgett with the Saluda County Sheriff's Office.

6 Q. Prior to talking to Mr. Lowman, what, if anything,
7 did you do?

8 A. We read him his Miranda Rights and filled it out on
9 the SLED form.

10 Q. What specifically were y'all asking him about? What
11 was your purpose for wanting to interview him?

12 A. It was in reference to the incident that occurred
13 earlier that morning in Saluda County.

14 Q. That incident was what?

15 A. A home invasion.

16 Q. At the Tidwell home?

17 A. Yes, sir.

18 Q. Prior to interviewing him, what, if anything, did
19 you do?

20 A. I completed the SLED Miranda Rights Form.

21 Q. So you went through that process before speaking to
22 him?

23 A. Yes, sir.

24 Q. I want to show you what's been marked as State's
25 Exhibit number 4. Is that the form you used?

1 A. Yes, sir.

2 Q. Will you please go through that form as you did with
3 Mr. Lowman so the Court will know how you interacted with him.

4 A. Yes. Well, if you look at the form at the top, you
5 fill in the place that you are at, that you're physically at
6 when you complete the form and then the date and the time. It
7 does not have a spot for the person that your interviewing so
8 what I do at the top is I'll write their name and normally
9 their date of birth. In this case I did that. Then I read
10 each one as it's spelled out on the form verbatim and then
11 there's two questions after you explain those to him and ask
12 him the two questions. As long as they understand each one
13 that you read, then I ask them to put their initials by each
14 one. There's a little spot for their initials right beside
15 each one. Then there's also a spot to answer, write in yes or
16 no which would be their answers to the two questions at the
17 end and then their signature at the bottom.

18 Q. If you would, would you read through it as you did
19 with him and then give his response if he gave a response.

20 A. Sure. The first one says, you have the right to
21 remain silent. Normally depending on the circumstances also I
22 usually try to get the form where they can see it as I'm
23 reading it. The first one obviously says you have the right
24 to remain silent. The second one is anything you say can be
25 used in court as evidence against you. The third one is you

1 are entitled to talk to a lawyer now, have one present now or
2 at any time during questioning. The fourth one is if you
3 cannot afford an attorney, one will be appointed for you
4 without cost. And then the last one is, if you decide to
5 answer questions now without a lawyer present, you will still
6 have the right to stop answering at any time. You also have
7 the right to stop --

8 THE COURT: Slow down a little bit. I can only
9 write so fast.

10 BY THE WITNESS:

11 A. I'm sorry. I'll do that one over. If you decide to
12 answer questions now without a lawyer present, you will still
13 have the right to stop answering at any time. You also have
14 the right to stop answering at any time until you talk to a
15 lawyer.

16 BY MR. HUBBARD:

17 Q. All right. At that point does each one have a blank
18 next to it or a little line?

19 A. It does.

20 Q. Did he indicate with his initials --

21 A. Yes, sir.

22 Q. -- that he understood those rights?

23 A. Yes, sir.

24 Q. Now, let me ask you, too, as you are talking to him
25 does he appear to be under the influence of drugs, medication,

1 anything like?

2 A. He did not at that time.

3 Q. Does he appear to have any kind of problem

4 understanding what you're talking about?

5 A. He did not appear to.

6 Q. If he did, would you have gone through this

7 process?

8 A. Well, I still would have went through the process to

9 complete the form.

10 Q. But you would have noted there were issues?

11 A. Oh, yeah. Absolutely.

12 Q. No issues here?

13 A. No issues here that I was aware of.

14 Q. You mentioned there are two questions. Will you

15 read those two questions for the court as well?

16 A. Yes, sir. The first one is, do you understand these

17 rights. And then there's also a blank beside it.

18 Q. What did he say there?

19 A. He wrote in yes there and then his initials.

20 Q. What's the next question?

21 A. The next question is, do you wish to talk to us at

22 this time?

23 Q. All right. What does he indicate?

24 A. He wrote yes there with his initials right beside

25 that.

1 Q. What does the rest of that say the waiver of rights?
2 How does that read?

3 A. Yeah. It says I have read this statement of my
4 rights and understand what my rights are. I'm willing to talk
5 now without a lawyer present. I understand and know what I am
6 doing. No promises or threats have been made to me and no
7 pressure or coercion of any kind has been used against me and
8 then that's there for when they put their signature there
9 below that, that's just acknowledging the fact that, you know,
10 what that states is how it reads. That he understands and
11 he's willing to talk to us without a lawyer present.

12 Q. And then you signed it as well?

13 A. Yes, sir.

14 Q. Now, at any time prior to giving him Miranda or
15 during this process or at any time during his statement did
16 you indicate that it would go better for him if he talked to
17 us or talked to you or did you make any promises or make any
18 kind of threats?

19 A. No, sir.

20 Q. None at all?

21 A. None at all.

22 Q. Having read through this he indicated he wanted to
23 talk?

24 A. Correct.

25 Q. He would answer your questions?

- 1 A. Correct.
- 2 Q. Did he talk to you?
- 3 A. He did.
- 4 Q. Tell me about that conversation.
- 5 A. Well, we confronted him with the fact that his car
- 6 had a GPS locator on it which showed us where his vehicle was
- 7 parked during the time of the incident at the Tidwell house.
- 8 He told us that he was down there at that time because he was
- 9 fishing which would have been around midnight, shortly
- 10 thereafter, and that's the reason he was down there. We asked
- 11 him about, to try to confirm his story we asked him about
- 12 fishing tackle, fishing gear that he would have had. He said
- 13 that he could have dropped it off somewhere but he wasn't sure
- 14 so we were unable to confirm that he was down there fishing.
- 15 Q. Let me stop you for just a minute.
- 16 A. Okay.
- 17 Q. Let me show you what's been marked as State's number
- 18 1 where the Tidwell house is located on this golf course.
- 19 A. Okay.
- 20 Q. There's a couple of ponds right behind their
- 21 house?
- 22 A. Yes.
- 23 Q. His vehicle was located back here on this road?
- 24 A. Yes. It's a dead end road right there.
- 25 Q. Okay. So you confronted him that GPS showed he was

1 really right behind their house right in that area on the golf
2 course that night?

3 A. Correct. Right where that dead end road was.

4 Q. Now, did you confront him with the fact that this
5 was well after midnight?

6 A. Yes.

7 Q. And let me ask you this: You say he admitted that
8 he was out there?

9 A. Yes, sir.

10 Q. Did he say anything about his car, whether it was
11 running or not?

12 A. Uhm, I don't recall if he mentioned anything about
13 his car was running or not.

14 Q. Okay.

15 A. I can't be certain of that.

16 Q. Do you remember him mentioning a repo man?

17 A. Yes.

18 Q. So he acknowledged a repo man was after him that
19 night?

20 A. Yes.

21 Q. Did he mention anything about leaving that golf
22 course behind the Tidwell house and going to Johnston?

23 A. Yes. After he left there.

24 Q. And based on what you said, his stated purpose for
25 being out behind the Tidwell house was to fish?

JAMES CLINTON BUSBEE - DIRECT BY MR. HUBBARD

75

1 A. That's correct.

2 Q. But he could not tell you what he had done with the
3 fishing gear?

4 A. That's correct.

5 Q. What else did he say?

6 A. He made mention of the fact that if he were the
7 police, he would be the prime suspect and he would probably
8 get a thousand years for it because it looked bad.

9 Q. What else did you advise him you were going to do?

10 A. Well, obviously we were going to conduct the
11 investigation.

12 Q. Specifically did you make him aware that you knew he
13 was on federal probation?

14 A. Yes.

15 Q. What did you tell him you were going to do in that
16 regard?

17 A. Contact his probation officer.

18 Q. Once you told him that, what, if anything, did he
19 do?

20 A. Uhm, terminated the interview.

21 Q. Did he ask for, he said he was gonna need a lawyer
22 at that point?

23 A. He said he probably needed to talk to one.

24 Q. Okay.

25 A. Something to that effect.

1 Q. Did you ask him any questions after that?

2 A. No, sir.

3 Q. The entire time he was talking to you did he appear
4 to understand what he was doing?

5 A. He appeared to. Yes.

6 Q. At any time during this conversation did you give
7 him any reason to believe that a promise had been made that
8 would go lenient, we would go lenient on him if he talked?

9 A. No, sir.

10 Q. At any time was there any indication, anything you
11 said that a threat was there that if he didn't talk, something
12 would happen to him?

13 A. No, sir.

14 Q. Did he appear to be clear headed?

15 A. He appeared to be. Yes, sir.

16 Q. And answered all of your questions voluntarily?

17 A. Yes, sir.

18 MR. HUBBARD: Please answer any questions the
19 defense might have.

20 THE WITNESS: Yes, sir.

21 CROSS EXAMINATION

22 BY MR. WILLIAMS:

23 Q. Agent Busbee, I notice that you were going through
24 the Miranda checklist that you had there and when the
25 Solicitor was questioning you, even though we are here to

1 determine exactly what the defendant did or did not state, you
2 basically kind of glossed over the wording of what the
3 defendant said. Can you tell me exactly what the defendant
4 said?

5 A. In regards to which part?

6 Q. Let's start off with any statement that you're going
7 to testify that the defendant made. What statement did the
8 defendant make to you directly in his own words?

9 A. I mean, as far as what?

10 Q. What did he say to you when you had him in there?

11 A. The entire interview?

12 Q. Well --

13 A. I just want to make sure I understand what --

14 Q. Sure. Tell me, you asked him a question about did
15 you tell him you knew where his car was located?

16 A. Yeah. We confronted him with the GPS which showed
17 his car there.

18 Q. All right. But you don't do GPS because you're with
19 SLED. Somebody else had to do the GPS on the car, right?

20 A. That's correct.

21 Q. So had you already examined the GPS where the SLED
22 was - where the car was?

23 A. Yeah. We had been to the repo agent or officer's
24 impound lot and talked to him.

25 Q. So you had been to the impound lot that morning; is

1 that correct?

2 A. I'm not sure exactly what time it was but it was
3 later that morning shortly before we went to the Sheriff's
4 Office.

5 Q. Because you were there in Johnston about one -- What
6 time did you interview my client?

7 A. On the form it says 13:13 which is 1:13 p.m.

8 Q. All right. And you had already been to the repo lot
9 which is located where?

10 A. It's in Edgefield County but it's off of Community
11 Road, North Augusta area which is North Augusta.

12 Q. When had you been there?

13 A. Before we went to the Sheriff's Office, Edgefield
14 County Sheriff's Office.

15 Q. Do you know what time?

16 A. I would have to go back and look. I don't have it
17 in front of me but it was some time shortly before we went to
18 the Sheriff's Office.

19 Q. What information was shared with you at that point
20 in time that lead you to make the statement that you knew
21 exactly where his car was located?

22 A. After speaking with the repo officer or agent,
23 obviously they were downloading the data from the GPS and the
24 repo man had also said that the car was there that night, too,
25 as well.

1 Q. So the question you asked him was based on a
2 statement made by the repo guy saying that he was over in that
3 area and had seen the car there, correct?

4 A. That was part of it. Yes.

5 Q. Had you actually had any kind of map drawn up at
6 that time that indicated that the car was located at that
7 location?

8 A. I mean, we reviewed the records because they
9 obviously could see where the car was which told them, which
10 led them to the car being where it was.

11 Q. So you reviewed the records that showed exactly
12 where the car was located?

13 A. Yeah. The female there at the office, or at their
14 house held that information on the computer. That's how they
15 monitor it I believe.

16 Q. So you looked at that before you went and
17 interviewed him and you could see exactly where on the map his
18 car was located in reference to where the Tidwells house was,
19 right?

20 A. It was behind it. Yes, sir.

21 Q. And you could see that on the map?

22 A. From what they were showing us. Yes.

23 Q. What who was showing you?

24 A. The repo agent. And there was a female there, too.
25 They were able to monitor it.

1 Q. I guess what I'm saying is all this information
2 you're sharing with us on this defendant was based on what
3 somebody else was telling you? You didn't know if the car was
4 located there or not, did you?

5 A. A lot of what -- When I talked to Mr. Lowman -- Yes.
6 Some of it was based on what the repo agent gave us. Yes.

7 Q. You said a lot of it was confirmed by Mr. Lowman; is
8 that right?

9 A. What was confirmed?

10 Q. You started saying a lot of it was confirmed by Mr.
11 Lowman?

12 A. No. A lot of it that we confronted Mr. Lowman with
13 was based on what the repo, information that we got from the
14 repo officer.

15 Q. So it was information that you had gathered from the
16 repo officer that you were questioning him about?

17 A. From the -- What we had --

18 Q. I'm not saying it's wrong.

19 A. No. No. What we gathered up to that point. Yes.
20 Yes.

21 Q. Okay. So did you look at a map as to where the
22 Tidwell house was?

23 A. The one that the Solicitor just showed me?

24 Q. Is that the map that you looked at?

25 A. I'm not sure if that's the exact map that I looked

1 at. I don't know where that map came from. I don't know if
2 that's a Google map or...

3 Q. You looked at some map?

4 A. Yes.

5 Q. And how far was it that the car was located upon
6 information and belief from where the Tidwell house is?

7 A. How far was the car from the house? Is that what
8 you're asking?

9 Q. Yes. That's what I'm asking.

10 A. Well, the dead end road, it ends across the pond
11 which is behind their house so several hundred yards, maybe a
12 little bit more. I'm not sure exactly the distance.

13 Q. Well, there are actually two ponds there, aren't
14 there?

15 A. There's actually three ponds.

16 Q. That's right. There's one that's a par three. They
17 live right on the par three.

18 A. Yes.

19 Q. You've got a pond to the left and a pond to the
20 right. Where is the other pond?

21 A. There's a bigger pond.

22 Q. That's off of number 10?

23 A. I'm not sure what hole number it is.

24 Q. In what pond did he indicate that he was fishing
25 in?

1 A. I don't think he ever indicated which exact pond he
2 was fishing in. They're all right there together.

3 Q. All right. Did anyone to your knowledge ever go
4 down to the pond to see if he had left his fishing tackle down
5 there at the pond?

6 A. There was a bunch of people down there searching
7 around in that area. Yes, sir. But as far as I know nothing
8 was found as far as fishing gear that I'm aware of.

9 Q. Well, you don't know exactly which pond he was
10 fishing in, do you?

11 A. No. I don't think he ever indicated exactly which
12 pond he was fishing in but that area was canvassed. There was
13 a lot of people looking around and searching around.

14 Q. And because no one told you that they found the
15 fishing gear, you would assume that y'all checked the pond
16 where the fishing gear was; is that correct?

17 A. Yeah. I was not made aware that anything was found
18 as far as fishing gear.

19 Q. When was the first time that you met my client that
20 day?

21 A. The first time that I met your client was at the
22 Sheriff's Office.

23 Q. What did he have on when you met him?

24 A. Uhm, I believe he had on an Edgefield County
25 Detention Center jump suit.

1 Q. Do you know what he had on when he was arrested?

2 A. I do not, sir. I was not there when he was arrested
3 so I'm not sure.

4 Q. You don't know whether or not he had fishing attire
5 on when he was arrested?

6 A. I do not. No, sir.

7 Q. Okay. So I believe you said in essence that the
8 statements that he made, did you record these in any form?

9 A. No, sir.

10 Q. There's no written form of his statements?

11 A. No, sir. He did not write us a statement.

12 Q. There is no recorded form of these statements?

13 A. No, sir.

14 Q. And your testimony is being offered to say that my
15 guy said he was fishing and that he supposedly made some
16 statement about that he's in a world of trouble; is that what
17 you're saying?

18 A. He made mention of the fact that he would be his
19 prime suspect if he was the police.

20 Q. He just voluntarily said that he would be the prime
21 suspect if he was with the police?

22 A. Yes, sir.

23 Q. If he was being interviewed by the police?

24 A. I guess if he was conducting the investigation.
25 That's how I took it.

1 Q. And he said that to you?

2 A. Yes, sir.

3 Q. In response to what question?

4 A. He just said that. I mean, he just said that it
5 looks bad.

6 Q. It looks bad?

7 A. Yes. The whole thing looks bad.

8 Q. Because he was in jail?

9 A. I took it that he was referring to the
10 investigation. He was in jail for another reason --

11 Q. What was he jail for?

12 A. -- at that time.

13 Q. What was he jail for?

14 A. I wasn't there, sir. He got stopped and he was
15 charged with some, I think, traffic violations.

16 Q. So he's being held on traffic violations?

17 A. At that time. Yes, sir.

18 Q. Were there any other statements that you can recall
19 that my client made?

20 A. No, sir.

21 MR. WILLIAMS: That's all the questions I have of
22 this witness.

23 MR. HUBBARD: That's all I have of this witness. We
24 have one more witness. The State calls Agent Russ
25 Padgett.

WILLIAM RUSSELL PADGETT - DIRECT BY MR. HUBBARD

85

1 Thereupon,

2 WILLIAM RUSSELL PADGETT, JUNIOR

3 after having been first duly sworn, testified as follows,

4 DIRECT EXAMINATION

5 BY MR. HUBBARD:

6 Q. Agent Padgett, if you would, state your name and
7 where you work.

8 A. William Russell Padgett, Junior. I work for the
9 South Carolina Law Enforcement Division.

10 Q. Back on March 8th, 2017 where did you work?

11 A. I worked for the Saluda County Sheriff's Office, a
12 lieutenant in the investigative division.

13 Q. Were you involved in the investigation in the
14 Tidwell break-in --

15 A. Yes, sir.

16 Q. -- in the case and charges that were brought on Mr.
17 Lowman?

18 A. Yes, sir.

19 Q. Were you also involved in his interview along with
20 Agent Clint Busbee?

21 A. Yes, sir.

22 Q. You have heard Agent Busbee testify about providing
23 Miranda --

24 A. Yes, sir.

25 Q. -- to Mr. Lowman. Were you there and present when

1 that was done?

2 A. I was.

3 Q. Were you present when Agent Busbee read each one of
4 those rights out?

5 A. Yes, sir. I was.

6 Q. Did you see the defendant initial each one of those
7 rights as he read them?

8 A. Yes, sir.

9 Q. And as to the questions about whether he understood
10 these rights and wanted to talk at this time, were you present
11 when he wrote yes and initialed those questions?

12 A. Yes, sir.

13 Q. And as to wanting to talk, did he also sign that
14 form saying he was willing to talk?

15 A. He did.

16 Q. At any time did he seem hesitant or did he seem
17 under the influence or anything like that?

18 A. He didn't seem under the influence. The only time
19 he seemed hesitant was at the end of the interview when he
20 terminated, when we asked for a lawyer.

21 Q. Okay. Now while Agent Busbee and you were talking,
22 did you conduct a lot of the conversation?

23 A. Yes, sir. I did.

24 Q. Once his Miranda Rights were read and once it was
25 clear to you that he was willing to talk, did you ask him

1 questions?

2 A. Yes, sir.

3 Q. And again, you were here as Agent Busbee testified.
4 Did y'all let Mr. Lowman know that y'all knew that there was a
5 GPS tracker on his car?

6 A. Yes, sir. We did.

7 Q. Did you let him know that you were investigating the
8 burglary and the armed robbery and the kidnapping at the
9 Tidwell house?

10 A. Yes, sir. We did.

11 Q. As to the home invasion, what, if anything, do you
12 remember him saying?

13 A. He told us when we confronted him about the GPS that
14 he was at the golf course and he left his car running. He
15 seen the repo driver come there and that's when he got in his
16 car and left. He stated that he was there fishing and that
17 the repo driver, once he left, the repo driver followed him to
18 Johnston and then Ridge Spring and then back to Johnston where
19 he was stopped and arrested for simple possession, driving
20 under suspension and open container. When we asked him about
21 the whereabouts of his fishing equipment, he said I could have
22 dropped it off somewhere and when we asked him again, he kind
23 of dropped his head and said this real important and it was
24 around that time that he asked for his lawyer.

25 Q. Prior to asking for his lawyer, do you remember

1 anything about a thousand years?

2 A. Yes. Sometime during the interview he stated that
3 it looked real bad. That if he was the police, he would be
4 the number one suspect and he was probably gonna get a
5 thousand years for this because the Tidwells were such good
6 people.

7 Q. Okay. About the repo man, do you know, did he say
8 anything about whether he was in his car or not when the repo
9 man found his car out there on the golf course?

10 A. He said he was not in the car. Once the repo man
11 left, he went and got in his car and left also.

12 Q. And he said he was followed?

13 A. And he was followed by the repo man.

14 Q. And the stop took place where?

15 A. In Johnston.

16 Q. Once Mr. Lowman asked for a lawyer, what, if
17 anything, did y'all do?

18 A. We terminated the interview. Haven't spoken with
19 him since.

20 MR. HUBBARD: No further questions at this time.

21 THE COURT: Cross.

22 CROSS EXAMINATION

23 BY MR. WILLIAMS:

24 Q. Agent Padgett, when did you join SLED?

25 A. November of 2017.

1 Q. Do you have any recorded or written statements
2 signed by my client?

3 A. No, sir.

4 Q. Where did the interview take place?

5 A. Edgefield County jail or Sheriff's Office.

6 Q. In that he's being housed in the Edgefield County
7 jail, would it normally be customary to have an Edgefield
8 police officer with him at the time?

9 A. They brought him into the room and they left.

10 Q. So it's not customary to keep the person who he's in
11 custody in there with other police officers?

12 A. Agent Busbee had jurisdiction for out of state at
13 that time. I don't think that was a big issue.

14 Q. If y'all went to the trouble of having him sign
15 Miranda Warnings, why wouldn't you have him write down the
16 information that you were asking him?

17 A. Because once he asked for a lawyer, we respected his
18 rights.

19 Q. Why wouldn't you have him write it down before he
20 asked for a lawyer? You say he just kept making these
21 statements. Why wouldn't you have him write it down before he
22 asked for a lawyer?

23 A. Because we hadn't concluded the interview yet. We
24 normally get written statements at the end of the interview.

25 Q. But you don't exactly know when supposedly he made

1 the statement about a thousand years?

2 A. It was somewhere around the time that we confronted
3 him about the GPS.

4 Q. Did you go with the SLED agent down to the repo
5 place to look at the GPS information to see where it was
6 located?

7 A. Yes.

8 Q. So you were with him the whole day?

9 A. Yes. Not the whole day but most of the day.

10 Q. When did you cease being with him that day?

11 A. I don't remember what time it was.

12 Q. Later on after the statement?

13 A. Yes.

14 MR. WILLIAMS: That's all the questions I have.

15 MR. HUBBARD: No follow up.

16 THE COURT: Step down.

17 MR. HUBBARD: That's all we have on the statement,
18 Your Honor.

19 THE COURT: Anything else?

20 MR. WILLIAMS: I have nothing to put up on that
21 issue, Your Honor.

22 THE COURT: Okay. It appears to the Court that Mr.
23 Lowman was in custody, had been arrested for traffic
24 offenses, some other unrelated offenses, placed in an
25 interview room, advised of his rights. The testimony has

1 been that he was clear headed, understood his rights, was
2 not threatened or coerced, not promised anything,
3 voluntarily waived his rights to remain silent and was
4 interviewed for some period of time until he asked for a
5 lawyer and the interview was terminated. The oral
6 statements made during that interview are done consistent
7 with the rules requirement that they be voluntary and
8 without coercion, without threat, without undue
9 influence, without influence of drugs or alcohol. I
10 think the State has presented a prima facie case to get
11 those statements in so they will be allowed. Cross
12 examination obviously will be allowed as to why they
13 weren't written and things like that. There is no --

14 MR. HUBBARD: No written statements, Your Honor.

15 THE COURT: Okay. The oral statements are allowed
16 from the interview in Edgefield. Is that right, it was
17 Edgefield?

18 MR. WILLIAMS: Yes.

19 THE COURT: So I'm going to remember it. All right.
20 We'll make it a Court's Exhibit the Advisement of Rights
21 Form.

22 MR. HUBBARD: Actually we made it a State's
23 Exhibit.

24 THE COURT: Okay. Have you pre-numbered anything?

25 MR. HUBBARD: This is number 4. The three boards

1 that I have got, Your Honor, are 1, 2 and 3.

2 THE COURT: State's 4 for the purposes of this
3 hearing is identified.

4 MR. HUBBARD: Your Honor, that's all the motions the
5 State has. I know the defense has a motion.

6 MR. WILLIAMS: Your Honor, we have a motion dealing
7 with the search of the vehicle when my client was
8 arrested and I assume that the Solicitor will be putting
9 up those two witnesses, we talked about this, the tow
10 truck individual and maybe the arresting officer in
11 reference to that.

12 MR. HUBBARD: I didn't know if he --

13 MR. WILLIAMS: I thought you said --

14 MR. HUBBARD: I'm going to. I didn't know if you
15 were going to state something more on record about what
16 you're challenging.

17 MR. WILLIAMS: The search. The search of the
18 vehicle.

19 MR. HUBBARD: The stop and the search?

20 MR. WILLIAMS: The stop and the search are the only
21 - is the only search that I'm contesting in this case.

22 THE COURT: And that's the one just prior to his
23 arrest?

24 MR. WILLIAMS: Right before he's arrested.

25 THE COURT: Okay.

JAMES RUTLAND - DIRECT BY MR. HUBBARD

93

1 MR. WILLIAMS: Not the other searches because the
2 other searches all have search warrants and things like
3 that attached to it.

4 THE COURT: Okay. That's where the testimony was
5 along the lines of he was in Saluda, went to Johnston,
6 then went to Ridge Spring and then back to Johnston and
7 then he was stopped?

8 MR. WILLIAMS: Correct.

9 THE COURT: That's the search.

10 MR. WILLIAMS: That's correct. That search.

11 THE COURT: Okay.

12 MR. HUBBARD: The State is going to call James
13 Rutland. They're getting him right now, Your Honor.
14 Thereupon,

15 JAMES RUTLAND

16 after having been first duly sworn, testified as follows,

17 DIRECT EXAMINATION

18 BY MR. HUBBARD:

19 Q. Mr. Rutland, if you would, state your name and where
20 you work for the record.

21 A. My name is James Rutland. I work for Hook and Book
22 Recovery.

23 Q. What is Hook and Book?

24 A. It's a repossession company.

25 Q. How long have you been in the repossession

- 1 business?
- 2 A. 20 years.
- 3 Q. How long have you been the owner of Hook and Book?
- 4 A. Five.
- 5 Q. Now, let me ask you, your wife, what's her name?
- 6 A. Sheila Rutland.
- 7 Q. Where does she work?
- 8 A. Jiggie's Truck and Auto Sales.
- 9 Q. And as part of your job do you do repos for various
- 10 auto dealerships?
- 11 A. Yes, sir.
- 12 Q. Including Jiggie's?
- 13 A. Yes, sir.
- 14 Q. March 7th of 2017 do you recall getting a request
- 15 from Jiggie's on a car, a Mercury Grand Marquis?
- 16 A. Yes, sir.
- 17 Q. Can you tell me what car were you looking for at
- 18 that time?
- 19 A. A Mercury Marquis.
- 20 Q. I know you don't have your paperwork in front of
- 21 you. Is that a 2003?
- 22 A. Yes, sir.
- 23 Q. Would your paperwork have also a VIN and tag
- 24 number?
- 25 A. It will show the VIN, the debtor and all their

JAMES RUTLAND - DIRECT BY MR. HUBBARD

95

1 information. Sometimes there's a tag number. Sometimes
2 there's not. But I purchased the tag on the way.

3 Q. The cars sold at Jiggie's, did they come with GPS
4 trackers installed on those vehicles?

5 A. Yes, sir.

6 Q. Although you didn't work for Jiggie's, did you have
7 by way of your phone software to access the GPS?

8 A. Yes, sir.

9 Q. Is that how you conducted your business to track
10 vehicles down?

11 A. Yes, sir.

12 Q. In the case involving this Mercury Grand Marquis,
13 did you have a tracker you could follow?

14 A. Yes, sir.

15 Q. Did you have the name of the person who would be
16 driving that vehicle or are you just going after the
17 vehicle?

18 A. There's a name on the account associated with
19 a certain vehicle. I don't remember who was driving it. It's
20 whatever that particular car is, that's what I'm going
21 after.

22 Q. Your interest is in the car?

23 A. Right.

24 Q. Not the driver?

25 A. No, sir.

1 Q. Now, when you go out and do these repos, do you
2 generally have somebody assisting you?

3 A. Yes, sir.

4 Q. On March 7th was anybody assisting you during the
5 time you were hunting this Mercury Grand Marquis?

6 A. No, sir.

7 Q. Why was that?

8 A. The fellow that usually helps me, he had other
9 obligations at the time and he would be with me later but it
10 ended up being so late he didn't.

11 Q. On the 7th did you locate on your tracker the
12 vehicle you were looking for, this Mercury Grand Marquis?

13 A. Yes, sir.

14 Q. About what time was that?

15 A. I wan to say around 10:30, 11:00.

16 Q. Where by your tracker was that vehicle located?

17 A. It was sitting between the golf course and the
18 airport here in Saluda.

19 Q. In Saluda?

20 A. Yes, sir.

21 Q. Did you drive to where you were spotting it?

22 A. Yes, sir.

23 Q. And I know you've got it on your tracker saying
24 that, but did you ever lay eyes on the vehicle that night?

25 A. Yes, sir.

JAMES RUTLAND - DIRECT BY MR. HUBBARD

97

1 Q. The first time you saw that vehicle whereabouts was
2 the vehicle?

3 A. It was parked inside the, in the woods on a little
4 trail kind of like as far as I can say. It's actually a road
5 but it's real narrow.

6 Q. Okay. I'll show you what's already been marked as
7 State's number 1. I'm going to ask you to keep speaking up so
8 the court reporter can get this down. But looking at State's
9 number 1, this is 121.

10 A. Yes, sir.

11 Q. This is Persimmon Hill Golf Course?

12 A. Yes, sir.

13 Q. You see the airport?

14 A. Yes, sir.

15 Q. Whereabout was this vehicle located?

16 A. In here. Right in this area (indicating.)

17 Q. Is there a cut, a small cut through these woods? Is
18 that what you're saying?

19 A. Yes, sir.

20 Q. Now, when you saw this car, you say about what time
21 did you pull up on it?

22 A. Usually by the tracker it was about 45 minutes in
23 front of me so generally about a hour or so so it should be
24 around I guess midnight, around that area.

25 Q. About midnight?

1 A. Somewhere in that area.

2 Q. When you saw the vehicle, was it parked, moving or
3 what was it doing?

4 A. It was parked facing towards me with the parking
5 lights on.

6 Q. Was it running or was it off?

7 A. It was running.

8 Q. Could you tell at that time if anybody was in the
9 car?

10 A. No, sir. I couldn't.

11 Q. What did you do?

12 A. When I first got there, I pulled up on the car and
13 eased myself beside it because I needed to get to the back
14 side of the car and actually went on, kept going past it,
15 turned around on the golf course because I didn't know if
16 there was a place for me to turn around back there. I never
17 been back there before.

18 Q. So the Court knows, so you drove on down this
19 path?

20 A. Yes, sir.

21 Q. You actually turned around on the golf course?

22 A. Yes, sir.

23 Q. Did you go back down that path --

24 A. Yes, sir.

25 Q. -- where the car was parked?

- 1 A. Yes, sir. Parked behind it.
- 2 Q. And you parked behind it?
- 3 A. Mm-hmm.
- 4 Q. Now, what are you driving?
- 5 A. A Ford F350.
- 6 Q. And it's something you can tow the car with?
- 7 A. Yes, sir.
- 8 Q. When you parked behind it, what did you do?
- 9 A. I got out of my truck. I walked up to the car,
- 10 knocked on the window. I didn't get no response. I shined my
- 11 flashlight up into the window. As I shined my flashlight up
- 12 in there the tint on the windows was so dark it reflected back
- 13 in my face and I couldn't see anything.
- 14 Q. Were you able to determine if anybody was in the
- 15 car?
- 16 A. No, sir.
- 17 Q. What did you do at that time?
- 18 A. I got back in my truck, backed up and pulled back
- 19 around it, came back out on the paved road part on the, right
- 20 there in that elbow of the road.
- 21 Q. Again, so the Court knows, you have located the
- 22 vehicle down here. Where did you park?
- 23 A. I parked myself right there (indicating.)
- 24 Q. Okay. When you did that, what did you do?
- 25 A. I made a phone call to my wife and let her know that

1 I had found the car and located it but there was no way at the
2 time I could pick it up because of the location it was at
3 without tearing the golf course up or getting stuck.

4 Q. Now, let me ask you this: You have gotten paperwork
5 from Jiggie's. Why are you looking for this car? What's the
6 purpose? What's the repo purpose?

7 A. For having no insurance.

8 Q. So this isn't like failure to pay. This is no
9 insurance on the vehicle?

10 A. Right.

11 Q. When you park in that elbow and you're on the phone
12 with your wife, what, if anything, happens?

13 A. What was that?

14 Q. When you're parked on that elbow in the road and
15 talking to your wife, what, if anything, happens next?

16 A. Uhm, while I was talking to her, I told her hold on
17 because here comes your vehicle unit now. It drove on past me
18 and went on out. I just sat there and let it get on down the
19 road a little bit.

20 Q. Again, using State's 1, you're on the elbow. Which
21 way did the car go?

22 A. Down this way and then down this way.

23 Q. Making its way back to 121?

24 A. Yes, sir.

25 Q. Now, did you fall in right behind the car?

JAMES RUTLAND - DIRECT BY MR. HUBBARD

101

1 A. No, sir. I didn't. I waited there a couple of
2 minutes before I took back off.

3 Q. Why did you do that?

4 A. The reason I done that is I didn't want nobody to
5 know I was after them at the time.

6 Q. Okay. And could you still track them?

7 A. Yes, sir.

8 Q. When you got to 121, one way goes to downtown
9 Saluda, one way goes to Johnston. Could you tell which way he
10 went?

11 A. Yes, sir.

12 Q. Which way did he go?

13 A. Towards Johnston.

14 Q. Did you follow?

15 A. Yes, sir.

16 Q. When you get to Johnston, do you end up locating the
17 vehicle?

18 A. Yes, sir.

19 Q. I'm going to show you what's been marked as State's
20 2 and 3. This is a big aerial shot of Johnston. To orient
21 you, here is 121 and there's 23.

22 A. Right. Yes, sir.

23 Q. Whereabout did you locate this vehicle? You came
24 down 121?

25 A. I came down 121 from Saluda, stopped at the red

1 light. I actually located the car here and realized that it
2 was behind me so I took a right here at the red light. I
3 noticed there was an officer here and came on down here to
4 this red light and turned back down and noticed the car was
5 sitting between this laundromat and the store parked right
6 here (indicating.)

7 Q. Okay. All right. What did you do?

8 A. Well, actually I realized undoubtedly Mr. Lowman
9 knew I was on him so I came back out here, stopped at this red
10 light and pulled over here and talked with this officer and
11 let her know that I was up there doing a repossession on a car
12 that had no insurance.

13 Q. Okay. Again, I want to show you State's 3. It's
14 just a little bit more of a blow up.

15 A. Yes, sir.

16 Q. Again, whereabouts was the vehicle stopped?

17 A. The unit was stopped right here.

18 Q. And where did you meet the officer and talk to the
19 officer?

20 A. Right here.

21 Q. The initial officer you talked to you mentioned her.
22 Was it a female officer?

23 A. Yes, sir.

24 Q. Did she call other officers to the scene?

25 A. Yes, sir.

JAMES RUTLAND - DIRECT BY MR. HUBBARD

103

1 Q. Now, do you typically get law enforcement
2 involved?

3 A. No, sir.

4 Q. What was your purpose this night?

5 A. My purpose was to just let them know, you know, in
6 small towns we usually like to join, normally let officers
7 know, if I see one, that we're up here doing a repossession
8 and the reason why.

9 Q. You let them know the reason why was what?

10 A. Yes, sir. Because she had no, that car had no
11 insurance.

12 Q. And that's a law enforcement issue at that point,
13 too, isn't it?

14 A. Yes, sir.

15 Q. As you're letting these officers know this and as
16 you're talking to the officers, what, if anything, do you
17 notice on your tracker?

18 A. That the car is moving towards Ward.

19 Q. Going towards Ward?

20 A. Mm-hmm.

21 Q. What road would that be going towards Ward?

22 A. That would be the road that's going out of, this
23 road that goes out.

24 Q. 23?

25 A. Yes, sir.

1 Q. So as you're talking to law enforcement, he's moved
2 and he's back on the road?

3 A. Yes, sir.

4 Q. What do you do at that time?

5 A. I track the car a few more times and, you know, just
6 to see where it was going, see if it was still heading out of
7 town, way out of town or whatever it was gonna do. It did
8 make one stop at a gas station in Ridge Spring and it set
9 there for a second and it started coming back towards Johnston
10 and Ward and then that's when I told the officer I guess I'll
11 go into Ward and pick it up.

12 Q. As you started heading down the road down 23 to
13 Ward, you're heading in this direction on this chart, State's
14 number 2?

15 A. Yes, sir.

16 Q. From bottom to top?

17 A. Yes, sir.

18 Q. As you're heading that way do you even make it out
19 of the town?

20 A. I make it out -- I think that's the town limits but
21 not too far. I turned around. I know I tracked him one more
22 time and noticed the car, the tracker, it turned green which
23 means it's moving and heading towards me.

24 Q. So he's coming back towards Johnston?

25 A. Yes, sir.

JAMES RUTLAND - DIRECT BY MR. HUBBARD

105

1 Q. What do you do when you get that indicator on your
2 GPS tracker?

3 A. I made a U-turn and came back into the town of
4 Johnston and seen the officer and I told him that the vehicle
5 was heading back their way.

6 Q. Okay. And then what did you do?

7 A. I just went over and set on the map there at the car
8 lot to kind of see what was going to happen.

9 Q. Looking at State's 3?

10 A. Right here.

11 Q. So you just waited for law enforcement at that
12 point?

13 A. Yes, sir.

14 Q. You say you let an officer know or did you let
15 anybody know that the vehicle was heading back towards town?

16 A. I let the officer know.

17 Q. Okay. Do you see at some point a vehicle being
18 stopped or blue lights or an indication that law enforcement
19 has stopped somebody?

20 A. Yes, sir.

21 Q. Now, did you go up on it during this stop?

22 A. No. I didn't.

23 Q. You just continued to wait?

24 A. Yes, sir.

25 Q. After some time did an officer come by and speak to

1 you?

2 A. Yes, sir.

3 Q. What did that officer tell you?

4 A. She said that my car was sitting down the road and I
5 could pick it up any time I wanted to and I told her I
6 appreciate it.

7 Q. Did you take possession of that 2003 Mercury Grand
8 Marquis?

9 A. Yes, sir.

10 Q. What did you do with it?

11 A. I loaded it up on the truck and hauled it back to
12 Hook and Book and put it in the impound yard.

13 Q. Where was your impound yard?

14 A. North Augusta.

15 Q. Is that a secured area?

16 A. Yes, sir.

17 Q. Is there fencing?

18 A. Yes, sir. Six foot, three strands of barbwire and
19 security cameras running 24/7, security lights.

20 Q. Did it stay in your possession?

21 A. Yes, sir.

22 MR. HUBBARD: No more questions at this time.

23 CROSS EXAMINATION

24 BY MR. WILLIAMS:

25 Q. The vehicle that you picked up, did you have any

JAMES RUTLAND - CROSS BY MR. WILLIAMS

107

1 type of claim and delivery or any type of judicial paperwork
2 which authorized your pick up of this particular vehicle?

3 A. Yes, sir.

4 Q. What type of instrument did you have that allowed
5 you to pick it up?

6 A. I had a piece of paper that the car lot gives me
7 right to repossession which is a right to carry that car.

8 Q. So what you had was not something from the court but
9 what you had was something from the car lot?

10 A. Yes, sir.

11 Q. And there was no judge which had signed that, had
12 they?

13 A. No, sir.

14 Q. Do you have a copy of that document?

15 A. Not with me I don't.

16 Q. Do you know what happened to that document that you
17 had?

18 A. It's probably in a folder in the file still.

19 Q. Who would have been the person who would have signed
20 that document?

21 A. Anybody at Jiggie's that have operations to that
22 car.

23 Q. Would that be the place where your wife works?

24 A. Yes, sir.

25 Q. So you didn't give a copy of that to the police

1 officer that you asked to stop the vehicle for you?

2 A. I didn't ask them to stop the car for me. I was
3 just letting them know that we were there to pick up a car.

4 Q. Well, you called them and tell them where it was?

5 A. I didn't call anybody, sir.

6 Q. You called the police. You called Johnston and told
7 them it was coming back to them and that you were there to
8 pick it up?

9 A. No, sir.

10 Q. Isn't that what you just said?

11 A. No, sir. I said I was driving down the road and
12 noticed the car was coming back towards me.

13 Q. And then?

14 A. I made a U-turn and came back to where the officer
15 was sitting.

16 Q. And what did you do when you did that?

17 A. Let them know that the car was coming back towards
18 his way.

19 Q. And you let him know that for what purpose?

20 A. It had no insurance.

21 Q. And you let him know that so that they would secure
22 the property for you so that you could haul it back to your
23 impound yard?

24 A. I didn't know that I was going to get the car. We
25 have done it in the past and not, you know, end up with the

JAMES RUTLAND - CROSS BY MR. WILLIAMS

109

1 car.

2 Q. Why is that?

3 A. It's a civil matter.

4 Q. It's a civil matter. It's not a criminal matter,
5 correct?

6 A. I guess it's kind of the way you want to look at
7 it.

8 Q. Well, yeah, because you don't always know when you
9 don't have insurance on the car, do you?

10 A. Yeah.

11 Q. You do?

12 A. Yeah. Mm-hmm.

13 MR. HUBBARD: Your Honor, I'm going to object to
14 this line. Basically the whole purpose is, he says why
15 he's hunting for it. Any legal issue is really law
16 enforcement, do they have authority to make a stop to
17 determine if there's no insurance. This isn't a legal
18 question for the man on the stand.

19 THE COURT: Okay. Keep going.

20 MR. WILLIAMS: Thank you, Your Honor.

21 BY MR. WILLIAMS:

22 Q. So you had a document somewhere from your wife or
23 somebody at is it Jiggie's or Jiggle's?

24 A. Jiggie's.

25 Q. Jiggie's. That says that you're to pick up a

1 Marquis. You obviously have some sort of description on it,
2 right?

3 A. Yes, sir.

4 Q. Who is the listed owner of that particular
5 vehicle?

6 A. It's on the paperwork. I don't have no idea whose
7 name. I usually don't look at names. I look at the type of
8 car I'm looking for, stock number and where I can locate it
9 at.

10 Q. All right. So you didn't even have the license
11 plate at that point in time?

12 A. Yeah.

13 Q. You did?

14 A. Mm-hmm. I had access to get any license plate I
15 need to get.

16 Q. I'm sorry.

17 A. I have access to software that I own that I can put
18 in a VIN number to a car and get the license plate.

19 Q. All right. And that means that you're hooked up
20 straight with the highway department with regards to that?
21 You can get that from the highway department?

22 A. No.

23 Q. So after you get a call from the Johnston police
24 officer that they have your car, where did you find your car
25 located?

JAMES RUTLAND - CROSS BY MR. WILLIAMS

111

1 A. Down by the railroad tracks.

2 Q. And is this inside the town limits of Johnston or
3 outside the town limits of Johnston?

4 A. Inside the town limits.

5 Q. How far inside the town limits of Johnston?

6 A. I don't know exactly where the sign is but I know it
7 was inside the Johnston town limits.

8 Q. All right. And when you get there, who was present
9 when you arrived at that location?

10 A. Where the car was sitting?

11 Q. Where the car was sitting?

12 A. No one.

13 Q. So it was there by itself?

14 A. Yes, sir.

15 Q. No one was around it?

16 A. (Witness shaking head.) It was there by itself.
17 Nobody in it. Nobody around it. I was the only one there.

18 Q. Well, did you hook it -- You've got a flatbed or
19 something?

20 A. No, sir. I've got a snatch truck.

21 Q. A snatch truck which means you just climb underneath
22 the front of it, take the hook and hook it up?

23 A. No, sir. Pick it up from the back.

24 Q. You pick it up from the back so that you don't tear
25 up something, right?

- 1 A. Right.
- 2 Q. And so you hook it up with that hook. Well, you
- 3 have to get inside the vehicle, don't you?
- 4 A. No, sir.
- 5 Q. You don't have to get inside the vehicle and make
- 6 sure that it's, I don't know, like in neutral or something?
- 7 What if it's in gear?
- 8 A. It's a rear wheel drive. If you pick the rear wheel
- 9 tires up, it steers automatically.
- 10 Q. All right. So you didn't have to go inside the
- 11 vehicle?
- 12 A. No, sir.
- 13 Q. Do you even know if the doors were locked or
- 14 unlocked?
- 15 A. No, sir.
- 16 Q. So they could have been unlocked?
- 17 A. They could have been.
- 18 Q. And then you haul it from Johnston to where?
- 19 A. North Augusta.
- 20 Q. All right.
- 21 A. Secured lot.
- 22 Q. What time did you arrive back in Johnston? I mean
- 23 at North Augusta?
- 24 A. I have no clue.
- 25 Q. Came straight there, right?

JAMES RUTLAND - REDIRECT BY MR. HUBBARD

113

1 A. Mm-hmm.

2 Q. About what time did you hook up to it?

3 A. Probably about 2:00 or 3:00.

4 Q. And you unlocked the gate, pull it in and go back
5 out that night?

6 A. No, sir. I didn't.

7 Q. Was anybody there at your lot?

8 A. No, sir.

9 Q. You just locked the gate and went home?

10 A. Yes, sir.

11 MR. WILLIAMS: That's all the questions I have.

12 MR. HUBBARD: One quick follow up.

13 REDIRECT EXAMINATION

14 BY MR. HUBBARD:

15 Q. Looking at State's 2, do you see, for the Court,
16 about where you saw that stop?

17 A. Right here.

18 MR. HUBBARD: Okay. Thank you. That's all I have
19 got.

20 THE COURT: All right. Step down.

21 MR. HUBBARD: The State calls Austen Harding.

22 Thereupon,

23 AUSTEN HARDING

24 after having been first duly sworn, testified as follows,

25 DIRECT EXAMINATION

1 BY MR. HUBBARD:

2 Q. Deputy Harding, if you would, please state your name
3 and where you work for the record.

4 A. My name is Austen Harding. I work for the Saluda
5 County Sheriff's Office.

6 Q. How long have you been with Saluda County?

7 A. Almost seven months now.

8 Q. Prior to that, where did you work?

9 A. Johnston.

10 Q. Johnston PD?

11 A. Yes, sir.

12 Q. How long were you with them?

13 A. Almost a year.

14 Q. Back on March 8th of 2017 were you working for
15 Johnston at that time?

16 A. Yes, sir.

17 Q. What shift were you working that night?

18 A. Night shift.

19 Q. Do you recall at some point during the night having
20 a conversation with a repo man from Hook and Book?

21 A. Yes, sir.

22 Q. What were you apprised of at that time?

23 A. He - that there was a vehicle, a 2003 Grand Marquis
24 in the area that had no insurance that was up for
25 repossession.

AUSTEN HARDING - DIRECT BY MR. HUBBARD

115

1 Q. Now let me ask you, typically do y'all assist repo
2 drivers in their business?

3 A. No, sir.

4 Q. If there was a case of no payment, would y'all be
5 involved or interested in that at all?

6 A. No, sir. That has nothing to do with us.

7 Q. When there's an instance of no insurance, is that an
8 issue?

9 A. Yes, sir.

10 Q. At some point that night do you actually lay eyes on
11 that vehicle?

12 A. Yes, sir.

13 Q. Where is it and is it moving or is it stopped?

14 A. The vehicle is moving towards Edgefield on highway
15 23 which is Calhoun Street. I was headed towards Ward on 23
16 when I met the vehicle in the road.

17 Q. This vehicle is coming into Johnston from Ward?

18 A. Yes, sir. It was already in the city limits when I
19 laid eyes on it.

20 Q. Prior to you laying eyes on it and seeing that
21 vehicle, did the repo driver let you know that it appeared he
22 was coming back?

23 A. Yes, sir.

24 Q. Do you see the vehicle? Does it pass you by?

25 A. Yes, sir.

1 Q. You're heading in one direction and it's heading in
2 the other?

3 A. Yes, sir.

4 Q. What, if anything, do you notice about that car when
5 it's passing by you?

6 A. When I was passing the vehicle, I noticed that the
7 windows were dark so I made a U-turn, got behind the vehicle,
8 turned my bright lights on. I still could not see inside the
9 vehicle. That's when I activated my blue lights.

10 Q. Now, when it's passing by you, are you trying to see
11 if you can identify a driver?

12 A. Yes, sir. I'm trying to see, I'm trying to get an
13 idea of how many people are possibly in the vehicle, if it's
14 just a driver, any passengers, stuff like that.

15 Q. And you couldn't see anything?

16 A. No, sir.

17 Q. So you turned around and turned which lights on?

18 A. My blue lights.

19 Q. Before you turned your blue lights on, what lights
20 do you turn on?

21 A. My bright lights. My headlights.

22 Q. When you do that, can you see into the vehicle?

23 A. No, sir.

24 Q. That's when you hit your blue lights?

25 A. Yes, sir.

AUSTEN HARDING - DIRECT BY MR. HUBBARD

117

1 Q. What does that car do?

2 A. When I activated my blue lights, the vehicle pulled
3 over to the side of the road but did not come to a complete
4 stop. It slowly made its way down highway 23 and that's when
5 it turned left towards McQueen Street over the railroad
6 tracks. It came almost to a complete stop right before going
7 up the hill on the railroad tracks and eased its way across
8 the railroad tracks and made a right and that's where it came
9 to a complete stop finally.

10 Q. If we can, let's show His Honor using State's
11 Exhibit number 2 highway 23. Now, up at the top of this
12 exhibit, would that be going to Ward and Ridge Spring?

13 A. Yes, sir. Traveling in this direction is traveling
14 toward Ward and Ridge Spring.

15 Q. Is that the direction you were traveling when you
16 first saw it?

17 A. Yes, sir.

18 Q. And he was coming from that direction?

19 A. Yes, sir. He was heading toward Edgefield.

20 Q. When you say you stopped him, whereabouts did that
21 stop take place?

22 A. Right here. That's where he finally came to a
23 complete stop in that area after crossing the railroad
24 tracks.

25 Q. These are the railroad tracks right here?

1 A. Yes, sir.

2 Q. So initially you activated --

3 A. I activated my blue lights somewhere in this area
4 and he slowed down but never did come to a complete stop,
5 hesitated right here turning onto the railroad tracks, crossed
6 over the railroad tracks and then made a right and that's
7 where he came to a complete stop right there in that area of
8 McCormick and Saluda County.

9 Q. Was all of that within the town limits of
10 Johnston?

11 A. Yes, sir.

12 Q. When you stopped him, did you have any backup?

13 A. Yes, sir.

14 Q. Who was there with you?

15 A. At the time my Corporal Tony Mosley, he was already
16 posted up right behind where I made the traffic stop where the
17 stop came to a rest.

18 Q. So he was already stopped right there?

19 A. Yes, sir. He was already right behind me the whole
20 time so...

21 Q. When the vehicle stopped, what, if anything,
22 happened?

23 A. Before I could even say anything on my radio, the
24 driver already exited the vehicle so I went ahead and exited
25 my vehicle and told him let me see your hands. Let me see

AUSTEN HARDING - DIRECT BY MR. HUBBARD

119

1 your hands just to make sure he didn't have any weapons or
2 anything. After I realized he didn't have any weapons, I
3 approached the vehicle and got the vehicle's information and
4 his personal information which would include the driver's
5 license, registration of the vehicle, insurance card.

6 Q. Let me ask you this: What, if anything, did he say
7 about a driver's license?

8 A. He said he did not have a driver's license.

9 Q. All right. Did he present an ID to you?

10 A. He presented me with a state ID. Yes, sir.

11 Q. Who was this man? Who did he turn out to be?

12 A. Abin Lee Lowman.

13 Q. Is he here in the courtroom?

14 A. Yes, sir.

15 Q. What did you do?

16 A. I went back to my vehicle, ran his ID through
17 dispatch and he did come back suspended for failure to pay
18 traffic tickets.

19 Q. Did you place him under arrest?

20 A. Yes, sir.

21 Q. What did you charge him with?

22 A. I charged him with driving under suspension, failure
23 to pay traffic tickets.

24 Q. Now, once he was under arrest -- Let me ask you
25 this: When you ran dispatch, was there also anything about a

1 dispatch warning about his status?

2 A. Yes, sir. Dispatch advised me that he was a violent
3 offender.

4 Q. Why would they advise you of that?

5 A. For my safety and other officers' safety.

6 Q. Once he's arrested, he was placed in the vehicle?

7 A. Yes, sir.

8 Q. In the law enforcement vehicle?

9 A. Yes, sir.

10 Q. What, if anything, do y'all do at that point?

11 A. At that time after somebody is placed under arrest
12 after the traffic stop, we always inventory the vehicle.

13 Q. Is that Johnston policy, Johnston PD policy?

14 A. Yes, sir. Johnston policy.

15 Q. And you have a written policy?

16 A. Yes, sir.

17 Q. Does this look like that policy?

18 A. Yes, sir.

19 MR. HUBBARD: Your Honor, I would like to mark this
20 as a Court's exhibit 1.

21 THE COURT: All right.

22 (Whereupon, Court's Exhibit #1 marked for
23 identification.)

24 BY MR. HUBBARD:

25 Q. So who assisted in searching the vehicle?

AUSTEN HARDING - DIRECT BY MR. HUBBARD

121

1 A. Myself, Officer Dublin and Corporal Mosley.

2 Q. Officer Dublin and Corporal Mosley?

3 A. Yes, sir.

4 Q. Mosley was your supervisor?

5 A. Yes, sir.

6 Q. When you conducted the search, what, if anything, do
7 you recall finding?

8 A. I recall Officer Dublin finding marijuana in the
9 glove box, an open liquor bottle containing liquor and we
10 found I believe a total of 13 rounds of nine millimeter
11 ammunition in the trunk of the vehicle.

12 Q. In a box?

13 A. I believe it was in a black box with some type of
14 red writing. I can't recall the words that were on the box.

15 Q. Was that box of ammo taken into possession?

16 A. Yes, sir.

17 Q. Placed in evidence?

18 A. Yes, sir.

19 Q. Now, you mentioned the tint. Did you issue anything
20 on the tint of the vehicle?

21 A. Yes. I issued a warrant for window tint just to
22 show my reason for attempting the traffic stop.

23 Q. So on making the stop you visually saw that the
24 windows were extremely dark?

25 A. Yes, sir.

1 Q. You couldn't see in them?

2 A. Yes, sir.

3 Q. That's the basis of the warning ticket you gave?

4 A. Yes, sir.

5 Q. And you made that stop because that's something you
6 saw?

7 A. Yes, sir.

8 You would have made that stop with or without --

9 MR. WILLIAMS: Objection to leading.

10 MR. HUBBARD: I'll rephrase it since we are in a
11 pretrial hearing.

12 BY MR. HUBBARD:

13 Q. Would you have made that stop even if you had not
14 talked to a repo man as to the tint?

15 A. Yes, sir.

16 Q. The information as to insurance, how did you take
17 that information as an officer?

18 A. I took that into consideration that driving without
19 insurance is considered illegal. If you go out there and get
20 in an accident with another vehicle, he has no insurance to
21 cover it.

22 Q. Let me ask you this, officer, now deputy. Having
23 had that information if you had not acted on it --

24 A. That would be - I would be liable. Knowing that I
25 had the information and I didn't do anything I would be liable

1 if something did happen.

2 Q. So is that another reason why you acted in this
3 matter?

4 A. Yes, sir.

5 MR. HUBBARD: Please answer any questions the
6 defense has.

7 CROSS EXAMINATION

8 BY MR. WILLIAMS:

9 Q. Officer, let me see if I can summarize your
10 testimony. Basically the repo guy told y'all that there was a
11 vehicle coming in your direction and it didn't have insurance
12 on it; is that right?

13 A. Yes, sir.

14 Q. And based on that you and your corporal decided that
15 y'all were gonna stop this vehicle; is that correct?

16 A. Yes, sir.

17 Q. And you were pointing out the distances that were
18 involved on that aerial map saying he didn't come to a
19 complete stop. You would agree, would you not, that's less
20 than a hundred yards, isn't it?

21 A. Yes, sir.

22 Q. 50 yards?

23 A. No, sir.

24 Q. You certainly didn't think he was trying to evade
25 you, that you would issue a ticket for failure to stop for a

1 blue light?

2 A. No, sir.

3 Q. All right. Now, once you pulled him over, why was
4 your corporal directly behind you the whole time?

5 A. Because he was already aware of what I was fixing to
6 do. He had already posted up in an area where he knew that he
7 could get to me as soon as possible.

8 Q. So there was no question but that y'all were gonna
9 stop this vehicle?

10 A. Yes, sir.

11 Q. And when Mr. Lowman got out of the vehicle, he
12 stayed in his vehicle or did he got out with you?

13 A. When he finally came to a complete stop, he exited
14 the vehicle before I came to a complete stop.

15 Q. Okay. Then did you tell him to go sit in his car or
16 anything like that or remain in your car?

17 A. I stepped out of my vehicle. I said, let me see
18 your hands. Let me see your hands. I wanted to make sure he
19 didn't have any weapons or any such and I made him get back in
20 his vehicle.

21 Q. Well, now, you said that you had already checked on
22 him with dispatch because of something about him being a
23 violent offender. Had you already talked to dispatch prior to
24 this let me see what's in your hands?

25 A. No, sir.

1 Q. That's what you would normally do?

2 A. No, sir. When I said let me see your hands, let me
3 see your hands, I said get back in the vehicle. That's when I
4 approached the vehicle. That's when I gathered all the
5 vehicle's information and his state information.

6 Q. So whether or not he was a prior violent offender or
7 something like that, then you would have treated him the same
8 way regardless?

9 A. Yes, sir.

10 Q. Okay. And the violent offender part that you are
11 talking about, is that the part that the Highway Department
12 puts on the bottom of a driver's license when somebody has
13 been convicted of a violent crime in South Carolina and they
14 put it on the bottom so people can see it on the bottom of
15 their driver's licenses?

16 A. I'm not sure.

17 Q. How did you know what that meant?

18 A. How did I know what that meant?

19 Q. How did you know that he was a violent offender?

20 A. That's what dispatch told me.

21 Q. How did dispatch know that he was a violent
22 offender?

23 MR. HUBBARD: Objection. Speculation.

24 THE COURT: If he knows.

25 BY THE WITNESS:

1 A. Dispatch -- I'm not sure. I mean, if he comes back
2 through NCIC that he's a violent offender, they're gonna let
3 me know for my safety.

4 BY MR. WILLIAMS:

5 Q. Okay. So you're just assuming they went through
6 NCIC, is that what you're assuming?

7 A. That's what I'm assuming.

8 Q. So you went ahead and charged him for it but you
9 didn't charge him for -- You charged him for driving under
10 suspension once it came back with no valid license?

11 A. Yes, sir.

12 Q. But you didn't charge him for driving without
13 insurance because that's more of a civil matter in your
14 mind?

15 A. Yes, sir.

16 Q. The other charges, the simple possession of
17 marijuana, you didn't find the marijuana, did you?

18 A. No, sir.

19 Q. Do you know who found the marijuana?

20 A. Yes, sir.

21 Q. Who?

22 A. Her name is Andrea Dublin. She was an officer in
23 Johnston with me.

24 Q. Where was it found?

25 A. It was found in the glove compartment.

1 Q. Do you know whether or not the glove box was locked
2 or not?

3 A. It was not.

4 Q. And in terms of the open liquor bottle, do you know
5 where that was found?

6 A. I believe in the back seat.

7 Q. Do you know who found it?

8 A. I'm not aware.

9 Q. Not sure?

10 A. No, sir. I can't recall.

11 Q. And the bullets were found in the trunk of the
12 car?

13 A. Yes, sir.

14 Q. Is it your understanding that based on the impound
15 policy that you have that those documents which have been
16 introduced into evidence that that is the basis for your going
17 through the trunk of the car?

18 A. Repeat the question.

19 Q. The reason why you went through the trunk of the car
20 was why?

21 A. We always go through the whole entire vehicle to
22 make sure there's no weapons of any such, drugs of any such,
23 anything that can hurt somebody, hurt the tow truck driver,
24 hurt us, anything. Anything that we would be liable for the
25 tow truck driver would be liable for. Just so we can have

1 information on what's inside the vehicle.

2 Q. Did you attempt to call the owner of the vehicle?

3 A. I'm assuming that Abin Lowman was the owner of the
4 vehicle.

5 Q. Did you check to see who the registration was in?

6 A. No, sir.

7 Q. Well, now, if you didn't know who the registration
8 was in, then how did you know whether or not there was
9 insurance on the vehicle or not?

10 A. My establishing for window tint.

11 Q. What was the reading of the window tint that you
12 measured when you took out your handy dandy machine when you
13 checked for window tint?

14 A. I'm unaware -- I stopped the car for window tint. I
15 could not see inside the vehicle regardless of time of day or
16 anything. I could not see anyone when I approached the
17 vehicle. I could not see inside the vehicle.

18 Q. How do you determine what the window tint rating is
19 on a vehicle?

20 A. I'm not sure.

21 Q. So you don't know what degree of window tint is
22 legal in South Carolina or what degree of window tint is
23 illegal?

24 A. I believe the legal window tint is 27 percent.

25 Q. But if you can't measure it, you don't know, right?

- 1 A. No, sir.
- 2 Q. What was Mr. Lowman wearing when you arrested him?
- 3 A. I believe he was wearing his work uniform.
- 4 Q. Describe, if you will, for the record what his work
5 uniform looks like.
- 6 A. I believe it was a gray shirt and like a dark color
7 pair of pants.
- 8 Q. Did it have his name on the face of his work
9 uniform?
- 10 A. I'm unaware. I can't recall.
- 11 Q. Do you know what happened to his work uniform once
12 he was in your jail?
- 13 A. No, sir. That's Edgefield County Detention Center.
14 I work for Johnston Police Department. We just have our
15 inmates.
- 16 Q. But you clearly remember it was his work uniform?
- 17 A. Yes, sir.
- 18 Q. When you reference a work uniform, is that normally
19 because it has like a little white pocket over his breast
20 pocket with somebody's name on it?
- 21 A. I recall a work uniform with some badge on it of
22 where he worked at the time.
- 23 Q. It's identifiable at least?
- 24 A. Yes, sir.
- 25 MR. WILLIAMS: That's all the questions I have, Your

1 Honor.

2 MR. HUBBARD: No more questions.

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

4 MR. HUBBARD: Your Honor, I believe this is a valid
5 stop, that the information from the first witness
6 Mr. Rutland provides reasonable suspicion, doesn't have
7 to be probable cause. It's less than probable cause.
8 It's the basis to stop the car. It's like a Terry frisk
9 just like if you're walking in a mall and somebody says,
10 hey, there's a guy over there in green pants. He's got a
11 gun. I saw a gun in the back of his pocket, an officer
12 can go up, stop him, detain him, talk to him. That's all
13 this initially was. So even on that alone, forgetting
14 the tint, we have reasonable suspicion for the stop.
15 Once the stop is made he's DUS.

16 But on top of that you also have information that
17 the windows are tinted. Now, he wasn't charged with it
18 but it's a basis for the stop and that's actually
19 probable cause. It's unlawful to have tinted windows
20 that are overly tinted. Mr. Rutland testified the
21 windows were so dark he couldn't see standing next to the
22 car, he couldn't see if somebody was sitting right there
23 in the driver's seat. When he flashed his flashlight in
24 the car, it bounced back it was so dark. He corroborates
25 what this officer saw. These windows were tinted.

1 This officer, when the vehicle drives by him, the
2 first time he sees it on 23, he does what any officer is
3 going to do. He thinks he might need to stop this car,
4 basically a Terry frisk stop. He wants to know who's in
5 it. He can't see in it. The windows are dark. Turns
6 around, puts his bright lights on, still can't see in it,
7 hits it with the blue lights. That's probable cause. We
8 get to know who the driver is. At that point he's DUS.

9 Once that valid stop is made, valid arrest was made.
10 Judge, they can't leave the car there. The law is very
11 clear that agencies, they set up policies, they follow
12 their policies but even then some agencies don't even
13 have written policies. They just have policies of what
14 to do when there is an arrest. When the driver of the
15 vehicle is physically arrested at the scene, you can't
16 just leave a car on the side of the road. We even have a
17 case recently out of South Carolina, in fact, just this
18 year about a car that was stopped and it was left in a
19 private parking lot at an apartment complex. State
20 versus Jonathan. Xavier Miller doesn't even have a
21 Southeastern Second cite on it yet. It's still 2018 West
22 Law 2123464 this year, stopped at an apartment complex.
23 They said that even though that the driver's girlfriend
24 was there, she wasn't the owner. He wasn't the owner.
25 It was lawful and reasonable for the Columbia Police

1 Department to impound the vehicle and do an inventory
2 search.

3 So basically, Your Honor, we believe that we have a
4 basis to go in and do an inventory search and I think it's
5 a valid stop, a valid search and I'll pass this case up
6 to Your Honor as well as State v. Miller just in case
7 there's any question at all, Your Honor (proffering.)

8 THE COURT: Yes, sir.

9 MR. HUBBARD: We believe this officer did everything
10 he was supposed to do and the agency did everything it
11 was supposed to do and as the Court pointed out, these
12 inventory searches serve three distinct needs.
13 Protection of the owner's property while it remains in
14 police custody. The protection of police against claims
15 or disputes over lost or stolen property. The protection
16 of the police from potential danger which is exactly what
17 Officer Harding just mentioned. Even though they turned
18 that vehicle over to a repo man who had paperwork since
19 they initiated the stop they had the duty, I think, and I
20 believe their policy states to ensure what was in that
21 vehicle because once they had made the stop and just
22 turned it over, they would still be subject to a claim of
23 something in that vehicle that went missing that a repo
24 man or somebody else stole that property. So they had to
25 do an inventory on it. They did it. I think it's all

1 lawful.

2 THE COURT: Okay. Mr. Williams.

3 MR. WILLIAMS: You know, I don't think it's that
4 simple. I have got three cases, Your Honor. I have got
5 a copy of the Miller case and I have got two other cases
6 that touch on that area. If I can pass this up to the
7 Court.

8 THE COURT: You may.

9 MR. WILLIAMS: Because it was -- And the reason I
10 say it's not that simple is because obviously our chief
11 justice was thinking that there was some issues that need
12 to be weeded out because it is interesting that they're
13 now attacking or they're going into inventory searches
14 versus searches incident to arrest. And that case, I
15 know Your Honor has read that case, it talks about the
16 policies and procedures, whether or not there's a noted
17 policy and procedure which is in place which allows --
18 And what they're focusing on, Your Honor, is they're
19 focusing on whether or not law enforcement regardless of
20 who law enforcement is is making stops and they're not
21 based on protection stops; that they're not using
22 searches to discovery crimes; that they're using crimes
23 to maybe do the searches. They're now getting the cart
24 in front of the horse.

25 And I think that is one of the major issues that I

1 think our chief justice was concerned about there in that
2 particular case because he was gonna be on the dissenting
3 end of it. And the reason I actually handed you three
4 cases is because there's a breakdown of the inventory
5 search versus the search pursuant to an arrest which is
6 kind of interesting because I didn't in all honesty know
7 which way the State was gonna land on this case. And I
8 think it's obvious to me based on the testimony of the
9 police officer who actually made the arrest, they were
10 gonna stop this car. They were. That was their intent.
11 It was not based on, and I think that's clear, that it
12 wasn't based on the tint violation. It wasn't based on
13 whether or not he had insurance or didn't have insurance
14 because he didn't know who the car was registered in so
15 he couldn't know whether or not it had insurance or
16 didn't have insurance on it.

17 I think the problem is is that once you make the
18 stop, that's what you need to focus on. Clearly, clearly
19 if when you make the stop and you find drugs in the car
20 or you make the stop and you find out the guy doesn't
21 have a license, then that kind of fixes everything. But
22 I don't think we have gone that far away from the Fourth
23 Amendment that allows law enforcement to do that because
24 he was going to be stopped not for window tint, not for
25 driving under suspension, not for any violation of the

1 law. If they had even, if they had even put up a witness
2 to testify that the reason we stopped him is that we had
3 heard there was a break-in at Persimmon Hill and we saw a
4 green Marquis speeding out of there and we suspect that
5 that particular vehicle was involved in a crime, I would
6 feel more warm and fuzzy about that. But that was not
7 the issue here. The repo man wanted the police to stop
8 his car and they were going to stop his car and then they
9 come up with a crime that they can tie it to.

10 So, Your Honor, I feel like it's an illegal search
11 insofar as that goes. And that's why, Your Honor, when I
12 talked to the Court about whether or not we're contesting
13 the search warrant or not, there's no search warrant
14 here. Obviously I guess once the cat's out of the bag,
15 then it becomes something else. But there was certainly
16 no reason to go into the trunk of the vehicle to find
17 bullets in the trunk of the car. There was no attempt to
18 find out who the owner was, call the owner. That might
19 have been, I don't know, her son who was driving the
20 vehicle who may not have known that his license was under
21 suspension for not paying traffic tickets. We'll never
22 know the answer to that question because that car was
23 going to be stopped.

24 So, Your Honor, I would request that Your Honor
25 review those three cases. I think if our Supreme Court

1 has a problem with these types of things, that I'm not so
2 smart to know that I know all the answers. So I would
3 ask the Court to sit and review those three cases and
4 land upon it whichever way Your Honor thinks is accurate.

5 THE COURT: Okay.

6 MR. HUBBARD: Your Honor, in State v. Miller the
7 court made it clear. Law enforcement has no duty to
8 track down an owner. They don't have a duty to do that.
9 Reasonable suspicion. Judge, there's case law on that
10 both State of South Carolina and the Supreme Court. I've
11 got two cases for Your Honor. Navarra versus California.
12 It's a 911 anonymous tip that there's a drunk driver on
13 the road. Law enforcement does little to corroborate it.
14 They get information on what the vehicle looks like.
15 They stop the vehicle and make an arrest. The whole,
16 that case goes into how little reasonable suspicion
17 really is and how our case here we have somebody who is
18 much more reliable than an anonymous tip. We have a guy
19 who basically can be sued if he pulls that car and repos
20 the wrong car. So this is much more reliable
21 information.

22 And then State v. Morris, Your Honor, our State
23 Supreme Court in 2014 talking about a stop that occurred.
24 Officers stop a car simply for following too closely.
25 Probably one of the most subjective stops that an officer

1 can make and the court looks at totality of
2 circumstances. He gets up to the car. They didn't even
3 question the stop. He smells marijuana at that point and
4 then sees what he believes to be a blunt cigarette but
5 all of this takes place in a high drug area. They said
6 that's permissible. Perfectly fine. In fact, they go on
7 to find probable cause not just reasonable suspicion.

8 There's a claim that this is simply pretextual.
9 Well, one, an officer clearly has a basis if he sees that
10 vehicle to do a Terry frisk. That's not pretextual but
11 law enforcement clearly has the right under Whren versus
12 United States, a United States Supreme Court case, Your
13 Honor, on this claim about pretextual stops and our court
14 said they can do that. They can actually do that and it
15 is not, does not hinge contrary to what was said on what
16 the repo man's intentions are. He may want law
17 enforcement to help him out. That doesn't matter.
18 That's not anywhere in the analysis. It's what would a
19 reasonable officer do and even if reasonable officers
20 would disagree -- And I'll pass this case up to Your
21 Honor.

22 THE COURT: Okay. Y'all have to give me time to
23 read some of these. Here's two and three more. Three
24 more.

25 MR. HUBBARD: But the court makes it clear

1 reasonable officers can do different things but if it's
2 reasonable, that's the rule. What a reasonable officer
3 would do, not what all officers do. Was this officer
4 acting reasonably. All he has to have is reasonable
5 suspicion. He's got it. In fact, I think he has a duty
6 based on that information to say, hey, Mr. Driver,
7 whoever you are, do you have insurance on this car? Good
8 enough. You can go. No harm, no foul. When he sees the
9 tint, Your Honor, he gives a warning ticket, but when he
10 sees the tint, he has a basis to stop it regardless of
11 whatever information he has. Thank you. And I guess
12 I'll address the inventory search.

13 THE COURT: All right. No. We'll take a break.
14 I've got to have a break. We'll address that in a
15 minute.

16 (Short recess.)

17 BAILIFF: All rise.

18 THE COURT: Be seated. All right. Solicitor, what
19 you got?

20 MR. HUBBARD: Your Honor, I know there was talk
21 about subjective intentions of this officer. The case
22 law I handed up makes it clear, his subjective intentions
23 are irrelevant. It's a reasonable standard, an objective
24 standard. The court says that if there's a basis to say
25 a reasonable suspicion, we're done. If there's PC, we're

1 done. It doesn't matter what his intentions are unless
2 he's profiling. Obviously he couldn't even see who was
3 in the car. Had no description of that person and
4 Mr. Rutland said he didn't even know who was in that car.
5 So the concerns of our chief justice in the decent aren't
6 even at play here.

7 THE COURT: All right. What you got, Mr. Williams?

8 MR. WILLIAMS: Your Honor, I got nothing else.

9 THE COURT: Okay.

10 MR. WILLIAMS: I think that's your call. I do think
11 it's complicated though.

12 THE COURT: Okay. The car was stopped by the
13 officer in Johnston coming back from Ward. Information
14 was being passed on from Rutland to the officer, I'm
15 looking for this car. It's coming through here and going
16 to go to Ward. Oh, it's coming back now. Light turned
17 green on GPS. Officer observes dark tinted window,
18 nobody can see through, that gives him reasonable
19 suspicion to stop and check for window tint.

20 MR. HUBBARD: Yes, sir.

21 THE COURT: Now, after he stops and asked for
22 identification, how does the officer learn that the car
23 is uninsured is because the reason for the repo guy being
24 out there was he knew it was uninsured. How did the
25 officer find out?

1 MR. HUBBARD: The officer testified at that point
2 when the defendant got out and said I don't have a DL and
3 he saw that he didn't have a weapon, then he just called
4 dispatch and found out he was under suspension and so at
5 that point the insurance question was out.

6 THE COURT: Okay. So the officer never entertained
7 the insurance question.

8 MR. HUBBARD: Correct. Correct.

9 THE COURT: So the repo guy was agent for
10 repossession purposes because the car lacked insurance.

11 MR. HUBBARD: Right. Right.

12 THE COURT: Okay.

13 MR. HUBBARD: The insurance issue for the officer is
14 not a subjective issue with the police officer but with
15 that information is it reasonable for an officer to make
16 a Terry stop.

17 THE COURT: I think that the case law that y'all
18 have handed up which I read Miller and there was one,
19 Morris indicating the necessity to have reasonable
20 suspicion and common sense for the totality of the
21 circumstances, and the officer sees the car is trying to
22 be repossessed, you know, whose car it is or who's
23 driving it, but the tinted windows give him reason to
24 stop the car in the Town of Johnston and then the
25 interaction with give me your driver's license, I don't

1 have one, takes it to the next step he conducts further
2 --

3 MR. WILLIAMS: Your Honor, that would be true if
4 that was the testimony from the officer. The officer
5 testified that he was going to stop the vehicle
6 regardless. That he was not stopping the vehicle because
7 of tinted windows. He testified, and we can play it
8 back, Your Honor, that he was stopping the vehicle and
9 that the window tint was not -- He said I was stopping
10 the vehicle on my cross examination. So that's not the
11 reason why he was stopped.

12 MR. HUBBARD: Your Honor, I would say that's under
13 Navarra versus California, 2014 U.S. Supreme Court, it's
14 irrelevant. It doesn't matter what his intent was, his
15 personal intent. Once he saw that tinted window he had
16 PC. But he could have still used that insurance issue to
17 make that stop. In fact, I think he had a duty to but
18 the PC came directly from the tinted windows. The U.S.
19 Supreme Court made it clear, you don't get into
20 subjective intentions. That's not proper.

21 THE COURT: Mr. Williams, I understand your
22 argument, but I think Solicitor Hubbard laid a basis for
23 the reasonableness for the stop. I may be wrong but I
24 have got to make a decision and so I find there's
25 reasonable suspicion for the stop. The officer's

1 observations, experience, late at night, all that goes
2 into play with him stopping the car. Tinted windows give
3 him reasonable suspicion to pull the car over and then
4 the other information, inquiries continue to occur in
5 logical order basically. Give me your license. I don't
6 have one, and conversation and inquiries, that's all
7 reasonable. All right. Is there anything else I need to
8 delve into this afternoon?

9 MR. HUBBARD: Nothing from the State, Your Honor.

10 MR. WILLIAMS: Nothing from the defendant, Your
11 Honor.

12 THE COURT: Okay. Then we will be here early in the
13 morning with hopefully starting opening statements at
14 9:00. If there is something that comes up, I would like
15 to know about it before 9:00 a.m. so we can start
16 addressing it so we don't come in here -- Y'all know my
17 pet peeve. One thing I put on the record before I bring
18 the jury in at 9:00, it's 9:01, why didn't you tell me
19 this at 8:50? Y'all know me. Let me know. If you want
20 me to be here, I'll be here.

21 (Whereupon, court was recessed for the day at 4:00
22 p.m.)
23
24
25

1 June 19, 2018

2 BAILIFF: All rise.

3 THE COURT: Please be seated.

4 (Whereupon, the jury entered the courtroom at 9:25
5 a.m.)

6 THE COURT: All right. Folks, we are ready for Ms.
7 Coleman to swear you in and again I told you I would give
8 you an outline of what to expect. Several things is the
9 State brings the case under an indictment. I told you
10 the indictments are allegations to which Mr. Lowman and
11 Mr. Williams what to be prepared to come into court to
12 defend themselves against. Mr. Lowman had to be notified
13 of that. That's what an indictment is. We're accusing
14 you. Not that we can prove it. The State has got to
15 prove it at trial. The indictment is just a formal
16 notification document. Arrest warrants are kind of
17 informal. A lot of people have a misunderstanding that
18 an arrest warrant is a formal document. It's not. After
19 someone is placed under arrest, detained, bond set, then
20 a decision after the case is investigated fully whether
21 or not to actually indict or formally bind them over for
22 trial. That's what an indictment is.

23 This case has been indicted and presented. That's
24 what was told to me when you were first out there and the
25 case was called. But those indictments don't prove

1 anything. They're just notification to Mr. Lowman to
2 what to be prepared to come into court to defend himself
3 against. He was notified. He's here. He's pled not
4 guilty. And understand this. The State has got to prove
5 its case to a measure called beyond a reasonable doubt.
6 I'll explain that to you at the end. But for purposes
7 now y'all just got to listen, hear the testimony, see the
8 evidence. And some of the evidence will come in, we'll
9 identify it, be admitted and may pass it around, let you
10 see it. Understand this. All of the exhibits that are
11 introduced y'all will have in the jury room in the end.
12 Y'all can look at them all you like. You don't have to
13 pass them around or commit them to memory or do anything
14 like that because I'll continually instruct you I don't
15 want y'all to discuss the case as it goes because there's
16 a lot of witnesses and I don't know what order the
17 Solicitors, because there are two prosecutors handling
18 this case, what order they will present the witnesses.

19 And Mr. Lowman and his lawyer Mr. Williams and
20 Mr. Young, first time I met him was yesterday. Mr.
21 Williams and Mr. Hubbard I know a lot. Anyway,
22 Mr. Young, a new lawyer, they have to decide whether
23 they're going to present evidence or not after the State
24 puts their case up. They don't have to tell us right now
25 whether they're going to put up anything. That's up to

1 them. They may wait to see what the case sounds like.
2 That's their strategy and it's their right because Mr.
3 Lowman doesn't have to testify. He can remain silent.
4 He doesn't have to say a word. His lawyer can do all the
5 cross examination and challenge them and do all of that
6 beforehand. And if Mr. Lowman decides to exercise his
7 constitutional right to not say a word, that's his right.
8 If he does that, then in my closing instructions to y'all
9 I'll say, look, don't even discuss why he didn't testify.
10 Don't even talk about it.

11 You can consider and discuss the evidence that was
12 presented to you whatever that evidence is and make your
13 decision, okay?

14 So that's kind of how it is. The State goes first.
15 Defense goes second, if at all. They decide that during
16 the trial. We don't get told ahead of time.

17 Now, y'all 14 are judges of the facts. I'm the
18 judge of the law but we act together. I kind of call
19 balls and strikes, what's allowed in under the rules of
20 evidence, rules of court, rules of criminal procedure,
21 whatever rules applicable, I make those decisions.
22 Sometimes as a witness is testifying they go into an
23 area, one side says, Judge, wait a minute. I object.
24 That's 403. That's not fair. If I want to hear more why
25 they think it's not fair, that's when I send y'all to the

1 jury room so I can hear them explain further why it's
2 either allowed, the other side, Judge, I don't believe it
3 is allowed. It's disallowed. I make my decision and we
4 go forward.

5 And so that's part of the process because since it's
6 kind of all going on the fly, it's not like a sports
7 instant replay, basketball, baseball, football, whatever
8 it is, was it a complete catch, did he step out of
9 bounds, did he knock the ball out of bounds, the referee
10 goes and looks at the replay on the television and see
11 what they think happened and they make the call. I kind
12 of do it in reverse order. All right. Who's gonna knock
13 the ball out of bounds. Let's just stop for a second and
14 talk about it. That's what I'm doing. So I'm kind of
15 doing the reverse order so y'all don't need to be in here
16 when I make my decision because what I decide on the
17 rules of law has nothing to do with y'all's decision that
18 y'all are going to make on the facts because that's what
19 y'all do. Y'all are the judges of the facts.

20 And so I kind of explain it to the jury this way.
21 When I'm doing my rulings on the law, I don't need your
22 help. When y'all are making your deliberations in the
23 jury room which it will just be the 12 of y'all unless
24 everybody stays here and the alternates are excused, the
25 12 of y'all will discuss the case without me in there

1 either. So y'all get to make y'all's decision solely
2 without any help from anybody in the courtroom. It will
3 be y'all's decision, but it will be a unanimous decision.

4 So that's kind of how it's gonna go. The State's
5 gonna call its witnesses, the defense gets to cross
6 examine. The State's gonna make its opening comments,
7 the defense gets to do it and we'll proceed on.

8 Now, I told y'all we would take regular breaks and
9 we will. I understand we have got a smoker or two on the
10 jury. I'll take little lengthier breaks to accommodate
11 that. There's a little gazebo on this end of the
12 building. If someone wants to step outside and do that,
13 the bailiffs will show you where it is. Not a problem.
14 Anyway, if we go -- I got candy. I bring candy.
15 Actually Lauren brought this. Lauren is my lawyer.
16 She's right there. She's a lawyer. Anyway, I like a
17 piece of candy when I'm listening and y'all are welcome
18 to it. I provide that. All the snacks in the back the
19 court provides, okay? So if y'all want a piece of hard
20 candy, help yourself. If we start running out, let me
21 know what you like and I'll send Lauren to get it for us,
22 okay? Most times I have some chocolate in there and it
23 gets eaten first. Anyway, I want y'all comfortable so if
24 you need a break, let me know. Get the bailiffs'
25 attention. They will get my attention and I'll

1 accommodate whatever we need to do.

2 Now, I try to let the court witnesses get called up.
3 The State asks its questions. I say this every time I
4 get kind of caught out on the field. Generally the first
5 witnesses are the longest. They have the most to tell
6 and they take the longest to present and every time I say
7 that, the State will call a witness that it will be three
8 questions and the defense will say no questions. Well,
9 you made a liar out of me. Three questions. The witness
10 is a short witness. But normally the first witnesses
11 tell you the most and sometimes I'll take a break after
12 the State finishes its questions and sometimes I'll wait
13 until the defense gets its cross examination done so the
14 witness is finished because one of the court rules, and
15 I'll tell you this, that once a witness leaves the
16 witness stand and they're under oath, they get asked
17 questions, if we take a break during their testimony,
18 they can't go and talk to anybody and say, okay, how am I
19 doing? They can't do that. They have got to kind of be
20 isolated and not talk to anybody about their testimony
21 all the way through until you're free to go. You have
22 done your testimony. So they can't go and study their
23 notes, talk to somebody. What else do I need? They
24 can't do that. That's not allowed.

25 So I try to move the witnesses all the way through

1 where once they're done, they're done. Then they can sit
2 down and say I'm glad it's over because these witnesses,
3 they're nervous, okay? They're here for their day in
4 court. The victims and Mr. Lowman, their day in court.
5 This is their only day in court, week in court. It may
6 take us the balance of the week to get this up. For that
7 I apologize. But understand this, I'm gonna try to
8 accommodate y'all and impose on you the least and
9 maximize the ability of having y'all together. I
10 appreciate that. And the lunch time, y'all will be able
11 to go to lunch wherever you want. If some of you want to
12 go eat with the others, you can. You're not required to.
13 Only one you start deliberations I kind of keep you
14 together. That's just for convenience.

15 So note takers take notes. Everybody else who
16 doesn't pay attention. You run out of candy let me know.
17 I'll try to keep people speaking clearly and loudly so
18 you can hear. So will Mr. LeBlanc, the court reporter,
19 because he's in charge of keeping the testimony recorded
20 as well as the exhibits introduced, numbered and
21 accounted for and Lauren and I kind of help with that
22 also. So what I don't like is people talking over each
23 other. Y'all won't be talking but sometimes a witness
24 will keep going on to explain and the next question is
25 asked and that's hard to keep track of.

1 All right. I think those are my opening comments.
2 I think we're good. Madam Clerk, place the jury under
3 oath.

4 (Whereupon, the jury was duly sworn by the Clerk of
5 Court at 9:35 a.m.)

6 THE COURT: All right. Solicitor.

7 MS. FULLER: Thank you, Your Honor. May it please
8 the Court.

9 THE COURT: Yes, ma'am.

10 MS. FULLER: Good morning. This case is a violent
11 case. It is a serious case. This case is about power,
12 greed and a total disregard for someone's sense of safety
13 in their very own home. This case is about the defendant
14 Abin Lee Lowman and how he orchestrated a plan to rob
15 Mrs. Lynda and Mr. Danny Tidwell. They lost valuable
16 possessions on March 8th of last year in the midnight
17 hour. But they lost something that they cannot get back
18 that's more important to them. They lost the comfort and
19 that peace you get in your home because of that man. On
20 that night men broke into their home, held them at gun
21 point, made them lay down on the ground and tied their
22 hands behind their back and kept them for over two hours.

23 The Tidwells, they have lived in Saluda County their
24 entire marriage. Decades. They're hard working local
25 business owners. They own jewelry stores. Their main

OPENING STATEMENT - BY MS. FULLER

151

1 store is in Johnston right there in Edgefield just right
2 up the road. On March 8th, 2017 their typical routine
3 was broken. They were brave that day and they're here
4 today to tell you what they endured. The most traumatic
5 event of their lives. On March 8th in the midnight hours
6 you will hear from Mr. Danny when he takes this witness
7 stand and he will tell you how he was asleep in bed with
8 his wife Mrs. Lynda and he heard a noise and that the
9 next thing he heard is ATF. Come out with your hands up.
10 And they come out. They both comply. They are ordered
11 down. He'll tell you about the gun that he saw in his
12 face. He'll tell you about the flashlights he
13 encountered as he walked out of his room. He'll share
14 that with you what he can remember. This was a traumatic
15 two hour ordeal.

16 Mrs. Lynda, she's going to be just as brave today
17 and you will get to hear from her. You will hear how she
18 was separated from her husband in her own home. You will
19 hear the details of how she was treated. She was brave
20 that day. You will hear her tell you when she finally
21 realized when she could finally free herself and what she
22 did, she got up and walked to where they had put her
23 husband and she freed him. They were able to get out and
24 get neighbors to call the police for them.

25 Now, how did we get here? There are four men

1 responsible for this act. Four. The first one is Abin
2 Lee Lowman. I submit to you that the testimony and the
3 evidence throughout this week will show you that he
4 planned this. He orchestrated this. The other three
5 Joshua Darien, 18 years old from Maryland. The next one,
6 James Wilson, 22 years old from Maryland. Robert
7 Goodwin, a family member of the defendant, they're
8 family. Lived in Maryland. Goodwin knows Wilson Darien.
9 He come to Maryland, the connection made.

10 You will hear from Joshua during this trial and you
11 will hear from James and they will tell you what they
12 did. They will share with you and hold themselves
13 accountable for their actions. They will tell you about
14 the gun. They will tell you about making them lay down.
15 They will tell you how they kept them there for over two
16 hours at the directions of that man. They'll even tell
17 you that they were told that if something were to go
18 wrong, which you will find out that things went wrong in
19 this case, they were supposed to kill the Tidwells.
20 Fortunately that didn't happen.

21 Lowman, Lee as they know him as by his middle name,
22 Lee, that's what they call him, he drives to Maryland,
23 drives Joshua and James down here. He's their only
24 transportation. They'll tell you they have never been to
25 Saluda. He goes to Maryland and tells them that he has a

1 plan that they can get drugs and money from local drug
2 dealers who have jewelry stores as a front. Mrs. Lynda I
3 submit to you was not a drug dealer. Mr. Danny is not a
4 drug dealer. They're just hard working business owners
5 for decades in our community.

6 He brings them down here. He puts them up in
7 motels. You will hear that throughout this trial. He
8 purchases the gun that was used. He even purchases the
9 ammo from Walmart and that's captured on surveillance
10 video. He drives them everywhere. They'll testify how
11 they watched the Tidwells day in and day out for the week
12 that they're down here. Learned their routine. They
13 learned their habits. They knew exactly when they would
14 leave the store. Lee Lowman is from Edgefield. He's
15 known the Tidwells since he was little. He's had
16 conversations with Mr. Danny. He targeted them. If it
17 was not for Abin Lee Lowman, you all would not be here
18 today sitting through this trial.

19 That day in the early morning hours of March 8th Lee
20 was right there. He drove them there. He parked his car
21 several hundred yards from their house. He stood on
22 their back porch with directions. Director. He told
23 them to get the keys to the jewelry store and they did.
24 They gave it to him. He told them to get the code for
25 the safe. Wilson will tell you he got it from Mr. Danny

1 and he gave it to Lee.

2 And now what I tell you is interesting in this case.
3 That car that's captured in the neighborhood on a
4 neighbor's surveillance video, but that car was equipped
5 with GPS and then what's even more interesting is that
6 that car was up for repossession on that day. So guess
7 who was in the area looking for the car? The
8 repossession man. And in those midnight hours you will
9 hear from him as well. He gets to the neighborhood. He
10 sees the car. Where it was parked he couldn't tow it at
11 that moment so he waits and watches it. The next thing
12 you know the car takes off. He tracks it again on GPS.
13 And where is it going? To Johnston. Where does it park
14 up? Right behind the Tidwell Jewelry Store.

15 Shortly thereafter he leaves the area. GPS tracks
16 him back into, heading back into the Town of Johnston.
17 Another interesting point that happens while he's heading
18 back in the direction of the jewelry store, he gets
19 pulled over by the police in an unrelated traffic stop.

20 Ladies and gentlemen, there are so many facts in
21 this case and I can't get into all of them right now, but
22 you will hear them throughout this trial. You will hear
23 what happened when the car was seized, the evidence found
24 in it. You will hear how he got word back to the others
25 that are still in the home while he's pulled over in the

1 traffic stop that he had been pulled over. You will hear
2 how they take the victims' car, where they end up. And
3 I'll tell you this. They eventually end up in Maryland.
4 Law enforcement did not get them that day because at this
5 point no one knew what was going on. It wasn't until
6 after 2:00 in the morning when the police were finally
7 notified. You will get to hear all of this.

8 The defendant is charged with burglary in the first
9 degree, armed robbery, two counts of kidnapping and
10 conspiracy. I told you there are four people in this
11 case. There's something I want you to keep in mind
12 throughout this case. It's a law we have here. It's
13 hand of one is the hand of all. That means the act of
14 one person is the act of all. If two or more people buy
15 into an unlawful activity, they buy into the whole. The
16 law says they all did it. So what Lowman did the other
17 three are responsible for. What Wilson, Darien, Goodwin
18 did, they're all responsible for. The hand of one is the
19 hand of all.

20 The State has the burden in this case. The burden
21 is proof beyond a reasonable doubt. We have to prove to
22 you that Abin Lee Lowman committed these crimes here in
23 Saluda County. And I submit to you that we will meet
24 that burden. It's a burden that we welcome and it's
25 ours. We own it.

1 Each of you play a very important role in this case.
2 The Judge told you you guys are the judges of the facts.
3 You judge the credibility and the believability of each
4 and every witness that takes this stand. Testimony is
5 evidence. You get to judge it. You get to weigh it.
6 Mrs. Lynda and Mr. Danny are here seeking justice along
7 with law enforcement and you all play an important part,
8 a huge part in getting justice. Hold Abin Lee Lowman
9 responsible for what he has done, what he has
10 orchestrated. If it was not for him, the Tidwells would
11 still have, they would have still had the sense of peace
12 and safety that they have enjoyed for decades in their
13 home. Thank you.

14 THE COURT: Thank you, Ms. Fuller. Mr. Williams.

15 MR. WILLIAMS: May it please the Court.

16 THE COURT: Yes, sir.

17 MR. WILLIAMS: Ladies and gentlemen of the jury, I'm
18 Theo Williams. I met you yesterday. I live in the big
19 town of Batesburg, South Carolina. I'm sure everybody
20 has been to Batesburg once or twice. I practice law in
21 Lexington. One of the more important things that I think
22 that was mentioned that the jury really has to remember
23 is that you're the fact finders in this case. That is
24 your job. You're the fact finders in this case. You're
25 not screen writers. You're not authors. You're not

1 television people. This story is going to play out to
2 you like something you would see on TV. And there will
3 be a cast of characters that are going to be coming
4 forward here today. You may think you're watching TV.
5 We have gotten kind of used to that.

6 If you look at one of the comments that the Judge
7 was making to you yesterday was about reading the
8 newspaper and things like that. He said you're not
9 supposed to believe everything or anything really that's
10 in the newspaper because, you know, half the time it's
11 wrong. He told you the story about when the case was
12 decided by another judge who was making a decision. I'm
13 old enough to remember when television and newspaper
14 people actually, I don't know, just gave the facts. You
15 can't turn on the TV nowadays without seeing one
16 television station having some axe to grind or having
17 something to say and they all have it. They all have a
18 point they are going to get to and then when you have
19 that goal, then you're going to put all those facts that
20 go in that direction.

21 I'm not telling you all something you don't know.
22 You see it. If you live long enough you realize that it
23 didn't used to be that way. Just turn your TV on. You
24 can tell which TV station is pushing somebody in one
25 direction, which TV station is pushing somebody in

1 another direction. I never personally ever thought that
2 would happen in a place like the United States where you
3 have a country of, I don't know, justice and facts and
4 people determining what the truth is in a case as opposed
5 to being fed a bunch of things in order to shape their
6 minds because that's what's going on everywhere we turn.

7 This is the last place that a person can go and not
8 be faced with that because here you're in charge with
9 what you believe. You're in charge as to whether or not
10 you believe what this witness is saying or not saying.
11 You're in charge with determining what this witness has
12 to gain or lose. You're in charge with what you think
13 has been proven in a case.

14 Now, what you're gonna see in this case it's going
15 to be a little unusual. Saluda is a small town. You're
16 gonna have a boat load of people testifying. You're
17 gonna have Mr. and Mrs. Tidwell. You will have Saluda
18 law enforcement. You're gonna have SLED. You're gonna
19 have, I don't know, federal government people testifying.
20 You're gonna have people talking about DNA. You're gonna
21 have people talking about fingerprints. You will have
22 people talking about cell phones. You're gonna have
23 people talking about everything that you see on TV and
24 they will all be brought here together.

25 There's one thing that Abin Lowman believes and that

1 is that no one should have ever broke into Mr. and Mrs.
2 Tidwells' house. He's known the Tidwells. That's true.
3 They call him Lee. He knows the Tidwells and he doesn't
4 think anybody should have broke into the Tidwells' house.
5 Nobody thinks anybody should break into somebody's house.
6 I mean, really. Who actually believes that's a good
7 thing? Who believes you should be trapped for two hours?
8 Nobody thinks that. Mr. and Mrs. Tidwell are good
9 people. I'm not here to tell you that they're bad
10 people. Even Lowman is not here to tell you they're bad
11 people.

12 They had something terrible that happened to them
13 and if that person who is involved in that were on trial,
14 then you should convict that person. You're going to see
15 some of those people who went inside that house. They
16 should be convicted. Those people should be punished but
17 you don't just punish everybody because somebody has had
18 something bad go wrong with them. You will hear Mr. and
19 Mrs. Tidwell tell you that they have been interviewed
20 three times, four times. I don't know how many times
21 they have been interviewed. They have always been
22 consistent that there were only three people involved in
23 this. Three people. Not four people, but three people.

24 You know, guilt by association is probably the worst
25 thing that you could ever be accused of. I play golf

1 every Saturday morning. I can't sleep so I go down to
2 the Waffle House 3:30 every Saturday morning. When I'm
3 down there, I'll eat with all the guys that I know who
4 are out at 3:30 in the morning at the Waffle House. Now,
5 I guess you could say if you didn't know any better, I
6 don't know, he's just like those other people who are out
7 at 3:30 in the morning wondering if he's drinking,
8 wondering if he's smoking something. But I'm the only
9 guy with gray hair down there. The reason I'm out there
10 is to eat breakfast before I go to play golf.

11 You don't make assertions by who you're hanging
12 around and determine their guilt or innocence based on
13 that. You just don't do that. We do it, but we
14 shouldn't. The thing I want you to keep up with is it's
15 kind of like an ocean. I was at the beach last week.
16 It's kind of like an ocean. You know how the ocean
17 pushes the sand and all that stuff. I want you to keep
18 track of the little pebbles because I think what you're
19 gonna see is you're gonna see a bunch of people
20 testifying and say that because these three people were
21 involved in this criminal offense that somehow because
22 Abin Lowman knows these people because one of them
23 happens to be a relative of his that somehow he's
24 involved in it.

25 You know, there is, there is something that I have

OPENING STATEMENT - BY MR. WILLIAMS

161

1 always kind of found to be true when you talk about
2 anything that goes wrong and that is follow the money.
3 That's true just about any time anybody ever violates
4 with a crime. Just follow the money. I want you to find
5 out exactly what Abin Lowman was ever found in possession
6 of that was stolen or taken from Mr. and Mrs. Tidwell. I
7 want you to find out what bit of evidence that was ever
8 retrieved, ever has a fingerprint, ever has something
9 from DNA on it that indicates that Abin Lowman ever
10 touched it.

11 With all these videotapes that are going around,
12 with all the cell phone information that's going around,
13 with all the testing that goes on, when Abin Lowman is
14 stopped or at least is arrested, what is found in his
15 possession? Nothing and nothing and nothing. You know,
16 I imagine if I was arrested in Maryland and if I wanted
17 to get less time on a case I imagine I would blame
18 anybody I had to blame. Those are things you have to
19 weigh out.

20 Ask the police officer when he arrested Abin Lowman
21 what he had on. He had on his work uniform with his name
22 on it. With his name on it. Does that sound like a guy
23 that goes up to a place to commit a burglary? With his
24 name on his uniform? And ask him can we see the uniform
25 that he had on that night. Can we see his mug shot that

1 he had? Abin Lowman didn't commit a crime. The only
2 crime he committed was being born who has a relative who
3 had committed a crime.

4 I ask that you keep your open minds. As I said
5 earlier you're going to want to punish somebody. But you
6 don't punish the good child. You punish the child that
7 needs to be punished. Thank you.

8 THE COURT: Call your witness.

9 MR. HUBBARD: All right. Your Honor, the State
10 calls Danny Tidwell.

11 Thereupon,

12 DANNY TIDWELL

13 after having been first duly sworn, testified as follows,

14 DIRECT EXAMINATION

15 BY MR. HUBBARD:

16 Q. Danny, if you would, state your name.

17 A. Danny Tidwell.

18 Q. Thank you. Danny, where do you work?

19 A. I work at Tidwell Jewelers most of the time in
20 Johnston.

21 Q. You're the owner of Tidwell Jewelers?

22 A. I am.

23 Q. Do you own that store with anybody else?

24 A. My wife.

25 Q. Your wife Lynda?

DANNY TIDWELL - DIRECT BY MR. HUBBARD

163

- 1 A. Lynda.
- 2 Q. How long have you all owned Tidwell Jewelers?
- 3 A. About 42 years.
- 4 Q. How long have you been in the jewelry business?
- 5 A. Probably 46 years. Well, really all of my life. I
- 6 grew up in the business.
- 7 Q. Now, you mentioned four stores or multiple stores.
- 8 Is that how many you had at the time?
- 9 A. That's correct.
- 10 Q. How many stores do you have today?
- 11 A. Three.
- 12 Q. What happened to that fourth store?
- 13 A. Well, the first of this year we sold it to my oldest
- 14 daughter and her husband.
- 15 Q. You mentioned the one in Johnston. That's your
- 16 primary store?
- 17 A. Yes. It is.
- 18 Q. Where are the others?
- 19 A. Uhm, Johnston is the primary store. Saluda is a
- 20 branch and Batesburg/Leesville store is another one.
- 21 Q. You mentioned your wife Lynda. How long have y'all
- 22 been married?
- 23 A. 46 in August. 46 years.
- 24 Q. How old were you when y'all got married?
- 25 A. 17.

1 Q. 17. Safe to say this business has been just a part
2 of your marriage as much as each other?

3 A. We got married and grew up together.

4 Q. How many children do you have. You mentioned a
5 daughter?

6 A. Yes. I have two girls and two grand-daughters.

7 Q. Now, Danny, where do you live?

8 A. I live in Saluda at Persimmon Hill Golf Course, 106
9 Birdie Court.

10 Q. Just right down the road from the courthouse?

11 A. Right.

12 Q. How long have y'all lived there?

13 A. About, I believe this August should be 21 years.

14 Q. Your house, is it here in Saluda or is it in
15 Edgefield?

16 A. My house is in Saluda.

17 Q. Danny, we're going to talk about the incident that
18 happened on March 8th of last year. Did that happen at your
19 store in Johnston or at your house?

20 A. At my house.

21 Q. I'm going to show you a chart that's already been
22 marked into evidence as State's Exhibit number 1. Do you
23 recognize this aerial?

24 A. Yes. I do.

25 Q. What's it an aerial of?

DANNY TIDWELL - DIRECT BY MR. HUBBARD

165

1 A. Of Persimmon Hill Golf Course and the subdivision
2 around it.

3 Q. Okay. If I could, I'll probably have to stand up
4 here so everybody can see. What road are we looking at right
5 here, Danny?

6 A. That's Highway 121.

7 Q. What about up here?

8 A. That's the road that goes around behind the golf
9 course, runs parallel with the airport.

10 Q. Is the airport visible at the top of number 1?

11 A. That's correct.

12 Q. Exhibit number 1. Now, where is the clubhouse?

13 A. The clubhouse it right here. .

14 Q. Now, where do you live if you follow that trail?

15 A. Right here.

16 Q. With the Court's permission I'll have you marked an
17 "X" where you live?

18 A. (Witness complies.)

19 Q. All right. Now, Danny, you mentioned a daughter.
20 Do you have anybody else that lives out in this neighborhood
21 and on this golf course?

22 A. Both of my daughters live at the golf course.

23 Q. Is there one that lives at the second entrance that
24 runs the other store?

25 A. Yes.

- 1 Q. Can you show us where that is?
- 2 A. Yes. If you go further on up 121 and enter into
- 3 this road here and that's where she lives right here.
- 4 Q. Would you also mark that with an "X".
- 5 A. (Witness complies.)
- 6 Q. So, Danny, I see there's also several ponds out
- 7 there that you've got. Are those visible from your house?
- 8 A. Yes. They are.
- 9 Q. When you go to your house, you saw the country club
- 10 there. Do you have to drive right past that?
- 11 A. Yes. The what we refer to as the clubhouse.
- 12 Q. Now, if you're going to your daughter's house, you
- 13 take that second entrance?
- 14 A. That's correct.
- 15 Q. Where is that entrance?
- 16 A. That entrance is right here, goes right in right
- 17 here off 121 and goes right back to their house.
- 18 Q. If you take that road, can you go on back behind the
- 19 airport?
- 20 A. Yes. Right straight on back parallel with the
- 21 airport.
- 22 Q. I want to ask you also about, now, you mentioned
- 23 your primary store. Where is it?
- 24 A. Johnston.
- 25 Q. Is that the store you and Lynda work at?

DANNY TIDWELL - DIRECT BY MR. HUBBARD

167

1 A. Yes.

2 Q. I'll show you what's been marked as State's Exhibit
3 number 3. Do you see your store on here?

4 A. Yes. I do. Right here.

5 Q. Okay. All right. If you point out to the jury and
6 get us oriented.

7 A. Okay. This is 121.

8 Q. Is that the same road that goes by your house here
9 in Saluda?

10 A. That's correct. Mm-hmm.

11 Q. Now where are we talking? Where is your store?

12 A. It's on Calhoun Street. Make a right at the light
13 and we're right down below the bank on the right.

14 Q. Is this also Calhoun Street 23?

15 A. Yes.

16 Q. So 23 and 121?

17 A. That's correct.

18 Q. You're right off of that?

19 A. Yes.

20 Q. What town is that?

21 A. Johnston.

22 Q. Now, Danny, I want to talk to you about, you say you
23 have been working in that store for quite a while. How does
24 that store differ from your other ones?

25 A. It's the main store. We have a big shop there. We

1 do work for all of the other stores. We also do wholesale
2 work for other jewelry stores in the area so we have, it's
3 kind of the hub that everything happens out of.

4 Q. On the front side of the store is that pretty much
5 your retail?

6 A. That's correct.

7 Q. And the backside do y'all do repairs and things like
8 that?

9 A. Yes.

10 Q. If someone wanted to see you or Lynda on any given
11 day, is that the store they would see you in?

12 A. Yes.

13 Q. Now, you heard mention of a routine. Do you and
14 Lynda have a routine?

15 A. Yes. We live a pretty boring life. We start out
16 early in the morning.

17 Q. What's early for you, Danny?

18 A. Well, I cut the TV on at 4:00 a.m.

19 Q. So real early?

20 A. Real early. I usually let Lynda sleep for
21 approximately an hour, 45 minutes to an hour and I wake her up
22 and we get ready to go to the gym. We go to the gym and we --
23 But we pick up our oldest daughter. She usually goes also and
24 when we go to the gym and do our morning exercise routine, we
25 usually get home around 5:45, somewhere in that neighborhood.

DANNY TIDWELL - DIRECT BY MR. HUBBARD

169

1 We get ready for work and we're usually opening up the store
2 around 6:30. Actually our alarm box, when we deactivate the
3 alarm, we've got about eight different people who work with
4 us, they get notices, text messages that the store is being
5 opened and most of them use that as an alarm to wake up.

6 Q. So you're basically the alarm clock for your
7 employees?

8 A. That's correct.

9 Q. Now, you get in the store early. What are your
10 store hours for the public for that store in Johnston?

11 A. We usually open that store around 7:30 and then we
12 close at 6:00 p.m. and we have to lock the doors for insurance
13 reasons when we start closing and we pull merchandise and put
14 it in the safe. We usually get out around 6:15 to 6:20.

15 Q. Now, what days of the week do y'all have that store
16 open?

17 A. Monday, Tuesday, Thursday, Friday and Saturday.

18 Q. Saturday, is that a full day?

19 A. That's a shorter day. Same opening hours but we
20 close at three.

21 Q. Sunday you're closed?

22 A. Sunday we're closed. Wednesday we're closed.

23 Q. So Wednesday is kind of like your Saturday?

24 A. That's correct.

25 Q. Now, do you have a routine? You say you close the

1 doors, lock them up at 6:00 and you're usually out of there by
2 6:15 or so. What's your daily routine or what was your
3 routine after you close the doors?

4 A. Our routine is to, it's usually we go home, get
5 something to eat and watch a little TV.

6 Q. Do you ever go by your daughter's house, the one
7 that lives in your neighborhood?

8 A. We do.

9 Q. What's that about?

10 A. At that time we would take the repairs that we had
11 completed during the day for the Greenwood store and we would
12 take that to my daughter's house who lived in the same
13 subdivision and we would drop the bag off and put it in her
14 car and lock it and they would be coming from Greenwood so
15 they would be behind us about 15 to 30 minutes.

16 Q. Was this your daily routine after work?

17 A. Every day.

18 Q. And this daughter, which store was she running?

19 A. The Greenwood store at that time.

20 Q. When you say repairs, is that just jewelry repairs,
21 things for that store?

22 A. Customer repairs. That's correct.

23 Q. She knew every day to check her car for business the
24 next day?

25 A. Yes.

DANNY TIDWELL - DIRECT BY MR. HUBBARD

171

- 1 Q. Okay. Now, Danny, you have talked about this
2 routine. When you would go to work, who goes with you?
3 A. My wife.
4 Q. When you come home, who comes with you?
5 A. My wife.
6 Q. When you go by your daughter's house, who's
7 with you?
8 A. My wife.
9 Q. Y'all pretty much do everything together?
10 A. Everything.
11 Q. You aren't ever separated?
12 A. Very, very little.
13 Q. That's your routine?
14 A. Yep.
15 Q. That you call boring?
16 A. That I call boring.
17 Q. But is it one that you and she appreciated and
18 enjoyed?
19 A. Yes.
20 Q. It was your life?
21 A. Yes. That's correct.
22 Q. Danny, let's talk about this incident on March 8th.
23 Let's start on March the 7th --
24 A. Okay.
25 Q. -- of last year, Tuesday. The next day are you

1 going to be working?

2 A. No. We're off on Wednesday.

3 Q. So that Tuesday did you follow that normal
4 routine?

5 A. I did.

6 Q. Lynda with you following that normal routine?

7 A. Absolutely.

8 Q. Y'all followed it when you went to work?

9 A. Yes.

10 Q. Followed it when you shut down the business?

11 A. Yes.

12 Q. On your way home did you stop and get anything to
13 eat?

14 A. Yes. That particular night, uhm, we did stop at the
15 Mexican restaurant right in the next block, just pulled in,
16 didn't think to order it by phone. Takes them a little while
17 to get it ready so we just sat in the truck and just waited
18 until they got the order ready. I picked the order up and we
19 headed home.

20 Q. Was it your routine to usually pick something up or
21 just eat light by night or how did that work?

22 A. Yes. Most of the time we do just go straight home.
23 That particular night I did pick something up for me. She
24 doesn't eat Mexican food.

25 Q. I don't know that I can anymore either. About what

DANNY TIDWELL - DIRECT BY MR. HUBBARD

173

- 1 time -- Did you go by your daughter's house?
- 2 A. Yes.
- 3 Q. About what time was that?
- 4 A. It was around 7:00 p.m.
- 5 Q. Did you drop off something for your daughter?
- 6 A. We did.
- 7 Q. In the car?
- 8 A. In the car. Locked it.
- 9 Q. Now, what are you and Lynda riding in?
- 10 A. We were riding, at that time we were riding in a
- 11 black Tahoe.
- 12 Q. As you're heading from her house just right back to
- 13 yours -- And again, this is the daughter that lives in this
- 14 neighborhood, your neighborhood?
- 15 A. Yes.
- 16 Q. The second entrance?
- 17 A. Yes.
- 18 Q. As you're leaving your daughter's, what, if
- 19 anything, did you notice?
- 20 A. Well, I noticed a car that was not familiar to me at
- 21 all. It's only seven neighbors that live back in that part
- 22 and I know all of them and I know what they drive and it just
- 23 was different. I didn't really think anything about it other
- 24 than that's odd. I wonder who they are visiting or it was
- 25 just strange. I had never seen the car before.

1 Q. What kind of car to the best of your memory was
2 it?

3 A. It was a Crown Vic or a Mercury Marquis.

4 Q. About what time did you get home?

5 A. I got home just a little bit after 7:00.

6 Q. What was your routine once you got home? Did you
7 eat?

8 A. Yes.

9 Q. What's your routine?

10 A. I stand at the kitchen counter. I flip the TV on.
11 I watch a little bit of TV and I eat and, uhm, usually I'm in
12 bed pretty quick after that. I know that sounds odd but...

13 Q. It's your life?

14 A. It's my life. That's right.

15 Q. What time were you in bed?

16 A. Almost every night 8:00. Very close to that time.
17 Maybe not asleep at 8:00 but usually asleep by 8:30. I tell
18 my kids not to call us after 8:00. Most of the time they
19 don't listen.

20 Q. Okay. Now, what about Lynda, about what time is she
21 in bed?

22 A. She usually pretty quick after we get home she gets
23 a shower, gets ready for bed. She eats a bowl of cereal or
24 something like that. Very light. And a lot of times she's in
25 bed pretty quick after that. She stays up later than I do

DANNY TIDWELL - DIRECT BY MR. HUBBARD

175

1 watching TV or whatever. We have a TV in the bedroom.

2 Q. In the bedroom?

3 A. Yes.

4 Q. TV doesn't bother you?

5 A. Nope. I'm out like a light pretty quick.

6 Q. Again, Danny, this is the routine that you and Lynda
7 have?

8 A. Absolutely. Yes.

9 Q. And this is what happened on March the 7th?

10 A. That was March the 7th.

11 Q. Nothing out of the ordinary. You saw an unusual
12 car?

13 A. That's right.

14 Q. But nothing else?

15 A. (Witness shaking head.)

16 Q. What happens next, Danny?

17 A. Well, uhm, I go to sleep approximately 8:30 that
18 night. I don't know when Lynda went to sleep but she's
19 usually not too far behind me and I hear a noise and we have
20 got an under the counter ice machine in the kitchen and the
21 way our house is set up our master bedroom is right off of the
22 main center room which some people call it a great room,
23 family room.

24 Q. Let's talk about that, Danny, and maybe that will
25 help explain some stuff. Do you recognize this diagram?

- 1 A. Yes.
- 2 Q. State's number 5. Is this a diagram of your
3 house?
- 4 A. Yes.
- 5 Q. Danny, if you could, where is the front door?
- 6 A. The front door is right here.
- 7 Q. All right. Now, where is your master bedroom?
- 8 A. Right here.
- 9 Q. To the left of the front door?
- 10 A. That's correct.
- 11 Q. Now, in your bedroom what is this?
- 12 A. It's labeled the wash room. We call it the laundry
13 room.
- 14 Q. And what's on this wing of the house with the master
15 bedroom?
- 16 A. That's the master closet and then the master
17 bathroom.
- 18 Q. Now, you have a couple other bedrooms?
- 19 A. Yes. We have two guest rooms on the other side of
20 the house.
- 21 Q. This big open area here?
- 22 A. Yes. That's where I was talking about.
- 23 Q. Okay. Now, you've got a kitchen?
- 24 A. Correct.
- 25 Q. You see there's a big blocked off area there. What

DANNY TIDWELL - DIRECT BY MR. HUBBARD

177

1 is that?

2 A. That's the sink and the kitchen bar counter area and
3 that's where I eat right there.

4 Q. So you stand and eat your dinner every night right
5 there?

6 A. Watching the TV right there.

7 Q. Now, on the backside of the living area what's right
8 here?

9 A. That's our back porch and this is all windows, it's
10 all glass.

11 Q. Do you have any curtains or blinds or anything like
12 that?

13 A. No. We didn't do that because when we're at home,
14 it's usually at night and there's nobody playing golf and we
15 know all of our neighbors so we just never had curtains. We
16 just like to be able to see outside.

17 Q. That looks out on what, Danny?

18 A. Out on number 3 green at the golf course.

19 Q. Now, off to the right side, what is that?

20 A. That's our garage where we have our two vehicles.

21 Q. While we're talking about your house, let me go
22 ahead and show you some more photos, State's Exhibit 6 and 7.
23 Can you identify those?

24 A. Yes. That's the front entrance and that's the
25 carport.

1 Q. Front entrance is number 6?
2 A. Yes.
3 Q. Carport is number 7?
4 A. That's correct.
5 Q. Now, State's Exhibit number 7 with the yellow tape,
6 you didn't put that tape there?
7 A. No.
8 Q. Is that law enforcement tape?
9 A. That's law enforcement tape.
10 MR. HUBBARD: And again, these are in without
11 objection?
12 MR. WILLIAMS: Without objection, Your Honor.
13 THE COURT: 5, 6 and 7 are in?
14 MR. HUBBARD: Yes, sir. All of these are in without
15 objection, correct?
16 MR. WILLIAMS: Every one dealing with the house is
17 in without objection.
18 THE COURT: So far we've got 5 is the floor plan.
19 That's in?
20 MR. WILLIAMS: That's in, Your Honor.
21 THE COURT: And these two photographs?
22 MR. WILLIAMS: Yes, sir.
23 THE COURT: All right.
24 BY MR. HUBBARD:
25 Q. So number 6 is the front of your house; is that

DANNY TIDWELL - DIRECT BY MR. HUBBARD

179

- 1 correct?
- 2 A. Yes.
- 3 Q. Number 7 would be the carport area?
- 4 A. That's correct.
- 5 Q. That's where you park your vehicle every night?
- 6 A. Yes.
- 7 Q. Again, what do you drive?
- 8 A. At that time it was a black Tahoe and a white
- 9 Suburban.
- 10 Q. And a white Suburban or a Yukon?
- 11 A. Right.
- 12 I'll show you some more photos of the house.
- 13 MR. HUBBARD: Without objection, State's 8, 9, 10,
- 14 11.
- 15 MR. WILLIAMS: Without objection, Your Honor.
- 16 BY MR. HUBBARD:
- 17 Q. Are these photos of the house area?
- 18 A. Yes.
- 19 Q. Tell you what, Danny. If you would, let's step down
- 20 with the Court's permission.
- 21 THE COURT: Yes, sir.
- 22 BY MR. HUBBARD:
- 23 Q. And show these to the jury and explain what these
- 24 show.
- 25 A. Okay.

1 Q. This is State's 8. Keep speaking up. This man has
2 to type so he has to hear every word you say.

3 A. Okay. This is the back of my house, number 2 green,
4 and number 3 green is here. This is my neighbor's house Chuck
5 Harmon.

6 Q. Chuck Harmon lives right there?

7 A. Right.

8 Q. Now, again, that shows the windows on the backside
9 of your house?

10 A. Yes.

11 Q. Number 9, State's 9, what does that show?

12 A. Well, it shows the north end of my house and it
13 shows what we call number 3 pond here.

14 Q. Okay. And is there another house visible?

15 A. Yes. Meredith Havird lives here. His aunt and
16 uncle own the house but he lives there some.

17 Q. So it's Chuck and who?

18 A. Meredith Havird.

19 Q. State's 10, is that another picture of your house?

20 A. That's the picture from the golf course side, of
21 course, and that's the whole house and this was the north end
22 of the house that I referred to a while ago and the pond is
23 over here.

24 Q. Does this also number 10 show the big hill, kind of
25 the crest of the hill going up to your house?

DANNY TIDWELL - DIRECT BY MR. HUBBARD

181

- 1 A. It does.
- 2 Q. State's 11, what does that show?
- 3 A. It's just a shot further back and shows pretty much
- 4 the same thing. Meredith's house here.
- 5 Q. Speak up just a touch.
- 6 A. Chuck Harmon's house is over here. Meredith's house
- 7 is here and this is the number 3 pond, number 3 green.
- 8 Q. Is there also another pond to the right of this
- 9 photo?
- 10 A. There's a pond -- Well, it depends. Looking from
- 11 this angle it would be to the left.
- 12 Q. Okay. But there are two ponds out there?
- 13 A. There's actually three kind of in a row but number 8
- 14 pond we can see it from our house. We would have to...
- 15 Q. You can step back up there.
- 16 A. (Witness complies.)
- 17 Q. All right. So now we have seen your house. You've
- 18 come home. This is a house you've been coming home to for how
- 19 long?
- 20 A. 21 years.
- 21 Q. This night you're now in bed. You say you're asleep
- 22 by about what time?
- 23 A. 8:30.
- 24 Q. What, if anything, happens at that point some time
- 25 after you fall asleep during the course of the night?

1 A. Well, I hear a noise and it didn't sound -- I
2 thought it was my ice machine dumping and it woke me and I
3 just said to myself, I didn't wake my wife up or anything, but
4 it woke me up and I said I need to get that ice machine
5 checked on. It's not sounding right. And shortly after that
6 I hear men in my house hollering, "ATF. ATF. Come out with
7 your hands up." I rolled over and wake my wife. She might
8 have already been awakened. I don't know. But I asked her, I
9 said, we need to cooperate thinking that it was law
10 enforcement.

11 Q. Let me ask you this, Danny. You go to sleep. The
12 next thing you know you hear a noise, then you hear this ATF,
13 ATF. Now, were they saying ATF or were they shouting ATF?

14 A. Oh, no. They were shouting. They wanted to wake us
15 up.

16 Q. When you got Lynda, what was your thinking about
17 what was going on at this point in time?

18 A. Well, initially I thought it was law enforcement. I
19 thought they had the wrong address. I told my wife, I said,
20 we need to cooperate and I'm thinking I'm going to do what
21 they say to do and I followed their instructions. We came out
22 of the bedroom with our hands up and they instructed me to get
23 down on the floor, put our hands behind our backs and then
24 they proceeded to zip tie our hands behind our backs.

25 Q. At what point did it become clear to you you weren't

DANNY TIDWELL - DIRECT BY MR. HUBBARD

183

1 dealing with ATF law enforcement agents?

2 A. Well, I have said this in testimony, said when the
3 really vulgar language started, I thought then that is not law
4 enforcement. I mean, just a few seconds probably. I've heard
5 from law enforcement since then that they do practice in that
6 from time to time but I didn't give them cause to use that
7 kind of language and then I get a gun stuck into my cheek
8 right here, my left cheek. I'm laying down and he sticks the
9 gun in my cheek and says, "Where's your valuables? Where's
10 your belongings? Don't lie to me. I'll blow your F'ing head
11 off."

12 Q. Safe to say at that point you know you're not
13 dealing with police officers?

14 A. Absolutely.

15 Q. When they put that gun in your face and they're
16 asking for what?

17 A. Valuables. Your stuff. And I told them we didn't
18 have anything there. They asked about a safe.

19 Q. Do you have a safe in that house?

20 A. No. No. We don't. I told them we didn't have a
21 safe and everything that we had of any value in the house was
22 on the dresser, my wife's Jewelry and some cash money that we
23 had that the both of us had together, it was all right
24 there.

25 Q. When you're explaining this to them, what's in your

1 face?

2 A. It was a gun.

3 Q. Danny, I'm not going to ask you to say this is

4 actually it or not but can you describe the gun you saw?

5 A. Well, I know it's an automatic. I like guns. I

6 know about guns and I knew it was an automatic. It wasn't a

7 revolver.

8 Q. A revolver is like a cowboy gun with a cylinder?

9 A. Yes.

10 Q. Automatic has the clip or a magazine you put in the

11 bottom?

12 A. That's correct.

13 Q. What did it look like?

14 A. Well, it had kind of a different finish on it. It

15 didn't have a blue finish or a black finish. It wasn't silver

16 or chrome, nickel plated or anything like that. It was - it

17 was an odd color. I have referred to it many times as kind of

18 a Desert Storm type finish. Wasn't camouflaged.

19 Q. I want to show you this item here. Do you recognize

20 that?

21 A. I recognize it being one very much like --

22 Q. What you saw?

23 A. -- what I saw.

24 MR. HUBBARD: Your Honor, I'm going to mark this for

25 ID purposes.

DANNY TIDWELL - DIRECT BY MR. HUBBARD

185

1 THE COURT: Okay.

2 (Whereupon, State's Exhibit #38 marked for
3 identification)

4 BY MR. HUBBARD:

5 Q. So, Danny, they're asking for a safe. You don't
6 have a safe?

7 A. Correct.

8 Q. What else are they asking that night? They ask
9 about valuables but anything else? They ask you about whether
10 anybody else is around or anything like that?

11 A. Yeah. They did. They did say, "Anybody else live
12 here?" I told them no. Just my wife and I. And they said,
13 "This big house and only two people live here?" And I said,
14 yes. My daughter used to live here but she's married and on
15 her own and that was it. I think that was it. I can't think
16 of anything else.

17 Q. When you're talking to them, where are you?

18 A. I'm on the floor in the big --

19 Q. Big living room?

20 A. -- living room and Lynda is laying at my feet.

21 Q. Are y'all, you mentioned zip tied. Are y'all tied
22 up immediately?

23 A. We are. We came out of the bedroom here and they
24 said, they were here after they had gotten in by the window
25 and they asked us to lay down. She laid down right here. I

1 laid down right in front of her and I could see back this way
2 so I was facing back towards the windows.

3 Q. Now, Danny, are the lights on or off at this
4 point?

5 A. They're off. It's completely dark. It's very dark
6 there. There's no street lights or anything.

7 Q. Do you see any other light source in that living
8 area with these guys?

9 A. Yeah. When we came out of the bedroom, there were
10 three flashlights shining in our eyes and then they were
11 instructing us. We couldn't see the -- It's dark to start
12 with and then you've got lights in your eyes.

13 Q. Okay. Now, Danny, at this point I want to show you
14 some more photos.

15 THE COURT: This is a good time to take a break. I
16 said about 10:30. It's 10:33, so that will be a good
17 starting point. Don't discuss your testimony during the
18 break. You can step down and use the restroom if you
19 need to. Ladies and gentlemen, we'll take a break.
20 Y'all can't discuss the testimony during the break.
21 Anybody needs to step outside, make yourself at home.
22 Don't discuss the case. Be back in here 12, 13, 14
23 minutes. Take a short 15 minute break.

24 (Whereupon, the jury entered the jury room at 10:35
25 a.m.)

DANNY TIDWELL - DIRECT BY MR. HUBBARD

187

1 (Short break.)

2 MR. HUBBARD: One thing I would like to do when they
3 come out, there are things we put in evidence yesterday
4 and I'll go ahead and do it again. I was thinking they
5 were in but I'll go ahead and do that again just to be
6 sure.

7 THE COURT: Okay. That will help Mr. LeBlanc and
8 me. Okay. Bring them in.

9 (Whereupon, the jury entered the courtroom at 10:55
10 a.m.)

11 THE COURT: All right. Solicitor.

12 MR. HUBBARD: Thank you, Your Honor. Your Honor,
13 again for clarification I have shown this witness two
14 aerials, State's 1 and State's 3 and I just want to make
15 sure they're actually in evidence.

16 MR. WILLIAMS: Without objection, Your Honor.

17 THE COURT: The aerial photographs are in evidence
18 without objection.

19 MR. HUBBARD: Thank you, Your Honor.

20 BY MR. HUBBARD:

21 Q. Now, Danny, I want to pick up where we left off. In
22 looking at State's number 5, the diagram of your house,
23 whereabouts were you made to lay down on the floor?

24 A. Right here.

25 Q. Okay. So if you come in the front door, it's just

1 right behind in the living area right behind that little
2 sofa?

3 A. Right.

4 Q. Right outside your master bedroom?

5 A. That's correct.

6 Q. And Lynda had to lie down there, too?

7 A. Yes.

8 Q. I want to show you some photographs and see if these
9 depict that area. State's 12, 13 and 14.

10 A. Yes.

11 MR. HUBBARD: Your Honor, I move all of these into
12 evidence.

13 THE COURT: Any objection?

14 MR. WILLIAMS: Without objection.

15 THE COURT: Admitted without objection.

16 BY MR. HUBBARD:

17 Q. Danny, step down for the jury. Let's look at
18 State's 12. What does this depict? What part of your
19 house?

20 A. My den or the great room.

21 Q. What I've been calling the living area?

22 A. Living area.

23 Q. What door do we see there?

24 A. This is the front door.

25 Q. No. Right over here. I'm pointing to the wrong

- 1 thing.
- 2 A. That's the front door. This is the back.
- 3 Q. So you're looking from the windows to the front?
- 4 A. That's correct.
- 5 Q. Do you see the entrance to your master bedroom?
- 6 A. Yes. Right here.
- 7 Q. So it's on this side of State's 12?
- 8 A. Correct.
- 9 Q. Do you see the sofa that you were made to lay down
- 10 behind?
- 11 A. Yes. Green sofa.
- 12 Q. Green sofa. State's 14. Do you recognize that?
- 13 A. Yes. It's a green sofa from the backside.
- 14 Q. Looking towards what?
- 15 A. Looking, I was looking towards the windows.
- 16 Q. What do we see in State's 13?
- 17 A. Just another view but actually this spot is more
- 18 obvious there. I was, my head was just past right along in
- 19 here.
- 20 Q. So this is where you were made to lay down?
- 21 A. Yes.
- 22 Q. And Lynda had to lie down there, too?
- 23 A. Right.
- 24 Q. Is this where you were zip tied?
- 25 A. Yes.

1 Q. All right. Danny, have a seat.

2 A. (Witness complies.)

3 Q. Danny, now, you have talked about how once you were
4 zip tied and laid down behind the sofa with you and your wife,
5 you had the gun to your face, they demanded money and you said
6 you don't have a safe, what did they do with you and Lynda at
7 that point?

8 A. They separated us. They -- I didn't know where they
9 took Lynda. Of course it was dark. But they got me up and
10 led me to a half bath a few, 12, 15 feet from where I was
11 laying and put me down on the floor in that half bath.

12 Q. Again, using State's 5, if you were on the floor
13 right here behind that sofa, where is that half bath?

14 A. The half bath is right here. I was here. They got
15 me up, walked me into this half bath right here.

16 Q. Again, were the lights on or off?

17 A. Off.

18 Q. And Lynda, did they move her?

19 A. Yes. I didn't know where they moved her but they
20 did move her and it turned out into another, the laundry
21 room.

22 Q. Another part of the house, the laundry room?

23 A. Yes.

24 Q. When they moved you to that half bath, what did they
25 do with you?

DANNY TIDWELL - DIRECT BY MR. HUBBARD

191

1 A. They threatened me again trying to get the alarm
2 codes. Where's the keys. That kind of stuff from me.

3 Q. Now, Danny, were you standing up, sitting down?

4 A. No. I was laying on the floor.

5 Q. Were you still zip tied?

6 A. Still zip tied.

7 Q. And what are they asking for?

8 A. They were asking me for the store keys and alarm
9 codes and safe combinations.

10 Q. So when you were out in the den or living area, they
11 were asking about what's in your house?

12 A. That's correct.

13 Q. Once they move you to that half bath bathroom they
14 want to know about your store?

15 A. That's correct.

16 Q. Now, let me ask you this: When they're asking about
17 codes and combinations, how did you operate security at your
18 store?

19 A. Well, it's like we used to have codes and some
20 people probably still use codes. We use a fob to activate and
21 deactivate the alarm so I didn't have alarm codes to give them
22 and I told them that.

23 Q. Did you let them know where your keys were?

24 A. Yes. I did.

25 Q. Did you let them have those keys?

1 A. Yes. I told them where they were and they got
2 them.

3 Q. They didn't get you up to go get them?

4 A. No.

5 Q. When they put you in that half bath, did you stay in
6 that half bath the entire time?

7 A. Yes.

8 Q. Now, they have got the keys with the key fob. What
9 else were they demanding from you?

10 A. Safe combinations.

11 Q. Tell me about that. Tell me how that conversation
12 went.

13 A. Well, he asked me, I believe it was two different
14 times, about safe combinations and I gave them to him. He
15 would leave and come right back and ask me again the second
16 time. When he came back the third time, I instructed him to
17 go get, I have a pencil and a pad on the kitchen counter. He
18 could go get that and could write it down and get it right and
19 I did and he did.

20 Q. Now, the safe, if you just mentioned numbers, do you
21 also need to say right, left?

22 A. That's correct.

23 Q. Like the old fashioned dial?

24 A. That's correct. I did give him that.

25 Q. When he wrote it down, did you make sure he got it

DANNY TIDWELL - DIRECT BY MR. HUBBARD

193

1 right though?

2 A. I didn't instruct him on which way to start and how
3 many times or anything. All I did was I gave him the
4 numbers.

5 Q. Okay.

6 A. And he threatened that if this is not right, there's
7 people here, leaving people here and I will be back.

8 Q. Okay. Talking about that threat, do you remember at
9 any time being shown your wife's driver's license?

10 A. Yes. One of them came in and shined the flashlight
11 on her driver's license and said, "I see she is a organ donor.
12 You don't want her donating any organs, do you?" I said no.
13 I asked if she was okay. He said, "She's fine. She's also
14 asking about you."

15 Q. At that point you still didn't know where she was in
16 the house?

17 A. No.

18 Q. Could you hear your wife or her talking to
19 anybody?

20 A. No. It's quiet and all you hear is foot traffic
21 back and forth, them going through drawers and dumping things
22 and just going through what we had in the house.

23 Q. Do you remember anything about flashlights and any
24 conversations about that?

25 A. Yes. At one point one of them said, "Cut the lights

1 out." He acted like he was in a dark -- He just said, "Cut
2 the flashlights out. You can see them from the outside."

3 Q. So he wasn't talking to you?

4 A. No.

5 Q. Did you hear any other noises that caused you, that
6 was of interest because it was unusual?

7 A. Well, I didn't hear my wife struggling and I didn't
8 hear any noises from her so that was comforting to me but I
9 did hear a shower running and I don't know how long it was but
10 it was a long time. It was just running. I thought, well,
11 maybe they're getting showers or something. I don't know.
12 But so obviously all of them were getting showers. It was a
13 long time that that went on. I asked one of them, I said,
14 would you please check that shower and cut it off if it's not
15 being used. Shortly after that it did get turned off.

16 Q. Could you hear them going throughout your house?

17 A. Yes.

18 Q. Could you hear them going through your belongings?

19 A. Yes.

20 Q. But you couldn't hear your wife?

21 A. No.

22 Q. When you were in that half bath, did someone stay
23 there with you?

24 A. No. But very often as they walked by they would
25 check the ties to make sure. At one time I had one of my ties

DANNY TIDWELL - DIRECT BY MR. HUBBARD

195

1 was extremely tight cutting the circulation off. I asked one
2 of them if he could give me a little relief on it and he left
3 and he came back and he actually did. Shortly after that I
4 assume it was another one that came in and checked it and
5 cinched it back up tight.

6 Q. So one guy helped you out a little bit?

7 A. Yep.

8 Q. But someone came right behind him --

9 A. Yep.

10 Q. -- and tightened it right back?

11 A. Right.

12 Q. Danny, I'm going to show you zip ties. Does that
13 look familiar?

14 A. Yes.

15 Q. That look like the type of zip ties that you were
16 tied with?

17 A. Yes.

18 MR. HUBBARD: Your Honor, I'm just gonna mark this
19 for State's ID.

20 THE COURT: Very well.

21 MR. HUBBARD: 39, Your Honor.

22 (Whereupon, State's Exhibit #39 marked for
23 identification.)

24 BY MR. HUBBARD:

25 Q. The one guy who helped you out, was there one guy or

1 somebody in that house that tended to focus on you and at
2 least listen to you a little bit?

3 A. Yes.

4 Q. At some point did somebody bring you a pillow?

5 A. Yes.

6 Q. I want to show you State's 15. Is that your half
7 bath?

8 A. That's the half bath.

9 Q. Is that the pillow?

10 A. That's the pillow.

11 MR. HUBBARD: Your Honor, I offer State's 15 in.

12 MR. WILLIAMS: Without objection, Your Honor.

13 THE COURT: State's 15 without objection.

14 BY MR. HUBBARD:

15 Q. So, Danny, obviously you're dealing with different
16 personalities. Could you see anybody? Could you see their
17 faces?

18 A. Yes. When the guy that loosened the tie up, he had,
19 he kind of leaned over me and I was in like in the doorway and
20 he had to step over me to get to do what he was doing and at
21 one point he got close enough that I could see and he had
22 black glasses on and I could tell that he was a black man with
23 dark black glasses like Ray-Bans, Wayfarer type glasses but
24 they were not sunglasses, just regular eyeglasses.

25 Q. This isn't the guy that cinched your zip ties back

DANNY TIDWELL - DIRECT BY MR. HUBBARD

197

1 tight again, is it?

2 A. I don't think so. I don't feel like -- I don't
3 think he would have loosened it and then zipped it right
4 back up a few minutes later. I think it was another person.

5 Q. That other person that cinched it up, while he was
6 recinching up your zip ties, did he do anything else?

7 A. Uhm, yeah. I had a bracelet that I had worn forever
8 on my right hand opposite from my watch and it was gold, just
9 nothing fancy. It was heavy. I had worn it for I don't know
10 15, 20 years and I think that was, he noticed that and he
11 asked me how to get it off. Well, I think he asked me if it
12 was real. I said yes. It's real. And he was, "How do you
13 get it off?" And it was extremely hard to get it off. You
14 had to actually bend it to get it off and he got it off.

15 Q. Have you ever seen it since?

16 A. No.

17 Q. On one of these occasions when these fellows are
18 coming in that half bath where you were, did you ask them if
19 you could do something?

20 A. Uhm, I'm sorry.

21 Q. Did you ask them if you could do something? Did you
22 ask permission?

23 A. Oh, yes. Yes. I did. I asked if I could pray. I
24 didn't want to offend anybody. And then he said, "What are
25 you, a Jew?" And I said no. I'm Christian. And he said,

- 1 "Yeah. You can pray."
- 2 Q. Danny, were you scared that night?
- 3 A. Absolutely.
- 4 Q. Were you afraid for yourself?
- 5 A. Yes.
- 6 Q. Who else were you afraid for?
- 7 A. My wife.
- 8 Q. Did you feel like there was anything else you could
- 9 do?
- 10 A. It was a helpless feeling. Nothing. Completely
- 11 helpless.
- 12 Q. And so you prayed?
- 13 A. I prayed.
- 14 Q. At some point, Danny, did it become clear that these
- 15 guys were getting ready to leave?
- 16 A. Yes. They came in a couple of times. I say they.
- 17 It could have been several different ones, but they would come
- 18 in and look out the window in that half bath and one time one
- 19 of them said, "We're not gonna be here much longer." And
- 20 another time one came in, looked out the window and seemed to
- 21 be agitated and said, uhm, "Our ride's not here." He wasn't
- 22 talking to me, of course, but he was agitated that his ride
- 23 wasn't there.
- 24 Q. Did they ask you something or one of them ask you
- 25 something before they left about anybody else?

DANNY TIDWELL - DIRECT BY MR. HUBBARD

199

1 A. Uhm --

2 Q. About anyone else coming to the house?

3 A. Yeah. He did. One of them did ask me, "Are you
4 expecting anybody to come here this morning?" And I said no,
5 not really. And I said but you never know. Somebody could
6 come. I don't know if they saw somebody and it alarmed them
7 or I can't imagine he would be concerned about our safety at
8 that point so I don't know why he asked that.

9 Q. Sometime after he steps out of the half bath where
10 you are, do you hear anything else?

11 A. Uhm, shortly after that, I mean, we heard, I heard
12 conversation but I couldn't make it out. It was more, you
13 know, they were talking to each other as they passed in the
14 hallway and that kind of stuff.

15 Q. At some point did it get quiet?

16 A. It got, yeah, really quiet and I didn't hear
17 anything, any stirring anywhere and then I'm just laying there
18 and I see my wife come walking down the hall past me and she
19 didn't know where I was. She walked just past me. And I
20 said, Lynda. And she came back. And I said, you need to get
21 back. They could still be here. And she really, she didn't
22 say anything. She just went right back and laid down and I
23 would say minutes passed by and she called my name. She said,
24 "Danny, I think they're gone." And I said, how do you know?
25 She said, "I saw lights leaving." So I said, well, if you

1 can, come back here and try to help me out. I already seen
2 she was up and about and she had gotten one of her hands out
3 of the zip ties and she came and assisted me and we got to the
4 kitchen and got some scissors and she cut me out of one of
5 them, got my hands freed up and she said, "What do we do now?"
6 I grabbed the mobile, the little portable phone there in the
7 kitchen and it was dead. Didn't realize it, but all the
8 phones had been taken off the wall and thrown into the toilet.
9 And so we looked for cell phones. They were gone. So she
10 said, "Well, what do we need to do now?" And we decided for
11 one of us to go out the back door and one of us go out the
12 front door just in case they were still in the yard hoping
13 that one of us would get to some help and so we did.

14 Q. Did y'all decide once one of you went out one door
15 where you would go and where the other one would go?

16 A. Yes.

17 Q. What was that plan?

18 A. I said, why don't you go out the front door and go
19 down to Meredith's house which is right below us and I went
20 out the back door and went to Chuck Harmon's house, Meredith
21 Havird.

22 Q. Looking at State's 11, this photo, which side is
23 Chuck's house on?

24 A. It would be on the left side. Meredith would be on
25 the right side.

DANNY TIDWELL - DIRECT BY MR. HUBBARD

201

1 Q. But if you're looking at the picture, it's on the
2 right side from your vantage point?

3 A. My vantage point, Chuck is over here and Meredith is
4 over here.

5 Q. Okay. I see. So Chuck is on the right side of the
6 photo and Meredith is on the left side of the photo?

7 A. Yes. Meredith is on the right side and Chuck is on
8 the left side. This is Chuck's house on the left side.

9 Q. But it's on the right side of the photo?

10 A. Yes. Yes. I'm sorry. From my -- Yes. I
11 apologize. You're right. Yes. I'm sorry.

12 Q. Okay. I'm confusing myself. On State's 11, so
13 you've Chuck on one side and Meredith on the other and you run
14 to Chuck's?

15 A. I run to Chuck's.

16 Q. Now, it's March 8th. What's it's like outside?

17 A. It's pretty cool.

18 Q. What are you wearing?

19 A. Underwear and a T-shirt.

20 Q. What's your wife wearing?

21 A. A nightgown.

22 Q. Do y'all even bother to get dressed when you run out
23 the door?

24 A. No shoes or anything.

25 Q. When you get to Chuck's house -- Well, let me ask

1 you this: About how long were these fellows in your house?

2 A. I said in statements approximately two hours and
3 that's about what it seemed like, two hours.

4 Q. So now you're running outside in your underwear and
5 T-shirt in the cold and you get to Chuck's house. Is it still
6 night out or is it daylight yet?

7 A. It's dark.

8 Q. When you get to Chuck's house, what do you do?

9 A. I beat on his back door and hollering, Chuck, Chuck.
10 I didn't realize it but his whole family sleeps with noise
11 machines. They couldn't hear me.

12 Q. So what do you do?

13 A. So I go around to the front. I beat on that door,
14 rang the doorbell and hollering and I think one of the
15 bedrooms is very close to the front door. Anyway, Chuck shows
16 up at the front door. I asked him to please call 911. We've
17 just been robbed.

18 Q. After he responds to you and goes back in, where do
19 you go?

20 A. I go back to the house and Lynda hadn't gotten back
21 from Meredith's. They were, both neighbors were calling 911
22 at the same time and then she came up at that point shortly
23 after.

24 Q. Sometime right after that did law enforcement show
25 up?

1 A. Yes.

2 Q. Who showed up?

3 A. Dale Hallman.

4 Q. Do you know Dale Hallman?

5 A. I do.

6 Q. Is Dale alive today?

7 A. No. He's not.

8 Q. When he showed up on the scene, is there any other
9 officer with him?

10 A. No. He was there by himself. Lynda and I kind of
11 gathered around. He popped his trunk. He was looking for
12 something in his trunk. I think it might have been a camera
13 but I'm not sure. So the three of us just before the
14 neighbors came out and it was shortly after we made contact
15 with him he was there very quickly, had to have been very
16 close for him to make it there that quick and he was looking
17 for, I want to say he was looking for his camera and he looked
18 up and he saw Lynda beginning to have a meltdown.

19 Q. Between you and Lynda who is the most stable, even
20 keeled one, less emotional?

21 A. I would say it would be me.

22 Q. Okay. So Lynda has a meltdown. She's been fine
23 until this point?

24 A. Yes.

25 Q. What does Dale do?

1 A. Dale says (Witness crying) --
2 Q. Just take your time.
3 A. Sorry.
4 Q. I know. I know.
5 A. Dale said, "Ms. Lynda, don't cry or you'll make me
6 cry." And then we both, we all three broke down just for a
7 few seconds.
8 Q. Is that your final release?
9 A. (Witness nodding head.) It was over.
10 Q. You're safe. After that, some other officers
11 arrived?
12 A. Yes.
13 Q. Who do you recall being the next officer?
14 A. Garry Hitt.
15 Q. Do you know him, too?
16 A. Yes.
17 Q. Soon after he arrives other officers arrived, too?
18 A. Yes.
19 Q. Now, this zip tie that's marked for ID, State's 39,
20 who took this off your wrist?
21 A. Dale Hallman.
22 Q. Did he take them off Lynda, too?
23 A. Yes.
24 Q. I show you State's 17 and 18. 17, whose wrist is
25 that from?

DANNY TIDWELL - DIRECT BY MR. HUBBARD

205

1 A. That's mine.

2 Q. 18?

3 A. Lynda's.

4 Q. 18 is Lynda's?

5 A. Yes.

6 MR. HUBBARD: Your Honor, I move these into
7 evidence.

8 MR. WILLIAMS: Without objection.

9 THE COURT: What numbers?

10 MR. HUBBARD: 17 and 18.

11 THE COURT: 17 and 18 are in without objection.

12 BY MR. HUBBARD:

13 Q. 17 is your wrist and 18 is your wife's?

14 A. That's correct.

15 Q. Dale Hallman cut these off of y'all?

16 A. Yes. He did.

17 Q. When Garry Hitt got there, what did Garry do?

18 A. Uhm, I guess Garry Hitt was probably maybe the
19 supervisor at that point and seemed to kind of take control
20 and, uhm, he, uhm, when we realized that our Suburban was
21 gone, had been stolen and, uhm, so at that point, uhm, Chuck,
22 my neighbor and his family were there and, uhm, I said we
23 could call, uhm, OnStar and have them cut the car off. So,
24 you know, in the middle of all of this I don't remember access
25 codes and all that stuff at all so I didn't know my number to

1 validate them turning it off so I, uhm, Chuck was on with them
2 on his cell phone and they wouldn't turn it off so he came to
3 me and said we got to have a police officer to talk to them
4 and so at that time he passed it off to Garry Hitt. Garry
5 Hitt talked to OnStar and they cut the car off.

6 Q. Now, could you tell if the car was cut off from
7 where you were?

8 A. No.

9 Q. You couldn't see your car?

10 A. No.

11 Q. This is your GMC Yukon?

12 A. That's correct.

13 Q. I'm gonna show you a picture, a couple photos,
14 State's 19 and 20. Are these photos of your Yukon?

15 A. That's correct.

16 MR. HUBBARD: Your Honor, I offer these into
17 evidence.

18 MR. WILLIAMS: Without objection, Your Honor.

19 THE COURT: 19 and 20 without objection.

20 BY MR. HUBBARD:

21 Q. Now, 19 is a photograph of your truck, GMC Yukon?

22 A. That's correct.

23 Q. 20, what is that a picture of?

24 A. That's a picture of a driver side door that's open.

25 That's where I kept my gun there and some flashlights and some

DANNY TIDWELL - DIRECT BY MR. HUBBARD

207

1 keys.

2 Q. Right there in the driver's side door is where you
3 kept these items?

4 A. Yes. That's correct.

5 Q. So when you get outside, this vehicle is gone?

6 A. That's correct.

7 Q. Garry Hitt gets hold of OnStar to shut it off?

8 A. Yes.

9 Q. At some point do you get this vehicle back?

10 A. We do.

11 Q. When you look in that driver's side door, where is
12 that gun?

13 A. It's gone.

14 Q. What kind of gun was it?

15 A. It was a Ruger LCP .380 caliber.

16 Q. So it's a small handgun?

17 A. Yes.

18 Q. Those flashlights you mentioned, did you ever see
19 those again?

20 A. No.

21 Q. During the course of this burglary, armed robbery,
22 early on you said you had to give your store keys up?

23 A. Yes.

24 Q. I want to show you some keys and see if you
25 recognize these?

1 A. Yes. Those are my keys and the fob.

2 MR. HUBBARD: Your Honor, I offer this into
3 evidence.

4 MR. WILLIAMS: Without objection, Your Honor.

5 THE COURT: State's 40 without objection.

6 BY MR. HUBBARD:

7 Q. So that night in the house these are the keys you
8 gave up to these men?

9 A. Yes.

10 Q. This fob is what would turn the alarm off to your
11 Johnston store?

12 A. That's correct.

13 Q. And the keys would actually get you in the door?

14 A. Yes.

15 Q. I want to show another item and see if you recognize
16 this?

17 A. Yes. That's my money clip.

18 MR. HUBBARD: Any objection?

19 MR. WILLIAMS: Without objection, Your Honor.

20 MR. HUBBARD: Offer this, Your Honor.

21 THE COURT: State's 41 without objection.

22 BY MR. HUBBARD:

23 Q. This money clip, State's 41, is this something that
24 you tended to keep with you?

25 A. Yes. I carried it everyday.

DANNY TIDWELL - DIRECT BY MR. HUBBARD

209

1 Q. After that night, did you still have it in your
2 possession?

3 A. No.

4 Q. Is it one of the items taken?

5 A. Yes.

6 Q. What was also with this money clip when it was
7 taken?

8 A. Money.

9 Q. About how much money did you keep in that clip?

10 A. I had \$3000.00 in there that night.

11 Q. About how much money total cash was taken out of
12 your house?

13 A. 4000.

14 Q. So that's another thousand on top of the three from
15 the clip?

16 A. That's correct.

17 Q. When I asked you about your white Yukon, State's 19,
18 where did that vehicle stay parked?

19 A. In the carport.

20 Q. I'm going to show you State's 21, 22, 23 and 24.
21 Are these pictures of that carport area?

22 A. Yes.

23 MR. HUBBARD: Your Honor, I offer these into
24 evidence.

25 MR. WILLIAMS: Without objection, Your Honor.

1 THE COURT: 21, 22, 23, 24 photos of the carport all
2 entered without objection.

3 BY MR. HUBBARD:

4 Q. State's 21, that other vehicle, is that your
5 vehicle?

6 A. Correct.

7 Q. The spot next to it, is that where you parked your
8 Yukon?

9 A. Yes.

10 Q. State's 22, another angle. You see a storage
11 room?

12 A. Yes.

13 Q. Is that a storage room? .

14 A. That's correct.

15 Q. That's part of your carport?

16 A. It is.

17 Q. State's 23, is that another shot of that carport
18 storage room?

19 A. Storage room door.

20 Q. State's 24, what's that a picture of?

21 A. It's a picture of me inside the storage room.

22 Q. I want to show you some other photos, if I can, and
23 see if you recognize these as items that were taken from you.

24 State's 25, does that look familiar to you?

25 A. That's my wife's keys.

DANNY TIDWELL - DIRECT BY MR. HUBBARD

211

1 MR. HUBBARD: Your Honor, I offer this into
2 evidence, State's 25.

3 MR. WILLIAMS: Without objection, Your Honor.

4 THE COURT: Without objection 25 is in.

5 BY MR. HUBBARD:

6 Q. I'm going to show you what looks like two key fobs.
7 Does that look familiar?

8 A. Mm-hmm.

9 Q. What is that?

10 A. That was the key to the Tahoe.

11 Q. Was that taken as well?

12 A. Yes.

13 MR. HUBBARD: Your Honor, I offer this in evidence
14 as State's 26.

15 MR. WILLIAMS: Without objection.

16 THE COURT: Without objection.

17 BY MR. HUBBARD:

18 Q. So this would have gone to your other vehicle?

19 A. That's correct.

20 Q. I'm going to show you State's 27. Do you recognize
21 that pistol?

22 A. I do.

23 Q. Is that yours?

24 A. Yeah. That's ours.

25 Q. What caliber is this?

1 A. Well, it takes a .410 shell or a .45 bullet and so I
2 guess you could say it's a .45 called The Judge.

3 Q. Who did this belong to?

4 A. Belonged to Lynda and myself. I actually bought it
5 for her.

6 MR. HUBBARD: Your Honor, I offer this into evidence
7 as State's 27.

8 MR. WILLIAMS: Without objection, Your Honor.

9 THE COURT: 27 is in without objection.

10 BY MR. HUBBARD:

11 Q. So when you were assessing what was taken, was this
12 pistol missing?

13 A. Yes.

14 Q. That's the pistol you got for your wife?

15 A. That's correct.

16 Q. State's 28, does that look familiar?

17 A. Yes.

18 Q. What is that?

19 A. It's a Gerber tool. It's a pocket knife with a
20 bunch of different tools in it.

21 MR. HUBBARD: I offer this in evidence, Your Honor,
22 as State's 28.

23 MR. WILLIAMS: Without objection.

24 THE COURT: All right. 28 in evidence without
25 objection.

DANNY TIDWELL - DIRECT BY MR. HUBBARD

213

1 BY MR. HUBBARD:

2 Q. Was this item also missing?

3 A. Yes.

4 Q. I want to show you two cell phones, State's 29 and
5 30. Do you recognize those?

6 A. Yep. That's my phone there and Lynda's phone
7 there.

8 MR. HUBBARD: Your Honor, I offer these into
9 evidence.

10 MR. WILLIAMS: Without objection.

11 THE COURT: 29 and 30 without objection.

12 BY MR. HUBBARD:

13 Q. State's 30 is whose phone?

14 A. That's mine.

15 Q. And then State's 29 is whose?

16 A. The aqua color is Lynda's.

17 Q. When it got quiet and y'all realized these fellows
18 were gone, were you looking for these two phones?

19 A. Yes. We were.

20 Q. These phones were missing?

21 A. Yes.

22 Q. Did you have any other pistols or weapons that were
23 taken? You mentioned the car door, you had a -- What did you
24 have in the car door?

25 A. Ruger LCP .380. Then we had a little .22 derringer

1 that I would take with me when I exercised.

2 Q. So you carried that one on your person?

3 A. Yes. When I went to exercise.

4 Q. Do you have your concealed weapons permit?

5 A. I do.

6 Q. Now, earlier in the day actually on March 7th when
7 you left your daughter's house after making that delivery, you
8 mentioned that you saw a car. Do you remember that?

9 A. Yes.

10 Q. I'm going to show you State's 31 and 32. Does that
11 vehicle look familiar?

12 A. It looks like that's the vehicle.

13 MR. HUBBARD: Your Honor, I offer these into
14 evidence.

15 MR. WILLIAMS: Your Honor, I am going to object at
16 this point in time.

17 MR. HUBBARD: That's fine. I'm marking them for
18 ID.

19 THE COURT: 31 and 32 ID on that.

20 (Whereupon, State's Exhibit #31 and #32 marked for
21 identification.)

22 BY MR. HUBBARD:

23 Q. Let me ask you for further purposes, do you know
24 whose camera took these photos?

25 A. Yes.

DANNY TIDWELL - DIRECT BY MR. HUBBARD

215

1 Q. How do you know that?

2 A. Well, I know. I know where it is. I'm very
3 familiar with the area. That's my daughter and son-in-law's
4 house and at that time they had a real estate sale sign in the
5 front yard.

6 MR. HUBBARD: Okay. Your Honor, I'll just keep
7 these for ID.

8 THE COURT: Okay.

9 BY MR. HUBBARD:

10 Q. Now, Danny, you mentioned you heard a noise that
11 night. You thought it was your ice maker. Once daylight came
12 did you realize what that noise was and where it came from?

13 A. Oh, yeah.

14 Q. What was it?

15 A. Well, they had broken the window in the den and came
16 through the window. That's how they came and got into the
17 house.

18 Q. Using State's Exhibit 5, charts the layout.
19 Whereabout is that window?

20 A. Right there.

21 Q. Right near your eating area?

22 A. (Witness nodding head.)

23 Q. Okay. I want to show you a series of photographs,
24 State's 33, 34, 35, 36, 37. Do these depict various angles of
25 that window?

1 A. Yes. You can see in that one the damage and that
2 one. That one. All of them.

3 MR. HUBBARD: I offer these into evidence, Your
4 Honor, 33 through 37.

5 THE COURT: Any objection?

6 MR. WILLIAMS: We have a matter, Your Honor. I just
7 wanted to make sure she's okay, Your Honor. If I could
8 see that again.

9 MR. HUBBARD: Sure.

10 THE COURT: Do you need a break?

11 (Juror. No. I just needed to stand.)

12 MR. WILLIAMS: Without objection, Your Honor.

13 THE COURT: Okay. 33, 34, 35, 36, 37, photos of the
14 window in the den broken are admitted.

15 BY MR. HUBBARD:

16 Q. Looking at 33, 34 and 35, are these from the inside
17 of the house?

18 A. Yes.

19 Q. Now, 33, is that kind of a distance shot from the
20 windows showing that den/living area?

21 A. Yes.

22 Q. The next photo 34, getting a little bit closer to
23 that area where the window is?

24 A. Yes.

25 Q. It shows a little bit of the eating area?

DANNY TIDWELL - DIRECT BY MR. HUBBARD

217

- 1 A. Yes. That's correct.
- 2 Q. 35, is that the inside view of that broken window?
- 3 A. Yes.
- 4 Q. 36 and 37, is that from the outside?
- 5 A. Yes. That's correct.
- 6 Q. Again, showing the damage to that window?
- 7 A. That's right.
- 8 Q. Danny, when you went to bed at 8:00 on March 7th, to
- 9 your knowledge was that window okay?
- 10 A. To my knowledge it was okay.
- 11 Q. The next day this is what you found?
- 12 A. Yes.
- 13 Q. Now, we have talked about some of these fellows that
- 14 were in the house. You mentioned one with glasses. At any
- 15 time could you make any kind of ID or see the faces of these
- 16 individuals?
- 17 A. No. Other than that one that got close enough to me
- 18 that I could see him but it was just this part of his face,
- 19 the glasses.
- 20 Q. And that's the guy that you think at some point
- 21 actually helped you a little bit?
- 22 A. I think.
- 23 Q. Okay. Now, let's talk about Mr. Lowman, Abin Lee
- 24 Lowman. Do you recall sometime prior to March 7th, March 8th
- 25 Mr. Lowman coming by your store?

- 1 A. I do.
- 2 Q. When he came there, who did he ask for?
- 3 A. Uhm, when he came in, he, I think he just kind of
4 looked around a little bit with one of the ladies in the store
5 and then he asked to speak to me and she came and got me and I
6 came up front.
- 7 Q. Now, did you recognize Mr. Lowman?
- 8 A. I did not.
- 9 Q. Did he tell you he knew you?
- 10 A. Yes.
- 11 Q. Did it turn out you knew his family or someone in
12 his family?
- 13 A. Yes. I knew his daddy very well.
- 14 Q. Who is his daddy?
- 15 A. Herman Cheatham.
- 16 Q. How did you now Mr. Cheatham?
- 17 A. He was a regular customer of ours. He passed away
18 but he traded with us. I thought a lot of him.
- 19 Q. When Mr. Lowman came in, did he indicate you
20 probably wouldn't recognize him?
- 21 A. Yeah. Because he said he was so young. He said my
22 dad would bring me in when I was like three years old or
23 something like that and after he mentioned that, I vaguely
24 remembered it but I would have never recognized him.
- 25 Q. Do you recall if you sold him anything that day, if

DANNY TIDWELL - DIRECT BY MR. HUBBARD

219

1 you did?

2 A. No. I didn't.

3 Q. Do you know if anybody else in the store had sold
4 him anything?

5 A. I don't and I recall him saying, he looked at a few
6 things with me and said he was coming back or he would be back
7 or something like that.

8 Q. Do you recall seeing him again after that?

9 A. I don't.

10 Q. Now, I want to ask you about Lynda. You say between
11 the two of you who tends to be the more placid one?

12 A. I would say that would be me. I think I'm probably
13 -- She's a little nervous.

14 Q. After this event, has that changed how both of you
15 are?

16 A. Absolutely.

17 Q. And as for Lynda, how is she doing?

18 A. She's, with time it's, you know, time heals by the
19 grace of God that both of us are but putting things back
20 together. We know that we have to and we just lean on our
21 Lord to bring us through.

22 Q. Are y'all doing okay now?

23 A. We are. We are. Having to relive all of this is
24 traumatic as you can imagine but we're doing fine.

25 Q. I do want to ask you this: I think I forgot to ask

1 you. When these guys came in and asked about your safe, what
2 else did they say? Do you recall if they knew who you were?

3 A. Yeah. When they asked for the safe, I remember them
4 saying, and I told them I didn't have a safe, they said, "You
5 are Tidwell Jewelers and you don't have a safe?" And I said I
6 don't have a safe here.

7 Q. Did you ever at any time prior to that tell them who
8 you were or what you did?

9 A. No.

10 Q. And I showed you the window that was busted. Once
11 y'all left out of your house to get help, could y'all tell if
12 anybody had been outside your doors, had used your doors?

13 A. Yeah. Both doors, outside doors were locked from
14 the inside so they came in and out of the window.

15 MR. HUBBARD: Thank you, Danny. Please answer any
16 questions Mr. Williams might have.

17 THE COURT: Let's take a short break before we start
18 on that. We have been going about an hour. Y'all step
19 into the jury room. Don't discuss the case. You can
20 step down but don't discuss your testimony, all right?
21 Take just a short break. We'll get done and maybe go to
22 lunch. All right.

23 (Whereupon, the jury entered the jury room at 11:50
24 a.m.)

25 (Short break.)

DANNY TIDWELL - CROSS BY MR. WILLIAMS

221

1 BAILIFF: All rise.

2 THE COURT: Please be seated. Let's bring the jury
3 back in.

4 (Whereupon, the jury entered the courtroom at 12:05
5 p.m.)

6 THE COURT: Mr. Williams, your witness.

7 MR. WILLIAMS: May it please the Court.

8 THE COURT: Yes, sir.

9 CROSS EXAMINATION

10 BY MR. WILLIAMS:

11 Q. Mr. Tidwell, you have been -- I'm sorry. I'm Theo
12 Williams. I think we have met at some point in time. I
13 should at least say hello.

14 A. Hello. I'm Danny Tidwell.

15 Q. I'm Theo Williams. We're probably about the same
16 age probably?

17 A. Probably. I'm 63.

18 Q. You make me feel bad. I'm 67.

19 A. You got me by four years.

20 Q. Mr. Tidwell, you have been doing the jewelry
21 business for a long time, haven't you?

22 A. That's correct.

23 Q. You have always been a jeweler in your own store or
24 have you worked for other jewelers before you got your own
25 store?

1 A. I worked for my brother for a couple of years before
2 I started.

3 Q. And I know you've been through, everybody knows
4 you've been through a bad situation. If you don't remember
5 something, that's fine but I'm going to ask you a question.
6 When you sell so much jewelry that you do, are you able to
7 remember your jewelry and the people you sell it to and things
8 like that pretty well?

9 A. Pretty well.

10 Q. Because you work in a small town and you remember
11 seeing Mr. Lowman come into your house? I mean come into your
12 store --

13 A. That's correct.

14 Q. -- to buy something. He was looking around for
15 something, right?

16 A. He was looking that day. I don't remember him
17 buying anything.

18 Q. Do you remember if he was looking for a woman's
19 jewelry, a ring for a woman?

20 A. I don't recall that. Seems like I remember him
21 looking at a chain with me for himself possibly but I don't
22 remember. He looked at several things as we talked and we
23 talked about his dad was mainly what we talked about. That
24 was kind of a mission I had to be honest with you, to talk to
25 him a little bit about his dad.

DANNY TIDWELL - CROSS BY MR. WILLIAMS

223

1 Q. I got you. Well, when you sell something out of
2 that store, you give a receipt I assume to whoever you sell
3 something to?

4 A. Not always. We do sometimes but not always.
5 Usually if the customer asks for a receipt, we'll give them a
6 receipt. If they pay on lay away or a bill or something, we
7 give them receipts.

8 Q. So you wouldn't necessarily have a list of
9 everything that you sold out of that store?

10 A. No.

11 Q. Do you remember the day that he came into your
12 store?

13 A. All I can tell you is it was a day but I don't
14 remember what day or date or day of the week.

15 Q. So March the 8th was the day they came in and to
16 your house. That was what date, Wednesday?

17 A. That was Wednesday morning.

18 Q. So Tuesday would have been March the 7th; Monday
19 would have been March the 6th; Sunday would have been March
20 the 5th; Saturday would have been March the 4th; and March the
21 3rd would have been a Friday?

22 A. That sounds correct.

23 Q. And you would been open on Friday in Johnston,
24 right?

25 A. That's right.

1 Q. Do you think he might have come in to see you on
2 Friday, March the 3rd?

3 A. That's a possibility.

4 Q. Can I ask you to look at something and you tell me
5 whether or not this looks like something that might have been
6 sold in your store or not.

7 A. Mm-hmm.

8 Q. Would you remember that?

9 A. I should.

10 MR. WILLIAMS: May I approach the witness, Your
11 Honor?

12 THE COURT: You may.

13 BY MR. WILLIAMS:

14 Q. (Proffering.)

15 A. Yes. Yes. It could have been bought from us. This
16 looks like it could have been bought out of the secondhand.
17 It's not something that we normally stock in our regular
18 inventory.

19 Q. I understand. But sometimes you have some
20 secondhand items --

21 A. Correct.

22 Q. -- that you sell out of your store?

23 A. Correct.

24 Q. And that looks somewhat familiar to you?

25 A. Yeah. I mean, I have seen them there. They are

DANNY TIDWELL - CROSS BY MR. WILLIAMS

225

1 mass produced. But yeah. It's definitely a possibility.

2 Q. And would you have probably charged a
3 hundred dollars for that?

4 A. Yeah. That's believable.

5 Q. Can you say a hundred percent that you didn't sell
6 that ring on Friday, March the 3rd of 2017?

7 A. Yes, sir. I did not sell a ring to him. He did not
8 make a purchase from me.

9 Q. Could somebody else have sold him that ring on that
10 day?

11 A. Possibly.

12 Q. Who all works in your store?

13 A. Well, there's nine of us in that store.

14 Q. That's a big store. Everybody does the sales in
15 that store?

16 A. Oh, yeah. Well, there's a few that hardly ever come
17 up front but for the most part everybody is welcome to go up
18 front.

19 Q. Let me take you back to the day before March the
20 8th. March the 8th is pretty easy for me to remember. That's
21 my birthday.

22 A. Happy birthday.

23 Q. Thank you. It wasn't a happy day for you that day,
24 was it?

25 A. Not at all.

1 Q. March the 7th which would have been the day before,
2 you went through some detail about what you did and how you
3 left the store and you talked about buying Mexican food. I
4 believe you said that you went to the Mexican place to get
5 Mexican food for yourself but your wife doesn't like Mexican
6 food and I thought you said on direct that you sat there and
7 waited on it to be cooked?

8 A. That's correct.

9 Q. Could you have possibly told law enforcement that
10 you ordered it and drove out of town and came back about five
11 minutes later because it took a while to cook it?

12 A. Exactly. We could have done that.

13 Q. Do you remember maybe that statement sounds familiar
14 to you?

15 A. Yeah.

16 Q. So the point of all that is that something was
17 happening on March the 7th which was the day before this
18 happened and that's the date when you observed some strange
19 occurrence that happened around your store, didn't you?

20 A. I did. We did.

21 Q. Tell the jury about what you saw around your store
22 on the day before this happened on March the 7th, what you
23 observed in front of your store.

24 A. Well, uhm, we saw this guy staggering around out
25 front. He was acting crazy and, uhm, the girls in the store

1 were more alarmed than I was but they kept -- I have a young
2 grand-daughter that's in the store and she was there, comes
3 there after school and she would have been 10 at that time and
4 she was kind of shaken up by the way, his mannerisms and he
5 had a mask on, a ski mask.

6 Q. So you have a guy in front of your store the day
7 before you have a home invasion and he's acting weird and he's
8 got a ski mask on. Could you tell how tall the guy was with
9 the ski mask on?

10 A. Yeah. I mean, I saw him after he took the ski mask
11 off. We called the police.

12 Q. So you actually called law enforcement that day and
13 law enforcement came down there and stopped and talked to that
14 guy?

15 A. That's correct.

16 Q. Describe having had his mask taken off what he
17 looked like.

18 A. He was kind of a short guy. Just an average sized
19 guy about my height. I didn't walk up to him so... Just, he
20 was probably a half a block away from me and we were watching
21 him through the door of the store.

22 Q. Was he white or black?

23 A. He was a black male.

24 Q. Now, I assume, and you should never do that, that
25 people don't just get in front of your store everyday with a

1 ski mask on and you have to call law enforcement everyday?

2 This was an unusual occurrence, wasn't it?

3 A. It was.

4 Q. Did you see him get picked up that day by another
5 vehicle?

6 A. Yes.

7 Q. And what type of vehicle picked him up that day?

8 A. It was a Honda Ridgeline, kind of greenish color.

9 Q. So a green Honda Ridgeline picked him up. Was this
10 before law enforcement got involved and talked to him or
11 after?

12 A. No. We didn't -- I saw that vehicle down near the
13 Johnston fax and copy and he kind of, he noticed that we were
14 watching him and didn't stop him. When the police got there
15 and questioned him, I guess they ID'd him and they made him
16 take the mask off and he just wandered across to our side of
17 the street and went into the Johnston fax and copy.

18 Q. Is that when you saw the Honda Ridgeline pick him
19 up?

20 A. Yes. He comes out of there and gets in that and
21 they drive off.

22 Q. Was law enforcement still around when that vehicle
23 came around and picked him up?

24 A. I believe they were.

25 Q. It was Johnston town police?

DANNY TIDWELL - CROSS BY MR. WILLIAMS

229

- 1 A. Town police.
- 2 Q. So they possibly got the tag number of that
- 3 Ridgeline or whatever it is?
- 4 A. Uh-huh.
- 5 Q. Is that a truck?
- 6 A. It is.
- 7 Q. You were describing I guess your average life or
- 8 when you go to bed, what you eat, stuff like that. You're
- 9 right. It's not very exciting but you enjoy it though, don't
- 10 you?
- 11 A. That's the life I want.
- 12 Q. And you're right there on that par 3, aren't you?
- 13 A. Yes.
- 14 Q. It looks like they have shaved that hill down a
- 15 little bit. Have they cut down the hill a little bit so it's
- 16 not so hard?
- 17 A. No.
- 18 Q. Still about the same?
- 19 A. Still about the same.
- 20 Q. Do you play golf?
- 21 A. No. I haven't played in almost ten years.
- 22 Q. You have some binoculars that you have in the back
- 23 of the house because you don't have any curtains or anything
- 24 there so do you use those binoculars to watch people tee off
- 25 on number 4 to see if they push it off to the right in the

1 pond or if they hook it over there in the woods?

2 A. Sometimes I do that. Sometimes I watch wildlife,
3 ducks on the pond. A lot of things.

4 Q. Now, are these the same binoculars that one of the
5 individuals who was in your house took out to use to see if he
6 could see something?

7 A. I know they're missing. I don't know what he was
8 going to do with them.

9 Q. Well, it was nighttime, right?

10 A. Mm-hmm.

11 Q. Did you see an individual actually pick up the
12 binoculars to look at anything?

13 A. One individual in one of the robbers?

14 Q. One of the robbers.

15 A. No. I did not see him pick up anything.

16 Q. So when you described these items like binoculars, a
17 couple of guns, these items are just items that are missing?
18 You never saw any particular person with those items; is that
19 correct?

20 A. No.

21 Q. Let me ask you about the money clip.

22 A. Okay.

23 Q. You had \$3000.00. This is kind of a heavy duty
24 money clip, isn't it?

25 A. It is.

DANNY TIDWELL - CROSS BY MR. WILLIAMS

231

1 Q. It's not something you normally see in a jewelry
2 store, is it?

3 A. We do sell them. They have been discontinued but we
4 haven't sold many of them. I think the only one that I know
5 of other than me that I can think of that has gotten one, I
6 think I gave my brother one and he may still have it.

7 Q. Because it is unique?

8 A. It's pretty unique.

9 Q. Because you can't normally put \$3000.00 worth of
10 folded money in a money clip unless you've got something that
11 has super duty springs and stuff like that because it just
12 won't fit?

13 A. Right. Well, you can put it in a rubberband.

14 Q. True.

15 A. That's a good money clip.

16 Q. So when you had this money, was this money that you
17 would normally carry around or is this like safe money that
18 you didn't want to leave at the office?

19 A. We're off on Wednesday and we do, it's like Rick
20 brought up, that's your Saturday. It is our Saturday. We go
21 shop, pick up groceries, things for the store. Most of the
22 time when we do shopping for the store, we use credit cards
23 and that kind of stuff.

24 Q. So you don't have a process where you would go by
25 the bank and do a night deposit like say if you were a grocery

1 store or something like that that they might have a night
2 deposit because there's a bank near where you are, right?

3 A. That's correct.

4 Q. Is that your bank? Is that who you bank with?

5 A. Yes. First Citizens.

6 Q. What's the name?

7 A. First Citizens.

8 Q. And it's got a night deposit there where you can
9 slide the door or pull the thing down and drop the night
10 deposit in?

11 A. Right.

12 Q. Do you do a night deposit every night normally?

13 A. No. We do not.

14 Q. Do you ever do a night deposit?

15 A. No. We don't.

16 Q. That's because as a jeweler you don't deal with that
17 much cash normally?

18 A. Usually not.

19 Q. Okay. Now, in describing the jewelry store that you
20 work at with the eight or nine people that work there -- Let
21 me ask you this: Have you ever been robbed before?

22 A. Yeah. We've had night robberies before.

23 Q. How many have you had?

24 A. Uhm, four.

25 Q. And as a result of those night robberies have you

DANNY TIDWELL - CROSS BY MR. WILLIAMS

233

1 placed any type of surveillance cameras in the jewelry
2 store?

3 A. Oh, yeah.

4 Q. Now, how many cameras do you have in the jewelry
5 store?

6 A. Uhm, nine.

7 Q. Would you have them at all the corners and on the
8 outside, too?

9 A. Yes. We do.

10 Q. Any in the back room?

11 A. Oh, yeah.

12 Q. So you've got a safe in the back room which you can
13 see when you walk in. Then you've got cameras in the back
14 room. You have four around the corners of the front room and
15 cameras on the outside. Would they be on the back of the
16 building or the front of the building?

17 A. Yes. On the back also.

18 Q. And on the front of the building you would have
19 cameras maybe from First Citizens Bank that might overlap and
20 see the front of your building?

21 A. Possibly.

22 Q. It's kind of like in England you can almost see what
23 anybody is doing at any point in time. How long do these
24 cameras that you have, what's their recordation process? Is
25 it just a loop that keeps going?

1 A. That's correct.

2 Q. And how long would it store before it wrote over
3 those again?

4 A. About two or three weeks.

5 Q. Do you know whether or not law enforcement retrieved
6 any of the videotapes from the back of your building or as far
7 as you know from anywhere? There would be no reason to get it
8 from inside the building as far as you're concerned, right?

9 A. Yes. They tried but there was nothing on there on
10 the back showing anything.

11 Q. So there was nothing they could see on the back but
12 didn't say it was broken? It wasn't broken or anything, was
13 it?

14 A. No.

15 Q. Just nothing on there?

16 A. No.

17 Q. Now, I hesitate to ask this. It's been over a year.
18 You probably couldn't tell if somebody came in your store on
19 March the 3rd now or not, could you?

20 A. No.

21 Q. It's long since been over with?

22 A. Yes.

23 Q. So besides the cameras, you have a fob system which
24 activates an alarm. Now, is this a silent alarm or is this a
25 noise alarm that would just let God and everybody know?

DANNY TIDWELL - CROSS BY MR. WILLIAMS

235

- 1 A. It's both.
- 2 Q. Got one of those little horns that just really
- 3 sounds loud?
- 4 A. Right.
- 5 Q. And that would come on if you unlock the door, went
- 6 inside your office building and didn't use the fob to turn it
- 7 off?
- 8 A. That's correct.
- 9 Q. And it will also send a text to your various
- 10 employees letting everybody know that somebody is there,
- 11 right?
- 12 A. That's correct.
- 13 Q. So if anyone had attempted to go inside that
- 14 building on March the 8th which is the day that you would have
- 15 been closed particularly at 1:30 or 2:00 in the morning, that
- 16 would have alerted the alarm company as well as the people
- 17 that work for you?
- 18 A. That's correct.
- 19 Q. Because it would have reported an alarm, right?
- 20 A. Yes.
- 21 Q. What if you had used the fob system on it? Meaning
- 22 what if you had used your fob to cut off the alarm, would it
- 23 still awaken the people who work for you letting them know the
- 24 store had been opened?
- 25 A. Yes.

1 Q. So it's a fail safe?

2 A. Yes.

3 Q. And, of course, none of that happened?

4 A. None of that happened.

5 Q. Meaning the alarm didn't go off?

6 A. Nope.

7 Q. Nobody got wakened up out of their beds? There was
8 no evidence that anyone had tried to go into your store or go
9 into your safe, was there?

10 A. No.

11 Q. Okay. Now, when you awakened to the ice machine and
12 you heard ATF, yelling ATF, how many voices did you hear?

13 A. I can say it was several voices but I don't - I
14 didn't count them.

15 Q. At no point, at no point when you're talking to any
16 police officers throughout this entire ordeal did you ever
17 indicate that more than three people were involved in this,
18 did you?

19 A. No.

20 Q. Now, as I recall your testimony you saw three
21 lights, three flashlights; is that right?

22 A. That's correct.

23 Q. Could you tell from the lights if they were like
24 you see on TV, these guys that have the little black turn
25 flashlights so they can hold it in their mouth and do all the

1 safe stuff?

2 A. Right.

3 Q. Then you've got the regular flashlights that you and
4 I would have. Could you tell what type of lights were being
5 used in your house when they came in? Because it was dark.
6 You could tell a light was being shown, right?

7 A. Yeah. They were powerful flashlights.

8 Q. So it appeared to be like maybe a hand held
9 flashlight or you couldn't tell that much either?

10 A. No. I just know they were powerful flashlights.

11 Q. Because it lit everything up?

12 A. (Witness nodding head.)

13 Q. At any point in time during this ordeal did whoever
14 was in your house, did they turn the lights on?

15 A. No.

16 Q. Because it was open to the back and it was what
17 time?

18 A. I didn't know exactly the time. I know they were
19 there approximately two hours. That's what my statement
20 says.

21 Q. You don't know what time they came in?

22 A. Well, no. I just know my lights go out and I assume
23 that's when they came in, after midnight.

24 Q. Sometime after midnight. And, of course, in your
25 neighborhood if your lights are on after midnight, that's

1 unusual, right?

2 A. Oh, yes. Somebody will send somebody to check
3 things out most likely.

4 Q. I got you. Well, he takes -- I say he. You
5 observed one person who wore black rimmed glasses because he's
6 the person who was the kind, we'll call him the good robber
7 and the bad robber?

8 A. Right.

9 Q. So the good robber loosens your deal on your wrists
10 and that's the one that you observed that had the black
11 glasses?

12 A. I believe so.

13 Q. He was not the one in charge, was he?

14 A. I don't know that.

15 Q. Well, you had said on direct that one of the guys
16 appeared to be authoritative in terms of telling somebody else
17 not to be showing the flashlights like he was in charge. Did
18 you mean that he was in charge or that he was just mad that
19 the other guy was showing the flashlight?

20 A. I really don't know. It just came across that
21 way.

22 Q. Got you.

23 A. I can't testify that it was the guy with the black
24 rimmed glasses or one of the others. I just know that he got
25 reprimanded.

DANNY TIDWELL - CROSS BY MR. WILLIAMS

239

1 Q. Could you tell anything about the person's voice as
2 to either age or region where they might be from?

3 A. No. I couldn't.

4 Q. Could you tell if they were white or black?

5 A. Uhm, well, I knew that one was black but I couldn't
6 tell on the rest of them.

7 Q. You say "on the rest of them." You could
8 distinguish by looking at the figures that one would be taller
9 than the other one, right?

10 A. Uhm, I thought that they were all big to be honest
11 with you.

12 Q. Bigger than you?

13 A. Yeah.

14 Q. How tall are you?

15 A. Fine nine maybe.

16 Q. Okay. Might have been five ten earlier, but five
17 nine now.

18 A. Could have been. Yeah. I'm under oath.

19 Q. Was one of the guys smaller or about your size?

20 A. I really couldn't tell. I was laying on the floor
21 when they got to me and that was the position I was in when we
22 got tied.

23 Q. Now, you did note that one of the guys had on a dark
24 pair of pants and their shoes were a soft sole type of shoes,
25 right?

1 A. Right. The way I was able to determine that, one of
2 them kicked me in the cheek. I think it was accidentally. I
3 don't know. I think if he wanted to hurt me, he could have.

4 Q. Just forgot where he stored you?

5 A. I just assume. It was dark and hard to --

6 Q. When they came in, could you tell anything else
7 about how they were dressed, what kind of mask they had on or
8 did they have on a mask?

9 A. Well, me not being able to see anything, it was hard
10 to tell but we felt like they did all have masks on.

11 Q. Why did you feel that?

12 A. I think it was the way that they talked, you know.
13 You put a mask over your mouth, you talk like this. When you
14 don't have a mask, you talk like this and so that was the way
15 that I kind of figured that they had masks on.

16 Q. Could you tell about the length of their hair?

17 A. I couldn't.

18 Q. There was a conversation or a statement that was
19 made after about an hour and a half by one of them that said I
20 don't see him or they're not coming back or what. Do you
21 recall exactly what they said?

22 A. I don't remember exactly like that. I remember them
23 saying they were looking for a ride. Where is our ride? That
24 kind of stuff.

25 Q. Just looking for a ride?

DANNY TIDWELL - CROSS BY MR. WILLIAMS

241

1 A. They were looking for their ride. It was obvious
2 that they were looking for a way out.

3 Q. When you go into your property, and I think you told
4 the Solicitor that you come in in front of, that is in front
5 of, in front of Persimmon Hill Golf Clubhouse, you turn left
6 there by number 9?

7 A. What direction are we going in?

8 Q. If you go in the main entrance to Persimmon Hill
9 where the clubhouse is --

10 A. Right.

11 Q. -- do you get to your house by turning left there?

12 A. What direction are you going in? Are you going
13 south or north on 121?

14 Q. Say you're coming from Saluda?

15 A. Saluda I turn left.

16 Q. You turn left?

17 A. Correct.

18 Q. And you would turn left again?

19 A. Well, you don't turn. It's just, it goes up to the
20 parking lot and then it bears on around to the left. It's not
21 like you're at an intersection.

22 Q. Got you. And that runs along the ninth hole?

23 A. The ninth hole and the practice tee.

24 Q. Okay. And then you would bear to the right to find
25 your house? Is that how you would get to your house?

1 A. No. It goes straight down. There's three houses
2 down there, the Harmon house, the Meredith/Havird house that
3 he stays in. It just comes down and dead ends to those three
4 houses.

5 Q. So when you say dead ends to those three houses,
6 could I ask you to step down, Mr. Tidwell?

7 A. Absolutely. (Witness complies.)

8 Q. On State's Exhibit number 9, is this the roadway
9 that you're talking about?

10 A. Yes. The neighbor on the top side is over here.
11 This comes in to the Havird's.

12 Q. That would be your house?

13 A. That's my house.

14 Q. Right down here is par 3. I mean is the third
15 hole?

16 A. Par 3 is right here.

17 Q. Right here?

18 A. Yes.

19 Q. This is three pond?

20 A. This is three pond.

21 Q. Then you've got a pond that runs along four?

22 A. That's correct.

23 Q. Thank you, sir.

24 A. Yes, sir. (Resumes witness stand.)

25 Q. So if anybody was using this roadway, they would

DANNY TIDWELL - CROSS BY MR. WILLIAMS

243

1 have to -- Well, that's a paved road, isn't it?

2 A. Yes.

3 Q. It's not a dirt road. So if somebody was using a
4 vehicle to transport somebody down there, if they came in the
5 paved road to drop somebody off, they would not leave any
6 prints, would they? If it's not dirt, they wouldn't leave
7 like tire prints on that, would they, more than likely?

8 A. No.

9 Q. They would have to come in a different way?

10 A. That's correct.

11 Q. Did you see the officers out there looking around
12 your back yard to see if they observed any tire prints or
13 not?

14 A. Oh, yeah.

15 Q. Oh, yeah. Where were they looking for tire
16 prints?

17 A. They were looking for tire prints in the back.

18 Q. And that would be in the back of your yard next to
19 the green or where would they be looking for it in the back?
20 Because you've got a pretty small backyard, don't you?

21 A. Yes. No. They scoured the woods and went back on
22 that access road that comes into the back. That's where they
23 were looking for that kind of stuff.

24 Q. So they weren't even looking for anyone who would
25 have come in that front entrance who would have come by the

1 clubhouse then, right? They were looking for somebody coming
2 in maybe from the airport, right?

3 A. Yes. I guess. They were all parked all over. We
4 had police cars and deputy cars all over so I assume that was
5 pretty well covered.

6 Q. Now, you have two cars, right?

7 A. That's correct.

8 Q. And one is a black Tahoe?

9 A. At that time.

10 Q. And the other is a white --

11 A. Suburban.

12 Q. What's a Denali?

13 A. It's GMC. It's GMC's version of a Suburban.

14 Q. And so it's a white GMC Denali is what you had?

15 A. That's correct.

16 Q. That's your wife's car?

17 A. No.

18 Q. That's your car?

19 A. That was mine.

20 Q. She had the black Tahoe?

21 A. She had the black Tahoe.

22 Q. The tires on those two particular vehicles, those
23 are large vehicles, aren't they?

24 A. Yes.

25 Q. What inch tires do those vehicles carry on them?

DANNY TIDWELL - CROSS BY MR. WILLIAMS

245

1 A. 18. 20.

2 Q. So they would have that as comparison to take those
3 tire prints away from somebody else that might have come into
4 your yard, wouldn't they maybe?

5 A. Run that by me again.

6 Q. Do you know whether or not they measured your tires
7 in any way? Did you see them?

8 A. That law enforcement did?

9 Q. Law enforcement. Yes.

10 A. They went over that vehicle top to bottom. They
11 processed it here in Saluda. SLED went over it. Saluda
12 County. They could have very well measured the tires. I
13 don't know.

14 Q. I got you. Your storage room, it was open?

15 A. Yes.

16 Q. What was in your storage room?

17 A. All kinds of stuff. Yard tools. A freezer. Some
18 hunting gear.

19 Q. Was it locked?

20 A. No.

21 Q. The window that - the window wasn't - the sash was
22 broken, wasn't it? It wasn't the glass that was broken,
23 right?

24 A. Right. The twist lock on the window, they actually
25 forced the window up and splintered the wood screws out of the

1 lock and just pushed it up. I didn't realize that would be
2 that easy to do.

3 Q. Kind of like thing you might do with a tire tool or
4 something, just wedge that thing underneath there and pop the
5 window up and it would destroy it or anything that was metal
6 that was that strong, right?

7 A. I would think.

8 Q. How big is that window? I know we can see it in the
9 pictures but I can't tell the size from that.

10 A. Maybe 24 by probably six feet. 24 by 72, if they
11 make such a thing.

12 Q. So a person could easily come in through that
13 window?

14 A. Oh, yeah.

15 Q. How much of a -- Do you have to climb up on a ladder
16 to get in there?

17 A. No. They can step right in.

18 Q. So was there a table there?

19 A. There's a table but it's not a table that would --

20 Q. Prevent them from coming through?

21 A. No. There's a table just a few feet, dining room
22 table. We don't use it very much.

23 Q. Now, we saw an awful lot of pictures that were
24 introduced here into evidence. Would it be safe to say that
25 these pictures were taken after your house was cleaned up?

DANNY TIDWELL - CROSS BY MR. WILLIAMS

247

1 A. No. There's a bunch of them that I have seen. I
2 haven't seen any that it's clean. All of them have been, it
3 shows drawers dumped out on the floor and that kind of stuff
4 where they ransacked the house.

5 Q. Well, I guess I was looking at the ones from the
6 living area. It didn't appear to be that messy or anything,
7 that's why I was curious.

8 A. It wasn't that much of a mess in the family room.
9 It was mainly in the bedrooms where we had drawers and that
10 kind of stuff.

11 Q. What was the value of the jewelry that was taken?

12 A. Uhm, approximately \$100,000.00 wholesale.

13 Q. A hundred thousand dollars wholesale?

14 A. Yes.

15 Q. What all was taken from your house?

16 A. Do you want me to describe it in detail?

17 Q. In detail. Just go right through it.

18 A. Well, my wife's diamond ring was a three karat
19 solitaire, her engagement ring and she had like an eight karat
20 diamond bracelet and she had a diamond necklace. She had a
21 diamond watch. You've got to understand, we've been in the
22 business 42 years. We had accumulated that stuff and she wore
23 it. A couple of other rings. Blue sapphire ring. Items like
24 that.

25 Q. And did you ever get any of this jewelry back?

- 1 A. No.
- 2 Q. None?
- 3 A. Zero.
- 4 Q. So we saw pictures of some other items that
- 5 obviously you've retrieved which would have been a couple of
- 6 guns, right?
- 7 A. Well, I haven't retrieved them.
- 8 Q. Saluda's got them?
- 9 A. Correct.
- 10 Q. How many guns does Saluda have in its possession
- 11 right now that was taken from your house?
- 12 A. One is all I know of.
- 13 Q. Okay. Did they return any of the guns that were
- 14 taken from your home?
- 15 A. No.
- 16 Q. What is the gun that Saluda has in its possession?
- 17 A. It's a Taurus Judge .45 caliber.
- 18 Q. So the camo looking pistol that was shown to you
- 19 earlier was not a pistol that you --
- 20 A. That was not my gun.
- 21 Q. How many guns were taken from your house?
- 22 A. Three.
- 23 Q. How many guns did they leave at your house?
- 24 A. Zero. There was a .22 rifle left on top of the ice
- 25 box.

DANNY TIDWELL - CROSS BY MR. WILLIAMS

249

1 Q. No shotguns?

2 A. There might have been a shotgun in the storage
3 room.

4 Q. Outside?

5 A. Outside.

6 Q. Unlocked?

7 A. Unlocked.

8 Q. If I could ask you to look at State's Exhibit number
9 26. What is that again?

10 A. That's the keys to my wife's Tahoe.

11 Q. The black Tahoe?

12 A. Mm-hmm.

13 Q. When they left, they left in the white Denali; is
14 that correct?

15 A. That's correct.

16 Q. Those keys were not at your house when they left,
17 correct?

18 A. No. We do have two sets. We do have two sets. One
19 set was gone. They didn't take that vehicle. They took the
20 Suburban.

21 Q. Where was the other set?

22 A. Uhm, probably in my wife's pocketbook. I'm not
23 sure. That set was probably on the counter with my store keys
24 and other keys that they took.

25 Q. You weren't thinking at the time why don't we hop in

1 the Tahoe and take off. You were thinking we got to get the
2 police down here?

3 A. Correct.

4 Q. Understandable. If I could get you to look at
5 State's Exhibits number 25 though. What are those keys?

6 A. These are my wife's keys to the house and probably
7 my daughters' houses and a little small flashlight and grocery
8 store membership cards.

9 Q. Does she not have a store key on her key ring?

10 A. She did.

11 Q. Is it on there?

12 A. No.

13 Q. So are you saying that at the time that someone came
14 and robbed your house the store key would have been on that
15 key ring?

16 A. No. It would not.

17 Q. When did it not cease to be on that key ring?

18 A. It never was on that key ring.

19 Q. I'm sorry. I misunderstood you. She has a separate
20 key chain that has the store --

21 A. Well, we keep the store keys separate from our other
22 keys.

23 Q. Do you have any back up store keys? Does everybody
24 that works there have a store key?

25 A. No.

DANNY TIDWELL - CROSS BY MR. WILLIAMS

251

1 Q. Cell phones. Who is your provider on your cell
2 phones?

3 A. Verizon.

4 Q. On both?

5 A. Yes.

6 Q. And did you have more than those two cell phones?

7 A. That was all.

8 Q. At some point in time you got, someone asked for the
9 keys to the store and you gave them the keys to the store?

10 A. I did not give them to him.

11 Q. How did they secure those keys?

12 A. I told them where they were and they went and got
13 them.

14 Q. All right. And when they went and got them, where
15 did they go after they got the store keys?

16 A. That individual, it seemed like he left. I don't
17 know where he went but he didn't - he didn't bother me about
18 keys or anything. He might have still been there but he
19 didn't come back to me about how to open the safe. I'm not
20 getting it opened or anything like that. I didn't hear from
21 him that I know of, you know? I don't know who was what. All
22 I know is that he went. Some of them stepped over me and
23 looked out the window and that kind of stuff.

24 Q. So as far as you know that person remained at the
25 house until both of them left? He didn't go off until

1 everybody left, did he?

2 A. Well, we didn't hear any activity in the house. We
3 figured all of them were gone.

4 Q. Do you understand where I'm going with that?

5 A. No. I don't think so.

6 Q. All right. Let me -- I'll try to break it down.

7 A. All right.

8 Q. He gets the keys to the store?

9 A. Mm-hmm.

10 Q. And he has the information on the safe and he stays
11 there with his compadre whoever the compadre is up until they
12 both leave?

13 A. Well, we believe there were three in the house.

14 Q. Okay.

15 A. So I don't know. I don't know if he left. I don't
16 know what happened after that. I can't say after he got the
17 keys where he went, whether he stayed there. I can't
18 speculate.

19 Q. You can't say he left at all, can you?

20 A. I don't know that he left.

21 Q. Unless he maybe left in the white Denali with his
22 buddy. Are you sure there's three there or did you at one
23 point in time tell the police officer you thought there were
24 two but maybe the wife thought there were three and y'all
25 settled on three?

DANNY TIDWELL - CROSS BY MR. WILLIAMS

253

1 A. No. We pretty much said there were three
2 individuals.

3 Q. But not four?

4 A. Uhm, I couldn't -- I didn't see a fourth light. It
5 could have been four but I couldn't testify to that.

6 Q. Because if you didn't see him, could have been
7 five?

8 A. I just don't know who was rambling through the
9 house.

10 Q. Could have been 10?

11 A. Could have been.

12 Q. Did they do a bunch of fingerprints in your house to
13 check?

14 A. Oh, yeah.

15 Q. DNA testing?

16 A. I don't know about that.

17 Q. Well, did they check your DNA to make sure if they
18 found strange DNA on anything, that they could make sure it
19 wasn't you who had touched it?

20 A. Not to my knowledge. I don't remember them checking
21 me for DNA swab.

22 Q. They would expect to find your DNA --

23 A. Right.

24 Q. -- and fingerprints on your items?

25 A. Right.

1 Q. But for process of elimination you don't know if
2 they did that?

3 A. No.

4 Q. Anything else that's missing that you haven't told
5 us about?

6 A. Not that I know of. You've got to understand, this
7 is my first rodeo doing this.

8 Q. Well, you probably don't want to do it again.

9 A. I don't. It's a nightmare.

10 Q. I don't doubt that. I have actually been robbed
11 twice.

12 A. I'm sorry.

13 MR. WILLIAMS: Me, too. I nail my windows down now.
14 I will burn up in my house. Thank you for your help here
15 and I am truly sorry that you experienced this.

16 THE WITNESS: Thank you.

17 THE COURT: Any redirect?

18 MR. HUBBARD: No, sir, Your Honor. I have nothing
19 else from Mr. Tidwell. I ask that he step down.

20 THE COURT: You may step down. You're free to
21 mingle like you were. All right. We're at a good time
22 for a lunch break. Does an hour and 10 minutes sound
23 appropriate, folks? All right. Folks, take your lunch
24 break. Put your note pads in the jury room. Be back by
25 2:00. Go wherever you like. Go home, out to eat in

LYNDA TIDWELL - DIRECT BY MS. FULLER

255

1 private. Whatever you want. Don't discuss the case.

2 See you at 2:00.

3 (Whereupon, the Jury left the courtroom for the
4 lunch recess at 12:50.)

5 (Lunch recess.)

6 BAILIFF: All rise. Court is back in session.

7 THE COURT. Please be seated. Let's bring in our
8 jury.

9 (Whereupon, the jury entered the courtroom at 2:05
10 p.m.)

11 THE COURT: Call your witness.

12 MS. FULLER: Thank you, Your Honor. The State calls
13 Ms. Lynda Tidwell.

14 Thereupon,

15 LYNDA TIDWELL

16 after having been first duly sworn, testified as follows,

17 DIRECT EXAMINATION

18 BY MS. FULLER:

19 Q. Is it okay if I call Ms. Lynda?

20 A. Yes.

21 MS. FULLER: Permission to approach the witness,
22 Your Honor.

23 THE COURT: Yes, ma'am. You have permission
24 throughout.

25 MS. FULLER: Thank you, Your Honor.

- 1 BY MS. FULLER:
- 2 Q. How are you doing today, Ms. Lynda?
- 3 A. I'm okay.
- 4 Q. This morning we heard from your husband Mr. Danny.
- 5 How long have you guys been married?
- 6 A. 46 years.
- 7 Q. I believe he mentioned you guys have two
- 8 daughters?
- 9 A. We do.
- 10 Q. What are your daughters' names?
- 11 A. Tracy and Leslie.
- 12 Q. How about grandkids?
- 13 A. Abby and Courtney.
- 14 Q. So is it Tracy -- Who is Tracy's daughter?
- 15 A. Tracy has Courtney.
- 16 Q. Leslie has?
- 17 A. Abby.
- 18 Q. Ms. Lynda, I'm going to try not to keep you up here
- 19 too long. I just want to run through a few things, okay?
- 20 A. Yes.
- 21 Q. Now, you both own Tidwell Jewelers together?
- 22 A. Right.
- 23 Q. And you both live in Saluda County?
- 24 A. Yes.
- 25 Q. And where do you live?

LYNDA TIDWELL - DIRECT BY MS. FULLER

257

1 A. Persimmons Hill, Saluda County.

2 Q. And I just want to talk to you a little bit. What's
3 a typical day like for you?

4 A. Just like he said. We get up in the morning. We go
5 exercise and we come back, take my daughter back to her house,
6 come back. We exercise. Well, we exercise and then we come
7 home, get dressed and ready for work. Get there about 6:30.

8 Q. That's Tracy? You said you get your daughter?

9 A. Tracy. That's right.

10 Q. How many days a week do you exercise?

11 A. Three days.

12 Q. How about Mr. Danny?

13 A. Five days.

14 Q. So every time you go, you go with him, if you go?

15 A. Right.

16 Q. All right. Let's talk about this particular day.

17 A. Okay.

18 Q. Do you remember what day of the week it was?

19 A. It was Tuesday night.

20 Q. Let's start with Tuesday morning. I'm going to ask
21 you to keep your voice up a little bit, okay?

22 A. Okay.

23 Q. Take me through -- Let the jury know, what do you
24 remember about Tuesday morning? Anything out of the ordinary
25 that morning?

1 A. No. Just we do the same routine over and over
2 again, you know. Just went to work and nothing out of the
3 ordinary. Came home.

4 Q. Okay. So on that day did you work out that morning,
5 too?

6 A. Yes.

7 Q. What day of the week do you normally work out?

8 A. Monday, Tuesday and Thursday.

9 Q. Those are the days. This was a Tuesday so you would
10 have worked out that morning?

11 A. Right.

12 Q. You would have picked Tracy up as well?

13 A. Yes.

14 Q. Then you go to the store?

15 A. Right.

16 Q. What time would you have closed the store that
17 day?

18 A. About 6:00. Close at 6:00.

19 Q. Mr. Danny mentioned your normal routine?

20 A. Right.

21 Q. Is that still your routine now when you leave the
22 store to go by Tracy's house?

23 A. No. We don't do that anymore.

24 Q. You changed your method of delivering jewelry?

25 A. Right. Right.

LYNDA TIDWELL - DIRECT BY MS. FULLER

259

1 Q. Is that since this happened?

2 A. Yes.

3 Q. But on this particular day when you did that jewelry
4 drop off, did you notice anything strange or out of the
5 ordinary?

6 A. When we were going in, Danny said look at that car.
7 That's very odd. The car, I'm not familiar with that car and,
8 of course, I was not looking and I looked back and I saw a
9 light color car.

10 Q. Do you remember where you were when you saw the
11 car?

12 A. In front of Tracy's house, my daughter.

13 Q. So after this, you guys get supper and then you
14 mention you go home?

15 A. Yes.

16 Q. Do you recall what time you went to bed?

17 A. Uhm, about 9:00. I go usually about 9:00.

18 Q. Was Mr. Danny already asleep?

19 A. He was.

20 Q. Now, I want to talk about why we're here. So you go
21 to bed at 9:00. Tell the jury what's the next thing you
22 remember yourself?

23 A. The next thing I remember is people coming in
24 shouting, you know, "ATF. Come out with your hands up." And
25 Danny just leaned over me and said, you know, do what they say

1 and I said okay.

2 Q. Okay. Can you tell me what you were thinking, how
3 you were feeling when that happened?

4 A. Well, I was thinking it was law enforcement and so I
5 just figured I would do what they said to do. They would get
6 it all straightened out. It was the wrong house.

7 Q. Take me through what you did next?

8 A. I come out of my room with my hands up and I see
9 three people, each one of them had flashlight holding it like
10 this (indicating.)

11 Q. I want to show you a couple of exhibits. This is
12 State's 33. I'm going to ask you if you recognize it?

13 A. Yes. They were standing about right here, three of
14 them.

15 Q. Let the record reflect she is pointing to the back
16 window.

17 A. Right.

18 Q. And can you see where you were in this photograph?

19 A. No.

20 Q. Let me get you another one. I'm going to show you
21 what's in evidence as State's Exhibit 13. How about this?

22 A. Yes.

23 Q. Okay. Go ahead and explain to the jury where you
24 were?

25 A. I was laying this way and Danny was right in front

LYNDA TIDWELL - DIRECT BY MS. FULLER

261

1 of me. My head was at his feet.

2 Q. So let's back up a little bit. When you first came
3 out and you first saw them --

4 A. They said --

5 Q. -- through the window?

6 A. Right.

7 Q. Is this where you would have walked out?

8 A. Yes. Right out the door there.

9 Q. And you said you laid down behind this couch?

10 A. Yes. Danny was in front of me.

11 Q. Keep your voice up just a little bit. You're doing
12 just fine. You're doing great. Tell me what you remember
13 about that encounter. What happened next?

14 A. They just told us to lay down on our stomachs and we
15 did, put our hands behind our backs and they zip tied us.

16 Q. Did you get to see any identifying features on
17 anyone when they were doing that?

18 A. The glasses is all. One of them had glasses, dark
19 rimmed glasses.

20 Q. When did you get an opportunity to see that?

21 A. Right when - right when he came in the house.
22 That's the first thing I noticed was the glasses.

23 Q. Anything else about their physical appearance?

24 A. Uhm, one of them looked like he had army boots on.
25 They were dressed like military to me.

1 Q. Okay. Can you tell whether or not you can see any
2 of their faces?

3 A. I saw the glasses and, of course, I could see the
4 brown skin.

5 Q. So when you say brown skin, is that when you
6 realized it was a black male?

7 A. Yes.

8 Q. Could you see any other features on his face?

9 A. No.

10 Q. No?

11 A. (Witness shaking head.)

12 Q. Why couldn't you? Was he covering his face?

13 A. Oh, yes. I'm sorry. They had ski masks on all
14 three of them.

15 Q. You're saying all three had ski masks?

16 A. Yes.

17 Q. Ms. Lynda, go ahead and explain to the jury what do
18 you remember happening next?

19 A. Uhm, they were asking Danny, uhm, you know, uhm,
20 where is our safe. They kept saying where is your safe?
21 Where is your stuff? Where do you keep your stuff? They said
22 you are Tidwell Jewelers. You have a safe somewhere. Danny
23 was saying no. I don't have a safe in this house. One of
24 them had me, you know, holding me down and one of them had
25 Danny and the other one, I lifted my head and I saw him

LYNDA TIDWELL - DIRECT BY MS. FULLER

263

1 walking down our hall. He was saying I know there's other
2 people in this house.

3 Q. Did you ever tell them that you owned Tidwell
4 Jewelers?

5 A. No.

6 Q. You said the other one was walking down. Could you
7 tell what direction he was walking?

8 A. He was walking to the other bedrooms to see if
9 anybody was there and I heard Danny say no. It's just my wife
10 and I live here.

11 Q. You mentioned that they were holding you down. How
12 were they holding you down?

13 A. You know, not hard. Just making sure I stayed down,
14 putting their hands on me.

15 Q. Okay. What was going through your mind at that
16 point?

17 A. Well, they started, you know, using all this
18 profanity. Then I knew, I thought, well, they're not law
19 enforcement.

20 Q. I'm sorry. You said what?

21 A. They started using the profanity and I knew they
22 weren't law enforcement at that time.

23 Q. What happened next?

24 A. Well, they picked me up and they took me to the
25 laundry room but they got Danny and took him to the other side

1 of the house. I didn't know which room he was in.

2 Q. I'm going to show you what's been marked as State's
3 Exhibit 16 and ask you if you recognize it?

4 A. Yes. That's where I was. The pillow was different.
5 I was laying this way on my side.

6 Q. What room in the house is this?

7 A. That's the laundry room or wash room.

8 MS. FULLER: Your Honor, I move State's Exhibit 16
9 into evidence.

10 MR. WILLIAMS: Without objection, Your Honor.

11 THE COURT: 16 is in without objection.

12 BY MS. FULLER:

13 Q. Go ahead and point to the jury where you were.

14 A. The pillow was here. I didn't have a pillow at
15 first but I was facing that way sideways.

16 Q. Well, you mentioned a pillow. How did the pillow
17 end up in the laundry room?

18 A. Well, I guess I was shaking so bad that he asked me
19 if I was cold. I told him that, yeah, I was cold. So he gave
20 me a pillow and then he gave me a blanket. I saw him take it
21 off of my bed. I can see my bed from there. I can also see
22 the time from there because the time is on the ceiling. It
23 was 12.

24 Q. Okay. I'm going to ask you a couple questions about
25 that. You said you were shaking?

LYNDA TIDWELL - DIRECT BY MS. FULLER

265

- 1 A. Mm-hmm.
- 2 Q. What were you wearing?
- 3 A. I just had a nightgown on.
- 4 Q. You mentioned that the time was 12?
- 5 A. Right.
- 6 Q. Where is the clock?
- 7 A. It's on the ceiling.
- 8 Q. By --
- 9 A. In the bedroom.
- 10 Q. By on the ceiling, what do you mean by that?
- 11 A. It was, you know, those infrared. You can see it
- 12 red on the ceiling.
- 13 Q. So it's actually a clock that's down low and the
- 14 light shines on the ceiling?
- 15 A. Right. Right.
- 16 Q. So now we're dealing with midnight, early Wednesday
- 17 morning?
- 18 A. That's right.
- 19 Q. I'm going to show you a few more photographs marked
- 20 State's exhibit 42, 45, 46, 47. Take a moment and look at
- 21 them and see if you recognize them.
- 22 A. Yes. That's where I was laying. That's our
- 23 bedroom.
- 24 Q. This is your bedroom. And you say where you were
- 25 laying is that the laundry room?

1 A. Right.

2 Q. Looking at State's 45.

3 A. That's our bed.

4 Q. This would be considered the master bedroom?

5 A. Right. The master bedroom.

6 Q. And 46?

7 A. Right. That's right. That's our bedroom.

8 Q. And State's 47?

9 A. That's our bedroom.

10 MS. FULLER: Your Honor, at this time the State

11 seeks to move State's Exhibit 42, 45, 46 and 47 into

12 evidence.

13 MR. WILLIAMS: Without objection, Your Honor.

14 THE COURT: 42, 45, 46, 47 all without objection.

15 BY MS. FULLER:

16 Q. Step down and I'll show this to the jury. Go ahead

17 and explain to the jury what they're looking at in this

18 photograph.

19 A. That's the laundry room there. That's where you go

20 out into our great room right there.

21 Q. That's the room with the teal couch?

22 A. Yeah.

23 Q. Explain to the jury what they see in this

24 photograph?

25 A. That's our bedroom. That's our bed.

LYNDA TIDWELL - DIRECT BY MS. FULLER

267

- 1 Q. Is the bed, is that how you left it?
- 2 A. No.
- 3 Q. Now, you mentioned --
- 4 A. He pulled the sheets off and handed me the sheets.
- 5 Q. So when you mentioned that you were laying in the
- 6 laundry room, you can see him pull the sheets off the bed?
- 7 A. Mm-hmm.
- 8 Q. Now, I'm showing you 46. What do you see in this
- 9 photograph?
- 10 A. I don't leave my clothes like that.
- 11 Q. Okay. So this is a different angle of the master
- 12 bedroom?
- 13 A. Right. That's the master bedroom.
- 14 Q. This would be your dresser?
- 15 A. Right.
- 16 Q. Was this how it was before you went to bed that
- 17 night?
- 18 A. No.
- 19 Q. And this is a different angle, 47?
- 20 A. Mm-hmm.
- 21 Q. Is this how the room was before you went to bed that
- 22 night?
- 23 A. No.
- 24 Q. What is the jury seeing from this angle?
- 25 A. That's where I was laying down.

1 Q. You're pointing to the laundry room?

2 A. Right. The laundry room.

3 Q. Okay. You can take your seat.

4 A. (Witness complies.)

5 Q. While you were in the laundry room -- Let me ask you
6 this: How did you get to the laundry room?

7 A. One of them picked me up and took me in there, laid
8 me down, asked me my name. I told them my name is Lynda.

9 Q. What do you remember happening after that?

10 A. Uhm --

11 MR. WILLIAMS: Your Honor, I have a matter of law to
12 take up with the court outside the presence of the jury.

13 THE COURT: Okay. Ladies and gentlemen of the jury,
14 step to the jury room and I'll have you right back in
15 here. We're going to do a little work on the record.

16 (Whereupon, the jury entered the jury room at 2:25
17 p.m.)

18 THE COURT: All right.

19 MR. WILLIAMS: I hate to be the one, Your Honor, but
20 perceptionally I would object to the Solicitor standing
21 there with the witness when she's doing her questioning.
22 I have always learned proper procedure would be to ask
23 the Court if you can approach if you need to show her
24 something and then come back down. Most recently she's
25 just standing there asking her questions.

LYNDA TIDWELL - DIRECT BY MS. FULLER

269

1 THE COURT: And she did ask permission because I
2 told her not to reask for permission.

3 MR. WILLIAMS: Well, it appeared that she was just
4 going to be there for an extended period of time
5 throughout the entire direct examination creating
6 somewhat of a fire side chat situation and that was my
7 only objection to the optics of it. I hesitate to even
8 say anything about it. If she's going through each one
9 of the photographs, that's fine, Your Honor. I just
10 didn't want it to be an extended thing. If I perceived
11 it wrong, I apologize for that.

12 THE COURT: I don't think she was doing anything
13 intentionally. I think what she was doing was perfect.
14 She asked permission to approach the witness. But other
15 than going through the photographs would she be there to
16 identify what is shown on the photographs and what the
17 witness is pointing to, what specifically are you --

18 MR. WILLIAMS: I have no objection to that, Your
19 Honor, but there was some questions that were coming out
20 that I didn't think were related to the photographs.

21 THE COURT: Okay. All right. Well, I'm certain Ms.
22 Radlein knows she can ask about photographs unrelated or
23 related to the very next question, the next photograph, I
24 think it's kind of awkward for her to pass back and forth
25 between them and close to the witness.

1 MR. WILLIAMS: Yes. And I didn't mean for it to
2 sound picky.

3 THE COURT: Okay. It didn't sound picky. It did
4 sound appropriate. The objection is noted and was
5 appropriate and professional.

6 MR. WILLIAMS: Thank you, Your Honor.

7 THE COURT: All right. If they're ready to come
8 back in, I'm ready for them to come back in.

9 (Whereupon, the jury entered the courtroom at 2:27
10 p.m.)

11 THE COURT: All right. Continue on, Ms. Radlein.

12 MS. FULLER: Thank you, Your Honor.

13 BY MS. FULLER:

14 Q. Ms. Lynda, I'm going to show you State's Exhibit 5.
15 You described the laundry room. Can you point it out for the
16 jury on here?

17 A. (Indicating.)

18 Q. And what is this in the laundry room?

19 A. It's down to the basement. It's a spiral staircase
20 down to the basement.

21 Q. What do you keep in that area?

22 A. In the basement?

23 Q. Or in the staircase area. Yes.

24 A. Oh, I keep cleaning products.

25 Q. Can you tell me if there was anything significant

LYNDA TIDWELL - DIRECT BY MS. FULLER

271

1 about cleaning products during --

2 A. I keep a lot of Clorox and the Clorox cleaner and
3 the yellow, I keep rags in there.

4 Q. And while you were tied up and laying in the laundry
5 room --

6 A. I kept --

7 Q. -- can you tell me what, if anything, happened with
8 the Clorox?

9 A. Yeah. They kept spraying their hands. And they
10 would come in and spray them and then they started spraying my
11 bedroom. I heard them arguing with each other.

12 Q. You heard them, you could hear them spraying?

13 A. Yes. I could hear them talking.

14 Q. And you said they were arguing. Do you know what
15 they were arguing about?

16 A. Yeah. That one was telling the other one to quit
17 spraying so much Clorox.

18 Q. What else do you remember happening while you were
19 in the laundry room?

20 A. When he laid me down, he asked me my name. I told
21 him my name is Lynda. He pulled my gown down. He said that's
22 not what he came to do and he told me he would not let those
23 other guys hurt me.

24 Q. And so you couldn't see anyone's face but you said
25 one person gave you a blanket and another person asked you

1 your name?

2 A. Right. One guy came in and showed me my license and
3 he was a totally different personality.

4 Q. Let me ask you this: A different personality than
5 the one with the blanket?

6 A. Right. Right.

7 Q. Tell me about that.

8 A. He just showed it to me. He said, now I know where
9 you live and I know where your children live.

10 Q. He said he knows where you live?

11 A. He said he was going to keep my license.

12 Q. Where do you keep your license?

13 A. In my wallet.

14 Q. Where was your wallet?

15 A. It was in my pocketbook which I had just changed. I
16 had just changed my pocketbook that Saturday into a new black
17 pocketbook that I had just bought. He asked me, he said,
18 "Where is your Louie Vuitton pocketbook?" And I had been
19 carrying that for probably a month or more but I had just
20 changed it Saturday.

21 Q. So how did that make you feel?

22 A. Well, somebody had been watching me.

23 Q. So the new pocketbook would have had your license in
24 it?

25 A. Yes.

LYNDA TIDWELL - DIRECT BY MS. FULLER

273

- 1 Q. Do you still have that pocketbook?
- 2 A. Yes. Sitting by Al. They put it in the shower
- 3 though. When I came in, it was wet.
- 4 Q. Let me show you a photograph. This is State's
- 5 Exhibit 48. Do you recognize this?
- 6 A. Yes. It's my pocketbook in the third bedroom
- 7 shower.
- 8 Q. Let me show you the house diagram again, State's
- 9 Exhibit 5. And where did you find your pocketbook?
- 10 A. In this shower right here in the bathroom.
- 11 Q. That's the same pocketbook you carry now?
- 12 A. Yes.
- 13 Q. You mentioned a Louie Vuitton. Where is that
- 14 pocketbook?
- 15 A. They took it. I told them it was in the closet.
- 16 They asked me where my valuables were. I told them the only
- 17 thing I knew was a gun in the closet so he was standing by me
- 18 and he was hollering back to the other guys saying she said
- 19 the gun is in the closet on the shelf.
- 20 Q. What gun is this?
- 21 A. The Judge. The Judge that Danny bought me.
- 22 Q. The Judge?
- 23 A. Yes. I don't know if I like that gun.
- 24 Q. Did you get The Judge back?
- 25 A. No.

1 Q. Because Saluda still has it?

2 A. Yes.

3 Q. You touched on the pocketbook. I'm gonna show you

4 State's Exhibit 52 and 53. I'll ask you do you recognize

5 that?

6 A. Yes. That's my pocketbook.

7 MS. FULLER: Your Honor, at this time the State

8 seeks to move 48, 52 and 53 into evidence.

9 MR. WILLIAMS: If I could see those one time, Your

10 Honor.

11 MS. FULLER: (Proffering.)

12 MR. WILLIAMS: Without objection, Your Honor.

13 THE COURT: Without objection, 48, 52, 53.

14 BY MS. FULLER:

15 Q. I'm going to show you an item, State's Exhibit 55.

16 I'll ask you to take a look at this and tell me if you

17 recognize it.

18 A. Yes. It's my pocketbook.

19 Q. Do you need to examine it to tell if it's your

20 pocketbook?

21 A. No. It's my pocketbook.

22 Q. How do you know it's your pocketbook?

23 A. I just know it's my pocketbook.

24 Q. A woman knows her pocketbook?

25 A. Yes.

LYNDA TIDWELL - DIRECT BY MS. FULLER

275

1 MR. HUBBARD: At this time, Your Honor, the State
2 seeks to move State's Exhibit 55 into evidence.

3 MR. WILLIAMS: Your Honor, I have no objection to
4 marking it but I would object to them trying to place it
5 into evidence in case there's some sort of forensics made
6 to it.

7 MS. FULLER: Your Honor, I believe she's identified
8 her pocketbook, that it's hers.

9 THE COURT: I don't think that's what he meant. You
10 mean it's been tested and made --

11 MR. WILLIAMS: I don't think they found that at the
12 house. I think they found that at a different
13 location.

14 THE COURT: You have marked it for identification
15 but you object to its production?

16 MR. WILLIAMS: Correct.

17 THE COURT: It's marked for identification as 55.
18 Maybe somebody else can lay more foundation.

19 MS. FULLER: Your Honor, do you need me to lay more
20 foundation with this witness?

21 THE COURT: I would.

22 MS. FULLER: Okay. Permission to remove it from the
23 bag, Your Honor.

24 THE COURT: Yes.

25 MS. FULLER: I'll get some gloves.

1 BY MS. FULLER:

2 Q. Get your gloves on and I'll ask you to examine the
3 pocketbook for the record, okay? Let me put some gloves on,
4 too. And now your pocketbook, you last saw it on the day
5 these four individuals committed this home invasion, right?

6 A. Right.

7 Q. And you've been carrying this pocketbook for how
8 long?

9 A. Probably eight years.

10 Q. You said eight years?

11 A. Probably.

12 Q. So I want you to take some time. Go ahead and look
13 around in the pocketbook.

14 A. Okay. (Witness complies.) That's mine.

15 Q. How do you know that's yours?

16 A. Because I got another one in my other black
17 pocketbook. It's a toothpick.

18 Q. And is this the pocketbook that you carried around
19 for, that you have had for eight years?

20 A. Yes.

21 Q. Does it look exactly like the pocketbook you had for
22 eight years?

23 A. Yes.

24 MS. FULLER: Your Honor, I believe that's enough
25 foundation having the witness identify her pocketbook.

LYNDA TIDWELL - DIRECT BY MS. FULLER

277

1 MR. WILLIAMS: If I can see the little orange
2 thing.
3 BY THE WITNESS:
4 A. It's a toothpick. I've got one in my other
5 pocketbook.
6 MR. WILLIAMS: May I approach, Your Honor?
7 THE COURT: Sure.
8 MS. FULLER: Do you want some gloves?
9 MR. WILLIAMS: No. It's too late now.
10 BY THE WITNESS:
11 A. Do you want to see my other one? It's in the other
12 pocketbook.
13 MR. WILLIAMS: No objection, Your Honor.
14 THE COURT: All right. 55 admitted without
15 objection.
16 MS. FULLER: Thank you, Your Honor.
17 BY MS. FULLER:
18 Q. Just so the record is clear, you last saw this
19 pocketbook --
20 A. Yes.
21 Q. -- on March 8th --
22 A. Yes.
23 Q. -- 2017?
24 A. March 7th.
25 Q. March 7th. You can take your gloves off. Thank

1 you, Ms. Lynda. I'm going to try to pick back up in the
2 laundry room because I know a lot happened. How long would
3 you say you were tied up and held against your will?

4 A. Around two hours. Around two hours approximately.

5 Q. What, if anything, else do you remember happening,
6 any interaction with the people that broke into your home?

7 A. Well, I was praying out loud and asking the Lord to
8 give us protection, protect us and he came in and he said,
9 "Are you talking on your cell phone?" I said no. My cell
10 phone is in the kitchen on the counter. And I said I'm -- He
11 said okay or something like that.

12 Q. And did you ever find your cell phone?

13 A. No.

14 Q. I'm going to show you State's Exhibit 29. Is this
15 your cell phone?

16 A. Yes.

17 Q. Did you ever get it back?

18 A. (Witness shaking head.)

19 Q. Do you know where it was?

20 A. It was in the pond.

21 Q. In the pond? You said in the pond?

22 A. Uh-huh. Behind the house.

23 Q. You were talking earlier about them taking the gun.
24 They asked if you had anything in the home. What, if
25 anything, else do you remember them taking? Did they take any

LYNDA TIDWELL - DIRECT BY MS. FULLER

279

- 1 other items from your home?
- 2 A. They took all of my jewelry.
- 3 Q. Where did you last see your jewelry?
- 4 A. On my dresser.
- 5 Q. I'm going to show you --
- 6 A. I actually heard them raking it off into
- 7 something.
- 8 Q. Looking at State's Exhibit 46, do you see in here
- 9 where your jewelry should have been?
- 10 A. Right here on top of the dresser.
- 11 Q. And you're pointing to the dresser --
- 12 A. (Indicating.)
- 13 Q. -- in the master bedroom?
- 14 A. Yes. Yes.
- 15 Q. And you said you heard them -- What did you hear
- 16 them doing with it?
- 17 A. You know, like somebody was raking something off. I
- 18 heard them like raking it off and into something.
- 19 Q. Do you remember what specific items they were?
- 20 A. It was a necklace, a bracelet, two rings. No.
- 21 Three rings. A watch.
- 22 Q. Did they take any earrings?
- 23 A. They took the earrings right out of my ears.
- 24 Totally different personality came in and said, "Are those
- 25 real earrings? If not, you don't lie to me." I said yes,

1 they are.

2 Q. This is while you were in the laundry room?

3 A. Yes. While I was laying they took them out of my
4 ears.

5 Q. Now, your hands were tied behind your back?

6 A. Yes.

7 Q. Could you assist in taking the earrings out of your
8 ears?

9 A. No.

10 Q. Do you know how they got them out of your ears?

11 A. They had gloves on. He didn't take his gloves
12 off.

13 Q. Ms. Lynda, how did you finally get out of your zip
14 ties?

15 A. Well, at one point I had thought they were gone and
16 I had gotten one of my arms out of the, hands out of the zip
17 ties and I walked down the hall and I was saying real quietly,
18 Danny, Danny. He said, "You better go lay back down. I think
19 they're still here." So I turned around and I happened to
20 look out of the windows and there was two of them standing out
21 there pacing.

22 Q. Looking out of the windows. What windows did you
23 see them standing out of?

24 A. The back windows at the back of the house.

25 Q. And so they were standing on the back porch?

LYNDA TIDWELL - DIRECT BY MS. FULLER

281

1 A. Right. So I got back, my hand back in the zip tie
2 and I laid back down and --

3 Q. You laid back down. Where did you lay back down?

4 A. In the laundry room.

5 Q. Did you see them again after that?

6 A. Yes. One of them kept coming in and he would say
7 something like our ride ain't coming. As soon as our right
8 comes, we'll leave you and your husband alone.

9 Q. Did they eventually leave?

10 A. Yes. I was laying and I saw some lights on the
11 ceiling and I assumed that their ride had come so I got up.

12 Q. I'm going to show you again State's Exhibit 5. Now,
13 if you're laying in the laundry room, where would you have
14 seen lights from?

15 A. The window. This window here. I looked up on the
16 ceiling and I saw the lights on the ceiling.

17 Q. Okay. And is this the front of the house or the
18 back of the house?

19 A. The front.

20 Q. And so you saw lights coming through the window from
21 the front of the house?

22 A. Mm-hmm.

23 Q. What did you do next?

24 A. Well, I got up. I went, because I knew Danny was in
25 the half bath because I had called him before and I got to the

1 door and I said, Danny, I think they're gone.

2 Q. Did you see your husband laying in there?

3 A. I did.

4 Q. Can you described to the jury what you saw? How did
5 he look?

6 A. He couldn't get up. He was tied with his hands
7 behind his back and he said, "You're going to have to help me
8 get up."

9 Q. And he was laying in that half bath?

10 A. Yes.

11 Q. What did you do next?

12 A. Well, I got some scissors and I cut one of his hands
13 and I helped him get up.

14 Q. Then what happened next?

15 A. Well, we went to get our phones to call 911 but they
16 were all in the toilets.

17 Q. You said in the toilets in the bathroom?

18 A. Right.

19 Q. So then what did you do?

20 A. Uhm, so then I said, well, what do you want to do?
21 Because they might not be gone. He said, well, you go out the
22 front door. I'll go out the back door and maybe one of us
23 will make it to one of the houses to call 911 for us.

24 Q. What was going through your mind at that point?

25 A. Well, I didn't know if they were still in the yard

LYNDA TIDWELL - DIRECT BY MS. FULLER

283

- 1 or not.
- 2 Q. So you just ran?
- 3 A. Just ran. I didn't have any shoes on. I had a
4 nightgown on. Just took off.
- 5 Q. I'm going to show you State's Exhibit 11 and ask you
6 do you recognize this?
- 7 A. Yes. That's the back of the house.
- 8 Q. Do you see where you ran to in this photograph?
- 9 A. This house right there.
- 10 Q. Whose house is that?
- 11 A. Meredith Havird stays there now.
- 12 Q. Okay. Do you know where Danny went to?
- 13 A. He went to Chuck's house right there.
- 14 Q. We know law enforcement was called.
- 15 A. Yes.
- 16 Q. When law enforcement arrived, how did that make you
17 feel?
- 18 A. I was relieved. I started crying. For some reason
19 I knew the Lord was with me because I hadn't cried before
20 that.
- 21 Q. You didn't cry throughout the entire two hours?
- 22 A. (Witness shaking head.)
- 23 Q. Say your answer for the record.
- 24 A. No. I didn't cry.
- 25 Q. Not until it was over?

1 A. Right. And I saw Dale Hallman and I was just
2 relieved that somebody was there.

3 Q. What do you remember happening after that?

4 A. Well, Dale said not to cry. He said, "Ms. Lynda,
5 please don't cry or I'll cry." I cried and he cried.

6 Q. At this point did you still have zip ties on your
7 hands?

8 A. I did.

9 Q. I'm going to show you State's 17 and 18 and ask you
10 if you recognize them?

11 A. Yes. That's mine and Danny's cell phones. Danny's
12 and mine cell phone.

13 Q. I'm going to show you what's marked for ID purposes,
14 this is State's Exhibit 56 for identification and ask you to
15 take a look on this bag and tell me if you recognize it?

16 A. Yes. Zip ties. Those are zip ties.

17 Q. Those are the zip ties that were tied around your
18 hands?

19 A. Yes, ma'am.

20 Q. Were any of the items recovered in this case? Did
21 you get anything back?

22 A. No.

23 Q. I'm going to show you State's exhibit 54 and ask you
24 if you recognize this?

25 A. Yes. The next day when I was looking on Facebook, I

LYNDA TIDWELL - DIRECT BY MS. FULLER

285

1 found that Jeff Furlong posted that saying if anybody knows
2 whose keys these are and I recognized them and I showed them
3 to Danny and we called Jeff.

4 Q. And whose keys are these?

5 A. Those are Danny's keys.

6 Q. Is there anything different about Danny's keys?

7 A. Danny had broken his key ring so he used the key fob
8 to put his keys on.

9 Q. So his key fob is identifiable to you?

10 A. Yes.

11 MS. FULLER: Your Honor, at this time the State
12 moves 54 into evidence.

13 MR. WILLIAMS: Without objection.

14 THE COURT: 54 is in without objection.

15 BY MS. FULLER:

16 Q. And you said this was posted on Facebook?

17 A. Yes.

18 Q. And that is was found in Johnston?

19 A. Right. And if anybody knew whose they were come and
20 claim them.

21 Q. And at that point you guys claimed what?

22 A. Danny went and got them.

23 Q. But you never got them back because law enforcement
24 kept them?

25 A. Right. They kept them.

1 Q. I have a few more things to show you and clear up.
2 I'm going to show you State's Exhibit 43 and 44. I'm going to
3 ask you if you recognize that?

4 A. Yes. That's where I keep all my cleaning
5 supplies.

6 Q. Including the Clorox?

7 A. Yes. There's the Clorox, a bucket, but there was a
8 bottle of Clorox in that bucket and it was gone.

9 Q. Okay.

10 A. I use these yellow, I use all these yellow micro,
11 micro --

12 Q. Microfiber?

13 A. Yes. Cleaning cloths.

14 Q. And you keep them in your home?

15 A. Yes.

16 MS. FULLER: At this time the State seeks to move
17 State's Exhibit 43 and 44 into evidence.

18 MR. WILLIAMS: Without objection, Your Honor.

19 THE COURT: 43 and 44 in without objection.

20 BY MS. FULLER:

21 Q. I'm gonna show you a couple more photos and then I'm
22 gonna ask you if these look familiar. State's Exhibit 49, 50
23 and 51.

24 MR. WILLIAMS: If she's asking whether or not -- I
25 do object to those being offered into evidence at this

LYNDA TIDWELL - DIRECT BY MS. FULLER

287

1 time. There's lack of foundation for these. I guess
2 we'll wait until she questions her on that.

3 THE COURT: We'll wait.

4 BY MS. FULLER:

5 Q. Do you recognize this item?

6 A. Those are items that were in the bedroom.

7 Q. These photos fairly and accurately depict the ones
8 like the ones you have in your home?

9 A. Yes.

10 Q. And these two particular items were missing from
11 your home --

12 A. Yes.

13 Q. -- after the home invasion?

14 A. Yes.

15 Q. Do you see them again in this photograph?

16 A. Yes.

17 Q. How about in this one?

18 A. Yes.

19 MS. FULLER: Your Honor, at this time the State
20 seeks to move 49, 50 and 51 into evidence.

21 MR. WILLIAMS: Same objection, Your Honor. I would
22 request the Court to look at those exhibits. It appears
23 to be trash on the side of the road.

24 THE COURT: Let's take a short break so that I can
25 take up something on the record. Step into the jury

1 room. We'll give you a decent break. You can't begin
2 discussing the case.

3 (Whereupon, the jury entered the jury room at 2:50
4 p.m.)

5 THE COURT: All right. Mr. Williams.

6 MR. WILLIAMS: Your Honor, there is absolutely
7 nothing distinguishing in those photographs. You can go
8 to Batesburg and see those same things along the roads to
9 Batesburg. It appears to be trash on the side of the
10 road. There's been no testimony that she's examined
11 these items on the side of the road. These are items
12 that are out in the wild. This is a photograph so there
13 is absolutely no way that she could say that these items
14 were the ones that came anywhere close to her house.
15 She hasn't testified she went out there and found them,
16 where she found them.

17 THE COURT: Well, what's the relevance of this
18 anyway?

19 MS. FULLER: Your Honor, it's okay. I can just mark
20 it for ID. It will become relevant later in the trial.

21 THE COURT: Okay. It's marked for identification.
22 Let's take a break instead of the jury running in and
23 out.

24 MS. FULLER: Okay. Thank you, Judge.

25 (Short recess.)

LYNDA TIDWELL - DIRECT BY MS. FULLER

289

1 THE COURT: Okay. Bring them out.

2 (Whereupon, the jury entered the courtroom at 3:00
3 p.m.)

4 BY MS. FULLER:

5 Q. Ms. Lynda, I have a few more questions and then I'll
6 take my seat. Throughout this entire ordeal while you were
7 tied up who were you more focused on?

8 A. Danny.

9 Q. Did you let the intruders know that?

10 A. Yes.

11 Q. How did you do that?

12 A. Just about every time they would come in I would ask
13 how is Danny?

14 Q. What did they tell you?

15 A. They told me as long as he did what they told him to
16 do that he would be fine.

17 Q. Ms. Lynda, how has this changed your life?

18 A. Well, the biggest thing is one of my grand-daughters
19 won't spend the night with me anymore.

20 Q. Is that Caroline or Abby?

21 A. Abby.

22 Q. How old is Abby?

23 A. She was 10 at the time.

24 Q. How often do you get to see Abby?

25 A. I see her every day.

1 Q. She just won't stay the night?

2 A. (Witness shaking head.)

3 Q. What else has changed?

4 A. Danny carries guns everywhere he goes.

5 Q. Do you keep them in the house now?

6 A. Yes. Under the mattress. We lock the doors. I

7 lock the bedroom door at night, cut on all the lights

8 outside.

9 Q. You mean like shut the door to keep it closed?

10 A. No. I lock it.

11 Q. With an actual physical lock?

12 A. Yes.

13 Q. How about security around the house?

14 A. We put in, my son-in-law put in cameras for me. We

15 have cameras in the house, outside and in.

16 Q. Is it still like this today?

17 A. Yes.

18 Q. Over a year later?

19 A. Yes. We set the alarm every night all the time.

20 Q. Did you have an alarm back then?

21 A. We did but, you know, we have been there for 20 plus

22 years. We didn't think, you know, you never think it's going

23 to happen or when it's going to happen.

24 MS. FULLER: Thank you, Ms. Lynda. I have no more

25 questions. You have to answer questions the defense may

LYNDA TIDWELL - CROSS BY MR. WILLIAMS

291

1 have.

2 THE COURT: Mr. Williams.

3 MR. WILLIAMS: May it please the Court.

4 THE COURT: Yes, sir.

5 CROSS EXAMINATION

6 BY MR. WILLIAMS:

7 Q. Mrs. Tidwell, following up with I guess the last
8 thing you were talking about, you said that you have alarms
9 now on the house?

10 A. Yes.

11 Q. But you had alarms back then?

12 A. Yes.

13 Q. What kind of alarms did you have back then?

14 A. Well, when we built the house, we put an alarm
15 system in.

16 Q. Okay. Is it -- I guess they have two major alarm
17 systems. Is this Southeastern or was this AL something? Do
18 you remember who it is?

19 A. I don't.

20 Q. Does your alarm --

21 A. The same one that put in our store alarms. We got
22 them to come out there and put them in.

23 Q. Does your alarm ring to --

24 A. The police. Yes.

25 Q. Rings to the police?

1 A. Now it does.

2 Q. Did it ring to the police back then?

3 A. No, sir. No, sir.

4 Q. So you didn't have an alarm system where somebody
5 would, it would ring to like the alarm system and then they
6 would contact the police back then?

7 A. It does now. No. Yeah. It does now. It didn't
8 back then.

9 Q. How did it work?

10 A. It just, when somebody would break-in, it would be
11 a loud noise.

12 Q. Okay. So you didn't have a monitoring company on it
13 I guess is what I'm saying? .

14 A. I do now.

15 Q. Does it also have like fire alarm system where it
16 will ring to the fire department if it catches on fire or
17 something like that?

18 A. I don't think so.

19 Q. So it's not free standing. It was -- You know, now
20 they have alarm systems that if you cut the telephone line, it
21 doesn't matter because it will still ring. Do you understand
22 what I'm talking about?

23 A. I do but I'm not real familiar with a lot of alarm
24 systems.

25 Q. Had you set your alarm that night?

LYNDA TIDWELL - CROSS BY MR. WILLIAMS

293

1 A. No.

2 Q. And you would still go through the routine of
3 setting an alarm normally when you would go to bed or at least
4 you had at some point in your life had set the alarm?

5 A. We do now. But we never did before.

6 Q. Had the window opened up on the alarm system, would
7 it have rung?

8 A. I don't know.

9 Q. I got you. Well, let's pick up with the Louis
10 Vuitton pocketbook that you were talking about. There were
11 two pocketbooks you were asked about. There was a black
12 pocketbook which was found in the shower?

13 A. Right.

14 Q. What kind of pocketbook was the black pocketbook?

15 A. Danny's got it.

16 Q. All right. But it's not a Louis Vuitton
17 pocketbook?

18 A. No. It's not.

19 Q. And you had changed out this pocketbook a week
20 before the --

21 A. No. It was just a few days. It was actually
22 Saturday.

23 Q. Do you recall talking to the officers about when you
24 had actually changed it out and you said something about that
25 you had changed it out two weeks ago so a week before it

1 happened you had been toting it? Do you remember that
2 conversation with an officer?

3 A. I do.

4 Q. So would it have been a week before this happened
5 that you changed it out?

6 A. It could have been.

7 Q. Okay. Now, they took this pocketbook because
8 obviously somebody thought it was worth a lot of money,
9 right?

10 A. I guess so.

11 Q. What do they run, 650 to 3000, something like?

12 A. I don't know. I bought that one at a yard sale.

13 Q. A yard sale?

14 A. It was an auction.

15 Q. I note in this pocketbook that there appears to be
16 something else in this pocketbook. Did you see something else
17 in the pocketbook?

18 A. It's my toothpick. There's some aspirin in there.

19 Q. Advil?

20 A. Yeah.

21 Q. All right. You said this is a toothpick?

22 A. Yes, sir.

23 Q. What do you mean by it's a --

24 A. It was something we used for advertising 10 years
25 ago, I guess. Maybe 15 years ago. And we gave them to

LYNDA TIDWELL - CROSS BY MR. WILLIAMS

295

1 customers of the store.

2 Q. So that is something that familiarizes you with the
3 pocketbook is the fact that there's a toothpick --

4 A. No. I knew that was my pocketbook.

5 Q. But I mean it's a toothpick to pick your teeth?

6 A. Yes, sir.

7 Q. Okay. Is there anything of any significance other
8 than --

9 A. Well, that's just a key ring fob that broke.

10 Q. Do you know what it goes on?

11 A. I don't.

12 Q. Was it connected with any of the keys that we have
13 talked about today?

14 A. I don't think so.

15 Q. Could it have been attached to -- You just don't
16 know?

17 A. I don't know.

18 Q. Do you know if this pocketbook was processed by the
19 police for fingerprints or anything like that, DNA?

20 A. I don't. I don't.

21 Q. It's probably got mine on it now, right?

22 A. Yes, sir.

23 Q. Okay. You didn't find this pocketbook once it was
24 taken, did you?

25 A. No, sir.

1 Q. Let me talk to you about your house. When you were
2 describing -- I'm just --

3 MR. WILLIAMS: If I can approach the witness, Your
4 Honor? I'm not going to ask her to even stand up.

5 BY MR. WILLIAMS:

6 Q. When you were describing your house, you said the
7 front porch was here --

8 MR. WILLIAMS: That's not helping, Your Honor, is
9 it?

10 THE COURT: I've seen it. That's all right.

11 BY MR. WILLIAMS:

12 Q. You were where when you saw the lights coming into
13 the front of the house?

14 A. I was on the back -- Oh, you mean when the car left?

15 Q. When the car left?

16 A. Oh, I was right here.

17 Q. So you were in the wash room?

18 A. And I saw it out a big window there and I saw them
19 coming out.

20 Q. Saw them coming out where?

21 A. I saw the lights leaving on the ceiling and I knew
22 they were gone.

23 Q. Okay. When you say "saw the lights", what color
24 were the lights that you saw?

25 A. They were yellow.

LYNDA TIDWELL - CROSS BY MR. WILLIAMS

297

- 1 Q. Yellow?
- 2 A. Yeah. Yellow.
- 3 Q. Okay. Is that the front of the vehicle that would
- 4 have yellow lights?
- 5 A. I don't know.
- 6 Q. If it was the rear of the vehicle, it would have red
- 7 lights. We can agree on that?
- 8 A. They were not red. They were yellow.
- 9 Q. Okay. When you go into your house, when you calm
- 10 down, however you have to enter into your driveway to go to
- 11 your house --
- 12 A. Yeah.
- 13 Q. -- you come from the back or how do you get into
- 14 your covered garage?
- 15 A. I come through the driveway and go into the
- 16 garage.
- 17 Q. Okay.
- 18 A. And then I go in the back door.
- 19 Q. So does the driveway come in that way?
- 20 A. I have a driveway that way. I have a circle drive
- 21 but when we come in, we come this way and park like that and
- 22 come in the back door.
- 23 Q. So wherever these lights were coming from, they were
- 24 coming from your main driveway, somebody coming down your main
- 25 driveway to pick up whoever was leaving?

1 A. Right. I saw the lights on the ceiling.

2 Q. Okay.

3 A. That's why I got up and got Danny.

4 Q. Okay. So somebody came back and somebody drove down
5 the main driveway to your house after these guys had been here
6 and picked those guys up?

7 A. The only thing I can figure is they took the car
8 after they got out so we figured they took our vehicle and I
9 saw the vehicle lights which was our vehicle which they
10 took.

11 Q. Well, if it had been your vehicle, wouldn't it have
12 been the red lights of your vehicle that you would have
13 seen?

14 A. Unless they backed up or something, backed out
15 completely and came around the circle.

16 Q. So could they have had two cars? Could a car have
17 dropped somebody off and then they took this other vehicle?

18 A. I don't know that.

19 Q. You don't know?

20 A. I don't know.

21 Q. So somebody might have brought somebody back,
22 somebody then got in your vehicle and drove the other vehicle
23 and you actually had two vehicles there that night?

24 A. I don't know.

25 Q. Now, let me ask you about guns. You actually saw

LYNDA TIDWELL - CROSS BY MR. WILLIAMS

299

1 one gun there that night, didn't you?

2 A. I thought I saw one gun. I saw something silver but
3 it turned out it was not a gun. But I did -- Danny had a gun
4 pointed in his face. The guy pointed the gun at Danny.

5 Q. Do you remember telling the officer that you saw a
6 silver gun?

7 A. I do.

8 Q. So are you saying that you were incorrect when you
9 told --

10 A. Yes.

11 Q. -- the officer that it was a silver gun?

12 A. Yes. I saw something silver.

13 Q. But you told him it was a silver gun? .

14 A. I know. I did.

15 Q. It's okay to have different opinions. So are you
16 just kind of agreeing with Danny or do you know?

17 A. I thought when they came out, I thought I saw a
18 silver - there was something silver in one of them hand.

19 Q. Okay. Now, you said on direct examination that
20 these individuals had masks on. Did you tell law enforcement
21 that night that they had masks on their faces?

22 A. I don't remember. They had ski masks on though. I
23 never saw any of them.

24 Q. Did you tell law enforcement that night that they
25 had masks on?

- 1 A. I don't remember.
- 2 Q. Did you tell them perhaps that they had hoods on?
- 3 A. One of them had a hoodie on.
- 4 Q. One of them or all of them had hoodies on?
- 5 A. I remember one of them had a hoodie on.
- 6 Q. Okay. What did the other guys have on?
- 7 A. They had - they had ski masks. He had a ski mask
- 8 and then he had a hoodie on top of the ski mask.
- 9 Q. Okay. So everybody had a hoodie?
- 10 A. Not everybody had a hoodie.
- 11 Q. Only one had a hoodie?
- 12 A. Yes.
- 13 Q. What did the other guy have on?
- 14 A. He had a ski mask on. He didn't have a hat on.
- 15 Q. Had you taken any medication before you went to
- 16 bed?
- 17 A. Yes. I did.
- 18 Q. What did you take that night before you went to
- 19 bed?
- 20 A. I took a half a Ambien which was about five
- 21 milligrams.
- 22 Q. What does Ambien do for you?
- 23 A. Puts me to sleep.
- 24 Q. Makes you a little groggy?
- 25 A. Mellows me out.

LYNDA TIDWELL - CROSS BY MR. WILLIAMS

301

1 Q. Do you remember when you talked to the officer about
2 what was going on and you said that they had their hoods up.
3 Do you remember that?

4 A. Mmm-mmm. (Witness shaking head.)

5 Q. Now, I believe you said that you took a half an
6 Ambien. Do you recall telling the officer you had like a
7 third of an Ambien that night or do you know how much you
8 took?

9 A. Yeah. I cut it in half.

10 Q. Describe, if you will, you said one guy had a
11 military uniform on. Like was it like a brown like Desert
12 Storm military uniform or was it like green like olive green
13 military uniform?

14 A. I remember black boots.

15 Q. Okay. So you saw black boots. Was that on all of
16 them?

17 A. I didn't see all of them except the one that was
18 with me. I was laying on the floor. I saw his black boots.

19 Q. So one guy had black boots. Did you see anything
20 about their pants?

21 A. I'm not sure.

22 Q. Could you tell how old the guy was that was being
23 nice to you?

24 A. No, sir.

25 Q. I'm sorry?

1 A. No, sir.

2 Q. You have a spiral staircase into your basement; is
3 that right?

4 A. Yes, sir.

5 Q. That's where the Clorox and stuff was?

6 A. No, sir. It was on the landing up at the top.

7 Q. What was downstairs why anybody would go
8 downstairs?

9 A. I told the guy there wasn't anything down there but
10 a couple chairs and a tanning bed and exercise equipment.

11 Q. And there's no question -- Do you remember telling
12 the officer that you saw somebody with black boots with camo
13 pants?

14 A. They could have been camo pants. They were dressed
15 military like.

16 Q. On the ties, you loosened one of the ties on you and
17 that enabled you to free everybody else and you cut, you cut
18 one on your husband, right?

19 A. Right. I was able to get one of my hands out of one
20 of the ties.

21 Q. And then you cut one on him?

22 A. Yes.

23 Q. So that essentially you had one tie on you, you had
24 two ties on you, one that was fastened and one that was not
25 fastened?

LYNDA TIDWELL - CROSS BY MR. WILLIAMS

303

1 A. No. I don't know how those zip ties work. I know I
2 had one on one hand and one on the other and they were zip
3 tied.

4 Q. So they're not two separate?

5 A. I don't know.

6 Q. Well, there was a picture, wasn't there, that was
7 shown to you that showed it was still hanging onto one arm and
8 you said that was your husband's, right?

9 A. Right.

10 Q. So you would have had, it was like handcuffs. You
11 would have had one on each arm, wouldn't you?

12 A. I don't know how it works. All I know is I was able
13 to get my hand out. There was a loop there. I don't know how
14 it works. They had to be together some kind of way.

15 Q. Right. And you cut one of them. Do you know how
16 the rest of them got loose?

17 A. The police --

18 Q. Did the police cut them?

19 A. Yes.

20 Q. So you left them on until the police got there?

21 A. Yes.

22 Q. Why did you leave them on until the police got
23 there?

24 A. Because I had my gown on. I was in my pajamas. I
25 don't know. I just did.

- 1 Q. Did you leave it on so that maybe they could test
2 the ties to see what kind of DNA might --
- 3 A. I didn't even think about it.
- 4 Q. Tell me about the gloves they had on. What kind of
5 gloves did they have on?
- 6 A. Black gloves.
- 7 Q. What kind of black gloves?
- 8 A. I don't know. I only saw one.
- 9 Q. Only one person had gloves?
- 10 A. No. I don't know. The guy that was dealing with
11 me, he had black gloves on.
- 12 Q. Leather gloves?
- 13 A. Yes.
- 14 Q. And that was the guy that was dealing with you?
- 15 A. (Witness nodding head.) I had several dealing with
16 me.
- 17 Q. Okay. And you could tell a difference between them,
18 right?
- 19 A. Yes. Personalities.
- 20 Q. Personalities but not size, not voice?
- 21 A. No, sir. No, sir.
- 22 Q. Not age?
- 23 A. No, sir.
- 24 Q. Not even shoes?
- 25 A. No, sir.

GARRY HITT - DIRECT BY MS. FULLER

305

1 MR. WILLIAMS: That's all the questions I have, Your
2 Honor.

3 THE COURT: Any redirect?

4 MS. FULLER: No redirect, Your Honor.

5 THE COURT: Mrs. Tidwell, you may step down. Call
6 your next witness.

7 MS. FULLER: Thank you, Your Honor. The State calls
8 Sergeant Garry Hitt.

9 Thereupon,

10 GARRY HITT

11 after having been first duly sworn, testified as follows,

12 DIRECT EXAMINATION

13 BY MS. FULLER:

14 Q. I called you Sergeant Hitt. What is your current
15 rank?

16 A. Lieutenant.

17 Q. I apologize for that. Lieutenant Hitt, where are
18 you currently employed?

19 A. Saluda County Sheriff's Office.

20 Q. How long have you been employed there?

21 A. Since 2014.

22 Q. How about your law enforcement career. How many
23 years in law enforcement experience do you have?

24 A. Almost 12.

25 Q. Prior to that?

1 A. Edgefield County. I was a sergeant there.

2 Q. A sergeant in Edgefield County. I want to speak to
3 you specifically about this case. Do you recall on March 8th,
4 2017 receiving a call at Persimmon Hill Golf Course?

5 A. Yes, ma'am.

6 Q. Do you recall around what time that call came in?

7 A. About 02:40. 2:14 in the morning. I was on my way
8 home. I get off at 2:00 in the morning. I was on 121, just
9 passed Billy's Super Store when the call came out.

10 Q. Can you tell the jury what was the nature of the
11 call?

12 A. It originally came out as a larceny and I continued
13 to listen to the radio and I received a call from my corporal
14 at that time, Corporal Mike Raffield and it turned into a home
15 invasion. I immediately turned around and went to the
16 scene.

17 Q. I'm just going to be clear for the record. This
18 home invasion took place in Saluda County?

19 A. Yes, ma'am. It did. 106 Birdie Court in Saluda
20 County. It's actually Johnston but same being in Saluda
21 County.

22 Q. When you arrived on scene, can you tell me if any
23 other officers were on scene?

24 A. Yes, ma'am. Dale Hallman was the first responding
25 officer to the scene. I was the second unit out there.

GARRY HITT - DIRECT BY MS. FULLER

307

1 Q. Dale Hallman is no longer with us?

2 A. He is deceased.

3 Q. Can you describe what your role was when you arrived
4 on scene?

5 A. Yes, ma'am. I was supervisor on scene. Dale had
6 already started talking to the family, Mr. and Mrs. Tidwell
7 just under the carport and there's a side door there and it
8 opens up into the kitchen. He was talking to them there and
9 he gave me a quick rundown on what was going on and he told me
10 that their vehicle had been taken, a 2009 GMC white in color
11 Yukon Denali.

12 Q. Now, with that information do you recall what, if
13 anything, you did next?

14 A. Yes, ma'am. I was informed that OnStar was on that
15 vehicle and was active. I immediately contacted OnStar and
16 told them who I was, gave them a case number, told them that
17 the vehicle had been stolen and gave them the owners' name and
18 asked them if they could track the vehicle.

19 Q. Now, can you tell the jury, was OnStar able to track
20 that vehicle?

21 A. Yes, ma'am. They were. They tracked the vehicle
22 to, I believe Old Camp Log Road in Aiken, South Carolina.
23 Given that information I contacted the dispatcher in Aiken
24 County Sheriff's Office and advised them what I had, a home
25 invasion where the vehicle was stolen and asked them to send

1 deputies to that location with an attempt to locate that
2 vehicle.

3 Q. Do you know on that night being supervisor, was the
4 vehicle ever located?

5 A. Yes, ma'am. The vehicle was located. Initially
6 Aiken County could not locate the vehicle. I called OnStar
7 back. As a matter of fact, the Sergeant in Aiken County
8 called me and said we can't find the vehicle. We discussed it
9 for a few minutes. I called OnStar back and had them activate
10 the horn and the lights on the vehicle. After they activated
11 the horn and the lights, they were able to find the vehicle.

12 Q. Then just to be clear, I'm not sure if I made it
13 clear, this vehicle we're talking about would be Mrs. Lynda
14 and Mr. Danny Tidwells' vehicle?

15 A. That's correct. It's a 2009 GMC Yukon white in
16 color.

17 Q. And it was your understanding that it was taken from
18 the residence after this home invasion?

19 A. That is correct.

20 Q. Do you recall if you interacted with the victims
21 while on scene?

22 A. Just very briefly. Deputy Hallman was taking care
23 of that. My job was to, the suspects left in their vehicle,
24 my job was to locate the vehicle and make sure that the
25 vehicles were being taken care of. Deputy Hallman was taking

GARRY HITT - DIRECT BY MS. FULLER

309

1 care of that. I sent Mike Raffield to Aiken County to Old
2 Camp Log Road with Aiken County officers there.

3 Q. I'm going to show you State's exhibit 17 and 18 and
4 ask you if you recognize them?

5 A. Yes, ma'am. I do.

6 Q. What do you recognize these to be?

7 A. Bottom picture is Mr. Tidwell's wrist and a flex
8 cuff that's been placed on it and the top picture is
9 Mrs. Lynda Tidwell with a flex cuff on her.

10 Q. Is there more than one on her?

11 A. Yes, ma'am. There is.

12 Q. And how does it appear? Are they bound together?

13 A. It appears that they are two separate flex cuffs.
14 What they did was loop one through the other.

15 Q. So if you released your hand from one, the zip tie
16 would have remained bound to the other?

17 A. That is correct.

18 MS. FULLER: No further questions at this time, Your
19 Honor.

20 MR. WILLIAMS: No questions, Your Honor.

21 THE COURT: No questions. All right. You ay step
22 down. Call your next witness.

23 MS. FULLER: Thank you, Your Honor. The State calls
24 Deputy Michael Raffield.

25 Thereupon,

1 MICHAEL RAFFIELD

2 after having been first duly sworn, testified as follows,

3 DIRECT EXAMINATION

4 BY MS. FULLER:

5 Q. Deputy Raffield, where are you currently employed?

6 A. Saluda County Sheriff's Office.

7 Q. What is your current position?

8 A. I'm a corporal on B shift under Lieutenant Garry
9 Hitt.

10 Q. What is your law enforcement background? How long
11 have you been in law enforcement?

12 A. 25 years. I started with the City of North Augusta.
13 Was there for 10 years, became a federal air marshall after
14 911 for approximately eight years, did a small stint in
15 Edgefield County before arriving in Saluda.

16 Q. I want to speak to you specifically about this case,
17 March 8th of 2017. Do you recall if you were working that
18 day?

19 A. I was.

20 Q. Do you recall responding to the scene in this
21 case?

22 A. I do.

23 Q. Where is that scene located?

24 A. It's 106 Birdie Court in Saluda County. It's in the
25 golf course. Take that main entrance going in, you're going

MICHAEL RAFFIELD - DIRECT BY MS. FULLER

311

1 to veer off to the left.

2 Q. Okay. I'm going to show you State's Exhibit 1. Is
3 this what you're describing?

4 A. This is the main entrance here off of Johnston
5 Highway also known as 121. You come in. As you're going into
6 the golf course itself is the clubhouse and you loop around
7 and this is actually Birdie Court. It goes down to the
8 driving range which is this area here and it goes back to the
9 victims' house. Of course, you've got the foliage, but
10 there's two residences, one that belongs to the golf course,
11 but their house is the one right there.

12 Q. Did you say you actually responded to the scene?

13 A. I did. The call initially came out as a larceny.
14 Our dispatcher at the time was fairly new and asked me to call
15 him or he called me. I don't remember that part. But we had
16 a conversation on the phone. At that time is when I realized
17 we had more than just a larceny. I found out that the home
18 owners in addition to being robbed had been tied up.
19 Lieutenant Hitt was already on the way home so I immediately
20 told Deputy Hallman at the time to go ahead and run code as an
21 emergency call to get there as quick as he could because I did
22 not know his location at the time. I was actually almost to
23 the lake. I immediately called Lieutenant Hitt on the phone
24 and gave him an advisement as to what we actually had and then
25 all three of us converged at the house. I was there

1 temporarily before I did take off to Aiken to try to retrieve
2 the vehicle.

3 Q. You mentioned Aiken. We did hear that the vehicle
4 was located in Aiken by OnStar. Go ahead and tell me what
5 role you played. You said you took off to Aiken?

6 A. Correct. Once we had information that the vehicle
7 had been stolen, I had actually contacted Lieutenant Hitt by
8 phone. We were discussing trying to get things set up for the
9 investigation as quickly as possible. I was actually calling
10 Lieutenant Hitt to remind him since it was a Chevrolet, a GM
11 product, that he could possibly have OnStar. He had actually
12 thought of that already and confirmed it. Once we had the
13 information that the vehicle was located in Aiken on Old Camp
14 Log Road which is right there at Highway 1 and I-20, I
15 responded only and located the vehicle with the assistance of
16 Aiken County Sheriff's Office who aided me in continuance of
17 the investigation that night or morning.

18 Q. Okay. I'm going to show you this photograph and ask
19 you if you recognize it?

20 A. Correct. It looks like one of the photographs that
21 I actually took that night at the scene of where the vehicle
22 was located.

23 Q. Okay. This is marked as State's Exhibit 57.

24 A. The vehicle I located was a 2009 GMC Denali Yukon
25 white in color and had a South Carolina tag of 7214KB which is

MICHAEL RAFFIELD - DIRECT BY MS. FULLER

313

1 what I located there.

2 MS. FULLER: At this time, Your Honor, the State
3 moves State's Exhibit 57 into evidence.

4 MR. WILLIAMS: Without objection, Your Honor.

5 THE COURT: State's 57 is in without objection.

6 BY MS. FULLER:

7 Q. Were you able to confirm that this was the actual
8 vehicle taken from the victims' residence here in Saluda
9 County?

10 A. Correct. Once I was there on scene with Aiken
11 County, they showed me exactly where they located the vehicle
12 which was maybe two or three tenths of a mile down Old Camp
13 Log Road down just down from a trailer park which as you turn
14 onto that the road is immediately on the left. While I was
15 there I was very cautious on my approach to the vehicle and
16 confirmed with Aiken County to exactly where their officers
17 had stepped going to and from the vehicle. We were able to
18 identify shoe impressions that were not consistent with what
19 law enforcement was wearing that night so I processed the
20 scene meaning that I took photographs of the vehicle. I took
21 photographs of the foot impressions that we located and while
22 I was searching the immediate area, approximately 40 yards, it
23 probably wasn't 40 yards, it was less than that but between
24 where the vehicle was located, it was almost like a private
25 drive that went out to the main road, Old Camp Log Road, and

1 as you walk out to your left there was a fence line in a
2 wooded area and as I panned my flashlight around is when I
3 located a brown pocketbook with gold symbols on it. I'm not
4 sure of the exact name of it.

5 Q. I'm gonna stop you there and show you State's
6 Exhibit 53 and 52. You're saying that you found it simply
7 following tracks from the vehicle?

8 A. Correct.

9 Q. Do you recognize these?

10 A. Correct. Those are photographs I took that morning.
11 That's the fence I was describing and that is the pocketbook
12 that I located and due to the fact that I knew it was or that
13 it appeared to be a high end pocketbook, I contacted the
14 victim. I'm not saying directly. I talked to an officer or
15 the victim. I don't recall. But I know the victim was on the
16 other end of the phone because I gave a description or asked
17 if she could give me a description, if she had a pocketbook
18 and if it was missing and at that time is when she described
19 the pocketbook to me as brown in color with gold emblems on
20 it.

21 Q. I'm going to show you State's Exhibit 55 and ask you
22 if you recognize it?

23 A. I see the chain of custody. That's the chain that I
24 filled out on the pocketbook I secured.

25 Q. Now, you mentioned chain. What does chain mean?

1 A. That's a chain of custody. Basically it's got the
2 date, the time, the location and the description of the object
3 that was taken. It's my handwriting and then you sign it and
4 once you sign it, you close the bag up and seal it with
5 evidence tape and then you also sign that and date that.
6 That's to protect the chain of custody. Once we take an item
7 into custody as evidence or potential evidence we do that and
8 then we turn it into our evidence locker.

9 Q. You mentioned evidence tape. Would that be --

10 A. That's correct. That's the evidence tape.

11 Q. This is the tape that you would have signed and
12 dated?

13 A. Yes. It's actually got my signature and my initials
14 on there.

15 Q. So this is the same bag that's in that photograph?

16 A. The bag on the inside. The actual pocketbook
17 inside, correct.

18 Q. I apologize. I'm going to take this out. This item
19 of evidence would be the same bag that's in the photographs?

20 A. It is.

21 Q. And this would be the same bag that you put into
22 evidence?

23 A. It is.

24 Q. And the same bag that was found you stated just a
25 few yards from the victims' vehicle?

1 A. Correct.

2 Q. In Aiken?

3 A. Correct. So as to the investigation where I was
4 located progressed, I asked Aiken County, the assistance I
5 requested was their dog team. After explaining to them what
6 had occurred, the serious nature of the type call, they ended
7 up notifying their dog team which is a make up of several
8 departments within Aiken County. Once all of the units
9 arrived there to aid me, they did not pull the dogs out. They
10 initially started hand tracking. That's what they do first to
11 see if they can find evidence.

12 Q. I have a question for you. What is hand tracking?

13 A. Hand tracking is when a handler of a K-9 that's
14 trying to locate somebody looks for physical evidence on the
15 ground whether it be a flipped over leaf, there's training for
16 it, or shoe impressions, foot impressions or marks or digs.
17 If someone is running, there's a different look to the dirt
18 depending on what you find. So at that point they had not
19 taken the dogs out, but they started hand tracking based on
20 the prints or shoe impressions that were located at the scene.
21 They came out on the driveway that I was discussing earlier
22 following the shoe impressions that I had described that I
23 photographed and then they made an immediate turn to the west
24 which is basically this road is parallel with I-20 so they
25 turned to the right or west like you're going to walk toward

MICHAEL RAFFIELD - DIRECT BY MS. FULLER

317

1 Augusta but on Old Camp Log Road.

2 Q. Why did that become irrelevant to you or
3 important?

4 A. The reason is is because we didn't know at first if
5 somebody had picked them up right there at the road because
6 again it's a sandy soil area so it was great to identify
7 things.

8 Q. I'm gonna stop you. You said them. Was there some
9 indication that it was more than one person?

10 A. Correct. There was more than one type impression
11 and I did photograph everything that I saw so my job was
12 focused on the vehicle and since I was there, Aiken County
13 kind of participated to put up a perimeter so I could not
14 leave the vehicle to go try to hand track or locate where
15 these footprints went. That's why I needed the assistance of
16 Aiken County's dog team. So they continued to track these
17 prints westbound on Old Camp Log Road going back toward
18 Highway 1 which intersects with I-20 and runs north and south.
19 They were able to identify the same shoe impressions in a
20 trailer park several hundred yards down the road and from
21 there they continued to track them then across Old Camp Log
22 Road --

23 MR. WILLIAMS: Your Honor, objection, I guess, to
24 his testimony on this matter because he would not be the
25 best person to testify to what they could identify and

1 couldn't identity.

2 BY THE WITNESS:

3 A. I actually saw the prints.

4 THE COURT: Hang on. Hang on. Hang on. I want to
5 hear you little further. It's a good time to send the
6 jury out for a quick break so just take a quick break.
7 Y'all step into the jury room. If you need to step
8 outside, you may. Don't discuss the case.

9 (Whereupon, the jury entered the jury room at 3:40
10 p.m.)

11 THE COURT: All right. Your objection is what now?

12 MR. WILLIAMS: Your Honor, it's hearsay. It's
13 speculation because he's testifying as to what somebody
14 in the Aiken Sheriff's Department can identify as being
15 the same footprints that came from a specific location to
16 another. That's what I heard.

17 BY THE WITNESS:

18 A. I haven't finished my testimony.

19 THE COURT: No. No.

20 THE WITNESS: Yes, sir.

21 THE COURT: I need to make a ruling.

22 THE WITNESS: I'm sorry.

23 THE COURT: I agree with you. He can't testify as
24 to what Aiken County thought. He can testify as to what
25 he saw and heard himself. There's a difference on that,

MICHAEL RAFFIELD - DIRECT BY MS. FULLER

319

1 okay?

2 MS. FULLER: That is correct, Your Honor. I believe
3 that's what he was testifying to.

4 THE COURT: I figured he was but I wanted to say it
5 first.

6 MS. FULLER: Thank you, Your Honor.

7 THE COURT: I sustain your objection to hearsay. I
8 overrule your objection as to he has personal knowledge.
9 Now, let's take a break.

10 (Short recess.)

11 THE COURT: Y'all ready?

12 MS. FULLER: Yes, Your Honor.

13 MR. WILLIAMS: Yes, Your Honor.

14 THE COURT: Bring them in please.

15 (Whereupon, the jury entered the courtroom at 3:55
16 p.m.)

17 THE COURT: All right. You may continue.

18 MS. FULLER: Thank you, Your Honor.

19 BY MS. FULLER:

20 Q. I'm not sure exactly where we left off but I think
21 what we were getting to was during this investigation, you
22 knew there were suspects and there were several different
23 tracks that you saw yourself?

24 A. Correct.

25 Q. And you were getting to the point of describing I-20

1 and I think we were getting to what's just beyond that that
2 became important in this case?

3 A. The Waffle House.

4 Q. Tell me about the Waffle House. Through this
5 investigation what do you know about the Waffle House?

6 A. During the investigation I was able to find out that
7 --

8 MR. WILLIAMS: Objection to hearsay, speculation
9 unless he is the officer that was involved in this
10 particular part of the investigation.

11 THE COURT: Sustained as to any hearsay. Make sure
12 you phrase your questions carefully.

13 MS. FULLER: Thank you, Your Honor.

14 BY MS. FULLER:

15 Q. During the course of this investigation, the Waffle
16 House became relevant, correct?

17 A. Correct.

18 Q. How far was the vehicle located from the Waffle
19 House?

20 A. Quarter of a mile.

21 Q. Is that walking distance?

22 A. Absolutely.

23 Q. And you were describing beyond. You photographed
24 tracks leaving from the vehicle just beyond I-20. When those
25 stopped, how far is the Waffle House just beyond that, if that

MICHAEL RAFFIELD - DIRECT BY MS. FULLER

321

1 makes sense?

2 A. Maybe one or two tenths of a mile. A very short
3 distance.

4 Q. Approximately how long would it take to get there?

5 A. Three minutes average walk.

6 Q. Walking?

7 A. Correct.

8 Q. Let me ask you this: You mentioned that Aiken
9 County Sheriff's Department or Office was providing
10 assistance. Can you tell me whether or not they had their
11 lights and sirens going in that area?

12 A. When they responded to the scene, they did.

13 Q. Okay. And when you're saying to the scene, it would
14 have been driving along that area --

15 A. To locate the vehicle.

16 Q. -- to locate the vehicle? And again, this is not
17 that far from the Waffle House?

18 A. Correct.

19 MS. FULLER: No further questions at this time.

20 THE COURT: All right. Mr. Williams.

21 MR. WILLIAMS: No questions, Your Honor.

22 THE COURT: Very well. Step down. Thank you. Call
23 you next witness.

24 MS. FULLER: Thank you, Your Honor. The State calls
25 Bobby Long.

1 Thereupon,

2 BOBBY LONG

3 after having been first duly sworn, testified as follows,

4 DIRECT EXAMINATION

5 BY MS. FULLER:

6 Q. Mr. Bobby Long, where are you currently employed?

7 A. Waffle House, I-20 and number 1.

8 Q. What county is that in?

9 A. Aiken County.

10 Q. You said it's off I-20?

11 A. It's off of Highway 1 by I-20.

12 Q. By I-20. I want to ask you a couple of questions.

13 Do you recall working on March 8th of 2017?

14 A. I do.

15 Q. What shift were you working?

16 A. I was working third shift, 9:00 at night to 7:00 in
17 the morning.

18 Q. So third shift, would that be the night shift?

19 A. Yes, ma'am.

20 Q. You said 7:00 to 1:00.

21 A. 9:00 to 7:00.

22 Q. I apologize. 9:00 to 7:00. While you were working
23 on that particular evening, do you recall seeing Aiken County
24 Sheriff's Office officers riding in the area?

25 A. Yes, ma'am. Quite a few of them.

BOBBY LONG - DIRECT BY MS. FULLER

323

1 Q. What strikes you about that night while you remember
2 it here today?

3 A. Well, me and my co-worker was working and we had
4 these three black males come in and they come in and they sit
5 down over by the bathroom and they was getting ready to order
6 and they was all going to the bathroom. The light skinned
7 fellow, he got up and went into the bathroom and then that's
8 when me and my co-worker noticed Aiken County all over the
9 motel and Raceway and all that riding around and we was
10 talking about it and then the light fellow came out of the
11 bathroom and I guess he heard us talking about the law
12 everywhere. He turned and went back into the bathroom, stayed
13 a few minutes, come back out and tapped the guy on the
14 shoulder and said they needed to get out of there. They just
15 acted a little nervous and skitchy.

16 Q. So would you say it was suspicious to you?

17 A. Yes, ma'am.

18 Q. And you mentioned a light skinned guy?

19 A. Yes, ma'am.

20 Q. Do you recall the description of any other guys in
21 the Waffle House?

22 A. One of the younger skinnier fellows had dark glasses
23 on.

24 Q. So there was another individual. Let me ask you
25 this: How many individuals total were in there?

1 A. Three.

2 Q. So one was a light skinned guy as you described?

3 A. Right.

4 Q. The second individual, what did he have on?

5 A. He had I think on blue jeans and dark rimmed glasses
6 if I remember correct.

7 Q. And you mentioned a third guy. How would you
8 describe him?

9 A. He was just wearing dark clothes. I don't exactly
10 remember what he looks like.

11 Q. Do you remember was he tall or short?

12 A. No, ma'am.

13 Q. That's okay. Now, this behavior, can you tell me
14 whether or not you relayed this information to law
15 enforcement?

16 A. No, ma'am.

17 Q. You didn't speak to the police about this?

18 A. Well, after this happened and they finally got up
19 and left, Lieutenant Clough came in, he pulled up in the
20 parking lot and I was outside and he called me over and he
21 showed me a phone and said that one of the --

22 MR. WILLIAMS: Objection to hearsay, Your Honor.

23 THE COURT: Sustained as to hearsay. If you can
24 slow down a little so I can listen better.

25 MS. FULLER: What did you say?

BOBBY LONG - DIRECT BY MS. FULLER

325

1 THE COURT: Slow down a little bit on his answers.

2 He's a rapid talker.

3 MS. FULLER: Thank you.

4 BY MS. FULLER:

5 Q. I'm going to ask you to slow down just a little bit.

6 I want to make sure that I understand you and make sure that
7 everyone on the jury understands you as well.

8 A. Yes, ma'am.

9 Q. So I'm take slow down and take it slow for you. So
10 we're at the Waffle House. They're inside. You described
11 three people acting suspiciously, correct?

12 A. Yes, ma'am.

13 Q. You mentioned Lieutenant Clough. What agency does
14 he work with?

15 A. He works with the Aiken County Sheriff's Office.

16 Q. You mentioned that after the fellows, the guys leave
17 Waffle House, that he comes there?

18 A. Yes, ma'am.

19 Q. Without telling me what he said, what, if anything,
20 did you say in response to what he said to you?

21 MR. WILLIAMS: Same objection, Your Honor. That's a
22 backhanded -- If you keep out one of the questions, it's
23 bringing in hearsay through the back way.

24 THE COURT: No. It's not. I haven't heard his
25 answer yet. I'll overrule that one.

1 MS. FULLER: Thank you, Your Honor.

2 BY THE WITNESS:

3 A. Well, the lieutenant, he just walked up to me when I
4 was outside and he walked up to me.

5 BY MS. FULLER:

6 Q. And what did you say?

7 A. Nothing. I asked him how he was doing. He said
8 fine and --

9 MR. WILLIAMS: Objection, Your Honor.

10 BY MS. FULLER:

11 Q. Just what you said.

12 THE COURT: Yeah. You can't tell us what he said.

13 That's hearsay. That's what they're talking about. You
14 can say what you said to him but not what he said.

15 BY THE WITNESS:

16 A. Right. Well, I mean, I don't know how to say what
17 --

18 BY MS. FULLER:

19 Q. It's okay. We'll take it slow.

20 THE COURT: That's the problem.

21 BY MS. FULLER:

22 Q. There were three individuals in there?

23 A. Right. When the lieutenant come up, he asked me a
24 question and I was outside.

25 Q. Okay. You were standing outside?

BOBBY LONG - DIRECT BY MS. FULLER

327

1 A. Yes, ma'am.

2 Q. Take me from there.

3 A. I was standing outside. The lieutenant walked up to
4 me. He said --

5 Q. Now, he said something. Then what did you say?

6 A. I said, yeah. I said there was three individuals
7 that walked up here and they went over towards the motel
8 rooms.

9 MR. WILLIAMS: I renew that objection, Your Honor.

10 THE COURT: I'm going to overrule it, but she can't
11 just keep providing answers so sustained to further
12 please tell me how you answered the officer. You can't
13 do that. That will be hearsay.

14 MS. FULLER: Thank you, Your Honor.

15 THE COURT: All right.

16 BY MS. FULLER:

17 Q. After this, tell me whether or not you had an
18 interaction -- Did you share this information with your
19 manager?

20 A. Yes, ma'am. That morning when the manager come in,
21 I told her that there was three individuals here acting
22 suspicious and Aiken County came by and asked us if we seen
23 any individuals --

24 MR. WILLIAMS: Objection to hearsay, Your Honor.

25 MS. FULLER: I think he's saying what he said, Your

1 Honor.

2 MR. WILLIAMS: No.

3 THE COURT: No. He repeated the question that was
4 asked to him. I don't know if it's offered for the truth
5 of it. It's asked for what he said so overruled on that
6 aspect.

7 MS. FULLER: Thank you, Your Honor.

8 BY MS. FULLER:

9 Q. You did relay this information to her?

10 A. Yes, ma'am.

11 Q. I'm gonna pause you there. What is her name?

12 A. Sharon O'Brien.

13 Q. What, if anything, do you recall happening after
14 relaying this information?

15 A. She went to the restrooms and checked the restrooms
16 and she came out of the restroom and I was in the back room
17 and she come out of the bathroom carrying a couple items in
18 her hands saying she found them --

19 MR. WILLIAMS: Objection to hearsay, Your Honor.

20 THE COURT: You can't say what she said.

21 BY MS. FULLER:

22 Q. But she came out of the bathroom. You saw her come
23 out of the bathroom?

24 A. Well, I seen her go in the bathroom and I was in the
25 back room and she come through the little door to the back

BOBBY LONG - DIRECT BY MS. FULLER

329

1 room and she carrying two items in her hand.

2 Q. Did you see the two items?

3 A. Yes, ma'am.

4 Q. I don't know if you can now. Do you still remember
5 what those items are?

6 A. One of them was a white glove and the other thing
7 looked like a silver kind of clip.

8 Q. You have a really good memory.

9 A. Thank you, ma'am.

10 Q. I want to show you what's marked as State's Exhibit
11 58. I'm going to ask you to take a look at this and tell me
12 if you recognize this particular disk?

13 A. Yes, ma'am. That's the video that Mr. Garner
14 brought around to my house and showed me at the house.

15 Q. How do you know that this is the one that you saw?

16 A. Because I signed it and dated it.

17 MS. FULLER: It's just for ID right now, Your Honor.
18 State's Exhibit 58.

19 THE COURT: Okay. ID purposes.

20 BY MS. FULLER:

21 Q. When you watched that video, did you recognize it?

22 A. I recognize it as the Waffle House and everybody
23 that was in the Waffle House. Yes, ma'am.

24 Q. Did you recognize it as the Waffle House back on
25 March 8th of 2017?

1 A. Yes, ma'am.

2 Q. I'm going to show what is marked as State's Exhibit
3 59 and 60 and I'm going to ask you a series of questions,
4 okay? We're gonna take them one at a time. Looking at
5 State's 59, do you recognize this image?

6 A. Yes, ma'am.

7 Q. And what do you recognize it to be?

8 A. The Waffle House, me working with Ashley and one of
9 our regulars sitting over there in the corner.

10 Q. Where is this Waffle House located?

11 A. It's located at number 1 Highway right by I-20.

12 Q. Now, all Waffle Houses to me look the same. How do
13 you know this is your Waffle House?

14 A. Because I've been in it for six and a half years.
15 It's different from the other Waffle Houses.

16 Q. It is?

17 A. Yes, ma'am. They're not all identical.

18 Q. I'm sorry. Looking at State's 60, do you recognize
19 this as well?

20 A. Yes, ma'am.

21 MS. FULLER: At this time, Your Honor, the State
22 seeks to move State's Exhibit 59 and 60 into evidence.

23 THE COURT: Show Mr. Williams the pictures.

24 MR. WILLIAMS: It doesn't matter, Your Honor. I
25 still object to foundation and relevance.

BOBBY LONG - DIRECT BY MS. FULLER

331

1 THE COURT: All right. I'll ask you to lay further
2 foundation then.

3 BY MS. FULLER:

4 Q. Can you tell the jury what night this was?

5 A. Not by just looking at this picture I can't. It
6 could be any night really.

7 Q. Do you recognize anything that sticks out to you in
8 this image?

9 A. No, ma'am.

10 Q. Do you recognize the individuals in the picture?

11 A. I recognize my co-worker and the regular. The guy
12 right there in the right hand corner, I don't recognize who it
13 is. I don't know him.

14 Q. How about in this image?

15 A. No, ma'am.

16 Q. Now, you described three individuals that came in
17 and you said you watched a video?

18 A. Yes, ma'am.

19 Q. Okay. And these are images from the video,
20 correct?

21 A. Yes.

22 MR. WILLIAMS: Objection, Your Honor. That's
23 leading in regards to what those are.

24 THE COURT: Sustained as to leading. Rephrase your
25 question.

1 BY MS. FULLER:

2 Q. Can you tell me whether or not these are images from
3 the video?

4 A. Yes, ma'am.

5 Q. But you can't recognize what night, if this was the
6 night in question?

7 A. Oh, yes, ma'am. That was the night in question if
8 that's what you're talking about.

9 Q. Yes. That's what I'm asking you.

10 A. Yes, ma'am.

11 Q. So how do you know that this was the night in
12 question?

13 A. Because I recognize the guy there the video showed,
14 the light skinned guy.

15 Q. Tell me about that. You mentioned the light skinned
16 guy. What about the light skinned guy?

17 A. Well, like I said, he came in, they all came in and
18 sat down at the middle booth like they was gonna order
19 something to eat like all the regular customers, wasn't
20 nothing suspicious about them, but then the light skinned -- I
21 guess they all went to the bathroom like everybody does and
22 the light skinned guy went to the bathroom. That's when me
23 and Ashley, the girl in the photo there, noticed Aiken County
24 all over the motel parking lot, Race Way gas station right
25 next door. You could tell that they was looking for something

1 and then the light skinned guy come out and me and Ashley was
2 talking about the law and he stopped in his tracks and he
3 looked up and he looked out the window everywhere and he
4 turned around and went back to the restroom and then that's
5 when he come back out and he tapped the guy on the shoulder
6 and said we need to get out of here.

7 Q. And you mentioned the light skinned guy. Looking at
8 State's Exhibit 59, do you see the light skinned guy you were
9 referencing?

10 A. Well, that picture is kind of a blur to be honest
11 with you. And like I said, I couldn't positively one hundred
12 percent --

13 Q. I'm not asking you to identify him today.

14 A. Right.

15 Q. But would this be a fair and accurate representation
16 of the light skinned guy in your Waffle House on March 8th,
17 2017?

18 A. Yes, ma'am.

19 MR. WILLIAMS: Your Honor, I'm going to object to
20 that question because of how it's worded because he just
21 said he couldn't identify that guy. That is what we're
22 looking for.

23 THE COURT: That is. I'm going to sustain your
24 objection but I'm gonna ask you to rephrase your question
25 and break it apart.

1 BY MS. FULLER:

2 Q. Is this a fair and accurate representation of the
3 Waffle House on March 8th when you saw the individuals, the
4 suspicious men in your store?

5 A. Yes, ma'am.

6 MR. WILLIAMS: Same objection to foundation and
7 relevance now.

8 THE COURT: I think it goes to weight. I think she
9 laid enough foundation.

10 MS. FULLER: Your Honor, I'll now move these items
11 of evidence, State's Exhibit 59 and 60 into evidence.

12 MR. WILLIAMS: I would renew my objection to the
13 introduction those into evidence.

14 THE COURT: Okay. Your objection is noted. I'm
15 gonna let them in subject to the objection as to
16 relevance and foundation but the Court is going to let
17 them in because I think a proper foundation has been
18 laid.

19 MS. FULLER: Thank you, Your Honor.

20 BY MS. FULLER:

21 Q. You described the other two individuals as well. I
22 know this is a still from the video. You said it's a little
23 blurry. Do you see the other two individuals in the Waffle
24 House on that night in this image?

25 A. Like I said, I couldn't a hundred percent identify

BOBBY LONG- CROSS BY MR. WILLIAMS

335

1 them. I mean, one the guys was a light skinned guy and the
2 other little skinnier guy had a jacket and blue jeans, dark
3 rimmed glasses and the other guy I don't remember what he
4 looks like.

5 MS. FULLER: I believe that's all the questions I
6 have for you at this time.

7 MR. WILLIAMS: Please the Court.

8 THE COURT: Mr. Williams.

9 CROSS EXAMINATION

10 BY MR. WILLIAMS:

11 Q. Mr. Long --

12 MR. WILLIAMS: Stand up, Abin. Stand up.

13 (Whereupon, the Defendant stands up.)

14 MS. FULLER: Objection, Your Honor.

15 THE COURT: He just asked him to stand up.

16 MS. FULLER: I didn't hear a question of the witness
17 on the witness stand.

18 MR. WILLIAMS: And the question is coming.

19 THE COURT: All right. Ask your question.

20 BY MR. WILLIAMS:

21 Q. Did you see that man in your Waffle House that
22 night?

23 A. I don't recognize that gentleman.

24 MR. WILLIAMS: Thank you. That's all I have, Your
25 Honor.

1 THE COURT: All right. Any redirect?

2 MS. FULLER: No redirect, Your Honor.

3 THE COURT: Step down.

4 MR. HUBBARD: The State calls Sharon O'Brien.

5 Thereupon,

6 SHARON O'BRIEN

7 after having been first duly sworn, testified as follows,

8 DIRECT EXAMINATION

9 BY MR. HUBBARD:

10 Q. Ms. O'Brien, if you would, please state your name
11 for the record.

12 A. Yes. My name Sharon O'Brien.

13 Q. Where do you work?

14 A. I work at the Waffle House in Aiken right off of -
15 well, exit 22, Highway 1.

16 Q. Bobby Long just testified. Does he work with you?

17 A. Yes, sir.

18 Q. What is your position there?

19 A. The restaurant manager.

20 Q. Back last year March 8th of 2017, were you the
21 manager on March 8th of 2017?

22 A. Yes, sir. Over two years I've been there.

23 Q. Now, what time did come in on March 8th?

24 A. I always arrive at 6:30 in the morning.

25 Q. When you got there, and I don't want you to say what

1 Bobby said, but did you have a conversation with Bobby?

2 A. Yes. I did.

3 Q. Did you have one actually by phone before you even
4 got to work?

5 A. Yes. I did. They had called me.

6 Q. And don't say what he said but you had a
7 conversation with him?

8 A. Yes. I did.

9 Q. When you got back into the store, was he still
10 working?

11 A. Yes. He was.

12 Q. Now, based on that, what, if anything, did you do?

13 A. Well, I'm always supposed to go and check out the
14 restaurant, the bathrooms. If there's anything, you know, my
15 associates are supposed to bring it to my attention if
16 anything seems out of normal which they did that morning. So
17 yes. I went and checked the bathrooms and with something
18 being unusual I did check the trash in the mens bathroom and I
19 did pull out a silver clip and white glove out of that and
20 brought it into my office and put it on top of my safe.

21 Q. At some point did you have interaction with law
22 enforcement?

23 A. Yes. I did.

24 Q. Did you let them know about what you had found?

25 A. Yes.

1 Q. Did they photograph it?

2 A. Yes. They did.

3 Q. Did they take that property?

4 A. Yes. They did.

5 MR. WILLIAMS: Without objection, Your Honor.

6 BY MR. HUBBARD:

7 Q. Are these the items that you found?

8 A. Yes, sir.

9 Q. These are the items that you turned over to law
10 enforcement?

11 A. Yes. They are.

12 Q. As they are pictured here, where is that picture
13 taken?

14 A. Right on top of my safe in my office.

15 Q. That's where when you retrieved these items, that's
16 where you put them until law enforcement got there?

17 A. Yes.

18 MR. HUBBARD: Thank you. I do offer this into
19 evidence.

20 THE COURT: That's exhibit 61?

21 MR. HUBBARD: Yes, Your Honor.

22 MR. WILLIAMS: Without objection, Your Honor.

23 THE COURT: All right. Exhibit 61 is in without
24 objection?

25 BY MR. HUBBARD:

SHARON O'BRIEN - DIRECT BY MR. HUBBARD

339

1 Q. So a money clip or a clip of some sort?

2 A. Yes, sir.

3 Q. And a white glove. Now, did you also have an
4 opportunity when you turned these things over to talk to law
5 enforcement about your video system?

6 A. Yes. I did.

7 Q. Did they ask to review and see the video from that
8 night or the early morning hours of March 8th?

9 A. Yes. They did.

10 Q. Were you able to show them that?

11 A. Yes, sir.

12 Q. Now, were you able also to make a copy of that video
13 and provide it to them?

14 A. My division manager made a copy of the video.

15 Q. I want to show you, have you seen the video since --
16 You saw it that night when you played it for them?

17 A. Yes, sir.

18 Q. Have you also looked at the copy?

19 A. Yes, sir.

20 Q. I want to show you State's ID 58 and see if that's
21 the video that you reviewed?

22 A. Yes, sir. That's the video.

23 Q. How do you recognize this is the one you viewed?

24 A. Because my name is on it and I dated it.

25 Q. That would be June 5th of this year that you went

1 over all of this?

2 A. Yes, sir.

3 MR. HUBBARD: Your Honor, I offer the video into
4 evidence.

5 MR. WILLIAMS: Without objection, Your Honor.

6 THE COURT: State's 58 without objection.

7 MR. HUBBARD: Yes, Your Honor.

8 BY MR. HUBBARD:

9 Q. Having looked at the video did you also see two
10 still shots?

11 A. Yes.

12 Q. Looking at State's 60 and 59, did these come off of
13 that video?

14 A. Yes. They did.

15 MR. HUBBARD: Ms. O'Brien, I believe that's all I
16 have. Answer any questions Mr. Williams has.

17 CROSS EXAMINATION

18 BY MR. WILLIAMS:

19 Q. Your last name is O'Brien?

20 A. Yes, sir.

21 Q. How long have you been with the Waffle House?

22 A. I have been with the Waffle House for over two
23 years.

24 Q. So you would have been there in 2016?

25 A. At that location I was right down the street but at

SHARON O'BRIEN - CROSS BY MR. WILLIAMS

341

1 the one right off of exit 22 and Highway 1 I have been there
2 for a year and a half at that location.

3 Q. So you would have been there March the 8th of
4 2017?

5 A. Yes, sir.

6 Q. And your position there is manager?

7 A. Yes, sir.

8 Q. The shift that Mr. Long worked that night was from
9 when to when?

10 A. 9:00 p.m. to 7:00 a.m.

11 Q. So that would be from 9:00 p.m. on March the 7th
12 until what time?

13 A. Until 7:00 a.m.

14 Q. 7:00 a.m. on March the 8th; is that correct?

15 A. Yes.

16 Q. All right. And what you have testified to would be
17 the disk which you viewed it on June the 13th of this year?

18 A. That was June the 5th of this year I reviewed it.

19 Q. Okay. Oh, your date would be the one underneath
20 your name. Right. So you saw it on June 5th of this year?

21 A. Yes, sir.

22 Q. Do you know when it was made?

23 A. Yes. It was made last year, I believe, in March. I
24 mean, that's when -- I reviewed it the next morning. I
25 reviewed it that morning when I came in, but then it was I

1 want to say two days later when we were actually able to
2 record it.

3 Q. Now, the items which you found, the clip and the
4 white glove, who did you turn those items over to?

5 A. It was a police officer. I believe his name was Mr.
6 Busbee or I'm trying to think of his name. I believe it was
7 Busbee.

8 Q. So when you say police officer, would it be Aiken
9 Sheriff's Department?

10 A. Honestly I don't know exactly if it was the police
11 department or the Sheriff's Department. I just know that --

12 Q. Did he have a uniform on?

13 A. I want to say I believe it was a detective that came
14 in. Uhm, it was over a year ago so...

15 Q. But his last name is Busbee?

16 A. Yes.

17 Q. And do you know whether or not he worked for Aiken
18 or he worked for Saluda or he worked for who?

19 A. Honestly, sir, I don't remember exactly who he
20 worked for.

21 Q. So once you found it, you really don't know what
22 happened to it?

23 A. Oh, no. He came there. I turned it over to him.
24 He actually had to swab my mouth and I wrote out a statement
25 and he gave me his card.

HENRY HERRON - DIRECT BY MS. FULLER

343

1 Q. So you have his card today?

2 A. No, sir. I don't.

3 Q. You said he swabbed your mouth?

4 A. Yes. Because I actually touched the items so he had
5 to --

6 Q. So he wanted to see if your DNA was on that money
7 clip or to exclude you perhaps?

8 A. Yes, sir.

9 Q. So he was testing this money clip for DNA and
10 fingerprints and stuff like that?

11 A. Honestly I don't know what was done with it after it
12 left my -- Yeah.

13 MR. WILLIAMS: That's all the questions I have, Your
14 Honor.

15 MR. HUBBARD: No follow up.

16 THE COURT: You may step down.

17 MR. HUBBARD: I ask that she be excused.

18 THE COURT: She may be. Call your next witness.

19 MS. FULLER: The State calls Henry Herron.

20 Thereupon,

21 HENRY HERRON

22 after having been first duly sworn, testified as follows,

23 DIRECT EXAMINATION

24 BY MS. FULLER:

25 Q. How are you doing today?

- 1 A. Doing good.
- 2 Q. Do you know the Tidwells?
- 3 A. I do.
- 4 Q. How do you know them?
- 5 A. That's my in-laws.
- 6 Q. Your in-laws. Where do you live?
- 7 A. I live at 139 Persimmon Drive.
- 8 Q. I'm going to show you State's Exhibit 1 and ask you
- 9 if you recognize it?
- 10 A. Yes.
- 11 Q. How do you recognize it?
- 12 A. That is Persimmon Hill Golf Course off 121 and it
- 13 already has an "X" on our house.
- 14 Q. I'll ask you to point it out for the jury?
- 15 A. Right there.
- 16 Q. How do you get to your house normally?
- 17 A. Coming in 121 you turn in right here. If you don't
- 18 make a right turn or a left turn you'll drive straight into
- 19 our front door.
- 20 Q. So pretty much almost dead ends into your house?
- 21 A. If you can't make a quick decision, yes, it does.
- 22 Q. I just want to jump straight into some line of
- 23 questioning for you. Tell me whether or not you have video
- 24 surveillance at your house?
- 25 A. I do.

HENRY HERRON - DIRECT BY MS. FULLER

345

1 Q. Where are your cameras set up?

2 A. One directly on the front of the house. Actually
3 circling the house basically but I do have one camera pointing
4 directly out the front up the main entrance so any car coming
5 and going, any vehicle coming and going in or out of the
6 subdivision through that primary entrance I can see it so
7 unfortunately if anything ever happens, we have a record of
8 what vehicles come and go.

9 Q. Do you maintain this yourself in your home?

10 A. Yes.

11 Q. And do you have access to it?

12 A. Yes.

13 Q. I want to show you this disk. I want to go ahead
14 and ask you if you recognize this?

15 A. Yes. I do.

16 Q. How do you recognize it?

17 A. I dated it, initialed it, watched it the other day
18 and I burned the DVD actually.

19 Q. What do you recognize this to be? What's on this
20 disk?

21 A. That's footage from the front camera on the front of
22 our house viewing out at the main entrance coming in and
23 there's a vehicle coming and going, if I'm not mistaken. The
24 vehicle was the white, blue top. I'm not sure if it's a Town
25 Car or Marquis.

1 Q. You located that on your surveillance video?

2 A. Yes.

3 Q. Tell me whether or not you provided this to law
4 enforcement?

5 A. I did.

6 MS. FULLER: Your Honor, at this time the State
7 seeks to move State's Exhibit 62 into exhibit.

8 MR. WILLIAMS: Your Honor, I would object to
9 foundation.

10 MS. FULLER: Your Honor, I believe he's laid a full
11 foundation.

12 (Side bar off the record.)

13 BY MS. FULLER:

14 Q. When did you make this copy for law enforcement?

15 A. I made that copy the morning of the incident, March
16 8th, Wednesday morning and I can go into more details. That
17 video actually was from that day. The recording was showing
18 the entry of that vehicle prior to the closing of the store so
19 I know it happened earlier in the day. That vehicle came in
20 and left and I also, there's more video that I pulled that
21 actually showed the vehicle or a vehicle very similar to that
22 one but it was dark with infrared coming and going later on
23 that night and being not long after you will see a tow truck
24 coming and going later on that night, a flat bed as well. So
25 there was a lot wrapped around that particular vehicle.

HENRY HERRON - DIRECT BY MS. FULLER

347

1 Q. And you watched that video that day?

2 A. I watched that video that morning.

3 Q. That morning.

4 A. And also watched it again with law enforcement in my
5 home before I burned the video.

6 THE COURT: Any objection?

7 MR. WILLIAMS: No.

8 THE COURT: 62 is in. Foundation has been laid.

9 MS. FULLER: Thank you, Your Honor.

10 BY MS. FULLER:

11 Q. I want to show you two exhibits marked for ID. They
12 are State's Exhibit 31 and 32. Again, do you recognize these
13 images?

14 A. I do.

15 Q. What do you recognize them to be?

16 A. That is shots of the camera on the front of the
17 house. That's the for sale sign we had on the front of the
18 house at the time and that's the plumb tree I had to cut down
19 a few months ago because it died.

20 Q. What else is captured? Let me ask you, where are
21 these images from --

22 A. Those images are from --

23 Q. -- physically? Were they captured on your video
24 surveillance?

25 A. Yes. They were captured on my video surveillance.

1 Q. And how do you know they were captured on your video
2 surveillance?

3 A. Well, because that's my yard and that little
4 fountain there. If anyone wants to see it, it's there.

5 Q. Does your video have date stamp on it?

6 A. It does. It does. If I'm not mistaken, I made a
7 note to law enforcement that the time is off by one hour
8 because of daylight savings time.

9 Q. What date are these still shots from?

10 A. Those are from March 7th so that was earlier in the
11 day, as I said, prior to them closing the store that day.

12 MS. FULLER: At this time, Your Honor, the State
13 seeks to move State's Exhibit 31 and 32 into evidence.

14 MR. WILLIAMS: Without objection, Your Honor.

15 THE COURT: 31 and 32 are in.

16 MS. FULLER: We did a lot a testifying up here.

17 Your Honor, permission for the witness to step down?

18 THE COURT: Sure.

19 BY MS. FULLER:

20 Q. Step down for me.

21 A. (Witness complies.)

22 Q. Looking at, we'll do State's 32. Go ahead and
23 explain to the jury what they're looking at in this image and
24 where your camera is, too?

25 A. Okay. The camera is actually on the front porch of

HENRY HERRON - DIRECT BY MS. FULLER

349

1 my home more to the right of our front porch or if you are
2 facing the house to the right of our front porch. So my
3 driveway is actually over here on the left. The for sale sign
4 is almost directly lined up. You can see right here in the
5 bottom there's a little bit of brick there. That's our front
6 step. So directly in front of the front step center of my
7 home you can see the for sale sign is lined up directly in
8 front of that front step and there's the vehicle that had just
9 entered from the main entrance up front and had turned right
10 or as we're looking turning left heading towards the airport
11 as illustrated earlier.

12 Q. Looking at 31, go ahead and describe to the jury
13 what they're looking at in this image.

14 A. That's the same vehicle returning and I guess if you
15 look at the time you can see we've got about a 15 minute lapse
16 there with that vehicle had driven back there and then the
17 distance all the way back to the back and back out, unless
18 someone stopped, you're gonna drive in and out in a matter of
19 two and a half, three minutes easily so there's a lot of time
20 there where someone did not just go back and drive straight
21 back out nor did they make a circle and seeing that, that's
22 the same vehicle.

23 Q. You may not know this but I'm going to ask you. Do
24 you know what kind of car that is?

25 A. It looks like either a Town Car or a Marquis to me.

1 It looks like an old police car that you would look out for.

2 Q. While I have you here, you described it on there but
3 the jury has seen quite a bit of this. You've pointed out
4 your home. Just so they and I can catch my bearings as well.
5 Just put this here. Looking at the aerial can you explain to
6 them what are they looking at here coming off the main road?

7 A. Sure. That car is coming in driving straight to my
8 home here and turned this way which as I said brings you back
9 towards the airport.

10 Q. And then looking at this image.

11 A. That's -- Actually I did that backwards. You showed
12 me the exit first.

13 Q. I did. I apologize.

14 A. On that one, that would be driving out fixing to
15 turn out here and in the second image that is coming in and
16 turning right here heading down this way.

17 Q. Thank you so much. You can take your seat.

18 A. (Witness complies.)

19 MS. FULLER: No further questions at this time.

20 MR. WILLIAMS: May it please the Court.

21 THE COURT: Yes, sir.

22 CROSS EXAMINATION

23 BY MR. WILLIAMS:

24 Q. I'm sorry, sir. What was your last name?

25 A. Herron.

HENRY HERRON - CROSS BY MR. WILLIAMS

351

1 Q. Herron?

2 A. Mm-hmm.

3 Q. H-e-r-r-o-n?

4 A. Yes.

5 Q. Mr. Herron, the cameras that you have at your house,
6 I believe you said that you captured State's Exhibit number
7 31, State's exhibit number 32. The time, I guess -- Let me
8 rephrase that question. That's going to sound confusing. The
9 time stamp on these two stills that you have captured is off
10 one hour?

11 A. Correct.

12 Q. Meaning if it's saying March the 7th at 17:52, what
13 time is it in real life I guess back then?

14 A. I submitted that when I handed the DVD over to law
15 enforcement.

16 Q. Well, I mean, I need to know from you. Is that an
17 hour earlier or an hour later?

18 A. I would have to go look at the surveillance system
19 because I have never touched the time on it since I installed
20 it so basically what you've got going on now it's on time. If
21 I go back and look at the surveillance system right now, it's
22 on time. Then with daylight savings time having occurred
23 prior to that you would have had your time shift forward but I
24 don't know. I haven't looked at the surveillance system when
25 heading in here to see if it's on or off an hour. But one

1 thing I can say is whether it's on or off an hour, either way
2 it's still prior to them closing the store.

3 Q. Because it's either 4:52 or it is 6:52, right?

4 A. No. One hour is only 4:52 or 5:52.

5 Q. Well, if it says 17:52 in military time, they work
6 on 24 hours so that would be 12 plus five makes 17 so --

7 A. Well, also at that time it's dark at 7:52, so if
8 it's not dark, then it would be an hour in the opposite
9 direction --

10 Q. So --

11 A. -- that time of year.

12 Q. But if you didn't know, it would either be 6:52 or
13 5:52?

14 A. So I would testify that it would be an hour in the
15 opposite direction because it's not dark in that photo, the
16 infrared is not on so therefore it's not dark enough for it to
17 be 6:52 in March.

18 Q. Good logic. So we can say that this would be 4:52
19 on March the 7th of 2017?

20 A. Yes, sir.

21 Q. Now, you testified that this appears to be a Silver
22 either Crown Victoria or a Lincoln or a Mercury, silver or
23 white, one or the other?

24 A. White.

25 Q. White?

HENRY HERRON - CROSS BY MR. WILLIAMS

353

1 A. Yeah. Either white or silver with a blue rag top.

2 Q. Now, did I understand you to say that you sat down
3 with law enforcement and viewed your surveillance system for
4 the entire night before?

5 A. No, sir. I sat down and viewed the surveillance
6 system and actually pulled the video and presented it to them
7 and watched that with them after I had pulled that night's
8 video and actually looked at the vehicles that came through
9 that night as well that were actually discounted because they
10 were verified as children of neighbors and other things that
11 went on.

12 Q. So let me just simplify this, I guess. Is what I
13 have in my hand, State's Exhibit number 58, is that a
14 reflection of the surveillance that was done from the camera
15 at your house from March the 7th at what time do you reckon?

16 A. Well, based on that it would have been 4:52 so we're
17 saying 17:00, 16:00 so yes, sir.

18 Q. Are you saying this tape begins at 4:52 on March the
19 7th of 2017?

20 A. I'm not gonna even give an exact time because I
21 didn't jot down the start time and end time so I really don't
22 know. The snapshot is but I can't verify when the video
23 started.

24 Q. I understand. Okay. Can you kind of give me some
25 idea? I'm not trying to trick you. I swear I'm not.

1 A. Sure. I understand.

2 Q. When do you think this tape is gonna show the
3 surveillance from your house?

4 A. In all honesty --

5 Q. We'll see it when we play it obviously, but if you
6 can kind of tell me what you think it would be.

7 A. I would hate to assume anything because we're
8 talking about me trying to remember a time frame from a year
9 ago.

10 Q. But it's gonna show everybody that went in front of
11 your house for whatever time period it shows on this camera?

12 A. I'm not gonna say that because I --

13 MS. FULLER: Objection, Your Honor.

14 THE COURT: Hang on. There's an objection to the
15 question.

16 MS. FULLER: A couple of things. Just for the
17 record, the exhibit is in front of the witness. I didn't
18 want him to answer the questions incorrectly.

19 THE COURT: It's a DVD.

20 MS. FULLER: That's not the right exhibit.

21 MR. WILLIAMS: May I approach?

22 MS. FULLER: The same question is being asked and
23 answered.

24 THE COURT: No, it's not. Mr. Williams asked what
25 time range does it show. Does it show the entire time

HENRY HERRON - CROSS BY MR. WILLIAMS

355

1 frame. That's what he's asked.

2 BY THE WITNESS:

3 A. And --

4 THE COURT: Wait. Wait.

5 THE WITNESS: I'm sorry.

6 THE COURT: I fussed at the other guy. I'll get
7 you, too. Let me do my ruling and then you can answer.
8 But he's asked two questions. What's the time range and
9 does it show the entire time range. You've not answered
10 that question yet because she's objected to it but that's
11 a fair question. So if that's your objection, I'm going
12 to overrule it. That's a fair question.

13 BY THE WITNESS:

14 A. Okay. What's the time range? I do not know for
15 certain at this point what the time range is because I did not
16 write that down. I don't know. Secondly, does it show the
17 entire time range? My motion camera, my cameras go off motion
18 so if it's gonna show the entire time range, someone would
19 have to be dancing in front of the camera the entire time.

20 BY MR. WILLIAMS:

21 Q. So it's kind of like -- Well, bank cameras I've been
22 told switch from camera to camera to camera. They don't
23 automatically run all the time. Are you telling me that your
24 camera only works when something is passing in front of it?

25 A. Yes, sir. Otherwise if it did not, I would fill up

1 the disk and you would probably not have any of this video
2 because I would just be filming tidbits.

3 Q. Okay. Fair enough. So when we look at this disk,
4 we will see several vehicles that go in front of your house
5 based on movement in front of your house, right?

6 A. I'm not going to say that because what I watched on
7 that disk the other day that I signed off on was that one
8 vehicle coming and going.

9 Q. That's all you saw?

10 A. That's all I watched. On that particular disk that
11 is all I watched.

12 Q. So you don't really know what's included on that
13 disk?

14 A. What I watched. What you're going to see right
15 there is that. Now, I do know that I submitted a disk that
16 had a lot of information on it. Now, whether that's all of
17 that disk or not I'm not going to --

18 Q. I got you.

19 A. Because you've got darkness and other cars that
20 would have nothing to do with it.

21 Q. Fair enough. One other question. I'm trying to
22 locate this in my head again. You turn left if you're coming
23 from Saluda in front of the golf clubhouse running by number 9
24 to get to your house and your father-in-law's house?

25 A. No, sir. Two separate entrances.

1 Q. Your house comes in through Persimmon Hill Estate;
2 is that correct?

3 A. Yes, sir.

4 Q. And when you come in through Persimmon Hill Estate
5 to get to your house, how would you go?

6 A. If you're coming from Saluda, you would turn left on
7 Persimmon Hill Estate, follow that road and just as soon as
8 you have to either bear off to the right or bear off to the
9 left we're right there the very first house.

10 Q. All right. Now, if you bear off to the right, would
11 you go to where your father-in-law lives?

12 A. You can. Yes.

13 Q. That would be one way to get there?

14 A. Yes, sir.

15 Q. If you bear off to the left, you would run into a
16 dead end? Is there a dead end that way?

17 A. It's a circle.

18 Q. It is a circle all the way around?

19 A. If you took a left there, you would circle back
20 around.

21 Q. But that way is a different entrance to go to your
22 father-in-law's house; isn't it?

23 A. Actually it is not technically an entrance unless
24 you want to sneak in there.

25 Q. Because it doesn't really hook up to your

1 father-in-laws house?

2 A. It does not. You've got a fairway and green in
3 between it but I have ridden back there on a golf cart before
4 to go take my daughter over to their house before to visit
5 with them.

6 Q. Is that the par 5?

7 A. Par 3.

8 MR. WILLIAMS: I think that's all I have, Your
9 Honor. Thank you.

10 THE COURT: Fair enough.

11 MS. FULLER: Just briefly, Your Honor, to clear a
12 couple things up.

13 REDIRECT EXAMINATION

14 BY MS. FULLER:

15 Q. The video on State's Exhibit 62 the one you watched
16 in preparation for court, the court exhibit --

17 A. Yes.

18 Q. -- what did it contain?

19 A. It contained the vehicle in the snapshot entering
20 and exiting the subdivision.

21 Q. Just to be clear, when you were testifying on
22 direct, you were describing all of the footage you personally
23 watched on your surveillance?

24 A. Yes. That is correct. That is all that I
25 watched.

HENRY HERRON - REDIRECT BY MS. FULLER

359

1 Q. And you described -- You couldn't make out the
2 vehicle but something similar later that night leaving; is
3 that correct?

4 A. That is correct. That is my opinion. Absolutely.

5 MS. FULLER: Thank you. No further questions.

6 THE COURT: Anything else?

7 MR. WILLIAMS: No questions on recross, Your Honor.

8 THE COURT: You may step down.

9 MR. HUBBARD: Your Honor, may we approach on
10 scheduling?

11 THE COURT: Sure.

12 (Side bar off the record.)

13 THE COURT: We had a side bar conference and the
14 Court believes we need to make a record. That's what
15 we're going to do.

16 (Whereupon, the jury entered the jury room at 5:00
17 p.m.)

18 THE COURT: All right. Solicitor, call your next
19 witness.

20 MR. HUBBARD: The State calls Agent Russ Padgett to
21 the stand.

22 Thereupon,

23 WILLIAM RUSSELL PADGETT, JUNIOR

24 after having been first duly sworn, testified as follows,

25 DIRECT EXAMINATION

1 BY MR. HUBBARD:

2 Q. Agent Padgett, for the record, will you please state
3 your name and where you work.

4 A. William Russell Padgett, Junior. I work for the
5 South Carolina Law Enforcement Division.

6 Q. Last year, March 8th of 2017, where were you
7 working?

8 A. I was employed at Saluda County Sheriff's Office in
9 the capacity of a lieutenant in the investigations unit.

10 Q. On March 8th, 2017 did you have occasion to go to
11 the Tidwell residence in response to a burglary, armed
12 robbery?

13 A. Yes. I was called sometime in the early morning
14 hours and awakened to respond in reference to a home invasion
15 that occurred at the Tidwells to assist with the
16 investigation.

17 Q. While you were there, was there any effort on your
18 part and other law enforcement officers to find video?

19 A. Yes, sir. We obtained some video footage from a
20 neighbor who is actually the Tidwells' daughter and
21 son-in-laws' house.

22 Q. Henry Herron who just testified?

23 A. Yes, sir.

24 Q. Now, did you have an opportunity during those early
25 morning hours to see still shots from that video?

WILLIAM RUSSELL PADGETT - DIRECT BY MR. HUBBARD

361

1 A. Yes, sir. I did.

2 Q. I'll show you State's Exhibit 31 and 32 that are in
3 evidence and see if you recognize these photographs?

4 A. Yes, sir. That's the still shots I saw.

5 Q. Now, looking at these still shots, did these photos
6 or this vehicle in these photos have any significance to you
7 that morning?

8 A. I recognize that as the vehicle that Abin Lowman was
9 driving on March the 3rd when I had an encounter with him and
10 three other guys that I remembered being from out of state.
11 That occurred in Ridge Spring.

12 Q. Now, since the jury is out, let me ask you this:
13 Did you make the stop or what was your role?

14 A. I was a back-up officer to Chief Garry Hitt.

15 Q. And he's the chief for who?

16 A. Ridge Spring Police Department.

17 Q. Since the jury is out, what was the call you were
18 responding to and backing him up on?

19 A. A burglary in progress.

20 Q. What name did you hear come over the radio?

21 A. Abin Lee Lowman.

22 Q. Was the vehicle stopped when you got there?

23 A. It was.

24 Q. What role did you provide the chief at that time?

25 A. When I arrived, Mr. Lowman was standing at the rear

1 of the car talking with the chief. I identified the other
2 three males that were inside of the car.

3 Q. Let me ask you this: Did you know Mr. Abin Lee
4 Lowman?

5 A. I did.

6 Q. So his identity was known to you at that time?

7 A. Yes. I recognized him as soon as I pulled up before
8 I got out of the car.

9 Q. The other three individuals that you ran ID for, do
10 you know if they were in state or out of state?

11 A. They were out of state.

12 Q. Can you please tell us what you ran and what you
13 found?

14 A. We ran identification on James Wilson, James C.
15 Wilson, Joshua L. Darien and a Robert J. Goodwin.

16 Q. What state were these three individuals from?

17 A. Maryland.

18 Q. When you got there, were they all in the vehicle?

19 A. Those three were in the vehicle, yes. Mr. Lowman
20 was standing outside of the vehicle.

21 Q. Was this a Mercury Grand Marquis?

22 A. Yes, sir.

23 Q. All right. Now, let me ask you, were any charges
24 filed that day?

25 A. No, sir. No charges were made on the 3rd.

WILLIAM RUSSELL PADGETT - DIRECT BY MR. HUBBARD

363

1 Q. So these guys were allowed to go on their way?

2 A. Yes, sir.

3 Q. March 8th when you see that vehicle, these two still
4 shots and you see the vehicle in these two still shots as an
5 officer at that time who were you looking for?

6 A. When I saw those pictures, I immediately said that
7 that's the vehicle that Abin Lowman and the three guys from up
8 around Washington, D.C. were in last week.

9 Q. Let me ask you this: Sitting over there at the
10 Tidwell residence you knew Abin Lowman but did you have to go
11 back and find the names of the guys you had run ID's on?

12 A. I did.

13 Q. How did you do that?

14 A. Through the CAD system at dispatch.

15 Q. And you were able to retrieve these names of these
16 individuals?

17 A. Yes, sir.

18 Q. I want to show you State's 63. Are these the
19 individuals that you saw in that Mercury Grand Marquis on
20 March the 3rd?

21 A. Yes, sir.

22 Q. Are these the names of the people you ran the ID on?

23 A. Yes, sir.

24 Q. After March 8th or on March 8th how did you classify
25 these four individuals?

1 A. As persons of interest in the home invasion of the
2 Tidwells.

3 Q. And the vehicle, that 2003 Mercury Grand Marquis,
4 was that also a vehicle of interest?

5 A. It was.

6 MR. HUBBARD: Your Honor, that's all I have.

7 THE COURT: All right. Mr. Williams.

8 MR. WILLIAMS: Your Honor, I have no questions for
9 him. I just have argument.

10 THE COURT: Okay.

11 MR. WILLIAMS: Your Honor, I guess the problem I'm
12 having with this scenario and as I stated earlier I think
13 maybe these pictures do come in but the format of how
14 they're coming in at this stage of the game because what
15 he's brought up is he's bringing up an event where law
16 enforcement was involved where nobody was charged and
17 he's using that as a basis to introduce these pictures to
18 somehow indicate that my client is involved with a
19 break-in which I don't even know why we get to talk about
20 anything about my guy being stopped anywhere when he
21 wasn't charged with anything. I don't see how that's
22 relevant to what we're representing here other than
23 saying that maybe his bad character of being involved
24 with three other guys who subsequently turn out to be
25 burglars are some how involved in a break-in.

1 THE COURT: I think his testimony just then looking
2 at the still shots of the Mercury, I recognize that
3 Mercury as being Abin Lowman's and that ties it. How
4 would up now that? Well, I have stopped him. You don't
5 want to say that.

6 MR. WILLIAMS: No.

7 THE COURT: I know him and I had seen him several
8 days before driving that car. I mean, he gets there,
9 does he not?

10 MR. WILLIAMS: He does. But now these other people
11 have not been charged yet at this stage where he's
12 talking about lumping these people in, are they? They
13 don't even know who these people are yet. They haven't
14 gone to Maryland.

15 MR. HUBBARD: At this stage no one has been charged
16 yet. That's why these are who he's looking for just to
17 talk to.

18 THE COURT: Okay. Since Mr. Lowman is on trial,
19 we'll just deal with him and the other aspects of the
20 other three guys we can kind of get by. I think the
21 Solicitor can ask Padgett, you saw the video. You
22 recognized the car. How did you recognize it? I knew it
23 to be Abin Lowman because I have personal knowledge of
24 the kind of car he drives. I think later he's going to
25 get there. He can get there very easily through this

1 guy. So that's where I want you to stop on this one.

2 MR. HUBBARD: I want to make sure I understand.

3 THE COURT: Here's what I think you can do right now
4 for further foundation. I looked at the video. I saw
5 the still shot of the Mercury. I recognized the Mercury
6 because I have personal knowledge of Abin Lowman and the
7 car he drives. That gets you --

8 MR. HUBBARD: Yes, sir. Actually here's my problem.
9 But for him recognizing these other three guys, we don't
10 know who we're looking for. We don't know who is in
11 Aiken. We don't know anything. So now what he's going
12 to is his next stop is to go off to the Waffle House.
13 He's gonna ID these same three guys at Waffle House and
14 now we're searching for them. So I think it's absolutely
15 critical to the explanation of the investigation of the
16 case and that's ultimately what this is. This is an
17 explanation of the investigation that actually builds
18 with this case so there's not going to be prejudice.

19 THE COURT: Well, I think -- And they're not on
20 trial here.

21 MR. HUBBARD: Correct. But what the two of them are
22 going to do is get up on that jury stand and testify to
23 their involvement and to Mr. Lowman's and to
24 Mr. Goodwin's so basically what's going to happen is the
25 investigation is gonna unfold but at this time this jury

1 has nothing other than argument about who is involved.
2 He's the linchpin. This is how it happens. That's how
3 these names come in. I can put a face with the name now
4 and that's the relevance because we have just had our
5 victims testify, you've got a guy with glasses. You also
6 have somebody talking about a light skinned black male at
7 Waffle House. That's gonna be very relevant. Very
8 relevant.

9 THE COURT: It already has been. It already has
10 been.

11 MR. HUBBARD: Has been. But now I have a name and I
12 have faces to go with it which are gonna be critical to
13 the investigation. So I'm not seeing any prejudice, Your
14 Honor, and also as this case goes on we're gonna have
15 testimony that they were actually all arrested as this
16 case goes on.

17 MR. WILLIAMS: That might be different, Your Honor,
18 once they have already testified.

19 MR. HUBBARD: The testimony doesn't make evidence
20 relevant. It's the investigation of what they're looking
21 for. It's just like if I'm looking for guys in
22 Massachusetts and can't find them, who am I looking for?
23 This guy is not testifying, Mr. Goodwin. It doesn't
24 matter. He's irrelevant because he's a party that's been
25 identified. We're gonna have evidence later that he was

1 arrested.

2 THE COURT: All right. Well, why do these
3 photographs have to come in through him if the testimony
4 you described to me is what he's gonna testify to?

5 MR. HUBBARD: I think, first of all, it comes in
6 because it establishes for the jury, you've got four
7 names, I've got four faces, four individuals, zero
8 prejudice. If I get the names in, I don't know what the
9 problem with the faces are for the defense. Ultimately
10 two of the guys of the four are gonna be testifying
11 anyway. The jury already knows Mr. Lowman is on trial.
12 I'm struggling to find the prejudice. The relevance
13 obviously is the investigation. How we went along.
14 Because I think, Judge, the jury is going to expect us to
15 be very methodical and not to just jump to conclusions.
16 Your Honor has heard too many closing arguments where the
17 State just jumps to conclusions. This helps seal that.

18 THE COURT: All right. Mr. Williams.

19 MR. WILLIAMS: I can still use that argument if he
20 wants to use that argument that he just made, about them
21 jumping to conclusions because you've a guy that's got
22 some prior history with my client, sees my guy getting
23 arrested or sees a car that looks like his so he says,
24 well, we're gonna connect these three guys. You can go
25 down that road forever. But my only objection is joining

1 these people together making it look like he's part of a
2 conspiracy. Now they don't have the conspiracy. They
3 don't have the keys to the conspiracy in evidence yet and
4 there's a strong possibility that he could be found
5 guilty just because, just because his picture is just
6 there with three other guys.

7 The Solicitor wants to know what's the difference.
8 Well, you know, a picture is worth a thousand words. I
9 think what you draw from those things is not just the
10 individual things that you see but when you put those
11 four things together, then you draw conclusions whether
12 they're rightful or they're wrongful because I suspect
13 that's how he got charged anyway is because of the wrong
14 conclusions that were drawn based on him being in a car
15 with these three other guys on some other occasion.

16 MR. HUBBARD: One come back to that. I have to
17 establish not only the names, this witness has to
18 identify the face. Is this the guy you saw on the 3rd?
19 Yes. And then he becomes relevant later in the
20 investigation. Did you see these three guys in the
21 Waffle House? Yes. I have to have a face.

22 MR. WILLIAMS: And I don't care about the face, Your
23 Honor. It goes back to that single sheet that -- I think
24 the Solicitor --

25 MR. HUBBARD: I have an idea. How about I cut this

1 board into four pieces and show all four pieces one at a
2 time so that they're all not together and in essence --

3 THE COURT: I think if you do that, that minimizes
4 the prejudice so I kind of agree with you. That would be
5 less prejudicial to his client but it gets done what
6 you're trying to do is tying everything together through
7 this witness who had the ability to make the testimony
8 that you're talking about, at least he appears to.

9 MR. HUBBARD: Do you want to try to see if we can
10 chop it up tonight or how do you want to do this? I'll
11 leave that to Your Honor.

12 THE COURT: What do you think?

13 MR. WILLIAMS: I live in Batesburg.

14 MR. HUBBARD: We can either do that or we can start
15 tomorrow.

16 THE COURT: Let's start tomorrow and that'll give
17 you time to make it look nice. We have already done the
18 in camera hearing so we'll start at 9:00 and keep
19 rolling.

20 MR. HUBBARD: Yes, sir. Absolutely.

21 THE COURT: Bring the jury in please.

22 (Whereupon, the jury entered the courtroom at 5:15
23 p.m.)

24 THE COURT: That's one of the things, I had to
25 preview some testimony and evidence the State wants to

1 put in but it took longer than I thought so I'm gonna let
2 y'all go home for tonight for now and then we'll start
3 back in the morning. The preview has been done so we'll
4 start back, y'all be back in the jury courtroom tomorrow
5 morning but that just took longer than the lawyers and I
6 thought it would but I've made my ruling and we're ready
7 to go forward on that but it's 5:15. It will be 6:00
8 before we get done so I'm gonna let you go home tonight.

9 Now, Juror Kevin, he spoke with me when you walked
10 back in here and asked me, he said some of y'all were
11 worried about work or whatnot. If you want to work, you
12 can work. If you need a note to work, Ms. Coleman will
13 give you something saying you're currently on a jury. I
14 don't mind her giving that to you saying I'm serving on a
15 jury right now in the Saluda County Courthouse. If that
16 will help you, she'll give that to you but everything
17 that's said in court we have to put it on the record
18 that's why. You're not in trouble. Maybe my foreperson
19 right here. You got any objection to that? There you
20 are. So you will be communicating with me and the
21 bailiffs from now on. You can sit right there.

22 If anybody needs a letter from the clerk saying
23 you're on the jury, she'll give it to you tonight right
24 now and that will help you with your boss or something.
25 We'll be glad to do that. If something comes up, let me

1 know or let the bailiff know. Let Kevin know so we can
2 fix that up. Okay. You can't discuss the case. You're
3 free to go for the evening. See you back in the morning.
4 Let's all try to get here before 9:00. We'll start at
5 9:00, all right? I don't know which two were late. It
6 doesn't matter. Ms. Coleman knows. If I ask her, she'll
7 tell me. I'm not gonna ask her. Everybody is in good
8 shape. Don't discuss the case. See you in the morning
9 before 9:00. Need an excuse, just stand here and she'll
10 give it to you. All right. We'll stand at ease until
11 before 9:00.

12 MR. HUBBARD: Thank you, Your Honor.

13 MR. WILLIAMS: Thank you, Your Honor.

14 THE COURT: Kevin is an alternate so he's not the
15 foreperson yet. He's the spokesperson until he gets on
16 the jury deliberating.

17 (Whereupon, court was recessed for the day at 5:30
18 p.m.)
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WILLIAM RUSSELL PADGETT - DIRECT BY MR. HUBBARD

373

1 JUNE 20, 2018

2 BAILIFF: All rise. Court is now in session.

3 THE COURT: Good morning. Thank you. Please be
4 seated. Y'all good to go?

5 MR. HUBBARD: Yes, sir.

6 THE COURT: Good to go?

7 MR. WILLIAMS: Yes, sir.

8 THE COURT: Bring in the jury.

9 (Whereupon, the jury entered the courtroom at 9:10
10 a.m.)

11 THE COURT: Call your witness.

12 MR. HUBBARD: The State calls Agent Russ Padgett.

13 Thereupon,

14 WILLIAM RUSSELL PADGETT, JUNIOR
15 after having been first duly sworn, testified as follows,

16 DIRECT EXAMINATION

17 BY MR. HUBBARD:

18 Q. Agent Padgett, if you would state your name for the
19 jury.

20 A. William Russell Padgett, Junior.

21 Q. Where do you work?

22 A. I work for the South Carolina Law Enforcement
23 Division.

24 Q. How long have you been there?

25 A. Since November of 2017.

1 Q. Before November of 2017, where were you working?

2 A. In the Saluda County Sheriff's Office in the
3 capacity of a lieutenant in investigations.

4 Q. How long had you been with Saluda?

5 A. 13 years.

6 Q. Back when you were in that capacity as lieutenant
7 for the Sheriff's Department, did you have an occasion to get
8 involved in this burglary, armed robbery at the Tidwell
9 residence?

10 A. Yes. I was called some time in the early morning
11 hours and awoken to respond to 106 Birdie Court in reference
12 to a home invasion that occurred involving the Tidwells.

13 Q. That's March 8th of last year?

14 A. Yes, sir.

15 Q. When you got there, was it daylight yet or was it
16 still a little dark?

17 A. It was still dark when I first got there.

18 Q. You got there early on?

19 A. Yes.

20 Q. While you were there, what, if anything, were you
21 and other investigators trying to track down to assist you in
22 this case?

23 A. We checked with neighbors to see if anybody had
24 surveillance video. I think we also checked at the clubhouse
25 to see if they had surveillance video to see if there was any

WILLIAM RUSSELL PADGETT - DIRECT BY MR. HUBBARD

375

1 vehicles of interest or we could develop any persons of
2 interest.

3 Q. Were y'all able to determine that at least one
4 neighbor had video?

5 A. We were. We located a surveillance system on
6 Mr. Herron's residence and obtained the surveillance footage
7 from it.

8 Q. He's the son-in-law of the Tidwells?

9 A. Yes, sir. He is actually the son-in-law.

10 Q. Now, did you watch a video or did you see photos
11 from that video?

12 A. I saw still shots from that video.

13 Q. Were those still shots significant to you?

14 A. They were.

15 Q. I want to show you what's already in evidence as
16 State's 31 and 32, two still shots. Do you recognize these
17 photos?

18 A. I do.

19 Q. What is significant to you or what was significant
20 to you on March 8th those early morning hours about these
21 photos?

22 A. As soon as I saw this car in these photos I
23 recognized it as being a vehicle that I had stopped and had
24 the chance of Id'ing everybody in it on March The 3rd.

25 Q. Now, we're going to talk about that. At that scene

1 did you know, was there any one person that you identified
2 that you knew?

3 A. Yes. I knew that was the car that Abin Lowman was
4 driving on March the 3rd.

5 Q. Let's talk about March 3rd. Did you make the stop
6 or was it a back-up?

7 A. I was actually a back-up officer.

8 Q. Where did this take place?

9 A. In Ridge Spring.

10 Q. What was the nature of the call? Or let me ask you
11 this: Let me put it this way: When you're riding, did you
12 hear the name on the radio or hear the stop on the radio? Let
13 me ask you that.

14 A. I did. I heard the chief of police stop the car and
15 run the name Abin Lee Lowman which I was familiar with so I
16 responded to back him up.

17 Q. You know Abin Lee?

18 A. Yes.

19 Q. You back-up. Is it safe to say this is just a
20 suspicious stop, suspicious vehicle?

21 A. Yes, sir.

22 Q. Okay. Now, when you get there, how many subjects
23 are in the car?

24 A. When I arrived, there was the chief of police in
25 Ridge Spring, Mr. Lowman was standing at the rear of the car.

WILLIAM RUSSELL PADGETT - DIRECT BY MR. HUBBARD

377

1 The chief of police advised me there were three other people
2 inside the car. I couldn't see how many people was in
3 there.

4 Q. Why couldn't you see that?

5 A. The windows were so darkly tinted.

6 Q. So what was your role in this stuff?

7 A. I identified the other three people that was inside
8 the car.

9 Q. So how did you go about doing that?

10 A. I opened the door and asked them for their ID's and
11 they all provided ID's.

12 Q. As an officer, when you get someone's ID, what do
13 you do with it?

14 A. We run it through dispatch.

15 Q. What names did you come up with when you ran those
16 ID's?

17 A. Well, at the time I saw that picture I didn't
18 remember their names.

19 Q. Right. But I mean, officer, I'm only talking about
20 March the 3rd now while you're in Ridge Spring?

21 A. On March the 3rd we run the names of James C.
22 Wilson, Joshua L. Darien and Robert J. Goodwin as being the
23 other three people that was in the car.

24 Q. Now, these three individuals on March the 3rd in
25 Ridge Spring, were you able to determine they lived in South

1 Carolina?

2 A. They were all from out of state. They lived in
3 Maryland.

4 Q. That stop, any charges made on that stop?

5 A. No.

6 Q. They were free to go?

7 A. They were let go. No charges.

8 Q. All right. So as far as you're concerned that was
9 nothing?

10 A. Right. That was nothing.

11 Q. Let's jump forward back to the Tidwell residence
12 those early morning hours when it's still dark March 8th, you
13 see this photo of this Mercury Grand Marquis silver with blue
14 rag top. Is this the vehicle you saw these folks in on March
15 the 3rd?

16 A. It is.

17 Q. Now, when you're out at the Tidwell residence, did
18 you have all this information of those other individuals at
19 hand? You didn't have it with you, did you?

20 A. I didn't have it with me. I had to get it through
21 our dispatch. They have a CAD system which is a software
22 system that keeps records of all the calls that the Sheriff's
23 Office, police department and fire department responds to.
24 The dispatchers put in all that information on traffic stops
25 or suspicious vehicles or anything like that, they'll put in

WILLIAM RUSSELL PADGETT - DIRECT BY MR. HUBBARD

379

1 the tag numbers, any names that the officers run and that
2 record will be there.

3 Q. Let me ask you this, Agent Padgett. When you back
4 on March 3rd when you did that, you ran these ID's. Did you
5 also run the car information?

6 A. We did.

7 Q. So all of that is on what we call a CAD report?

8 A. Yes, sir.

9 Q. Through dispatch?

10 A. Yes.

11 Q. So as investigator did you go back to refresh your
12 memory and look at what you had run on March 3rd?

13 A. We did.

14 Q. When you did that, you have already identified these
15 three names from Maryland. Did you also have the tag number
16 for the vehicle?

17 A. We did. It was a South Carolina tag of MXD356 and
18 it was registered to Roberta Lowman who is known as Abin
19 Lowman's mother.

20 Q. At this point are you going to run out and get
21 arrest warrants on anybody?

22 A. Not at this point. No.

23 Q. As far as Abin Lee Lowman is concerned, Robert
24 Goodwin, Joshua Darien and James Wilson as an officer how did
25 you classify them that early morning hours?

- 1 A. As somebody I wanted to talk to.
- 2 Q. People of interest?
- 3 A. People of interest.
- 4 Q. When you talk to someone, is it to rule them in,
5 rule them out?
- 6 A. One way or the other.
- 7 Q. But you know as an officer you now need to talk to
8 four people?
- 9 A. Yes.
- 10 Q. Is it also fair to say you need to look for a car?
- 11 A. Yes.
- 12 Q. I want to show you some photographs. Do you
13 recognize these individuals?
- 14 A. Yes, sir.
- 15 Q. Are these the four individuals that you saw on March
16 3rd in Ridge Spring?
- 17 A. They were.
- 18 Q. Are these the four individuals that you now just
19 want to talk to?
- 20 A. Yes, sir.
- 21 MR. HUBBARD: Your Honor, I officer these four
22 photographs into evidence.
- 23 MR. WILLIAMS: I have no objection, Your Honor.
- 24 MR. HUBBARD: That would be State's 63, 64, 65 and
25 66.

WILLIAM RUSSELL PADGETT - DIRECT BY MR. HUBBARD

381

1 THE COURT: Moved in without objection.

2 BY MR. HUBBARD:

3 Q. Let's look at State's 64 to begin with. Abin Lee
4 Lowman. Now, you say you already know him?

5 A. Yes, sir.

6 Q. You're a local, he's a local?

7 A. Yes, sir.

8 Q. So we have him. Robert Goodwin?

9 A. Yes, sir.

10 Q. State's 63. He's from Maryland?

11 A. Yes, sir.

12 Q. Did you subsequently determine if he had any kind of
13 relationship to Mr. Lowman?

14 A. Yes. It has been revealed throughout the
15 investigation that he is the uncle or cousin or some type of
16 family member to Mr. Lowman.

17 Q. But he's from Maryland?

18 A. Yes, sir. Or he had a Maryland driver's license.

19 Q. James Wilson, State's 66, he's one of the other
20 individuals?

21 A. Yes, sir.

22 Q. What is he wearing on his face?

23 A. Dark rimmed eyeglasses which look like the same ones
24 he had on on March the 3rd also.

25 Q. What state was he from?

- 1 A. Maryland.
- 2 Q. And then Joshua Darien, State's 65.
- 3 A. Yes, sir.
- 4 Q. Young man?
- 5 A. Yes, sir.
- 6 Q. Lighter skin?
- 7 A. Yes, sir.
- 8 Q. So your testimony is five days before this home
- 9 invasion at the Tidwell residence these four guys are all
- 10 together in a Mercury Grand Marquis driven by Mr. Lowman?
- 11 A. Yes, sir.
- 12 Q. Okay.
- 13 A. I'm not sure who was driving. Nobody was in the
- 14 driver's seat when I got there.
- 15 Q. Fair enough. And again, nothing comes out of it on
- 16 the 3rd?
- 17 A. Right.
- 18 Q. That same day that you're at the Tidwells, March the
- 19 8th of 2017, do you have an opportunity to talk to somebody
- 20 who is in the repossession business?
- 21 A. I do.
- 22 Q. Who was that?
- 23 A. It was James and Sheila Rutland.
- 24 Q. What's the name of their company?
- 25 A. Hook and Book Towing and Recovery I believe.

WILLIAM RUSSELL PADGETT - DIRECT BY MR. HUBBARD

383

1 Q. Based on your conversation with them did you do some
2 follow up work?

3 A. We did.

4 Q. What, if anything, did you learn about the status of
5 this Mercury Grand Marquis?

6 A. It had a GPS tracker on it.

7 Q. And what was the status as far as Hook and Book was
8 concerned?

9 A. That it was up for repossession.

10 Q. So on March 8th you learn that?

11 A. Yes, sir.

12 Q. You mentioned GPS records?

13 A. Yes, sir..

14 Q. As an investigator did you have an opportunity to
15 review those records?

16 A. We did.

17 Q. Based on what you reviewed, what, if anything, were
18 you able to determine about where this vehicle was, this
19 vehicle that's in repossession status?

20 A. We was able to determine that that vehicle was on
21 Fairway Trace which is just a couple hundred yards.

22 MR. WILLIAMS: Objection to hearsay, Your Honor.

23 MR. HUBBARD: Your Honor, he's the lead
24 investigator. I'm not sure what hearsay --

25 THE COURT: Hang on. You asked him that he got the

1 record from GPS, did you not?

2 MR. HUBBARD: Yes, sir.

3 MR. WILLIAMS: He obviously -- The GPS is with
4 somebody else, Your Honor. Somebody else is in control
5 of the GPS.

6 MR. HUBBARD: So are the DL records.

7 (Side bar off the record.)

8 THE COURT: Rephrase your question.

9 MR. HUBBARD: Yes, sir.

10 BY MR. HUBBARD:

11 Q. Agent Padgett, now, just backing up, you have now
12 verified the individuals that you had previously seen in the
13 car?

14 A. Yes, sir.

15 Q. This 2003 Grand Marquis?

16 A. Yes, sir.

17 Q. Abin Lowman, Robert Goodwin, James Wilson and Joshua
18 Darien?

19 A. Yes, sir.

20 Q. These last three you have ID'd from Maryland, at
21 least having Maryland ID's?

22 A. Yes, sir.

23 Q. Based on your investigation and review of the GPS
24 you now have reason to believe this car was out at the golf
25 course --

WILLIAM RUSSELL PADGETT - DIRECT BY MR. HUBBARD

385

1 A. Yes, sir.

2 Q. -- in the early morning hours of 3/8?

3 A. Yes, sir.

4 Q. At that point you have got four individuals prior to
5 that that are people of interest?

6 A. Yes, sir.

7 Q. With that information what did Abin Lee Lowman
8 become for you?

9 A. Once I determined that the vehicle was there during
10 the time frame of the robbery, he become a suspect.

11 Q. Okay. He's no longer just a person of interest to
12 you as an investigator, he's a suspect.

13 A. Yes, sir.

14 Q. Now, the next day, March the 9th, do you recall
15 going to Aiken?

16 A. Yes, sir. I went to Aiken to the Waffle House to
17 obtain the surveillance footage from the Waffle House.

18 Q. Now, when you went to the Waffle House, did you meet
19 with the manager or was somebody there who could show you the
20 video?

21 A. Yes. I met with somebody that could show me the
22 video but they were not able to download it for me so I just
23 reviewed it on their system.

24 Q. I want to show you two still photos, State's 59 and
25 60. Do these photos come from the video you observed on March

1 the 9th?

2 A. Yes.

3 Q. Looking at State's 59 were you able to identify
4 somebody in that video? And let me show you 60, too, and let
5 you also see them, 59 and 60.

6 A. On 59 that's Joshua Darien, James Wilson and Robert
7 Goodwin.

8 Q. Let me walk through that so the record is clear.
9 State's 59 down in the corner you see who?

10 A. Joshua Darien.

11 Q. You see this man --

12 A. Yes, sir.

13 Q. -- State's 59 at a Waffle House. This would have
14 been the early morning hours of March the 8th, is that
15 correct, that he's seen at the Waffle House?

16 A. Yes, sir. It actually has a time stamp on it.

17 Q. Okay. And on 60 you see two individuals?

18 A. James Wilson and Robert Goodwin.

19 MR. HUBBARD: With the Court's permission may he
20 step down?

21 THE COURT: Sure.

22 BY MR. HUBBARD:

23 Q. James Wilson, where do you see him?

24 A. Right there with the black framed glasses on.

25 Q. Okay. And you say you see Robert Goodwin. Where is

1 he?

2 A. Right here.

3 Q. So you've now got these two folks. Let me ask you
4 this.

5 A. (Witness returns to witness stand.)

6 Q. Those are kind of grainy but were you able to see
7 the whole video?

8 A. Yes. Which is much clearer than those still
9 shots.

10 Q. That's what I wanted to ask you. And these still
11 shots, you didn't make an ID of the still shots, did you?

12 A. No. I made my identification from the video.

13 Q. What, if anything, does that do to the status of
14 these guys for you as an investigator?

15 A. Well, due to the close proximity of where the
16 Tidwells' car was located and the Waffle House they become
17 suspects also.

18 Q. Let me ask you. At this point 3/9 you've got four
19 suspects?

20 A. Yes, sir.

21 Q. You've got these three guys, Goodwin, Darien and
22 Wilson. You say you got Lowman?

23 A. Yes, sir.

24 Q. And Goodwin. So 3/9, March 9th one day after this
25 incident you're looking for these four guys?

1 A. Yes, sir.

2 Q. Now, let's go back to the Tidwells, March 8th.
3 What, if anything, did y'all find on that carport at their
4 house?

5 A. We found a South Carolina identification card
6 belonging to Jerry Kirk.

7 Q. I want to see if you recognize this object. Is that
8 the ID y'all found out on the Tidwell carport early morning
9 hours of March 8th?

10 A. It is.

11 MR. HUBBARD: Your Honor, I offer this into
12 evidence.

13 MR. WILLIAMS: Without objection, Your Honor.

14 THE COURT: That would be 68 marked in evidence.

15 BY MR. HUBBARD:

16 Q. So this ID was found on the carport at the Tidwell
17 house. As an investigator y'all collected this?

18 A. Yes, sir. We did.

19 Q. Looking at that ID does it have an expiration date
20 on it?

21 A. It does.

22 Q. What's the expiration date?

23 A. November 2nd, 2012.

24 Q. 2012. Again, the burglary occurred last year
25 2017?

WILLIAM RUSSELL PADGETT - DIRECT BY MR. HUBBARD

389

1 A. Yes, sir.

2 Q. What, if anything, does law enforcement do, your
3 agency at that time do with Mr. Kirk?

4 A. We picked Mr. Kirk up. He was actually arrested and
5 we interviewed him.

6 Q. Let me ask you this: When you say he was arrested,
7 he's charged with what?

8 A. Burglary.

9 Q. Okay. So Mr. Kirk is charged with burglary. What
10 day is that?

11 A. On the 8th.

12 Q. So right away, boom, you have arrested somebody. At
13 that point you're just - these guys were suspects when you are
14 at the Tidwells, correct? These guys were just suspicious
15 individuals at that time?

16 A. Right.

17 Q. Now, did you have an opportunity to interview
18 Mr. Kirk?

19 A. We did.

20 Q. Were you able to confirm that DL was expired?

21 A. Yes. It was expired and I was also able to confirm
22 that his identification had been --

23 MR. WILLIAMS: Objection, Your Honor, to the next
24 question. It calls for hearsay. The response would have
25 to be hearsay.

1 MR. HUBBARD: I'll clarify it.

2 THE COURT: Clarify.

3 BY MR. HUBBARD:

4 Q. The information you're about to reveal, does it come
5 from highway records?

6 A. We confirmed through DMV that his --

7 Q. Okay. Stop right there. Stop right there. Hang
8 on?

9 MR. WILLIAMS: Objection, Your Honor.

10 BY MR. HUBBARD:

11 Q. DMV.

12 MR. WILLIAMS: No objection to that.

13 THE COURT: No objection to DMV.

14 BY MR. HUBBARD:

15 Q. What did you confirm from DMV?

16 A. That his identification had been reported lost or
17 stolen.

18 Q. Well prior to this?

19 A. Yes, sir.

20 Q. As the investigator in the middle of all this
21 investigation, what, if any, other information did you ever
22 turn up at any time even to the point of sitting here in this
23 courtroom? At any time what other information do you have
24 linking Jerry Kirk to this case?

25 A. The only thing that linked Jerry Kirk to this case

WILLIAM RUSSELL PADGETT - CROSS BY MR. WILLIAMS

391

1 was his identification being found at the scene.

2 Q. Nothing else?

3 A. Nothing else.

4 Q. As a result of that, what, if anything, did y'all do
5 with the charges on Jerry Kirk?

6 A. His charges was dismissed and he was released.

7 MR. HUBBARD: Officer Padgett, I think that's all I
8 have at this time but, Your Honor, I would like leave to
9 recall him at a later time.

10 THE COURT: Absolutely.

11 MR. HUBBARD: Thank you.

12 THE COURT: Mr. Williams, your witness.

13 MR. WILLIAMS: May it please the Court.

14 THE COURT: Yes.

15 CROSS EXAMINATION

16 BY MR. WILLIAMS:

17 Q. Lieutenant Padgett, you were in charge of the
18 investigation back on March 8th of 2017; is that correct?

19 A. Captain Horne was in charge of the investigation. I
20 was a lieutenant in investigations.

21 Q. So you're like second in command of investigation
22 for Saluda County?

23 A. Yes, sir.

24 Q. Since you had that position, were you in charge of
25 the investigation for the home invasion of Mr. and Mrs.

1 Tidwell?

2 A. Yes, sir.

3 Q. All right. Once it was reported, what number were
4 you in terms of getting out to the scene?

5 A. I received the call from Captain Horne who was
6 already there. There were several officers there when I got
7 there. I don't particularly know what number I was.

8 Q. Okay. So it was under your direction that they did
9 their investigation on the scene and gathered evidence and
10 things of that nature because you're in charge?

11 A. Actually Captain Horne directed SLED's crime scene
12 to come and he and I worked hand in hand.

13 Q. Okay. So for the jury's information essentially you
14 and Captain Horne, is he still with the Saluda Sheriff's
15 Department?

16 A. Yes, sir.

17 Q. You and Captain Horne called for assistance from
18 SLED because Saluda County Sheriff's Department doesn't
19 maintain all those specialty areas that you need for home
20 invasion, is that essentially correct?

21 A. Yes.

22 Q. And those areas that you need for SLED to
23 participate in are what areas?

24 A. Well, they come to process the crime scene due to
25 the number of people that was alleged to be inside of the

1 house.

2 Q. You will have to explain that a little better for
3 me.

4 A. Well, we received information that there was at
5 least three people inside of the house other than the
6 Tidwells.

7 Q. Okay.

8 A. And the size of the crime scene because they went
9 through the entire house that's the reason that we requested
10 SLED's crime scene.

11 Q. Are you saying that the Saluda Sheriff's Department
12 doesn't have the ability to process a crime scene of one house
13 where there's more than one person who has been in the
14 house?

15 A. Not to the ability that SLED does.

16 Q. Okay. Why is that? What do they bring to the scene
17 that you don't have in Saluda?

18 A. They have agents that specialize in processing crime
19 scenes that has had tremendous training in gathering
20 evidence.

21 Q. Fair enough. So and those special agents would be
22 persons who deal with fingerprint analysis, fingerprints,
23 securing fingerprints?

24 A. Yes, sir.

25 Q. They'd be people who deal with DNA, collection of

1 DNA and analysis of DNA?

2 A. Yes, sir.

3 Q. They would be individuals who deal with crime scene
4 analysis and determining what is important from a scene; is
5 that correct?

6 A. Yes, sir.

7 Q. They would be individuals who have the ability to
8 focus on footprints --

9 A. Yes, sir.

10 Q. -- and the importance of footprints? And is there,
11 do you know the name of the type of specialist with SLED that
12 would, I assume they have names, maybe they don't, who
13 specializes in footprints to tell if a particular footprint is
14 the same footprints of another shoe or another individual?

15 A. I --

16 Q. But they have somebody who does that?

17 A. Yes, sir.

18 Q. Is there anything special about I guess the
19 photography of the scene? Is there something special about
20 SLED in terms of taking pictures or something like that?

21 A. They've had training on crime scene photography.

22 Q. Of course, Saluda has, too, right?

23 A. I have not. I think Captain Horne had been through
24 some crime scene photography classes before.

25 Q. Okay. Let me kind of break it down a little bit.

WILLIAM RUSSELL PADGETT - CROSS BY MR. WILLIAMS

395

1 The ID card that you got that bore Jerry Kirk's name on it,
2 where was it located when it was found?

3 A. It was located under the carport area.

4 Q. When you say under the carport area, was it located
5 under a car or was it just located under the carport?

6 A. Under the carport area. It was not under a car.

7 Q. No question but that that ID card had not been there
8 March the 7th or March the 6th maybe I'll say? March 7th or
9 March 6th. It wasn't there then, was it?

10 A. Not to my knowledge. I wasn't there.

11 Q. Right. No owner came out and said yeah. It clearly
12 was related to whoever came in the house that night?

13 A. Yes. It appeared to have been placed there..

14 Q. Which is why you took it?

15 A. Right.

16 Q. Which is why you arrested Jerry Kirk?

17 A. Yes, sir.

18 Q. Because it looked like whoever came in that night
19 had that ID with them?

20 A. Yes, sir.

21 Q. Who seized that ID card?

22 A. Dale Hallman.

23 Q. Who does he work with?

24 A. He's deceased now.

25 Q. All right. Who did he work with, y'all?

- 1 A. Saluda County Sheriff's Office.
- 2 Q. What would he have done with that, turned it over to
- 3 --
- 4 A. It was given to Garry Hitt and then Captain Horne.
- 5 Q. Okay. And for the jury's edification, the reason
- 6 you know that is not only because of your memory but because
- 7 --
- 8 A. There's a chain of custody on there.
- 9 Q. That's right. The purpose of that chain of custody
- 10 is to keep up with who turned over what to who?
- 11 A. Yes.
- 12 Q. So it was turned over to who now?
- 13 A. From Dale Hallman to Garry Hitt to Captain Horne.
- 14 Q. Okay. And then where did it go?
- 15 A. To Evan Garris.
- 16 Q. Who is he?
- 17 A. He worked for Saluda County at the time also.
- 18 Q. He doesn't work for Saluda County anymore?
- 19 A. He works for the Department of Corrections now.
- 20 Q. And then where did it go?
- 21 A. Back to Deputy Hallman and into evidence.
- 22 Q. Where on your chain of custody does it indicate that
- 23 SLED ever obtained that driver's license and processed that
- 24 driver's license?
- 25 A. To my knowledge SLED did not.

WILLIAM RUSSELL PADGETT - CROSS BY MR. WILLIAMS

397

1 Q. Well, now, if SLED never got that driver's license
2 to process the driver's license, as a police officer in charge
3 of the crime scene would that indicate to you that nobody did
4 fingerprint analysis or DNA analysis on that driver's license
5 that was found at the crime scene?

6 A. To my knowledge it was not done.

7 Q. Do you think what you're putting down, no offense
8 intended, is that this somebody else had gotten Jerry Kirk's
9 identification card and poor Jerry Kirk wasn't involved in
10 anything and that's why he was arrested but released, why
11 wouldn't you fingerprint that ID card or do some sort of DNA
12 analysis to find out that somebody who went in that house had
13 had contact with that ID card?

14 A. I have no answer for you on that.

15 Q. Because clearly, clearly based on your theory if
16 Jerry Kirk wasn't there, that somebody else had his card and
17 would have touched that card, right?

18 A. Yes, sir.

19 Q. Okay. So now you said that it had expired back in
20 --

21 A. November of 2012.

22 Q. 2012?

23 A. Yes.

24 Q. Now, is that a driver's license or an ID card?

25 A. It's a state ID card.

1 Q. Okay. And you said you had checked with the highway
2 department and they had indicated that it had been reported
3 stolen?

4 A. They did.

5 Q. And do they document that information on some sort
6 of written document?

7 A. They do and they issued him a new one on September
8 10th, 2014.

9 Q. So he gets a new ID card?

10 A. Yes, sir. With his new address on it.

11 Q. I got you. Whether it was lost or stolen or
12 misplaced and refound, there's no indication as to what
13 actually happened to that ID card, is there?

14 A. All DMV records show is that it was lost or
15 stolen.

16 Q. It's possible to have two ID cards, isn't it?

17 A. It's possible.

18 Q. It's possible to have two driver's licenses; isn't
19 it?

20 A. It is but it's illegal to have two of either one.

21 Q. It's illegal to break into people's houses, isn't
22 it?

23 A. It is.

24 Q. Now, you have already indicated that there was a
25 relationship by either uncle or cousin with Mr. Lowman and I

1 believe it's Mr. Goodwin; is that correct?

2 A. Yes, sir. That's what I understand.

3 Q. Okay. Through the list of individuals in this trial
4 or case that we're putting on here, did you determine if there
5 was a relationship between Jerry Kirk and somebody else who
6 may or may not testify in this trial? You don't know of any
7 relationship, do you, if Jerry Kirk is related to anybody
8 involved in this trial, do you, possible witness in this
9 trial, do you?

10 A. I don't think so.

11 Q. Would that be important if another witness that may
12 have knowledge about the case would testify he would be
13 related to Jerry Kirk? Would that be important to you?

14 A. Yes, sir.

15 Q. Okay. You testified about a stop on March the 4th.
16 Is that the date where --

17 A. Your client was stopped.

18 Q. Yes.

19 A. March 3rd.

20 Q. March 3rd?

21 A. Yes, sir.

22 Q. Now, as I understand what you have testified to, you
23 were not the individual who stopped them. You came up as
24 back-up --

25 A. Yes, sir.

1 Q. -- correct? And at the time that you got to the
2 scene there were three individuals in the car --

3 A. Yes, sir.

4 Q. -- who would have been the other three people?

5 A. Yes, sir.

6 Q. And that Abin Lowman was outside the car?

7 A. Yes, sir.

8 Q. So he had already been stopped if he had been the
9 driver. And who would he have been stopped by?

10 A. Chief Grenier. From what I understand the car was
11 already stopped when Chief Grenier pulled up on it.

12 Q. Okay. So the car was not in motion at the time?

13 A. Right.

14 Q. Now, but the chief is actually the officer who
15 showed up on the scene first?

16 A. Yes, sir.

17 Q. Did you remain on scene until after the car drove
18 away?

19 A. I think I left before it drove away.

20 Q. So you don't know who drove it away either, do
21 you?

22 A. No, sir.

23 Q. Would it be important to you --

24 A. We were told I believe it was Darien who was the
25 only one who had a lawful driver's license to drive it.

1 Q. We told him?

2 A. Yes.

3 Q. You told him?

4 A. Myself and Chief Grenier.

5 Q. Both of y'all told him at the same time?

6 A. I don't know if it was at the same time or not.

7 Q. Did you do it in harmony? I just want to know what
8 you did. Did you tell him to drive it away?

9 A. If he was the one with the license, we told him to
10 drive it.

11 Q. Do you know?

12 A. I do not know who drove it away.

13 Q. You don't know if you had a conversation with
14 somebody and told him to drive it away?

15 A. When I was speaking with the three in the car, I
16 said if you are the one with the driver's license, you drive
17 away from here. No one was in the driver's seat of the car
18 and they said that Darien was the one driving.

19 Q. They said?

20 A. Right. On March the 3rd they said that Darien was
21 driving but no one was in the driver's seat at the time. The
22 only unoccupied seat was the driver's seat and Mr. Lowman was
23 the only one not in the car.

24 Q. Does anybody know who drove it away that day?

25 A. Your client and the three people in there.

1 Q. What about the police officer, the captain or the
2 chief of police or whatever?

3 A. I don't know if he does or not.

4 Q. He was there the whole time, wasn't he?

5 A. I don't know if he left before they did or not.

6 Q. Wait a minute. Are you telling me that both police
7 officers would have left the scene with these guys out there
8 that you had checked on?

9 A. They were in a parking lot at Ridge Spring
10 Elementary School where Mr. Lowman said he was going in to
11 check on enrollment of his child in school.

12 Q. Okay. So I guess what I'm asking is are you telling
13 me that you left before the chief so you don't know if he was
14 there or not or do you recall?

15 A. We had another call to go handle.

16 Q. Okay. So you got another call. Were you working
17 for the town at that time?

18 A. I was working for the Saluda Sheriff's Office.

19 Q. Is it common that you would, when you say "we got
20 another call", the chief of police for who? Is that Ridge
21 Spring? Johnston?

22 MR. HUBBARD: Would you repeat that question, Your
23 Honor.

24 THE COURT: Which town was he the chief of?

25 MR. WILLIAMS: Yes.

WILLIAM RUSSELL PADGETT - CROSS BY MR. WILLIAMS

403

1 BY THE WITNESS:

2 A. Ridge Spring.

3 BY MR. WILLIAMS:

4 Q. Ridge Spring. So when you say "we got a call", are
5 you saying you and the chief of police got the identical call
6 to report to another area?

7 A. I'm not sure I can answer that.

8 Q. Okay. Well let's move onto something else. At the
9 scene since you and Captain Horne were in charge at the scene
10 can you tell the jury exactly what you observed SLED doing in
11 terms of DNA analysis, fingerprint analysis, footprint
12 securing, any other evidence that they may or may not have
13 retrieved from the scene?

14 A. I didn't do any of that. When I identified the car,
15 I started following up leads on your client and went and
16 interviewed your client.

17 Q. So that's all you did was basically -- You didn't do
18 any of -- SLED basically took over the investigation?

19 A. The crime scene.

20 Q. Okay.

21 A. They also assisted with further investigation.

22 Q. Okay. The video that was taken by Mr. Tidwell's
23 son-in-law, now, you have testified about the car and the two
24 still shots that were observed. Did you look at the entire
25 video for the night of --

1 A. I did not.

2 Q. Now, you knew when this happened, right?

3 A. Mm-hmm.

4 Q. You knew that this break-in did not occur on March
5 the 7th at 4:43 in the afternoon, right?

6 A. Right.

7 Q. The video, you possess that video, right?

8 A. I do not.

9 Q. Who possess it?

10 A. The Saluda Sheriff's Office.

11 Q. So you have a video that shows what transpired in
12 front of his house from the date as he's testified to what
13 transpired in front of his house?

14 A. I haven't watched the video. I don't know what's on
15 it.

16 Q. Why not?

17 A. Captain Horne watched the video.

18 Q. Oh, okay. You would agree, would you not, that if
19 you were trying to determine who was involved in a break-in at
20 night on March the 8th and if the video was important with who
21 drove into the Persimmon Hill Golf Course area, that it would
22 be important to look at the video showing who went up and down
23 that road?

24 A. Yes, sir. And that was the only vehicle that was
25 told to me that was not identified as being somebody in the

WILLIAM RUSSELL PADGETT - REDIRECT BY MR. HUBBARD

405

1 neighborhood.

2 Q. But you are the investigating officer, aren't you?

3 A. Yes, sir.

4 Q. You're not relying on the Saluda citizens to solve
5 all the crimes?

6 A. I was relying on my supervisor who watched the
7 video.

8 MR. WILLIAMS: I don't have any other questions,
9 Your Honor.

10 MR. HUBBARD: A few follow up.

11 THE COURT: Okay.

12 REDIRECT EXAMINATION

13 BY MR. HUBBARD:

14 Q. Let's start back with this ID, Jerry Kirk. Is this
15 a Maryland ID? Or where is this ID from?

16 A. South Carolina.

17 Q. It's a South Carolina ID. When y'all interviewed
18 Mr. Kirk, who was with you?

19 A. Captain Horne and Special Agent Busbee.

20 Q. Not Busey but Busbee?

21 A. Busbee.

22 Q. Where does he work?

23 A. South Carolina Law Enforcement Division.

24 Q. He was one of the ones assisting in the
25 investigation?

1 A. Yes, sir.

2 Q. Now, you talked about crime scene versus
3 investigation. As an investigator do you usually do
4 interviews?

5 A. Yes, sir.

6 Q. And follow leads?

7 A. Yes, sir.

8 Q. Crime scene, are they the guys collecting stuff at a
9 scene?

10 A. Yes, sir.

11 Q. Fingerprints?

12 A. Yes, sir.

13 Q. DNA?

14 A. Yes, sir.

15 Q. Y'all called for SLED to do that?

16 A. Yes, sir.

17 Q. Y'all can do it but you said SLED has more
18 equipment?

19 A. Yes, sir. And more specialized training.

20 Q. The guy you called out that's all he did?

21 A. Yes, sir.

22 Q. And he should be able to say what he found and why
23 he found something or why he didn't?

24 A. Yes, sir.

25 MR. HUBBARD: Okay. Thank you.

SHEILA RUTLAND - DIRECT BY MS. FULLER

407

1 MR. WILLIAMS: No questions on recross, Your Honor.

2 THE COURT: Step down subject to recall. We'll try
3 to get another one in.

4 MS. FULLER: Thank you, Your Honor. The State calls
5 Sheila Rutland.

6 Thereupon,

7 SHEILA RUTLAND

8 after having been first duly sworn, testified as follows,

9 DIRECT EXAMINATION

10 BY MS. FULLER:

11 Q. Good morning, Ms. Rutland. How are you doing
12 today?

13 A. Doing well.

14 Q. A little nervous this morning?

15 A. Oh, yeah.

16 Q. I'll try not to keep you up there too long. Can you
17 tell me, where are you currently employed?

18 A. Jiggie's Truck and Auto Sales.

19 Q. How long have you been employed there?

20 A. Almost four years.

21 Q. What is your position there?

22 A. I'm the manager.

23 Q. What exactly is Jiggie's Truck and Auto Sales?

24 A. It's a buy here/pay here car lot.

25 Q. So you sell all different types of vehicles?

1 A. Yes.

2 Q. I want to speak to you specifically about why we're
3 here. Do you recall whether or not Jiggie's sold a vehicle to
4 Roberta Lowman?

5 A. Yes. We did.

6 Q. Do you know what type of vehicle that was?

7 A. 2003 Mercury Grand Marquis.

8 Q. I'm going to show you a photograph and ask you if
9 you recognize it?

10 A. That's it.

11 Q. I'm going to ask you a series of questions. Do you
12 recognize this?

13 A. Yes.

14 Q. What do you recognize this to be?

15 A. Roberta Lowman's car.

16 Q. What kind of car is this?

17 A. Mercury Grand Marquis.

18 Q. Is this a fair and accurate representation of how
19 the car looked when you sold it to her or how the car
20 looked?

21 A. Yes.

22 MR. WILLIAMS: Without objection, Your Honor.

23 THE COURT: State's 69 in evidence without
24 objection.

25 BY MS. FULLER:

SHEILA RUTLAND - DIRECT BY MS. FULLER

409

- 1 Q. Just to confirm, this is the 2003 Mercury Grand
2 Marquis you sold to Roberta Lowman?
- 3 A. That's correct.
- 4 Q. Do you know when you sold her this car?
- 5 A. October.
- 6 Q. In October of what year?
- 7 A. I believe it was '16.
- 8 Q. Do you know the defendant Abin Lee Lowman?
- 9 A. I know him as Lee Lowman. Yes.
- 10 Q. You said Lee?
- 11 A. Mm-hmm.
- 12 Q. How do you know him?
- 13 A. He was a contact person for the account.
- 14 Q. For the account, are you referring to the account
15 associated with the 2003?
- 16 A. Yes.
- 17 Q. As a contact person did you actually interact with
18 this individual?
- 19 A. I did.
- 20 Q. And in what manner did you interact with him?
- 21 A. He made payments or different things like that.
- 22 Q. Can you tell me whether or not you ever saw him
23 driving this 2003 Mercury Grand Marquis?
- 24 A. I have.
- 25 Q. Would this be when he came to Jiggie's to make

1 payments on the car?

2 A. Yes.

3 Q. You said he purchased or the vehicle was purchased
4 October of 2016?

5 A. I believe that's correct.

6 Q. I want to talk to you a little bit about the sale of
7 the vehicle. Does Jiggie's have a standard procedure in terms
8 of selling its vehicles to customers?

9 A. Yes. Most of our vehicles have GPS units.

10 Q. And the GPS, is this information -- Let's talk about
11 the purchase process. During the purchase process, what
12 exactly is the steps? Can you take me through it? What
13 exactly are the steps?

14 A. Well, you sign several pieces of paper which are as
15 is, odometer disclosure, damage disclosure, GPS rules and
16 regulations. You also sign a piece of paper that states that
17 we have the right to text, e-mail or call you and you also
18 sign an installment agreement.

19 Q. During the agreement process, is there any
20 discussion about insurance on the vehicle?

21 A. Yes.

22 Q. Is that an agreement signed or just discussion?

23 A. It is another agreement.

24 Q. I want to hand you a document. And you mentioned
25 that you are the manager at Jiggie's; is that right?

SHEILA RUTLAND - DIRECT BY MS. FULLER

411

1 A. That's correct.

2 Q. As manager would you have access to review contracts
3 and documents signed by customers --

4 A. Yes.

5 Q. -- for the sale of vehicles?

6 A. Yes.

7 Q. I'll ask you if you recognize this document?

8 A. Yes.

9 Q. How do you recognize it?

10 A. It is a GPS rules and regulations that we formally
11 used.

12 Q. You say formally. Would this have been back in 2015
13 when the vehicle was sold?

14 A. Yes.

15 MS. FULLER: At this time, Your Honor, the State
16 seeks to moves State's Exhibit 70 into evidence.

17 MR. WILLIAMS: Without objection, Your Honor.

18 THE COURT: State's 70 without objection.

19 BY MS. FULLER:

20 Q. Do me a favor. Explain the GPS rules and
21 regulations to the jury.

22 A. It basically states that you cannot attempt to
23 disconnect the GPS unit. It also says that if you tamper with
24 it, it will disable your vehicle and set off an alarm. It
25 also tells you to notify us if you're going to be 300 miles

1 from our location because we will have an alarm on that and
2 any violation of these rules could result in repossession of
3 the vehicle and it also states that the vehicle can be
4 disabled?

5 Q. You stated that it states the vehicle can be
6 disabled?

7 A. Mm-hmm.

8 Q. In what situations would the vehicle be disabled?

9 A. For no insurance.

10 Q. How exactly? So can you explain how GPS relates to
11 disabling the vehicle?

12 A. There's a starter interruption.

13 Q. By starter interruption, does that mean it would cut
14 the vehicle off?

15 A. That means if you go to crank the car, it will not
16 start.

17 Q. I'll follow up on that shortly. In this case how do
18 you know that this is the document associated with this 2003
19 Mercury Grand Marquis?

20 A. Because it's signed by the debtor.

21 Q. Who is the debtor in this case?

22 A. Roberta Lowman.

23 Q. In this case based on your records can you confirm
24 that GPS was actually now after the sale installed on the
25 vehicle?

SHEILA RUTLAND - DIRECT BY MS. FULLER

413

1 A. I most certainly can because I'm the one who went to
2 make sure it located before it left the lot.

3 Q. Is there anything indicated on that document that we
4 can see now that indicates that you verified that GPS was
5 installed on the vehicle?

6 A. Yes.

7 Q. What exactly is that?

8 A. The serial number and it also asks was it located
9 and it says yes.

10 MS. FULLER: Permission for her to step down, Your
11 Honor.

12 THE COURT: Yes.

13 BY MS. FULLER:

14 Q. Can you point out for the jury on this document
15 where the serial number is located?

16 A. Right there.

17 Q. And then what indicator is on this document that
18 indicates that GPS was actually placed on the vehicle?

19 A. Right there.

20 Q. You said that would be your own handwriting?

21 A. That's correct.

22 Q. So this document, the purchaser would have read
23 this?

24 A. That's correct. That's why it's initialed.

25 Q. So looking on this document the purchaser would have

- 1 initialed each line of the agreement?
- 2 A. That's correct.
- 3 Q. The purchaser also signed it?
- 4 A. Yes.
- 5 Q. And it's clearly stated at the top GPS, correct?
- 6 A. Yes.
- 7 Q. So they would have knowledge that GPS was on their
- 8 vehicle?
- 9 A. That's correct.
- 10 Q. I want to show you two photographs, State's Exhibit
- 11 31 and 32 and ask you if you recognize the vehicle in the
- 12 images?
- 13 A. Yes.
- 14 Q. How do you recognize it?
- 15 A. It appears to be Roberta Lowman's car.
- 16 Q. This would be the same car that you sold to her back
- 17 in October of 2016?
- 18 A. That's correct.
- 19 Q. That same Mercury Grand Marquis?
- 20 A. Yes.
- 21 Q. You mentioned that there is a requirement for
- 22 insurance?
- 23 A. Yes.
- 24 Q. Sounds very basic but can you explain to the jury
- 25 why is that required?

SHEILA RUTLAND - DIRECT BY MS. FULLER

415

1 A. All of our vehicles are supposed to have full
2 coverage insurance with a thousand dollar deductible at all
3 times. It is the debtor's responsibility to make sure we are
4 notified if the insurance is changed with any company. Once
5 we are notified that the vehicle has a cancellation date, it
6 is put into the computer and once that cancellation date
7 appears, then I verify through the insurance company if the
8 vehicle has insurance.

9 Q. Well, let's speak specifically about the 2003
10 Mercury Grand Marquis. Can you tell me whether or not there
11 were any insurance issues on this vehicle?

12 A. Yes. There was. There was no insurance.

13 Q. Do you recall based on your records or memory when
14 you were notified that there was no insurance?

15 A. I wouldn't know exactly when I was notified but I
16 know the date was put in the computer as being a cancellation
17 date.

18 Q. Do you know the cancellation date?

19 A. No. I don't.

20 Q. Tell me, when you were notified, what was your next
21 step? What would be your process?

22 A. The process is to verify from the insurance company
23 if it's valid or not. If it's not valid, then I would try to
24 contact the debtor to advise her that the vehicle has no
25 insurance and that I need proof of insurance ASAP.

1 Q. And once you're notified, we don't know the exact
2 date, but how long would you wait to verify insurance?

3 A. I pull a report everyday.

4 Q. You would do this pretty immediately?

5 A. Yes.

6 Q. And so in this case were you able to verify
7 insurance?

8 A. There was no insurance.

9 Q. So what would you do next?

10 A. Contact the debtor. If I don't hear from the
11 debtor, then I disable the vehicle.

12 Q. By disable, you're talking about using the GPS --

13 A.. That's correct.

14 Q. -- that's in the vehicle to disable the starter in
15 the vehicle?

16 A. That's correct.

17 THE COURT: Let her ask the whole question before
18 you answer it because she may be asking something else.

19 THE WITNESS: Okay.

20 BY MS. FULLER:

21 Q. Just to be clear, you use the GPS to disable the
22 starter?

23 A. Yes.

24 Q. So if the vehicle was in motion, would the vehicle
25 just stop?

SHEILA RUTLAND - DIRECT BY MS. FULLER

417

- 1 A. No.
- 2 Q. What would happen if the vehicle was in motion?
- 3 A. Once the vehicle is cut off, then the starter
- 4 interruption, when you go back to crank it, it won't crank.
- 5 Q. So at this point there is no insurance. What
- 6 happens next? What do you do?
- 7 A. I disabled the vehicle.
- 8 Q. Then from there what are your next steps?
- 9 A. The vehicle, I kept watching the vehicle. It moved.
- 10 Once it moved, I then put it out for repossession.
- 11 Q. And so if the vehicle can be disabled, that means it
- 12 was turned off?
- 13 A. Mm-hmm.
- 14 Q. How would it have moved?
- 15 A. It had to be overridden.
- 16 Q. Does the GPS have an override on it or how does that
- 17 work?
- 18 A. I wouldn't know that. But they do override it and
- 19 crank the vehicle and drive them.
- 20 Q. Okay. Is it possible to jump start?
- 21 A. Yes.
- 22 Q. And you said it moved. Are you tracking it at the
- 23 office on your GPS?
- 24 A. Yes, ma'am.
- 25 Q. This is something that you have access to at the

1 office?

2 A. Yes, ma'am.

3 Q. You said you put in for repossession. What was that
4 process?

5 A. I fill out an order to repossess hold harmless and I
6 call a repossessing agent which would have been Hook and Book
7 at this time.

8 Q. In this case you used Hook and Book to conduct the
9 repossession?

10 A. Yes, ma'am.

11 Q. Do you know what day that you requested the vehicle
12 be repossessed?

13 A. It would have went out on either the 6th or 7th.

14 Q. The 6th or the 7th of what month?

15 A. March.

16 Q. Of what year?

17 A. '17.

18 Q. So either March 6th or 7th of 2017 you requested
19 that Hook and Book repossess this vehicle --

20 A. That's correct.

21 Q. -- because of no insurance?

22 A. That's correct.

23 MS. FULLER: No further questions at this time.

24 THE COURT: Mr. Williams.

25 MR. WILLIAMS: May it please the Court.

SHEILA RUTLAND - CROSS BY MR. WILLIAMS

419

1 THE COURT: Yes, sir.

2 CROSS EXAMINATION

3 BY MR. WILLIAMS:

4 Q. Hook and book?

5 A. Mm-hmm.

6 Q. Is that the name of it?

7 A. That's correct.

8 Q. Now, is that the repo service which is run by your
9 husband?

10 A. That's correct.

11 Q. The disabling and the GPS tracking, I think you have
12 indicated that the car was actually purchased in October of
13 2016, October the 27th of 2016 by Ms. Lowman?

14 A. That's correct.

15 Q. From October the 27th of 2016 up until March the 6th
16 of 2017 had you ever disabled the car before?

17 A. Yes. I had.

18 Q. And when did you disable the car before?

19 A. I don't know that date but it was disabled before.

20 Q. So the fact that there was some GPS on the car and
21 the fact that it could be disabled would have been nothing new
22 to somebody that drives the car?

23 A. That's correct.

24 MS. FULLER: Objection, Your Honor.

25 THE COURT: On what basis?

1 MS. FULLER: Calls for speculation as to the GPS,
2 Your Honor.

3 THE COURT: She sold the car, she followed GPS on
4 her computer live. I think she can answer it.

5 MS. FULLER: But the question is to the person.
6 He's asking her to speculate as to what a person driving
7 the car would think or know.

8 THE COURT: Maybe. I'll allow it.

9 BY MR. WILLIAMS:

10 Q. The last time you had to do that, did you have to
11 hook it up from Amick's Poultry? Do you remember where it was
12 hooked up and brought back from?

13 A. No.

14 Q. No you don't remember or no it wasn't?

15 A. No. I don't remember.

16 Q. Okay.

17 A. I've slipped since then.

18 Q. Okay. All right. But you know that it's occurred
19 before?

20 A. Yes.

21 Q. Now, for whatever reason things got back on keel and
22 people can drive the car for a period of time anyway?

23 A. Yes.

24 Q. So when you do the GPS monitoring, are you able to
25 have a printout? Is there a printout available that shows

SHEILA RUTLAND - CROSS BY MR. WILLIAMS

421

1 every location that that vehicle goes to?

2 A. It's not alive. It doesn't tell you every time the
3 car stops and all that. It only tells you when it auto
4 reports or is located.

5 Q. Tell the jury what that means, that auto report?

6 A. It reports every 24 hours, every 25 hours by itself
7 to give a location of the vehicle.

8 Q. So are you saying that it only reports once a day
9 where its located?

10 A. That's correct.

11 Q. Okay. What about if you were tracking? I mean,
12 obviously if you've got a recovery unit out there trying to
13 find out where it is, that doesn't appear to be close enough
14 in time to work to pick up the vehicle?

15 A. Right.

16 Q. Does it like report quicker than that sometimes?

17 A. If you've got to.

18 Q. If auto report does it then?

19 A. If you tell it to.

20 Q. So if you get online and you push your button,
21 whatever it is, then you can follow every minute?

22 A. As often as I would like. All I have to do is hit
23 that button.

24 Q. And it will print out exactly everywhere where it's
25 been throughout the entire day if you wanted to?

1 A. Exactly. If I sat there for 24 hours and hit that
2 button every minute, it would tell me where it was at within a
3 foot.

4 Q. Now, that requires you to do something?

5 A. Myself or people who have access to it.

6 Q. I got you. I got you. Now, it's a computer, isn't
7 it?

8 A. It's an app on a computer. Yes.

9 Q. It's an app?

10 A. Mm-hmm.

11 Q. So you can access that by doing something manually.
12 Do you know whether or not that the machine itself is capable
13 of maintaining that information leaving up to you to access it
14 or not?

15 A. I'm not quite following.

16 Q. Okay. I hate to bring in new stuff. Sometimes, you
17 know that there are police cars that have recording devices on
18 their police cars? You know that?

19 A. Yes.

20 Q. And you know that it can record the driving of
21 somebody else if they are poor drivers or good drivers, what
22 have you. You can buy them now in the shopping centers and
23 put them on your car and monitor driving of the other guy.

24 A. Right.

25 Q. You knew that, too?

1 A. Mm-hmm.

2 Q. Are you familiar with whether or not those computers
3 can actually go before they're actually activated by a blue
4 light or not? Did you know that? That it could record before
5 a blue light?

6 A. Yes. If it's turned on.

7 Q. Whether you know it's on or not, it will still
8 record it?

9 A. Right.

10 Q. That's what I'm getting at. So where did you buy
11 this app from, this computer app from?

12 A. GoldStar Spireon.

13 Q. Have you checked with that company to see if they
14 are able to access the information whether you pushed the
15 button or not that would indicate where the car was 24 hours a
16 day?

17 A. There's no way. It's not live.

18 Q. Okay. Have you contacted the company to see if they
19 can do that?

20 A. Yeah. They can go in the back door but they also
21 have to located it at that specific time.

22 Q. Where is -- Who is -- You say it's called
23 GoldStar?

24 A. GoldStar --

25 Q. And where are they located?

- 1 A. -- Spireon.
- 2 Q. I'm sorry?
- 3 A. Spireon.
- 4 Q. Furion?
- 5 A. S-p-i-r-e-o-n.
- 6 Q. S-p-i-r-e-o-n, Spireon?
- 7 A. Yes.
- 8 Q. And is that the name of the company?
- 9 A. It is.
- 10 Q. Where are they located?
- 11 A. Not sure.
- 12 Q. Okay. Do you have to maintain -- Is it a piece of
- 13 equipment that you have to maintain or is it just an app that
- 14 comes on your computer? Do you have to do anything to upkeep
- 15 it?
- 16 A. No.
- 17 Q. Okay. Now, referring to State's Exhibit number 69
- 18 which you identified as being the car of Ms. Lowman?
- 19 A. Mm-hmm.
- 20 Q. Do you know when or where the picture was taken?
- 21 A. I believe that's inside the impound.
- 22 Q. Inside which impound?
- 23 A. Appears to be Hook and Book. I'm not positive. I
- 24 can't see from here.
- 25 Q. (Proffering.)

1 A. That is Hook and Book's impound yard.
2 Q. Where is that located?
3 A. North Augusta.
4 Q. Do you know when the picture was taken?
5 A. The morning after the repossession I presume.
6 Q. What does that mean, I presume?
7 A. Well, I'm not one hundred percent sure. I mean, I
8 can't tell that it was exactly the morning of but I'm pretty
9 sure it was.
10 Q. Okay. Do you know where it is now?
11 A. Do I know where it's at?
12 Q. Mm-hmm.
13 A. Some other person is driving it.
14 Q. It's been resold?
15 A. Mm-hmm.
16 Q. Who was it resold to?
17 A. I don't know that. That I could not tell you.
18 Q. Well, did y'all get the car back and sell it?
19 A. Eventually. Mm-hmm.
20 Q. So you remember selling it?
21 A. Mm-hmm.
22 Q. Were you the person who sold it?
23 A. No. I don't think so.
24 MR. WILLIAMS: That's all the questions I have, Your
25 Honor.

1 MS. FULLER: Just briefly, Your Honor.

2 REDIRECT EXAMINATION

3 BY MS. FULLER:

4 Q. Just to be clear, is it safe to say that the GPS
5 installed on the Mercury Grand Marquis is a manual GPS when
6 you say it's not live?

7 A. It is not live. It does have power to it at all
8 times and it does locate every 24 to 25 hours on its own
9 unless it's told to locate.

10 Q. Okay. And you're able to do this at the office?

11 A. Yes. Or by my phone.

12 Q. On your phone you have an app --

13 A. Yes.

14 Q. -- for GoldStar and you can locate it manually --

15 A. Yes.

16 Q. -- by hitting the button?

17 A. Yes.

18 MS. FULLER: Just wanted to clear that up. Thank
19 you so much.

20 THE COURT: Anything else?

21 MR. WILLIAMS: That's all I have.

22 THE COURT: Step down. All right. Good time for a
23 15 minute break. Let's take about 15 minutes. Step to
24 the jury room. Can't discuss the case. Anybody need to
25 step outside and smoke, be back in here in about 15.

JAMES RUTLAND - DIRECT BY MR. HUBBARD

427

1 (Whereupon, the jury entered the jury room at 10:20
2 a.m.)

3 (Short break.)

4 BAILIFF: All rise.

5 THE COURT: Thank you. Be seated. Let's bring the
6 jury in.

7 (Whereupon, the jury entered the courtroom at 10:35
8 a.m.)

9 THE COURT: Call your next witness.

10 MR. HUBBARD: The State calls James Rutland.

11 Thereupon,

12 JAMES RUTLAND

13 after having been first duly sworn, testified as follows,

14 DIRECT EXAMINATION

15 BY MR. HUBBARD:

16 Q. Good morning, Mr. Rutland.

17 A. Good morning.

18 Q. If you would, please state your name for the record
19 and for the jury.

20 A. James Rutland.

21 Q. Mr. Rutland, where do you work?

22 A. Hook and Book Recovery.

23 Q. Who owns Hook and Book Recovery?

24 A. I do.

25 Q. Do you also actually do the leg work?

- 1 A. Yes, sir.
- 2 Q. And that business Hook and Book is what?
- 3 A. It's a repossession company.
- 4 Q. Now, how long have you been in the repossession
5 business?
- 6 A. 20 years.
- 7 Q. How long have you owned and run Hook and Book?
- 8 A. Five.
- 9 Q. And your wife is, what's her name?
- 10 A. Sheila Rutland.
- 11 Q. She was the one that just testified?
- 12 A. Yes, sir.
- 13 Q. Do you repo for both her dealership but also other
14 dealerships?
- 15 A. Yes, sir.
- 16 Q. March 7th of last year were you given an order or a
17 request for a repossession?
- 18 A. Yes, sir.
- 19 Q. Can you tell us what vehicle you were looking for on
20 that day?
- 21 A. I was looking for an '03 Mercury Marquis.
- 22 Q. What year Marquis?
- 23 A. '03 Mercury Marquis.
- 24 Q. Did it have a tag number also to help identify it?
- 25 A. Yes, sir.

JAMES RUTLAND - DIRECT BY MR. HUBBARD

429

- 1 Q. What was that tag?
- 2 A. The tag number was MXD356, South Carolina tag.
- 3 Q. The vehicle you were looking for, this Grand
- 4 Marquis, was it equipped with GPS?
- 5 A. Yes, sir.
- 6 Q. Did you have the app and software to use and track
- 7 to tap into that GPS system?
- 8 A. Yes, sir.
- 9 Q. What device did you use to do that?
- 10 A. My cell phone.
- 11 Q. Now, generally when you go about your business to
- 12 repossess a vehicle, do you have an assistant helping you?
- 13 A. Yes, sir.
- 14 Q. On March 7th was anybody assisting you as to this
- 15 vehicle?
- 16 A. No, sir.
- 17 Q. Why was that?
- 18 A. He had other obligations at the time.
- 19 Q. Outside of the business?
- 20 A. Yes, sir.
- 21 Q. About what time do you recall locating this Grand
- 22 Marquis?
- 23 A. On my statement here that I wrote for Saluda County
- 24 it says I started about 10:30.
- 25 Q. About 10:30 at night on the 7th?

- 1 A. Yes, sir.
- 2 Q. Where using your GPS did you locate the vehicle?
- 3 A. I was hitting in the Tractor Supply parking lot.
- 4 Q. Where was that?
- 5 A. In North Augusta.
- 6 Q. At some point did you track that vehicle into Saluda
- 7 County?
- 8 A. Yes, sir.
- 9 Q. Where in Saluda County did you track that vehicle?
- 10 A. As in my statement, it says I was tracking the
- 11 vehicle, it says between --
- 12 MR. WILLIAMS: Objection. Reading the statement,
- 13 Your Honor.
- 14 BY MR. HUBBARD:
- 15 Q. Mr. Rutland, I don't want you to read that. That's
- 16 just there. That's a statement that you gave way back. Just
- 17 testify from your memory, okay? So I'm gonna ask it again.
- 18 Where did you track the vehicle to?
- 19 A. I tracked it into part of the woods behind that golf
- 20 course, in between the golf course and the airport in Saluda
- 21 County.
- 22 Q. Okay. I want to show you State's Exhibit number 1,
- 23 an aerial. Does this look familiar?
- 24 A. Yes, sir.
- 25 Q. Just to orient you on State's 1 we have 121.

JAMES RUTLAND - DIRECT BY MR. HUBBARD

431

- 1 A. Yes, sir.
- 2 Q. Do you see the airport as well at the top of the
3 chart?
- 4 A. Yes, sir.
- 5 Q. Where using this chart did you track that vehicle
6 to?
- 7 A. Right here.
- 8 Q. Now, let me ask you, when you tracked it there, was
9 it moving or stationary?
- 10 A. It was not moving at the time.
- 11 Q. So it was stationary. And this little road here,
12 how would you describe that road?
- 13 A. A very narrow road more like for a golf cart more
14 than a regular road.
- 15 Q. And yet that's by your GPS showed him to be?
- 16 A. Yes, sir.
- 17 Q. Or showed this vehicle to be?
- 18 A. Yes, sir.
- 19 Q. What were you driving?
- 20 A. An F350.
- 21 Q. Was it a snatch truck?
- 22 A. Yes, sir.
- 23 Q. Now, did you actually drive to this golf course?
- 24 A. Yes, sir.
- 25 Q. Did you actually drive down that little road?

- 1 A. Yes, sir.
- 2 Q. Did you lay eyes on that vehicle?
- 3 A. Yes, sir.
- 4 Q. About what time are we talking? If you don't have
5 the time, was it daylight or dark?
- 6 A. Not sure about the exact time but it was dark.
- 7 Q. When you saw the car, was it running or not
8 running?
- 9 A. It was running.
- 10 Q. Lights on or off?
- 11 A. The headlights was off. The parking lights were
12 on.
- 13 Q. The headlights were off?
- 14 A. Off.
- 15 Q. But parking lights were on?
- 16 A. Yes, sir.
- 17 Q. When you drive your rig down that little road, where
18 did you go? Did you stop in front of the car or what did you
19 do?
- 20 A. I actually kept going past it, squeezed by as much
21 as I could because it was narrow and went to the other end of
22 the road to actually turn around on the golf course.
- 23 Q. So you turned around on the golf course?
- 24 A. Yes, sir.
- 25 Q. Are your lights on?

JAMES RUTLAND - DIRECT BY MR. HUBBARD

433

- 1 A. Yes, sir.
- 2 Q. Do you have a lot of lights on that truck?
- 3 A. Yes, sir.
- 4 Q. What's the purpose of that?
- 5 A. Where I can light it up where I can see what I'm
- 6 doing.
- 7 Q. Does it look like daylight when you light up?
- 8 A. Oh, yeah.
- 9 Q. You say you turned around on the golf course.
- 10 I want to show you a photograph and see if this photo does a
- 11 little bit better job than the aerial. Does that show the
- 12 road and where you turned around?
- 13 A. It shows the road and actually where I turned around
- 14 would be right here.
- 15 MR. HUBBARD: Your Honor, I offer this into evidence
- 16 at this time.
- 17 MR. WILLIAMS: If I could see it for two more
- 18 seconds.
- 19 MR. HUBBARD: (Proffering.)
- 20 MR. WILLIAMS: Without objection, Your Honor.
- 21 MR. HUBBARD: State's 71, Your Honor.
- 22 THE COURT: 71 without objection.
- 23 MR. HUBBARD: With the Court's permission, may I
- 24 have Mr. Rutland step down so he can point out where he
- 25 turned around?

- 1 THE COURT: Sure.
- 2 BY MR. HUBBARD:
- 3 Q. Again, on State's 1 where did you find this
- 4 vehicle?
- 5 A. The vehicle was sitting right here.
- 6 Q. Speak up real loud?
- 7 A. I found the vehicle sitting right here.
- 8 Q. So this little road is where you drove?
- 9 A. Yes, sir.
- 10 Q. Where did you turn around?
- 11 A. I turned around at the end of the road on the golf
- 12 course.
- 13 Q. Okay. Now, looking at State's 71, let's go down on
- 14 this side of the jury so they can see you. Point out the
- 15 little road you drove down and where you turned around.
- 16 A. The little road I turned down would be down here and
- 17 I turned around here actually on the golf course.
- 18 Q. Okay. Let's come down here so these folks can see.
- 19 A. (Witness complies.)
- 20 Q. Turn a little sideways. I'll tell you what, I'll
- 21 hold it like this.
- 22 A. All right. The road is right here that I turned
- 23 down on, right around here. The vehicle was located right
- 24 here and I turned around here on the golf course.
- 25 Q. So you turned around right here where there's a

1 little bit of a clearing?

2 A. Yes, sir.

3 Q. Thank you very much. You can have a seat again.

4 A. (Witness complies.)

5 Q. When you turned around, so you're heading back
6 towards the vehicle again?

7 A. Yes, sir.

8 Q. What do you do when you get back to the vehicle?

9 A. I pulled my truck over behind the car so I'm looking
10 at the taillights and I get out of my car.

11 Q. Let me ask you this: Which way is he facing?

12 A. He's facing out back towards the road.

13 Q. Just to be clear, looking at State's 1 again and
14 he's on this little road, is he facing towards the airport or
15 towards the golf course?

16 A. Towards the airport.

17 Q. Okay. So you pull in right behind him?

18 A. Yes, sir.

19 Q. What do you do when you do that?

20 A. Well, when I got out of the vehicle, I walked up to
21 it and I'm actually looking at the car to make sure I don't
22 see any movement or anything in there. I know it's already
23 running because I can hear it running and it was kind of a
24 cool night. I could see the exhaust coming out, condensation.
25 I walked up to the side of the car and tapped on the window

1 and I get no response.

2 Q. Let me ask you this: Now, your lights are on on
3 your truck?

4 A. Yes.

5 Q. You have lit it up?

6 A. Mm-hmm.

7 Q. Very bright?

8 A. Very bright.

9 Q. You can see his car clearly?

10 A. Yes, sir.

11 Q. When you walk up to the window, can you see in?

12 A. No, sir.

13 Q. Why is that?

14 A. Because the windows was so dark.

15 Q. They're tinted?

16 A. They're tinted.

17 Q. You do what at the window?

18 A. I tap on the window.

19 Q. Anybody respond?

20 A. No response.

21 Q. What do you do then?

22 A. I take my flashlight, it's pretty bright itself and
23 I shine it on the window and the reflection from the tinted
24 windows reflect back into my eyes and I couldn't see.

25 Q. So the windows were so dark even your flashlight

JAMES RUTLAND - DIRECT BY MR. HUBBARD

437

- 1 couldn't see?
- 2 A. Yeah. And I was right there at the window.
- 3 Q. Once you do that and realize you can't see in the
- 4 car, what do you do?
- 5 A. I back off and get back into my truck.
- 6 Q. Where do you pull your truck?
- 7 A. I back-up, squeeze back by it again and come back
- 8 out on the paved road and I sat there.
- 9 Q. Let's use this aerial, State's 1. You're here on
- 10 this road. Where do you back-up?
- 11 A. I back-up back here and I come back out and I park
- 12 right here.
- 13 Q. Kind of on the elbow of that road on State's 1?
- 14 A. Yes, sir.
- 15 Q. Right up near the airport?
- 16 A. Yes, sir.
- 17 Q. While you're there what do you do?
- 18 A. I pick up my phone and I call my wife to let her
- 19 know I found the car. I had located it but at this time I
- 20 couldn't pick it up.
- 21 Q. Okay. Was it your intention to get that car this
- 22 night?
- 23 A. Yes. It was.
- 24 Q. While you're talking to your wife, what, if
- 25 anything, happens?

1 A. While I'm talking to my wife into the conversation I
2 said, hold on. Here comes your car right now and it road
3 right past me.

4 Q. So while you're on this elbow of this road right
5 near the airport which way does that car go?

6 A. It continues down this way.

7 Q. Goes that way?

8 A. Mm-hmm.

9 Q. All right. What do you do?

10 A. I just sit there and let it go for a little bit.

11 Q. You have a tracker?

12 A. Yes, sir.

13 Q. Safe to say whoever was in that car knows you're
14 tracking?

15 A. I would assume that they knew I was looking for
16 them.

17 Q. Now, when you pull back around, what road are you
18 pulling back out on when you finally pull your rig around?

19 A. I actually pulled back out onto the main road the
20 one that goes to Saluda and Johnston.

21 Q. Is that 121?

22 A. Yes, sir.

23 Q. If you turn to the right, you're gonna come on down
24 to downtown Saluda?

25 A. Saluda.

JAMES RUTLAND - DIRECT BY MR. HUBBARD

439

- 1 Q. If you turn to the left, you go to?
- 2 A. Johnston.
- 3 Q. By way of your tracker which way are you following
- 4 that car?
- 5 A. They turned left to go towards Johnston.
- 6 Q. And do you follow?
- 7 A. I do.
- 8 Q. Now, when you get down to Johnston, what are you
- 9 seeing on your tracker?
- 10 A. Actually when I get down to where I track it again
- 11 it's sitting at the red light in Johnston and then I realize
- 12 that I had done passed it. The unit is behind me so at the
- 13 traffic light I turned right at the red light to make a
- 14 you turn to go behind it.
- 15 Q. Okay. I want to show you what is in evidence as
- 16 State's number 3. It's an aerial of downtown Johnston. Just
- 17 to orient everybody, what road is this?
- 18 A. 121.
- 19 Q. That's the road you came down?
- 20 A. Yes, sir.
- 21 Q. Is this 23?
- 22 A. Yes, sir.
- 23 Q. All right. Now, do you see -- You came down 121.
- 24 Where did you turn?
- 25 A. I turned right here.

1 Q. At what point did you realize you passed that unit
2 that you were following, the car?

3 A. Actually when I get here, I don't know which way it
4 went so I hit it up on locate to see which way it turned and
5 which way it was going and I noticed that it was sitting
6 behind me.

7 Q. Okay. So where did you go?

8 A. I turned down this road and ended up going and
9 turning down here going behind it.

10 Q. For the record, you turned right onto 23?

11 A. Yes, sir.

12 Q. And then you turned onto this road?

13 A. Yes, sir.

14 Q. Down at the bottom of exhibit 3. Okay. And where
15 did you go at that point?

16 A. As I turned down here, as you can see the road right
17 through here.

18 Q. Right here.

19 A. I take another right-hand turn and go up this
20 road.

21 Q. So you're just cutting the block?

22 A. Yes, sir.

23 Q. When you're right here on this road cutting the
24 block, where is your tracker showing that vehicle?

25 A. Sitting right here between this laundromat and this

JAMES RUTLAND - DIRECT BY MR. HUBBARD

441

1 store.

2 Q. So it's not in the parking lot?

3 A. It's not in the parking lot.

4 Q. But it's tucked back here?

5 A. It's tucked right back here.

6 Q. What do you do at that time?

7 A. At that time I go back out to the main road light

8 that I came out to the first time and I notice an officer

9 sitting there. I actually turn back out and came out on this

10 road. I remember seeing an officer sitting right here. I

11 came back over and stopped and kind of just let him know what

12 I'm about to do. In small towns we like to usually generally

13 let the officers know, if we see one. We don't call them on

14 the phone or anything but just out of respect to let them know

15 what's going on.

16 Q. You let them know that you're looking for a car?

17 A. Yes, sir.

18 Q. Let me ask you, is that good for you too just so

19 they know who you are?

20 A. Yes, sir.

21 Q. That you are not just taking a car?

22 A. Right.

23 Q. Now, if this is a no payment situation, that's not a

24 problem for law enforcement, is it?

25 A. No, sir.

- 1 Q. What were you tracking that car for?
- 2 A. No insurance.
- 3 Q. Did you let law enforcement in Johnston know about
- 4 your purpose, why you were tracking that car?
- 5 A. Yes, sir.
- 6 Q. No insurance?
- 7 A. No insurance.
- 8 Q. At some point are you talking to one or more cops?
- 9 A. At first I was just talking to one and then later on
- 10 several cops show up.
- 11 Q. All right. While you're talking to these police
- 12 officers in downtown Johnston, and again you're talking to
- 13 them just right out here? Where are you?
- 14 A. Generally in this area right here.
- 15 Q. Right across the street from Tidwell Jewelers?
- 16 A. Pretty much.
- 17 Q. While you're talking to these officers, what, if
- 18 anything, do you notice on your tracking device?
- 19 A. I notice the vehicle had moved.
- 20 Q. And so it was no longer back behind in that parking
- 21 lot?
- 22 A. No, sir.
- 23 Q. Which way did your tracker show it going?
- 24 A. Actually going towards Ridge Spring.
- 25 Q. Down 23?

JAMES RUTLAND - DIRECT BY MR. HUBBARD

443

- 1 A. Yes, sir.
- 2 Q. Now, did that vehicle come down 121 and then turn?
- 3 Did you notice it turning left onto 23 off of 121?
- 4 A. I didn't notice it after it went to the left.
- 5 Q. Okay. So you just saw on your tracker he's back on
- 6 23?
- 7 A. Yes, sir.
- 8 Q. Heading which way?
- 9 A. Towards Ridge Spring.
- 10 Q. Ward and then Ridge Spring?
- 11 A. Yes, sir.
- 12 Q. Do you let law enforcement know that?
- 13 A. Yes, sir.
- 14 Q. What do you start to do at that time?
- 15 A. I just kind of figured, well, I guess I'm going to
- 16 Ward or Ridge Spring to go pick the vehicle up.
- 17 Q. You're going to get the car?
- 18 A. Yes, sir.
- 19 Q. So it's no longer their issue?
- 20 A. No, sir.
- 21 Q. As you are going down 23, what, if anything, do you
- 22 notice?
- 23 A. I notice the vehicle had made a U-turn and was
- 24 coming back my way.
- 25 Q. Coming back down 23?

1 A. Back towards Johnston.

2 Q. On 23?

3 A. Yes, sir.

4 Q. Do you let someone in law enforcement know that?

5 A. Yes, sir. I actually made a U-turn myself and came

6 back to the other side down 23. There was an officer sitting

7 there and I just let him know that the car was coming back.

8 Q. He was in his vehicle?

9 A. Yes, sir.

10 Q. Which way was he facing?

11 A. He was facing towards Ridge Spring.

12 Q. I want to show you what's been marked as State's 2.

13 Is this a bigger aerial of the Johnston area?

14 A. Yes, sir.

15 Q. That would assist you?

16 A. Yes, sir.

17 MR. HUBBARD: Your Honor, I offer this into

18 evidence.

19 MR. WILLIAMS: Without objection, Your Honor.

20 THE COURT: State's 2 is in evidence without

21 objection.

22 MR. HUBBARD: Thank you.

23 BY MR. HUBBARD:

24 Q. So just to orient ourselves on State's 2, what road

25 is this?

JAMES RUTLAND - DIRECT BY MR. HUBBARD

445

- 1 A. That's the highway that goes to Saluda and North
2 Augusta.
- 3 Q. 121?
- 4 A. 121.
- 5 Q. What road is this?
- 6 A. That's the highway that goes to Ward and Ridge
7 Spring and back to Edgefield.
- 8 Q. That's 23?
- 9 A. 23.
- 10 Q. So once you talk to these officers, you're heading
11 this way to Ridge Spring?
- 12 A. Ridge Spring.
- 13 Q. How far do you get before you turn around?
- 14 A. Actually before I get - I would turn around at the
15 deer processing plant down here which is off the map.
- 16 Q. Okay. And do you come back into Johnston?
- 17 A. Yes, sir.
- 18 Q. Whereabouts do you meet an officer and let him know
19 or her know?
- 20 A. Actually right here.
- 21 Q. So right downtown?
- 22 A. Right downtown.
- 23 Q. Do you get out of your vehicle?
- 24 A. No, sir.
- 25 Q. What do you do?

- 1 A. I actually just had my window down.
- 2 Q. He had his window down?
- 3 A. He had his window down and just letting him know the
4 car that I was pursuing is on its way back his way.
- 5 Q. Where did you go at that point?
- 6 A. I actually I turned down this road right here and
7 parked right here in the Ford place.
- 8 Q. You just sat in the parking lot?
- 9 A. Yes, sir.
- 10 Q. At some point a little later, what, if anything, did
11 you notice?
- 12 A. As I was sitting there pointing out towards this way
13 I noticed blue lights was turned on. I couldn't see them. I
14 could see reflections of blue lights on so I just sit there.
15 Eventually, actually I was getting ready to go and that's when
16 the officer let me know my car was sitting down here waiting
17 on me.
- 18 Q. How long was it after? Let me ask you this: You
19 see blue lights and at some point you say an officer says you
20 can get the car?
- 21 A. Yes, sir.
- 22 Q. Was that right away?
- 23 A. No, sir.
- 24 Q. Sometime later?
- 25 A. Yes, sir. Maybe a good 30 minutes or so. Maybe a

1 little longer.

2 Q. Did you see -- Whereabouts, and if you don't
3 remember, that's fine, did you see blue lights, where did you
4 see those blue lights?

5 A. I was seeing actually a reflection of I guess off of
6 the windows right here the lights flashing off the window.

7 Q. But you could just see -- You just saw the
8 reflection?

9 A. Right.

10 Q. You didn't actually see them there?

11 A. I never seen the vehicle.

12 Q. Okay. Okay. So sometime after you see those blue
13 lights there's a point in time when you're told you can have
14 the vehicle?

15 A. Yes, sir.

16 Q. And do you get the vehicle at that time?

17 A. Yes, sir.

18 Q. That vehicle is a Grand Marquis?

19 A. Yes, sir.

20 Q. Where do you take this Grand Marquis?

21 A. After I take possession of it, I take it back to
22 Hook and Book's impound yard.

23 Q. I want to show you what's been marked in evidence as
24 State's 69. Is that your impound lot?

25 A. It is.

- 1 Q. Is that the vehicle?
- 2 A. It is.
- 3 Q. Can you read that tag?
- 4 A. MXD356 South Carolina.
- 5 Q. That's the vehicle you were looking for?
- 6 A. Yes, sir.
- 7 Q. This impound lot that you have, is there a fencing
- 8 around it?
- 9 A. Yes, sir.
- 10 Q. Is it a secure lot?
- 11 A. Yes, sir.
- 12 Q. As a businessman if someone were to break in that
- 13 lot, who's liable?
- 14 A. I am. I own it.
- 15 Q. So you make sure it's safe?
- 16 A. Yes, sir.
- 17 Q. Now, when you seize a vehicle, you're seizing it not
- 18 for law enforcement. You're seizing it for?
- 19 A. For the company I'm working for.
- 20 Q. How many days does somebody have to try to get that
- 21 vehicle back?
- 22 A. Legally ten days. Ten days legally.
- 23 Q. During that time ten days following March 8th did
- 24 anybody, did the owner of the vehicle a Roberta Lowman try to
- 25 say I need my car back?

JAMES RUTLAND - CROSS BY MR. WILLIAMS

449

1 A. No, sir.

2 Q. Who are the only individuals who came to see that
3 car?

4 A. Uhm, I know Saluda County came and I know SLED
5 came.

6 Q. Law enforcement?

7 A. Yes, sir.

8 Q. No one else?

9 A. No, sir.

10 MR. HUBBARD: Thank you, Mr. Rutland. Please answer
11 any questions the defense may have.

12 MR. WILLIAMS: May it please the Court.

13 THE COURT: Yes, sir.

14 CROSS EXAMINATION

15 BY MR. WILLIAMS:

16 Q. The name of your outfit is called Hook and --

17 A. Hook and Book Recovery.

18 Q. Hook and Book. What does the Book stand for?

19 A. No particular reason. It sounded cool and I run
20 with it.

21 Q. Okay. So are you a corporation?

22 A. I'm an LLC.

23 Q. All right. So you have more than one person that
24 works for you there?

25 A. Yes, sir.

- 1 Q. How many people work for you there?
- 2 A. Well, I mean, you got, you know, my helper. I got a
- 3 couple more helpers.
- 4 Q. I'm sorry?
- 5 A. So, you know, you know, they come and go as they
- 6 want, you know. There's no particular number at any time.
- 7 Q. How many normally do you have working for you
- 8 besides yourself?
- 9 A. Usually two.
- 10 Q. All right. Now, you were asked about your yard and
- 11 about the fencing and stuff like that?
- 12 A. Yes, sir.
- 13 Q. You don't see customers at Hook and Book normally.
- 14 You get a phone call, something like that because you're
- 15 normally on the road trying to Hook and Book, right?
- 16 A. No, sir.
- 17 Q. That's not true or that is true?
- 18 A. No, sir. I'm usually taking care of everything on
- 19 the phone and everything. Make sure everything is done
- 20 right.
- 21 Q. You're normally at the location of Hook and Book?
- 22 A. Normally.
- 23 Q. Does it have a building there?
- 24 A. It does.
- 25 Q. Does it have a computer there?

1 A. It does.

2 Q. Does that computer hook up to your cell phone?

3 A. No. It don't.

4 Q. You have an app on your cell phone that allows you
5 to track the various vehicles that you go after, correct?

6 A. Certain vehicles. Yes.

7 Q. Certain vehicles that have a GPS --

8 A. Right.

9 Q. -- system to them. So are you capable of running a
10 printout? That's why I asked you about the computer.

11 A. Right.

12 Q. So are you capable of running a printout showing
13 exactly where a vehicle is that you are tracking while you are
14 tracking it?

15 A. I can print it out if I need to but I usually
16 don't.

17 Q. Why don't you normally print it out?

18 A. Because the printout is really not needed for -- I
19 can look at it on my phone as I go. It's just better than a
20 printout and less paper that I've got to carry around.

21 Q. Got you. Did you run a printout in this particular
22 case showing your movements on the night of March the 8th that
23 you were driving or March the 7th that they were driving?

24 A. Actually I started out on March the 7th and ended up
25 on March the 8th.

1 Q. Do you have a printout which shows your movements or
2 the movements of the car you were seeking from March the 7th
3 up through March the 8th?

4 A. I didn't printout any kind of printout for
5 anything.

6 Q. Do you know if anyone has printed the printout
7 showing the movements of that car from March the 7th to March
8 the 8th?

9 A. I'm pretty sure there's some kind of printout of
10 locating the car from here to there but actually I didn't do
11 it.

12 Q. But you've talked to SLED, you've talked to SLED,
13 you've talked to the Sheriff's Department so they know that it
14 can be done, right?

15 A. Yes. It can be done.

16 Q. So you just don't know if they did it or not?

17 A. I don't know who did it. I have seen the
18 printout.

19 Q. You've seen the printout. Okay.

20 A. But I don't know who did it.

21 Q. I got you. So there is one in existence?

22 A. Yes, sir.

23 Q. Now, let me ask you about that printout. Have you
24 ever run a printout before?

25 A. Yes, sir.

1 Q. So do you know if it measures time wise the location
2 of the vehicle every minute, every hour for whatever time
3 period you're doing the printout?

4 A. It only makes a printout of the location every time
5 you hit the button, hit the locate button. It does not run
6 live but it's so close to live, I mean, you can literally hit
7 the button, wait two seconds to locate, hit the button again
8 so you can steadily keep tracking.

9 Q. Do you know whether or not that there is the
10 capacity of your machine to give a printout every five minutes
11 or every ten minutes if you don't press the button?

12 A. I don't quite understand what you're going after.

13 Q. You're telling me that you push a button and it
14 shows you where it is at that particular time?

15 A. Right.

16 Q. Do you know whether or not it's recorded anywhere
17 with this app?

18 A. Oh, yeah. When the button is hit and it locates, it
19 goes into a software that that car was located there.

20 Q. Like a cell phone? Like ping a tower on a cell
21 phone?

22 A. Pretty much.

23 Q. Bouncing back from the cell phone tower?

24 A. I don't know how it works. I just know it works.

25 Q. I got you. Somebody else may know how that works?

- 1 A. Yeah.
- 2 Q. So let me ask you then, you said you were out on
3 March the 7th looking for this vehicle and you had a pick up
4 order, right?
- 5 A. Yes, sir.
- 6 Q. Where is that pick up order?
- 7 A. I guess it's in a folder somewhere.
- 8 Q. You don't possess it today; is that correct?
- 9 A. No, sir. Usually after so long our files are
10 destroyed that way we don't have any record in case somebody
11 breaks in or anything like that, you know, I'll destroy it.
- 12 Q. Did you turn over a copy of the pick up order when
13 law enforcement contacted you on March the 8th?
- 14 A. I don't remember if we turned over a report or not.
15 If they asked for it, we would turn it over. If they didn't,
16 we didn't.
- 17 Q. I got you. But you wouldn't have destroyed it on
18 the same day that you had used it?
- 19 A. Oh, no. I mean, I have to still get paid for it. I
20 usually keep all that with my invoices.
- 21 Q. When you say you still get paid for it, you get paid
22 for it by Jiggie's? Is that who would pay you for it?
- 23 A. Jiggie's Truck and Auto Sales.
- 24 Q. GE Truck and Auto Sales?
- 25 A. Jiggie's.

JAMES RUTLAND - CROSS BY MR. WILLIAMS

455

1 Q. Jiggie's. Okay. When you were out tracking this
2 vehicle, you said you were behind the golf course and you were
3 describing what has been shown in State's Exhibit number 71 as
4 your location. Could I ask you to step down again.

5 A. Yes, sir.

6 Q. Okay.

7 A. (Witness complies.)

8 Q. This is a real clear shot. The other one you see
9 tree tops, don't you?

10 A. Yes, sir.

11 Q. Show me where the vehicle was located here on the
12 golf course or at the golf course I should say?

13 A. It was located right in this area right in here.

14 Q. All right. Now, is that a dirt road or a paved
15 road?

16 A. It's a dirt road.

17 Q. All right.

18 A. If you want to call it a dirt road.

19 Q. All right. So it's a dirt road. So on this picture
20 it shows what is clearly asphalt on this picture right here.
21 That's clearly asphalt.

22 A. It actually goes back out here. This is dirt. This
23 is actually the track where the golf carts go on.

24 Q. That's right. It's paved, right?

25 A. That part is. This part is not.

- 1 Q. So --
- 2 A. That road does not lead back over in here. It comes
3 back around.
- 4 Q. I got you now. So all of this road right here that
5 you saw this vehicle on would be dirt?
- 6 A. If I remember correctly it was dirt.
- 7 Q. And this road comes out to this road right here
8 which is next to the road that runs by the airport?
- 9 A. Yes, sir.
- 10 Q. Do you know if that's a --
- 11 A. Looks like a green to me.
- 12 Q. It is. Do you know if it's a par 3 or a par 4?
- 13 A. I have no idea. I don't play golf.
- 14 Q. Thank you. You can have your seat.
- 15 A. (Witness complies.)
- 16 Q. The road that you were describing you said that you
17 saw this vehicle had the parking lights on, the headlights
18 were not on and it was facing towards the airport which means
19 it would be backed in on that dirt road; is that correct?
- 20 A. Yes, sir.
- 21 Q. And when you pulled down that road, you had all the
22 lights on your truck lit up basically?
- 23 A. I had my headlights and my flood bar on on the front
24 on.
- 25 Q. Could probably see you all the way from the tenth

JAMES RUTLAND - CROSS BY MR. WILLIAMS

457

1 hole in Persimmon Hill, couldn't you?

2 A. I don't know where the tenth hole is but I'm pretty
3 sure when I came in, he knew I was there.

4 Q. That's right. And you could see maybe, what do you
5 think, quarter of a mile maybe?

6 A. I could see as far as my lights go.

7 Q. All right.

8 A. I mean, I don't get out and measure how far I can
9 see.

10 Q. That's okay. I'm just trying to indicate it was
11 well lit up?

12 A. Oh, yes.

13 Q. It was a dark night?

14 A. I'm pushing over 1500 lumens.

15 Q. There's no other lights out there?

16 A. No, sir.

17 Q. There's no lights on a pole?

18 A. No, sir.

19 Q. It's not a lit golf course or anything like that?

20 A. No, sir.

21 Q. So when you get out there, you go around his
22 vehicle?

23 A. I squeeze by.

24 Q. Now, how big is your truck?

25 A. It's a F350 dully.

1 Q. How wide is it?

2 A. Regular size of a snatch truck.

3 Q. And you go by him on the left-hand side?

4 A. I would be going by him on the right-hand side.

5 Q. So you go by him on the right-hand side so that
6 means as you go by him --

7 A. My driver's door is to his driver's door.

8 Q. That's where I was going. So when you went by him
9 driver's side to driver's side, did you have your window down
10 and could you observe whether or not there was one person in
11 there, two people in there, three people in there, four people
12 in there, five people in there?

13 A. My window wasn't down at that time. But no, sir. I
14 could not see in the vehicle even coming towards it with my
15 bright light on on the front of the truck.

16 Q. So then you pulled behind it and you circled around
17 on the golf course?

18 A. I actually went back because I needed to get to the
19 back of the car to hookup to. But as I was going back, I
20 realized I have never been out there before. I don't know
21 what's on the other end of this road, if it goes anywhere. I
22 need to go down and search out and make sure I have a good
23 place to turn around. When I get down towards the end of that
24 road, I realize I'm on the golf course. I'm not going to be
25 able to turn around so I turned around down there and came up

1 and parked behind it.

2 Q. Where you concerned about getting stuck in the mud
3 or getting bogged down or anything like that?

4 A. Yes, sir.

5 Q. Tell me why you were concerned about getting stuck
6 or bogged down?

7 A. Well, generally it costs me money to get myself
8 unstuck which I don't like spending money out of my own pocket
9 but also I'm doing a repossession. My line of work is very
10 dangerous and I don't want to cause myself to get in any
11 danger or if my helper is with me his danger, you know?

12 Q. So where were you going to get stuck? Were you
13 going to get stuck going around him or were you going to get
14 stuck on the golf course?

15 A. I didn't know where the road went to. You know, I
16 don't know what it looked like on the other end. I've never
17 been down there before.

18 Q. Was it wet?

19 A. I'm very cautious.

20 Q. Was it wet?

21 A. I don't -- I remember it was cool but I don't think
22 it was wet. It had been raining a couple of days before.

23 Q. Had been raining?

24 A. I don't know. I don't know.

25 Q. Was there evidence, do you know if there was

1 evidence left down there that a vehicle had actually been down
2 there? Because you know if you drive a vehicle on a wet muddy
3 golf course or road, it will leave a mark, won't it?

4 A. Generally it does. But, I mean, you know, leaves
5 fall here and there and you can't really tell.

6 Q. Okay. So you turned around and when you turned
7 around, you're going back into his rear end, right?

8 A. Yes, sir.

9 Q. And is that when you hook up or you don't hook up?

10 A. I don't hook up.

11 Q. What do you do?

12 A. I pull in behind him and stop. Still had my lights
13 on. I exit my vehicle. I walk over to his vehicle. As I'm
14 looking to see if there is any movement or anything in the car
15 I notice no movement. I tap on the window and get no
16 response. I had my flashlight in my hand. I shined it in the
17 window which I'm very close to. The reflection from the dark
18 tinted window is flashing back in my eyes. I cannot see in
19 the vehicle. In fact, now I'm just dazed. I can't see,
20 period. So I take a step back. I go back and get in my
21 truck. I get an uneasy feeling to get out of there and I
22 left.

23 Q. Did you see if the door was unlocked?

24 A. No, sir.

25 Q. Well, if nobody was there, why didn't you open it up

JAMES RUTLAND - CROSS BY MR. WILLIAMS

461

1 to see if you had the right vehicle that -- You said you
2 couldn't see through the window. Why didn't you open up the
3 door to see what the VIN was on the dash?

4 A. I don't need to open the door to see a VIN.

5 Q. Where is the VIN?

6 A. The front windshield and several other spots on a
7 vehicle.

8 Q. Okay. So when you said that you couldn't see
9 through the windshield, you're saying that you couldn't
10 partially see through the window but you could at least see
11 the VIN number which is on the dash behind the windshield on
12 the front. It's on the left corner, isn't it?

13 A. It's on the driver's side.

14 Q. Right. So you could see through the windshield.
15 You could read the numbers, the VIN number off the windshield,
16 couldn't you?

17 A. I could.

18 Q. So you're telling me that you could see well enough
19 to see the vehicle identification numbers on the front of that
20 windshield, you could read those but you couldn't see well
21 enough to see if there was people inside?

22 A. As a matter of fact, if you just want to get down to
23 it, I'm not trying to cut you off or anything, I really didn't
24 need to look at the VIN. I could see the tag. The tag
25 matched my vehicle. It described the vehicle to a T. Plus

1 I'm running off of GPS and it's within a foot.

2 Q. I just want to know what you did, that's all.

3 A. I just told you what I did.

4 Q. So you did look at the vehicle identification on the
5 dashboard and saw the vehicle --

6 A. No. I didn't.

7 Q. You didn't do that?

8 A. No. I felt very uneasy at the time. That's why I
9 backed off.

10 Q. Why did we just talk about the VIN number then?

11 A. You brought it up.

12 Q. I know. But you didn't see it? You didn't see it?

13 A. I never looked for the VIN number. I wasn't going
14 to look for the VIN. I was just going to see if I could talk
15 to him because I didn't know why anybody would be back there
16 on a road unless they're homeless or out doing something.

17 Q. Are you saying you couldn't see through it or you
18 could see through it?

19 A. I could see through it if I needed to.

20 Q. Thank you. Now, when you --

21 A. But if I picked it up, I would have VIN'd it to make
22 sure it was the right vehicle.

23 Q. So when you pulled out, you pulled out and you
24 waited on that road that runs by the airport; is that
25 correct?

JAMES RUTLAND - CROSS BY MR. WILLIAMS

463

1 A. Yes, sir.

2 Q. You would have pulled out to the right maybe or
3 would you have pulled out to the left going back towards
4 121?

5 A. I would have went to the right.

6 Q. To the right.

7 A. Actually it just kind of veers off. I mean,
8 actually going back toward the left. Excuse me.

9 Q. I'm talking about when you came off the dirt road.
10 Did you go left or right when you pulled off the dirt road?

11 A. As soon as I came off that little trail, I guess
12 we're calling it a dirt road, it would be to the left to the
13 elbow of the paved road behind the airport.

14 Q. How far did you go where you sat and waited?

15 A. I guess that's maybe a football field maybe if
16 that.

17 Q. Did you drive all the way down to the paved road?

18 A. I drove all the way to the elbow of the road and
19 pulled over.

20 Q. Okay. And the elbow of the road is probably what
21 maybe a sand wedge to 121, right?

22 A. I don't know what a sand wedge is.

23 Q. I got you. It's a hundred yards wouldn't you say?

24 A. It's close to a football field or less.

25 Q. Right. A hundred yards?

1 A. Yes, sir.

2 Q. And you sat there. Now, that's a curve that goes to
3 the right and the airport is up here on the left so you're
4 sitting there on the right and then you see some vehicle that
5 goes left down by you to the stoplight, stop sign and you say
6 that's the car I'm looking for, right?

7 A. I don't remember seeing no stop sign on the road.

8 Q. There's no stop sign there at 121 where you would
9 turn right to go to Saluda or left to go to Johnston?

10 A. I was just sitting at the -- I thought you was
11 talking about when I was sitting there when the car went
12 beside me.

13 Q. I'm talking about on 121 a hundred yards away from
14 where you were stopped. There's a stop sign there, right?

15 A. Way on the other end of the road.

16 Q. Did you see him stop at the stop sign and then turn
17 left?

18 A. No. I did not.

19 Q. All right. So you didn't really follow him. You
20 noticed the car going by you though?

21 A. Yes, sir.

22 Q. So then he turns left and goes down 121 going back
23 towards --

24 A. Johnston.

25 Q. -- Johnston. And you are never in sight of this

JAMES RUTLAND - CROSS BY MR. WILLIAMS

465

1 vehicle; is that correct?

2 A. That's correct.

3 Q. So you don't see anything about the movements of
4 that vehicle with your own two eyes. You are relying solely
5 on the app, correct?

6 A. Pretty much.

7 Q. Okay. So you drive down to Johnston. You see a
8 police officer there. You tell the police officer that you're
9 there to Hook and Book and do you remember the police officer
10 you talked to there?

11 A. By name?

12 Q. Man or woman?

13 A. The first one I talked to was a woman.

14 Q. The first police officer you talked to was a woman
15 and then several other police officers come up on the scene,
16 correct?

17 A. Yes, sir.

18 Q. How many police officers arrived in the big town of
19 Johnston? What time was this?

20 A. Usually after midnight by now.

21 Q. It's after midnight. About what time was it?

22 A. I guess around one, two, 3:00. I really don't
23 know.

24 Q. One, two or three?

25 A. Somewhere in there.

1 Q. Well, now, your little GPS thing tells you what time
2 the vehicle is at whatever location, right?

3 A. Yes, sir. But we're also talking about over a year
4 ago.

5 Q. Okay. So some time you have this conversation and
6 how many police officers come up?

7 A. I mean, I didn't count them. At least two to three
8 cars there.

9 Q. Two to three cars. One person in each car, right?

10 A. I guess.

11 Q. So you had at least three municipal cars. This is
12 for the Town of Johnston, right?

13 A. Actually I don't know if Johnston has their own
14 police department. I don't know if it's Edgefield. I don't
15 know if it's Saluda. Whose is what.

16 Q. So you really don't know who these law enforcement
17 people are but there are people with cars with blue lights on
18 them that are there?

19 A. Pretty much.

20 Q. Okay. So after you talk to them, then you go and go
21 park at the Ford place right there, right?

22 A. Yes, sir.

23 Q. How was it that you lost the guy? Because you went
24 through this deal where you went and turned right and you lost
25 the guy from where you thought he was going, he was back

JAMES RUTLAND - CROSS BY MR. WILLIAMS

467

1 behind the laundromat or something like that, how do you lose
2 him if your GPS is working right?

3 A. Because it's not blind and I'm not hitting the
4 locate button.

5 Q. Okay. So you said you sat there at the Ford place.
6 How long did you sit there before you went and went after him
7 going down to Ridge Spring and Ward?

8 A. I think you're kind of confused on your --

9 Q. You tell me which way it goes.

10 A. When I was sitting at the Ford place, he was already
11 on his way back from Ridge Spring.

12 Q. Okay. So after you have the conversation with the
13 female deputy, then you have the conversation with the other
14 deputies. You tell them what you are looking for. Where is
15 the vehicle when you're having this conversation?

16 A. When I'm sitting there having a conversation with
17 everybody that's there at one time we were still sitting in
18 front of Tidwell Jewelers Store in Johnston.

19 Q. Where is the Marquis, the vehicle?

20 A. The Marquis is at the time, I was trying to show him
21 where the car was sitting at.

22 Q. Show who?

23 A. The officer. Because he was wanting to know what I
24 was doing and I told him I was out here to pick up a
25 repossession which they already knew and I realized the car is

1 not there no more. It's heading towards Ridge Spring.

2 Q. So it had already gone from the laundromat, turned
3 left and headed towards Ridge Spring?

4 A. Yes, sir.

5 Q. Then what did you do?

6 A. Well, as I was sitting there so I guess I'm heading
7 towards Ridge Spring to pick up the vehicle.

8 Q. So you take off. Because you can't see him. You
9 still can't see him, right, except on your GPS?

10 A. Right.

11 Q. You don't have any visual contact with this car?

12 A. No, sir.

13 Q. But you're clicking on -- Then you see its turned
14 around and it's coming back another way?

15 A. It's coming back towards me.

16 Q. So you call Johnston and tell them --

17 A. I didn't call nobody. When I noticed the car was
18 coming back towards me, I made a U-turn in Johnston at the
19 deer processing plant, came back and seen the officer sitting
20 in a different spot and told him his car was heading back his
21 way.

22 Q. The reason you got there before the car did is
23 because you were closer into Johnston than the car was because
24 the car was further out going towards Ridge Spring? That's
25 the reason why you beat the car and you didn't pass him is

1 because you were closer into Johnston, right?

2 A. You got me lost. I don't know what you're talking
3 about now.

4 Q. All right. The reason you beat the car back to
5 Johnston is because you weren't as far out as the car was?

6 A. The car beat me to Johnston.

7 Q. The car beat you to Johnston.

8 A. It was sitting behind the laundromat.

9 Q. I'm talking about when the car came back into
10 Johnston. It didn't come back into Johnston?

11 A. I never left the town of Johnston.

12 Q. Never left the town. Okay.

13 A. So, yeah. I mean, I guess I did beat him back to
14 Johnston because I never left.

15 Q. So you only went a little ways before you let the
16 police officers know that he was coming back, right?

17 A. (Witness nodding head.)

18 Q. Then you pulled over to the Ford place and let the
19 police officers do the stopping?

20 A. Yes, sir.

21 Q. And you could see the blue lights out there where
22 they had stopped him?

23 A. I could see the reflection of the blue lights. I
24 didn't see the blue lights itself.

25 Q. And you waited there 30 minutes?

1 A. I'm guessing 30 minutes or so.

2 Q. And then you got a call said come pick up your
3 car?

4 A. Nobody gave me a call.

5 Q. How did you know to come?

6 A. The officer was coming down the road and saw me
7 sitting there.

8 Q. Okay. He said you can have it now?

9 A. He said your car is sitting down there by the
10 railroads track. You can go get it if you need it.

11 Q. And when you drove back there, who was there?

12 A. No one.

13 Q. No one. So the car that you had gotten law
14 enforcement to stop was there --

15 MR. HUBBARD: Objection to that, that he got law
16 enforcement to stop. That implies they're doing his --

17 THE COURT: That's all right. I sustain the
18 objection. Rephrase your question.

19 BY MR. WILLIAMS:

20 Q. Did you request law enforcement to stop them?

21 A. No, sir.

22 Q. Did you tell them what you were trying to do?

23 A. I told them out of respect for any officers that we
24 run across we're here to do a repossession and I told them
25 that they had no insurance which would be a concern to the

1 police officer because driving, you have to have insurance.

2 Q. They stopped him though, didn't they?

3 A. Yes, sir.

4 Q. And they let you know where the car was?

5 A. Well, basically. But, you know, I was gonna pick
6 that car up later anyway. I got GPS. I can find it with them
7 or without them.

8 Q. So when you got there, there was nobody there?

9 A. No, sir.

10 Q. The car was sitting out there on the side of the
11 road?

12 A. Yes, sir.

13 Q. You hooked it up and you didn't even check to see if
14 it was locked or unlocked, did you?

15 A. No, sir.

16 Q. You hooked it up and then drove it to North
17 Augusta?

18 A. No. Actually I hooked it up, strapped it up and
19 called it in as being repossessed to Edgefield County
20 Sheriff's Office and then I dragged it back to North Augusta
21 and locked it up inside the impound yard.

22 Q. All right. So that way they've got a record of what
23 you did?

24 A. Right.

25 Q. So no one would charge you with stealing the car or

- 1 something, right?
- 2 A. No, sir.
- 3 Q. And you drove it back to North Augusta?
- 4 A. I didn't drive it. I pulled it.
- 5 Q. Okay. You pulled the driverless car back to North
- 6 Augusta?
- 7 A. Yes, sir.
- 8 Q. When you got back to North Augusta, you unlocked
- 9 your lot and you put it in the lot and then what did you do?
- 10 A. Locked it back up.
- 11 Q. Then what did you do? Went home?
- 12 A. Yes, sir.
- 13 Q. Who was there at the lot after you left it?
- 14 A. I was.
- 15 Q. After you left it you were there?
- 16 A. Yes, sir.
- 17 Q. So you didn't go back home. Do you live there?
- 18 A. Yes, sir.
- 19 Q. And you went to bed. That's what you did, you went
- 20 to bed then?
- 21 A. I didn't go straight to bed.
- 22 Q. You live on the lot so that you have a bed there?
- 23 A. I don't live on the lot. I live upstairs in a
- 24 bedroom.
- 25 Q. Okay. So you went to your home/office and went to

JAMES RUTLAND - CROSS BY MR. WILLIAMS

473

1 bed in your bed which is at the lot?

2 A. I own it.

3 Q. Okay. And when was the next time that you saw a
4 police officer?

5 A. Early in the morning.

6 Q. About what time?

7 A. I think my phone started ringing about 7:30, 8:00 in
8 the morning. They wanted to know if we had picked up a '03
9 Mercury Marquis in Johnston.

10 Q. Got you. Let me ask you one more question. Have
11 you had the opportunity to Hook and Book with this car
12 before?

13 A. I have.

14 Q. Where did you Hook and Book it from?

15 A. From a house in North Augusta.

16 Q. All right. Have you ever hooked and booked it from
17 any other location besides from a house in North Augusta --

18 A. No, sir. That I know of.

19 Q. You would remember it, right?

20 A. I mean...

21 MR. WILLIAMS: That's all the questions I have, Your
22 Honor.

23 MR. HUBBARD: A few quick follow up, Your Honor.

24 THE COURT: Okay.

25 REDIRECT EXAMINATION

1 BY MR. HUBBARD:

2 Q. I know you have been up there a while, Mr. Rutland,
3 but if you can indulge me with a few questions.

4 A. All right.

5 Q. When you initially tracked this Mercury Grand
6 Marquis using State's 1 on this little road here --

7 A. Yes, sir.

8 Q. -- how long did your tracker have that vehicle
9 sitting there once you started looking for it to the best of
10 --

11 A. When I started looking for it from Tractor Supply,
12 it was about 45 minutes from tracking maps from my location.
13 About 45 minutes.

14 Q. And based on what you were tracking, that vehicle
15 was there for at least that amount of time?

16 A. Yes. There and even longer because it had been
17 sitting there before I even started tracking.

18 Q. Okay. So it had been there a while?

19 A. Yes, sir.

20 Q. And again, with your tracking, if you're not hitting
21 the button, it doesn't show anything? It just shows where it
22 was the last time you hit the button?

23 A. That's correct.

24 Q. Okay. Now, that little road, have you ever been
25 down that road before?

- 1 A. No, sir.
- 2 Q. Have you been down it since?
- 3 A. No, sir.
- 4 Q. It's been about a little over a year now?
- 5 A. Yes, sir.
- 6 Q. If I were to tell you that road is paved, would that
- 7 shock you since it's been so long in your memory? Or that
- 8 it's partially paved? Not like a street. But if I said it's
- 9 paved, would that shock you?
- 10 A. Yeah.
- 11 Q. Okay. Because your memory of it is it wasn't?
- 12 A. I mean, it's leading to go nowhere so I don't know
- 13 why you would even pave it.
- 14 Q. Well, that may be a good observation. But where you
- 15 turned around, you do see some paving here but you ended up
- 16 having to drive on dirt as well? No matter what, you did
- 17 drive on some dirt?
- 18 A. Yes, sir.
- 19 Q. Okay. With a big rig like that if you were driving
- 20 around a vehicle --
- 21 A. Yes, sir.
- 22 Q. -- on a narrow road --
- 23 A. Everybody knows bigger vehicles are easier to get
- 24 stuck.
- 25 Q. Exactly. And when you're driving around a car on

- 1 this little path, if it is paved, you're driving on dirt?
- 2 A. Right.
- 3 Q. That's a concern for you?
- 4 A. Right.
- 5 Q. Okay. Once you -- Let me do this with the Court's
- 6 permission. Again, showing you, since we brought this up,
- 7 State's 3, it was brought up on cross about this location
- 8 again, 121, 23. You said you cut the block?
- 9 A. Yes, sir.
- 10 Q. Now, whereabouts did you say you saw this vehicle?
- 11 A. Actually --
- 12 Q. Or had it tracked?
- 13 A. -- when I laid my eyes back on it after we tracked
- 14 it it was sitting between this building and this building in
- 15 this little cubby hole.
- 16 Q. With the Court's permission just to clear that up
- 17 I'm gonna have you mark that area with an "X".
- 18 A. (Witness complies.)
- 19 Q. Tell you what, make it a little darker. Make it a
- 20 little more bolder.
- 21 A. (Witness complies.)
- 22 Q. There we go. Thank you. Just a couple more. Now,
- 23 once you - you said once you were out there you just saw the
- 24 tag?
- 25 A. Yes, sir.

JAMES RUTLAND - RECROSS BY MR. WILLIAMS

477

1 Q. Verified that's the car?

2 A. Yes, sir.

3 Q. Once you picked it up in Johnston when law
4 enforcement was done with it and you took it back to your
5 impound, did you have an opportunity to verify then as well?

6 A. Yes, sir.

7 Q. Okay. You said at some point when you're in
8 Johnston you see the blue light reflections. At some point an
9 officer drives by and says you can pick up the car?

10 A. Yes, sir.

11 Q. So you picked it up right after they were done?

12 A. Yes, sir.

13 Q. You didn't come get it the next day? .

14 A. No, sir.

15 Q. They didn't wait until the next day to tell you you
16 could get it?

17 A. No, sir.

18 Q. And they weren't stopping it for you?

19 A. No.

20 MR. HUBBARD: I believe that's all the questions I
21 have. Thank you so much.

22 MR. WILLIAMS: Just one question on recross.

23 RECROSS EXAMINATION

24 BY MR. WILLIAMS:

25 Q. The Solicitor had you mark on, he had you mark on

1 State's Exhibit number 3 a location with an "X" where the
2 vehicle allegedly was parked, correct?

3 A. It wasn't allegedly. It was sitting there. I seen
4 it with my own eyes.

5 Q. So you saw it then?

6 A. Mm-hmm.

7 Q. But you didn't attempt to pick it up then?

8 A. I didn't know how to get to it. I was trying to
9 figure out what in the world why it was sitting over there
10 behind from where they just came from to there. That's when
11 everything started clicking in my mind something was going on
12 that shouldn't be going on but I didn't know what was going
13 on.

14 Q. So you didn't --

15 A. If you remember, earlier I told you when it was
16 sitting in the woods, I didn't feel right and I got a little
17 something telling me to back off.

18 Q. So are you saying that you saw it here, then you
19 came back and talked to Johnston police officers and then you
20 realized it had left?

21 A. When I came back around after seeing it sitting
22 there, I came back over here and that's when I let the officer
23 know that I was fixing to do a repossession on a car that had
24 no insurance.

25 Q. When you pulled in here, you saw the vehicle here.

1 How many people were in this vehicle?

2 A. I don't know. I couldn't see inside the vehicle

3 from way over yonder.

4 Q. What is this store right here?

5 A. Quick Shop.

6 Q. Quick Shop. What's a Quick Shop?

7 A. Buy gas, food, whatever you want.

8 Q. Convenience store?

9 A. Mm-hmm.

10 MR. WILLIAMS: Thank you, sir.

11 MR. HUBBARD: No questions. Ask that he be

12 excused.

13 THE COURT: All right. Step down. He may be

14 excused. Let's take a short break, then we'll finish up

15 and go to lunch. Y'all take about ten minutes. Have you

16 come back in in a few minutes. You can't discuss the

17 case.

18 (Whereupon, the jury entered the jury room at 11:35

19 a.m.)

20 (Short break.)

21 BAILIFF: Court come to order.

22 THE COURT: Ready?

23 MR. HUBBARD: Yes, sir.

24 THE COURT: Bring the jury in please.

25 (Whereupon, the jury entered the courtroom at 11:55

1 a.m.)

2 THE COURT: Call your next witness.

3 MR. HUBBARD: The State calls deputy Austen Harding.

4 Thereupon,

5 AUSTEN HARDING

6 after having been first duly sworn, testified as follows,

7 DIRECT EXAMINATION

8 BY MR. HUBBARD:

9 Q. Deputy Harding, will you state your name for the
10 record please.

11 A. Austen Harding.

12 Q. Where do you work?

13 A. Saluda County Sheriff's Office.

14 Q. How long have you been with Saluda?

15 A. Almost seven months.

16 Q. Prior to working for Saluda County, where did you
17 work?

18 A. Johnston Police Department.

19 Q. How long were you there?

20 A. Almost a year.

21 Q. Were you employed last March, March 8th of 2017?

22 A. Yes, sir.

23 Q. How long had you been on the job about that time?

24 A. Almost three months.

25 Q. Okay. Have you ever testified before?

AUSTEN HARDING - DIRECT BY MR. HUBBARD

481

- 1 A. No, sir.
- 2 Q. You a little nervous?
- 3 A. A little bit.
- 4 Q. Okay. You're gonna be all right. March 8th, 2017,
- 5 were you working day shift or night shift?
- 6 A. Night shift.
- 7 Q. What was night shift, from when to when?
- 8 A. From 6:00 p.m. to 6:00 a.m.
- 9 Q. The night of March 8th, 2017, did you have occasion
- 10 to have a conversation while on duty with somebody from Hook
- 11 and Book Repo?
- 12 A. Yes, sir.
- 13 Q. And based on that information, I don't want to get
- 14 into what this fellow said but were you aware he was trying to
- 15 follow a car?
- 16 A. Yes, sir.
- 17 Q. Now, generally do y'all even get - do y'all even
- 18 care if a repo guy is out doing his job?
- 19 A. No, sir.
- 20 Q. Do y'all ever assist them?
- 21 A. No, sir.
- 22 Q. It's not part of your job?
- 23 A. No, sir.
- 24 Q. If you have information that a vehicle has no
- 25 insurance as opposed to not making payments but has no

- 1 insurance, is that an issue as an officer?
- 2 A. Yes, sir.
- 3 Q. Why is that?
- 4 A. Because if he goes out there and has an accident
5 with somebody, he's not insured and in South Carolina your
6 vehicle is supposed to be insured for vehicles on the state
7 roadways.
- 8 Q. So once you have that information, it's on you?
- 9 A. Yes, sir.
- 10 Q. The information you had did it also include a car?
- 11 A. Yes, sir.
- 12 Q. So now you've got that information. What car did
13 you have that you had information had no insurance?
- 14 A. A 2003 Mercury Grand Marquis.
- 15 Q. Now, at some point does this man who works for Hook
16 and Book, does he drive off?
- 17 A. Yes, sir.
- 18 Q. Do you see him a little later?
- 19 A. Yes, sir.
- 20 Q. Based on that at this point have you laid eyes on
21 this vehicle?
- 22 A. No, sir.
- 23 Q. But based on information he gave you you see him
24 drive off, you see him come back at some point?
- 25 A. Yes, sir.

AUSTEN HARDING - DIRECT BY MR. HUBBARD

483

- 1 Q. Do you have a conversation with him?
- 2 A. Yes, sir.
- 3 Q. Based on that what are you on guard for?
- 4 A. I'm waiting for the 2003 Mercury to come back into
- 5 town from Ward.
- 6 Q. All right. Now, with just this information you
- 7 can't make an arrest?
- 8 A. No, sir.
- 9 MR. WILLIAMS: Objection to leading.
- 10 MR. HUBBARD: I'll rephrase it.
- 11 THE COURT: Sustained. Go ahead.
- 12 BY MR. HUBBARD:
- 13 Q. Can you make an arrest just on information?
- 14 A. No, sir.
- 15 Q. What, if anything, are you going to have to do to
- 16 verify?
- 17 A. Pull the vehicle over and gather information and go
- 18 from there.
- 19 Q. Okay. Now, do you see that vehicle coming back in
- 20 town?
- 21 A. Yes, sir.
- 22 Q. Looking at State's Exhibit 2 what road is this?
- 23 A. That's Highway 23.
- 24 Q. What road is this?
- 25 A. 121.

1 Q. Whereabouts are you when you see this Mercury Grand
2 Marquis?

3 A. I'm gonna be right in this area right here.

4 Q. Right up at the top of this chart?

5 A. Yes, sir.

6 Q. Is that still in Johnston?

7 A. Yes, sir.

8 Q. When you see this vehicle, are you heading in the
9 opposite direction?

10 A. Yes, sir. I'm heeding towards Ward and the vehicle
11 itself is heading towards Edgefield on Highway 23.

12 Q. All right. So when you see that vehicle, do y'all
13 actually pass one another?

14 A. Yes, sir.

15 Q. When that vehicle passes you, what, if anything, do
16 you notice about that vehicle?

17 A. When I passed it, I noticed it had very dark windows
18 so...

19 Q. Can I ask you, why would you make note of that?

20 A. Because I was always trained that when I see a
21 vehicle, I try to see inside of it, try to see how many people
22 are inside for my safety, theirs and the vehicle's safety.

23 Q. What do you do when you see that vehicle pass by
24 you?

25 A. I make a U-turn in the middle of the road and get

AUSTEN HARDING - DIRECT BY MR. HUBBARD

485

1 behind it at which time I turn my bright lights on to see if I
2 can still see anything in the vehicle and I cannot.

3 Q. Okay. And then what do you do?

4 A. That's when I turn my blue lights on to attempt to
5 pull the vehicle over.

6 Q. Now, at that time when you're pulling the vehicle
7 over, do you have another basis to pull it over at that
8 point?

9 A. Yes, sir.

10 Q. What is that?

11 A. The window tint.

12 Q. Whereabouts does this vehicle end up stopping?

13 A. After I turned around on the vehicle, it probably
14 drives another 150, 200 yards maybe and then finally comes to
15 a complete stop.

16 Q. Did you think he was running from you or anything
17 like that?

18 A. No, sir.

19 Q. He's just finding a place to stop?

20 A. Yes, sir.

21 Q. Again, looking at State's 2, do you see on this
22 aerial where he stopped?

23 A. Yes, sir. Between right here.

24 Q. I thought y'all were on 23?

25 A. Yes, sir.

1 Q. How did he get there?

2 A. He pulled over on the side of the road on Highway
3 23, never really stopped, just slowly pulled up, then he came,
4 turned right here on McQueen Street and hesitated and crossed
5 the train tracks right here. When he finally crossed the
6 train tracks, he took another right and pulled on kind of a
7 ditch. That's where he finally came to a complete stop right
8 here.

9 Q. Let me show you what's been marked as State's 67.
10 Is this a closer view of that place --

11 A. Yes, sir.

12 Q. -- of that stop?

13 A. Yes, sir.

14 Q. Is it like that?

15 A. Yes, sir.

16 MR. HUBBARD: All right. Your Honor, I offer 67 in
17 evidence.

18 MR. WILLIAMS: Without objection, Your Honor.

19 THE COURT: 67 is in without objection.

20 BY MR. HUBBARD:

21 Q. Make sure I have got it turned right. What road is
22 this?

23 A. Highway 23.

24 Q. These are the railroad tracks?

25 A. Yes, sir.

AUSTEN HARDING - DIRECT BY MR. HUBBARD

487

1 Q. Is this the little road that goes over the railroad
2 tracks?

3 A. Yes, sir.

4 Q. What's this little road right here on the other side
5 of the railroad tracks?

6 A. Calhoun Extension.

7 Q. What is this road right here?

8 A. McQueen Street.

9 Q. No, can we walk through that again to see it a
10 little bit more clearly?

11 A. Yes, sir. I turned around on the vehicle over here
12 and when I finally turned around, I turned my bright lights on
13 to see if I could see inside the vehicle. I still couldn't.
14 I activated my blue lights. He pulled over to the side of the
15 road right here but never did come to a complete stop. He
16 hesitated crossing over the train tracks.

17 Q. You say he hesitated. What do you mean?

18 A. He slowly, slowly crossed over the train tracks. He
19 wouldn't stop but he wasn't moving hardly at all and when he
20 finally crossed over the train tracks, he took another right
21 on Calhoun Extension and finally came to rest right there.

22 Q. Put a red mark where he came to rest. Put an "X".

23 A. (Witness complies.)

24 Q. Make it little bit bolder there so we can see.

25 A. (Witness complies.)

1 Q. There you go. Good job. All right, deputy, so he
2 stopped. Again, him hesitating and taking a little while, you
3 weren't seeing him as running or anything?

4 A. No, sir.

5 Q. Okay. What time was the stop?

6 A. The time of the stop, I believe the stop was at 1:30
7 in the morning.

8 Q. 1:30 a.m.?

9 A. Yes, sir.

10 Q. When you made that stop, did any of your fellow
11 officers back you up?

12 A. Yes, sir.

13 Q. Who was that?

14 A. At the time my corporal Tony Mosley and Andrea
15 Dublin.

16 Q. Okay. Now, as you are pulling in behind him, what,
17 if anything, happens?

18 A. When he finally came to a complete stop on Calhoun
19 Extension, before I could even put my vehicle in park he
20 already had gotten out of his vehicle. So I went ahead and
21 put my vehicle in park, stepped out and I said, let me see
22 your hands. Let me see your hands just to make sure he didn't
23 have any weapons of any such. And I told him to get back in
24 the car. That's when I approached the vehicle and got the
25 vehicle information and his state information.

AUSTEN HARDING - DIRECT BY MR. HUBBARD

489

1 Q. What, if anything, did he tell you when you came up
2 at that point in time?

3 A. He told me that he did not have a South Carolina
4 driver's license.

5 Q. Based on the information he gave you, the ID, who
6 was the person driving that vehicle?

7 A. Abin Lee Lowman.

8 Q. Do you see him in the courtroom today?

9 A. Yes, sir.

10 Q. Where is he?

11 A. Right there (indicating.)

12 Q. At the defense table. Once you ran a check, what
13 did you find?

14 A. I ran his ID through dispatch and they advised me
15 that he was driving under suspension for failure to pay
16 traffic tickets.

17 Q. He was DUS, driving under suspension?

18 A. Yes, sir.

19 Q. What did you do?

20 A. He was at that time placed under arrest for DUS.

21 Q. Did y'all put him in a car?

22 A. Yes, sir.

23 Q. I say y'all. Are other officers on the scene at
24 this point?

25 A. Yes, sir.

1 Q. Now, when you have that car stopped, what, if
2 anything, do you notice about the windows besides the tint?

3 A. Besides the window tint, I notice that the
4 passenger, the front passenger window was down.

5 Q. All right. So now you have got him placed under
6 arrest. He's in the car. What, if anything, do you and
7 fellow officers do?

8 A. At that time after he was placed under arrest and
9 put into one of our patrol vehicles, at that time we
10 inventoried the vehicle.

11 Q. Now, you said inventoried the vehicle. Why would
12 you do that?

13 A. For officer safety and liability reasons and really
14 for anybody that comes in contact with that vehicle liability
15 reasons, safety reasons.

16 Q. Let me ask you this: Hook and Book is going to be
17 looking for that vehicle?

18 A. Yes, sir.

19 Q. At some point do y'all turn that vehicle over to
20 them?

21 A. Yes, sir.

22 Q. Since y'all made the stop, what is your policy, what
23 was the policy in Johnston for the PD at the time?

24 A. Our policy is if we are fixing to tow a vehicle, we
25 inventory that vehicle for liability reasons and safety

- 1 reasons.
- 2 Q. So you have a man that's placed under arrest?
- 3 A. Yes, sir.
- 4 Q. Anybody else in the vehicle?
- 5 A. No, sir.
- 6 Q. Anybody to turn it over to?
- 7 A. No, sir.
- 8 Q. Are y'all gonna try to get on the phone to see if
- 9 there's anybody else that can take the vehicle?
- 10 A. No, sir. Not at 1:30 in the morning.
- 11 Q. If Hook and Book was not present, would y'all have
- 12 had it towed?
- 13 A. Yes, sir.
- 14 Q. Y'all would not leave a vehicle on the side of the
- 15 road?
- 16 A. No, sir.
- 17 Q. And the purpose of your policy for contents is
- 18 what?
- 19 A. The purpose of the policy is we're not gonna leave a
- 20 vehicle on the side of the road in case it gets broken into or
- 21 something that leaves the police department liable for
- 22 anything that might have been stolen or even a window getting
- 23 busted or anything like that.
- 24 Q. Because y'all made the stop?
- 25 A. Yes, sir.

- 1 Q. Now, when y'all did the search, you say it was your
2 supervisor --
- 3 A. Tony Mosley.
- 4 Q. Tony Mosley?
- 5 A. Yes, sir.
- 6 Q. And another officer?
- 7 A. Andrea Dublin.
- 8 Q. Ms. Dublin, was she new on the force, too?
- 9 A. Yes, sir.
- 10 Q. You mentioned that Tony Mosley, what was his role?
- 11 A. He was my corporal and training officer.
- 12 Q. In conducting this search, how did y'all go about
13 doing the search of the vehicle?
- 14 A. The search of the vehicle, Andrea and Tony did the
15 vehicle search. One was on the driver's side, the other was
16 on the passenger side.
- 17 Q. And you're there when this happens?
- 18 A. Yes, sir. They start front to back and when they
19 finished both of their side, they rotate and they go through
20 everything again to make sure that nobody missed anything, to
21 make sure that everything that needed to be out of the vehicle
22 was out of the vehicle, anything that needed to be left in the
23 vehicle was left in the vehicle.
- 24 Q. Any valuables that needed to be kept at that
25 point?

1 MR. WILLIAMS: Objection to leading.

2 THE COURT: Sustained.

3 BY MR. HUBBARD:

4 Q. What, if any, valuables did you find in the driving
5 compartment of the car that you needed to secure so that it
6 wouldn't get broken or stolen? Any valuables?

7 A. No, sir.

8 Q. Okay. None. All right. Did you also look in the
9 trunk?

10 A. Yes, sir. They completed the search of the driving
11 area of the vehicle. They went to the trunk and that's when
12 they searched the trunk as well.

13 Q. Okay. What, if anything, was found in the trunk?

14 MR. WILLIAMS: Objection, Your Honor. The
15 individuals who searched the trunk, we would object to
16 what he's going to testify to unless he was involved in
17 the search of the trunk.

18 BY MR. HUBBARD:

19 Q. I'll ask you the question. Were you involved in the
20 search? Were you there?

21 A. Yes, sir.

22 Q. You see what's going on?

23 A. Yes, sir. I was there the whole time.

24 THE COURT: I'll allow it. He's there.

25 BY MR. HUBBARD:

1 Q. What, if anything, did the officers find?

2 A. They found a box of nine millimeter ammo in the
3 trunk of the vehicle.

4 Q. Let me show you something. A box of ammo you say?

5 A. Yes, sir.

6 Q. Just looking at this, does that appear to be what
7 you found?

8 A. Yes, sir.

9 MR. HUBBARD: I'm not going to put it in at this
10 point, Your Honor.

11 THE COURT: Okay.

12 MR. HUBBARD: I'll tell you what, I will mark it for
13 ID purposes though, 72.

14 THE COURT: 72 for identification.

15 BY MR. HUBBARD:

16 Q. Who was in charge of the search?

17 A. Tony Mosley because he was the supervisor.

18 Q. And he was in charge of you guys as well?

19 A. Yes, sir.

20 Q. Who transported Mr. Lowman to jail?

21 A. I did.

22 Q. And did anybody follow you at that point?

23 A. Nobody followed me at first but a couple of minutes
24 later Tony Mosley did leave the scene and was headed towards
25 the detention center as well.

AUSTEN HARDING - DIRECT BY MR. HUBBARD

495

1 Q. So he followed in behind you?

2 A. Yes, sir. He followed me to the detention center to
3 help with the paperwork and everything.

4 Q. All right. Now, when you ran Mr. Lowman's ID, do
5 you have, did you put in there in any of your report or
6 anything else his date of birth? It may not be in your
7 report.

8 A. Yes, sir.

9 Q. It is in your report?

10 A. Yes, sir.

11 Q. Can you tell us what his date of birth is?

12 A. His date of birth is 5/14/1978. May 14th, 1978.

13 Q. He's older than you?

14 A. Yes, sir.

15 Q. I want to show you what's been marked in evidence as
16 State's 64. Is this the man you found driving that vehicle
17 that night?

18 A. Yes, sir.

19 Q. I want to show you what's been marked as State's 69.
20 Is this the vehicle that you stopped that night?

21 A. Yes, sir.

22 Q. Is that the same tag?

23 A. Yes, sir.

24 MR. HUBBARD: I have nothing further at this time.

25 Please answer any questions the defense may have.

1 MR. WILLIAMS: Please the Court.

2 THE COURT: Yes, sir.

3 CROSS EXAMINATION

4 BY MR. WILLIAMS:

5 Q. Good afternoon, officer. How are you?

6 A. Pretty good.

7 Q. Good. Back then on March 8th, 2017, you were
8 working for the town of --

9 A. I was working for the Town of Johnston as a police
10 officer.

11 Q. The Town of Johnston. Right. And now currently
12 you're working for Saluda County Sheriff's Department?

13 A. Yes, sir.

14 Q. When you were driving this vehicle that you use to
15 pull over my client, obviously you would have been in a Town
16 of Johnston police vehicle, correct?

17 A. Yes, sir.

18 Q. We know it's got blue lights because you've already
19 testified that you turned the blue lights on?

20 A. Yes, sir.

21 Q. Did it also have a video recording system that you
22 normally see with DUI people that would record the stop,
23 record the driving, things of that nature?

24 A. No, sir.

25 Q. So you did not have a video recording showing what

- 1 you have just described in your words?
- 2 A. No, sir.
- 3 Q. All right. What about when there were two officers
- 4 that showed up on the scene, one was your corporal and the
- 5 other was another officer who was young like yourself and they
- 6 had two separate vehicles, correct?
- 7 A. Yes, sir.
- 8 Q. Were they marked patrol cars?
- 9 A. One was marked. Yes, sir.
- 10 Q. And the other was unmarked?
- 11 A. Yes, sir.
- 12 Q. Do you know whether or not either one of those other
- 13 vehicles maintained a video recording equipment?
- 14 A. I'm unaware. They weren't my vehicles so I don't
- 15 know.
- 16 Q. So even though you were working at the police
- 17 department, you didn't know if these other two vehicles had a
- 18 recording device that would normally be used in a DUI stop?
- 19 A. No, sir, because they weren't my vehicle.
- 20 Q. And you had never driven those two vehicles?
- 21 A. No, sir.
- 22 Q. Don't know anything about them?
- 23 A. No, sir.
- 24 Q. Okay. So you had already had this conversation with
- 25 the Hook and Book individual, correct?

- 1 A. Yes, sir.
- 2 Q. When did you have this conversation with him?
- 3 A. Prior to the traffic stop.
- 4 Q. Where did you have the conversation with him?
- 5 A. In the middle of Highway 23.
- 6 Q. All right. When you had that conversation, where
- 7 was the vehicle that you have just described? Where was it or
- 8 do you know?
- 9 A. When I was speaking with the tow truck driver?
- 10 Q. Correct.
- 11 A. At that time it was headed back towards Johnston
- 12 from Ward.
- 13 Q. All right. So he comes up to you and has a
- 14 conversation with you and tells you that the vehicle is coming
- 15 back into Johnston, correct?
- 16 A. Yes, sir.
- 17 Q. And who else is with you when he tells you that?
- 18 A. Nobody is with me at the time.
- 19 Q. But subsequently two other patrol cars show up. Is
- 20 one with you when you make the stop?
- 21 A. My corporal is parked in the same area maybe 25
- 22 yards from where I actually pulled the vehicle, from where the
- 23 vehicle finally came to a complete stop.
- 24 Q. So obviously if your corporal's vehicle had a video
- 25 recording, it would show everything from the time he pulled

1 over, the time he got out and anything that occurred, right?

2 A. If it did, my vehicle was in between the subject's
3 and his so not necessarily.

4 Q. Now, you have described how when you were coming
5 down -- I'm sorry. When he was coming down, is that Highway
6 23?

7 A. Yes, sir.

8 Q. When he's coming down Highway 23 into Johnston,
9 you turn around on him, you hit your bright lights and you
10 turn around on him and then you turned your blue lights on,
11 correct?

12 A. I didn't turn my bright lights on until I actually
13 got behind the vehicle.

14 Q. Okay. So you did a U-turn?

15 A. Yes, sir.

16 Q. Got behind him, then you hit your bright lights?

17 A. Yes, sir.

18 Q. After you hit your bright lights, then you turned
19 your blue lights on him?

20 A. Yes, sir.

21 Q. To let him know that you wanted him to stop and not
22 some stranger pulling him over, right?

23 A. Yes, sir.

24 Q. What you have just pointed to here on this map,
25 there wasn't a driveway or anything there. He clearly was

1 pulling over for a clear place to get off the main highway of
2 23, right?

3 A. Yes, sir. He wasn't speeding up or anything like
4 that. He was driving slow.

5 Q. So he pulls left to, what's the name of the road,
6 Calhoun Extension? What's take name of the road that he pulls
7 on?

8 A. The initial road he turns onto is McQueen Street.

9 Q. McQueen Street.

10 A. Then he makes a right onto Calhoun Extension.

11 Q. Then he makes a right onto Calhoun Extension. And
12 you're behind him the whole time?

13 A. Yes, sir.

14 Q. And you see absolutely nothing unusual about his
15 driving?

16 A. No, sir.

17 Q. He's not speeding?

18 A. No, sir.

19 Q. He's not doing anything to keep from being pulled
20 over?

21 A. No, sir.

22 Q. And he pulls over. You said that there was a tint
23 problem which is the real issue as to why you pulled him over.
24 You saw the tint. That gave you the basis to pull him over,
25 right? That's why you pulled him over?