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**SC Court of Appeals**

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

---

Appeal from Lexington County

Honorable Walton J. McLeod, IV, Circuit Court Judge

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THE STATE,

RESPONDENT,

V.

DWIGHT ANTHONY POWELL, JR.

APPELLANT

APPELLATE CASE NO. 2024-000490

---

RECORD ON APPEAL

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 2 County of Lexington ) Eleventh Judicial Circuit

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4 State of South Carolina, ) Transcript of Record  
 )  
 5 vs. ) 2024-GS-32-00234  
 ) 2021-GS-32-01351  
 6 Dwight Anthony Powell, )  
 )  
 7 Defendant. )

8

9 March 18th-20th, 2024  
 10 Lexington, South Carolina

10

11 B E F O R E:

12 The Honorable Walton J. McLeod, Judge; and a Jury

13

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

15 Angela G. Martin, Deputy Solicitor  
 16 Kyle E. Smith, Assistant Solicitor  
 On behalf of the State of South Carolina

17 Stephen R. Story, Jr., Esquire  
 18 Jean M. Popowski, Esquire  
 On behalf of the Defendant

19

20 Stacy S. Johnson, RPR  
 21 Circuit Court Reporter

21

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1 THE COURT: Okay.

2 MS. MARTIN: And we told him to be here 2:15, so he  
3 should be wandering up any minute.

4 THE COURT: Okay.

5 All right. Are we ready to bring in the jury and  
6 swear them?

7 MS. MARTIN: The State's ready.

8 MR. STORY: Defense is ready.

9 THE COURT: All right. Let's bring in the jury.

10 (Whereupon, the jury enter the courtroom at 2:23 PM.)

11 THE COURT: All right. Mr. Foreman, ladies and  
12 gentlemen of the jury, welcome back. I hope you-all had  
13 a nice lunch. We're about to begin the trial of the case  
14 of the State of South Carolina Dwight Powell, but before  
15 we do that I'll ask the clerk swear you in.

16 (Whereupon, the jury was duly sworn by the Clerk of  
17 Court.)

18 THE CLERK: Please respond by saying I do or  
19 I affirm.

20 THE COURT: All right. Please be seated.

21 Now, ladies and gentlemen, before we begin the  
22 actual trial of the case I thought it might be helpful  
23 if I explained to you basically how a trial proceeds.  
24 First, the State will make an opening statement. An  
25 opening statement is not evidence. It's simply an

1 outline to help you understand what that party expects  
2 the evidence will show. The defendant may if he wishes  
3 present an opening statement, but does not have to for  
4 reason that I will explain. Following the opening  
5 statements, you will hear testimony and evidence in the  
6 case. This will consist of testimony from the State's  
7 witnesses, as well as any physical exhibits which will  
8 be introduced into evidence. Following the completion  
9 of the testimony, the attorneys will, again, have an  
10 opportunity to make what is called a closing statement  
11 or summation to you. This is an opportunity for the  
12 attorneys to summarize the case from their respective  
13 points of view. Now, again, these arguments of the  
14 attorneys are not evidence. Following closing arguments  
15 by the attorneys, I will instruct you on the law of South  
16 Carolina as it pertains to the issues that have arisen in  
17 this case. When I have completed my instructions to you,  
18 you will then be permitted to begin your deliberations in  
19 order to reach a verdict.

20 Now you are the jury in this case and let me take a  
21 moment to explain to you about your duty as jurors. At  
22 the end of the trial, I'll give you more detailed  
23 instructions. Those instructions will control your  
24 deliberations.

25 It will be your duty to decide from the evidence

1 what the facts are. You and you alone are the judges of  
2 the facts. You will hear the evidence, decide what the  
3 facts are and then apply those facts to the law which I  
4 will give to you. This is how you will reach your  
5 verdict. In doing so, you must follow the law whether  
6 you agree with it or not.

7 The evidence will consist of the testimony of  
8 witnesses, documents and other things received into  
9 evidence as exhibits, and any facts on which the lawyers  
10 agree or which I may instruct to you accept. You should  
11 not take anything I may say or do during the trial as  
12 indicating what I think of the evidence or what your  
13 verdict should be.

14 Now this is a criminal case brought by the State  
15 of South Carolina. The State charges the defendant  
16 with attempted grand larceny and burglary second degree.  
17 The charges against the defendant are contained in the  
18 indictments. The indictments are not evidence of anything.  
19 It is simply a description of the charges made by the  
20 State against the defendant. The defendant has pled not  
21 guilty to the charges and is presumed innocent unless and  
22 until proven guilty beyond a reasonable doubt. Proof  
23 beyond a reasonable doubt is proof that leaves you firmly  
24 convinced of the defendant's guilt. A defendant has the  
25 right not to testify and never has to prove innocence or

1 present any evidence. The burden of proof is always upon  
2 the State of South Carolina.

3 Now the following things are not evidence and you  
4 must not consider them as evidence in deciding the facts  
5 of the case. One, statements and arguments of the  
6 attorneys; two, questions and objections of the attorneys;  
7 three, any testimony that I instruct you to disregard;  
8 four, allegations contained in the indictments; five, any  
9 questions or responses heard during the jury selection  
10 process.

11 Evidence may be direct or circumstantial evidence.  
12 Direct evidence is testimony by a witness about what that  
13 witness personally saw, heard or did. Circumstantial  
14 evidence is indirect evidence. That is, it is proof of  
15 one or more facts from which one can find another fact.  
16 You are to consider both direct and circumstantial  
17 evidence. The law permits you to give equal weight to  
18 both, but it is up for you to decide how much weight to  
19 give any evidence.

20 There are rules of evidence which control what can  
21 be received into evidence. When a lawyer asks a question  
22 or offers an exhibit into evidence and a lawyer on the  
23 other side thinks that it is not permitted by the rules  
24 of evidence, that lawyer may object. If I overrule the  
25 objection, the question may be answered or the exhibit

1 may be received. If I sustain the objection, the  
2 question cannot be answered or the exhibit cannot be  
3 received. Whenever I sustain an objection to a question  
4 or deny a motion to admit an exhibit into evidence, you  
5 must ignore the question or the existence of the exhibit  
6 and must not guess what the answer would have been or  
7 what the evidence would have shown.

8       Sometimes it may be necessary for me to request that  
9 you leave the courtroom while I discuss the attorneys'  
10 legal questions that come up during the trial. If this  
11 occurs, you should not speculate about our discussions or  
12 the reason that you were asked to leave the room. This  
13 is simply a procedure that the law requires when certain  
14 legal issues arise.

15       There also may be occasions when I ask the attorneys  
16 to approach the bench so that I can discuss a legal issue  
17 with them in private. I will do this as often as possible  
18 so that you will not be required to leave the courtroom  
19 more than is absolutely necessary. Again, if I ask the  
20 attorneys to step up to the bench or if I ask you to leave  
21 the courtroom, please don't think that anybody is trying  
22 to hide anything from you or keep any evidence from you.  
23 This is simply a procedure used by all lawyers and all  
24 courts to determine and decide legal questions.

25       Now in deciding the facts of the case, you may have

1 to decide which witnesses to believe and which witnesses  
2 not to believe. You may believe everything witness says  
3 or only part or none of it. In deciding what to believe,  
4 you may consider a number of factors, including the  
5 following. The witness's ability to see, hear or know  
6 the things testified to, the quality of the witness's  
7 memory, the question -- the witness's manner while  
8 testifying, whether the witness has an interest in the  
9 outcome of the case or any motive, bias or prejudice,  
10 whether the witness was contradicted by anything the  
11 witness said or wrote before the trial or by other  
12 evidence or how reasonable was the witness's testimony  
13 when considered in light of other evidence which you  
14 believe.

15 Now until I advise you to begin your deliberations,  
16 you must not discuss this case with anyone, including  
17 your fellow jurors, friends, family members or anyone  
18 involved in the case. This includes discussions which  
19 are face to face or by telephone or electronic means or  
20 any sort of social media communication or anything of the  
21 like. It's important that you don't do any independent  
22 research into the parties or the law itself.

23 You're gonna start hearing some more testimony today.  
24 It's important that when you leave today you don't do any  
25 independent research about what you heard from the witness

1 stand. Again, the only evidence you're gonna be able to  
2 weigh is what you hear from the witness stand, so you  
3 don't need to discuss the case and you don't need to  
4 research the case in any way while you're serving as a  
5 juror. And if you happen to see any news about this  
6 case or anything in the news, please don't read it. If  
7 you happen to see it, please let me know about it the  
8 following today. After the case is submitted to you, you  
9 must discuss it only in the jury room with your fellow  
10 jurors.

11 Now if you happen to see any of the attorneys  
12 involved or anyone in this courtroom involved with this  
13 case and they all ran and they don't speak to you, they're  
14 not trying to be rude, but I've asked them not to speak  
15 with you-all when they see you moving throughout the  
16 courthouse and I would just ask that you don't engage in  
17 conversations with anyone in the courtroom. The safe bet  
18 is just get in and out of the courtroom and the courthouse  
19 without having any conversations with anyone getting to  
20 your jury room and back, but it's important that you keep  
21 an open mind and not discuss any issue in this case until  
22 all the evidence has been presented, the parties have made  
23 their closing arguments and I have instructed you on the  
24 law in the case.

25 It's your solemn responsibility to determine the

1 guilt or innocence of the defendant and your verdict  
2 must be based solely on the evidence as it is presented  
3 to you in this trial and on the law that I'll instruct  
4 you at the close of the trial.

5 I don't see anyone with any notepads or pens out  
6 there, but if you happen to have one, please put it down.  
7 I don't want anybody to take notes. I want to keep  
8 attention focussed on the attorneys and witnesses while  
9 questioning. If for some reason someone needs a break  
10 during the testimony and you don't make eye contact with  
11 me, the bailiff will certainly get my attention after you  
12 get his attention.

13 Without further ado though I'll just ask you to  
14 please give your complete and undivided attention to the  
15 attorneys as they make their opening statements.

16 MR. SMITH: Thank you, Your Honor. May it please  
17 the Court?

18 THE COURT: Yes, sir.

19 MR. SMITH: Ladies and gentlemen of the jury, you  
20 may have heard it said before what's done in the dark will  
21 come to light. We're doing things we know is wrong, that  
22 we know we're not supposed to do, we take efforts to  
23 conceal them. We don't want to be seen doing things that  
24 are wrong, and it's a common thing we see when people are  
25 engaged in criminal activity they take efforts to hide

1 what they're doing, conceal what they're doing, they want  
2 to make sure that they're not going to be caught.

3         If I were to try and rob someone's shed, take a car  
4 from them and other items, I'm not gonna do it in broad  
5 daylight in a busy shopping period where people will see  
6 me coming and going next to a -- in an area that's next  
7 to a church with a daycare. No, ladies and gentlemen,  
8 I'd do that when it's dark outside when nobody's around.  
9 There's less chance of me being detected and I might even  
10 bring some help along with me, and that's why you-all are  
11 here today.

12         On or about November 9, 2020, this man, Dwight  
13 Powell, and his co-defendant, Mr. Corey Sternenberg, went  
14 into a storage shed belonging to Mr. Tommy Thompson, our  
15 victim, and they tried to steal a red Maserati convertible  
16 from him along with other valuables, and they did that at  
17 a storage shed behind his business located in Irmo, right  
18 here in Lexington County.

19         Ladies and gentlemen, in this case you're going to  
20 get to see all of the evidence that will be presented.  
21 We're going to take you through this case from start to  
22 finish. You're going to hear from Mr. Thomas, you're  
23 going to hear from his electrician, Mr. Robby Peele, who  
24 will describe the scene to you, as they walked out that  
25 morning on November 10, 2020, and noticed a lock was

1 missing on the garage door and noticed items that should  
2 not have been outside, outside getting wet.

3       You're going to hear from Irmo Police Department,  
4 who were called to the scene to investigate this incident;  
5 our lead investigator, Ms. Kelly Mountzouros, Lieutenant  
6 Andrea Grinstead, a custodian of evidence at Irmo PD,  
7 and they're going to tell you what they observed, what  
8 they saw on-scene, and that they saw what looked like  
9 fingerprints on the glass window of that convertible.  
10 And sure enough, they sent those fingerprints off to be  
11 tested to see if they could find a match to see if they  
12 could identify who had committed the crime, and they did.  
13 They were able to identify who committed this crime.  
14 Dwight Powell and Corey Sternenberg.

15       You'll hear from the experts with SLED that helped  
16 in identifying these perpetrators. You'll hear from  
17 Mr. Sammy Haftoglou and Ms. Kimberly Mears, and she'll  
18 tell you how she analyzes fingerprints and data she uses,  
19 how she's able to look at a fingerprint lifted from a  
20 crime scene and match it to records that they keep at  
21 SLED.

22       And, ladies and gentlemen, in this case you're  
23 going to get to hear what happened straight from one of  
24 the co-defendants. You're going to hear from Mr. Corey  
25 Sternenberg. He's going to take this stand right here

1 and he's going to tell you what happened. He's going  
2 to tell you his part in this, and the important thing  
3 to remember when you hear from Mr. Sternenberg, ladies  
4 and gentlemen, is that at the time he talked with law  
5 enforcement they had no idea he was involved. They didn't  
6 know. They did not have a suspect when he talked. He  
7 told on himself when he had no reason to do so, when it  
8 was profoundly not in his interest to do so.

9         You'll get to listen to him, you'll get to hear from  
10 him. Listen to what he says. Listen, observe him. You  
11 tell me after you hear from Mr. Sternenberg if you think  
12 that he is some sort of a criminal mastermind, if you  
13 think he's the type of person that's able of fabricating  
14 a story like this completely out of thin air.

15         Because not only will you hear from Mr. Sternenberg,  
16 you're going to see that all of the evidence backs up his  
17 story. They found his fingerprints at the scene along  
18 with Dwight Powell's. He gave details of items in that  
19 shed, details about that car that only somebody who was  
20 present at the scene could have known. The evidence is  
21 going to back up his story and you'll get to see all of  
22 it, ladies and gentlemen.

23         Now in this case Deputy Solicitor Martin and I  
24 represent the State of South Carolina and what that means  
25 is that she and I have the burden to prove this case to

1 you beyond a reasonable doubt. We must prove to you that  
2 Dwight Powell is guilty.

3 Now beyond a reasonable doubt, it does not mean we  
4 must prove the case to you beyond all doubt, beyond any  
5 doubt, or to an absolute certainty. It means that we  
6 must present enough evidence to you that you are firmly  
7 convinced of Dwight Powell's guilt and, ladies and  
8 gentlemen, at the end of this trial you will be.

9 The judge will instruct you on the law that you are  
10 to apply in this case. The law that by oath you must --  
11 you must apply to the facts that you will see here. You  
12 will be the judge of the facts of what happened and,  
13 ladies and gentlemen, at the end of this case you'll be  
14 firmly convinced that Dwight Powell is guilty of burglary  
15 and attempted grand larceny, and we're going to ask to  
16 you find him guilty.

17 Thank you.

18 MR. STORY: May it please the Court?

19 THE COURT: Yes, sir.

20 MR. STORY: Randy Sternenberg was in trouble. He's  
21 charged with burglary and breaking and entering into  
22 a motor vehicle and he wanted to get out of that trouble  
23 and he knew that information is the currency by which to  
24 buy your way out of trouble. It doesn't have to be true  
25 information. It just has to be useful information.

1           On January 29, 2021, officers with the Irmo Police  
2 Department as the State, the government's attorney,  
3 told us in closing -- in opening, excuse me, they didn't  
4 have a lot of leads in this case. They were investigating  
5 a break-in at the law office of Mr. Tommy Thomas and then  
6 they received a message from Randy Sternenberg and he  
7 told him details about a break-in that only somebody who  
8 committed that offense would know.

9           But he didn't just tell them yeah, I did it and  
10 somebody did it with me. No. He told them that he was  
11 threatened, that he was made to do this, and he diminished  
12 his own responsibility.

13           Ladies and gentlemen, the government, in order to  
14 prove their case needs you to believe Randy Sternenberg  
15 and they need you to believe him beyond a reasonable doubt  
16 because there's no other evidence that would prove Dwight  
17 Powell committed this offense without Randy Sternenberg.  
18 They cannot prove beyond a reasonable doubt that was  
19 Dwight Powell's fingerprint. They need Randy Sternenberg  
20 and as you'll see he used that information to get out  
21 of trouble. He lied to officers with the Irmo Police  
22 Department that day to get out of trouble and he's gonna  
23 lie to you on this stand this week to get out of trouble.

24           Now I want to remind you of a couple of things that  
25 the judge has already told you. You are the judges of

1 the facts in this case and do not let anyone tell you  
2 who or what to believe. I'm gonna ask you to use your  
3 common sense.

4 The government's attorney in opening told you that  
5 people who do bad things, who do wrong, try to conceal,  
6 try to cover up their actions, and that's exactly what  
7 Mr. Sternenberg did. The judge just told you to think  
8 about the witnesses' motives when they're testifying and  
9 you're gonna see that Randy Sternenberg had every reason  
10 to lie. He's not looking for the truth in this case and  
11 he's not going to tell you the truth, and he's not looking  
12 for justice for Tommy Thomas because in order to get a  
13 conviction the State needs you to believe him beyond a  
14 reasonable doubt and at the end of this trial I'm gonna  
15 ask you not to buy what Mr. Sternenberg is selling, not  
16 to buy the currency he's trying to give you and do not  
17 buy his brand of justice, and find Dwight Powell not  
18 guilty.

19 Thank you.

20 THE COURT: The State may call their first witness.

21 MS. MARTIN: Thank you, Your Honor.

22 We call Robert Peele.

23 (Whereupon, Robert Peele was duly sworn by the  
24 Clerk of Court.)

25 THE CLERK: If you'll have a seat over there,

1 please. If you will state your name and then spell your  
2 last for the record, please.

3 THE WITNESS: Robert Peele.

4 THE COURT: Spell it.

5 THE WITNESS: R-O-B-E-R-T. P-E-E-L-E.

6 ROBERT PEELE,

7 having been duly sworn, testified as follows:

8 DIRECT EXAMINATION

9 BY MS. MARTIN:

10 Q. Good afternoon, Mr. Peele. Where are you employed?

11 A. RP Electrical Services.

12 Q. Okay. And is that your business?

13 A. Yes, it is.

14 Q. And how long have you had that -- that company?

15 A. Fifteen years.

16 Q. All right. Do you know Tommy Thomas back here?

17 A. I do.

18 Q. And do you do work for Mr. Thomas?

19 A. Yes, ma'am.

20 Q. Do you do work for him at his home?

21 A. Yes.

22 Q. Do you do work for him at his business?

23 A. Yes.

24 Q. Can you tell us where his business is located?

25 A. On Woodrow Street in Irmo.

1 Q. Okay. And let's just get right to it. Do you recall  
2 there being a break-in to the garage back in early November  
3 of 2020?

4 A. Yes.

5 Q. Can you tell us why you were there?

6 A. Tommy had called me to come out and put some lights --

7 Q. Okay.

8 A. -- on a storage building behind his office.

9 Q. All right. And when you went out there, was it  
10 morning time, noontime, nighttime?

11 A. Morning.

12 Q. Okay. And were you alone when you went to the  
13 business?

14 A. I had a helper with me.

15 Q. Okay. And when you got there, can you tell us what  
16 first caught your attention?

17 A. The door was open.

18 Q. Okay. And when you say the door was open, the door to  
19 what?

20 A. The door to the storage building.

21 Q. Okay. You are talking about a single door or a rollup  
22 door?

23 A. The rollup door.

24 Q. And is that unusual?

25 A. Very unusual.

1 Q. And to your knowledge, is there a lock that is  
2 supposed to be on that pullup door?

3 A. Yes, ma'am.

4 Q. And was the lock there?

5 A. No, ma'am.

6 Q. What, if anything, else caught your eye?

7 A. As I walked around the outside, there was some  
8 furniture outside --

9 Q. Okay.

10 A. -- that should not have been outside.

11 Q. And so that was unusual?

12 A. Yes, ma'am.

13 Q. And after you saw that, what did you do?

14 A. I called Tommy.

15 Q. And can you tell us whether Mr. Tommy came there  
16 pretty quickly?

17 A. He did.

18 Q. And after he got there, did you-all walk around  
19 together and look at things?

20 A. Yes, ma'am.

21 Q. After Mr. Tommy had been there, what, if anything,  
22 did you and your assistant do?

23 A. We put some of the furniture -- it was old antique  
24 furniture. We put some of it back inside. We left some  
25 of it out that was wet. It had been raining.

1 Q. Okay. Well, let's back up a little bit. Why did you  
2 move some of the stuff that was outside to the inside?

3 A. To keep it from getting damaged any further.

4 Q. And did you do this because Mr. Thomas asked you to  
5 do that?

6 A. Yes, ma'am.

7 Q. And was this before or after Irmo Police Department  
8 had come?

9 A. I can't remember.

10 Q. Okay. And do you remember if you yourself talked to  
11 any of the Irmo police officers?

12 A. I did not.

13 Q. Okay.

14 MS. MARTIN: I beg the Court's indulgence one moment.  
15 If I may approach the witness?

16 BY MS. MARTIN:

17 Q. If I could show you what's marked at this time State's  
18 10 for ID only. Do you recognize this photo?

19 A. Yes, ma'am.

20 Q. And what does it show?

21 A. Furniture.

22 Q. And is this the furniture you moved inside or left  
23 outside?

24 A. Moved inside.

25 Q. Okay. Mr. Peele, do you know someone named Dwight

1 Powell?

2 A. No, ma'am.

3 Q. Do you know this man here in the blue shirt?

4 A. No, ma'am.

5 MS. MARTIN: Okay. Please answer any questions the  
6 defense may have.

7 THE COURT: Cross-examination.

8 MR. STORY: No questions for this witness.

9 THE COURT: All right. The witness may step down.

10 THE WITNESS: Thank you.

11 (Witness excused.)

12 MS. MARTIN: Your Honor, we'd ask that he be excused  
13 to go back to work.

14 THE COURT: Without objection?

15 MR. STORY: Without objection.

16 THE COURT: All right. The witness is excused.

17 Thank you.

18 THE COURT: Next witness.

19 MS. MARTIN: Your Honor, we call Tommy Thomas.

20 THE COURT: Very well.

21 (Whereupon, Tommy Thomas was duly sworn by the Clerk  
22 of Court.)

23 THE CLERK: If you'll have a seat, please, and state  
24 your name for the record.

25 THE WITNESS: My name is Tommy Thomas.

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TOMMY THOMAS,

having been duly sworn, testified as follows:

DIRECT EXAMINATION

BY MS. MARTIN:

Q. Good afternoon, Mr. Thomas.

A. Yes, ma'am.

Q. What is your occupation?

A. I'm an attorney.

Q. And how long have you been a member of the bar?

A. Ooh. Forty years this year.

Q. All right. And have you always been in Irmo?

A. I have.

Q. And is that where your office is now?

A. It is.

Q. Is it in Lexington County or Richland County?

A. It is in Lexington County.

Q. Okay. And what's the address actually of your law firm?

A. It's 7588 Woodrow Street and that's Irmo.

Q. Okay. And do you own that building or do you rent a space?

A. I own it.

Q. And are there other renters within that building?

A. There are. It's, let's see, three suites down and four up, so.

1 Q. Okay. I'm gonna show you a series of photographs  
2 that now are marked State's 1 to 10. If you could briefly  
3 glance through them --

4 A. Sure.

5 Q. -- and see if you can recognize them.

6 A. I can.

7 MS. MARTIN: Your Honor, we would move State's 1  
8 to 10 into evidence I believe without objection.

9 MR. STORY: That's correct. Without objection.

10 THE COURT: All right. State's Exhibit 1 through  
11 10 are admitted into evidence without objection.

12 (State's Exhibit Number 1 through 10, photographs,  
13 were admitted into evidence.)

14 THE COURT: You may publish.

15 BY MS. MARTIN:

16 Q. If I can show you what's -- let's back up a little --  
17 State's 1.

18 MS. MARTIN: I beg the Court's indulgence one moment.

19 BY MS. MARTIN:

20 Q. Laser pointer.

21 A. Oh, okay.

22 Q. Can you tell us what's the building in the middle with  
23 the green awning?

24 A. That's my building.

25 Q. Okay. And where is Woodrow Street?

1 A. This is the street that divides the Union Methodist  
2 Church and my building. Woodrow would be running  
3 perpendicular to this street that we see.

4 Q. Okay. Do you mind using the laser pointer? If it  
5 will work.

6 A. If I could figure out how to use it. Does it have --

7 Q. I think you just mash it.

8 A. Okay. There we go.

9 Q. I saw it.

10 A. Oh, there we go.

11 Okay. Yeah, this is my building here. My -- my  
12 office is right here on this side and then there's a tenant  
13 here, and this back part of this building is a tenant,  
14 that's Sansbury Optical, and that's their corporate office,  
15 and they -- they occupy the complete back of this office  
16 that runs all the way back into this far corner.

17 Q. Okay. And where is Woodrow Street?

18 A. Woodrow is out here and so you -- Woodrow. My --  
19 the turn-in to my parking lot is right -- right in here.  
20 This is a turn-in to the Union Methodist Church and their  
21 kindergarten program is over here.

22 Q. Okay. Let me interrupt you for a second.

23 A. Okay.

24 Q. How about State's 2? Does that better show --

25 A. That is. That is.

1 Q. Okay.

2 A. Here's -- here is -- my garage is on the left-hand  
3 side, it's all in one building, and on the right-hand side  
4 is the storage building. My office building is right here,  
5 Sansbury Optical is right across from there. This is the  
6 road that we saw in the other picture and this is the  
7 church daycare and I believe that what they use here is  
8 for drop-off and pick-up for their kindergarten.

9 Q. Okay. I can show you what's been marked State's 3.

10 A. Yes.

11 Q. Can you identify this building on the left side for  
12 us?

13 A. I can. This is -- this is my building here and  
14 there's a garage here with a rollup bay door. There's a  
15 single door on this side and this side is storage. At the  
16 time of this incident, this carport was not here.

17 Q. Okay. All right. If I can show you what's been  
18 marked State's 4.

19 A. Yes. Another shot standing in the road from the  
20 church. The church is over here, my building is on the  
21 left-hand side. This is the back parking lot and that's  
22 the carport. This is the garage on this side and the  
23 storage building on this side.

24 Q. All right. State's 5.

25 A. That's a closer picture. This is the garage here,

1 that's the entrance to the storage, and -- and then the  
2 church, of course, would be over to the right-hand side.

3 Q. And does this car, this red car, have anything to do  
4 with our case today?

5 A. No, it does not.

6 Q. Okay. State's 6. What's the significance of this  
7 picture?

8 A. That's a direct shot into the garage with the storage  
9 here -- I mean, I'm sorry -- with the carport or the garage  
10 here, the storage on this side. If you walk back up this  
11 parking lot, you would be basically standing in front of  
12 Sansbury's corporate office.

13 Q. Okay. And do people use that parking lot for any of  
14 the businesses there?

15 A. They do. We have somewhat limited parking space, so  
16 it's quite often that all of these spaces are full. I  
17 would assume that these pictures were probably taken on a  
18 weekend. So normally there are cars in these spots.  
19 There's spots on this side. They would be taken up. Also  
20 right here with where the building is, there's a back door  
21 that goes into Sansbury's corporate office, which they use  
22 all the time, and there are parking spots that come out  
23 this way from the back of the building.

24 Q. And let me ask you this. Do you work on Saturdays and  
25 Sundays?

1 A. I do. I do.

2 Q. Oftentimes?

3 A. Yeah, oftentimes.

4 Q. All right. And do you have occasion to go to the back  
5 parking lot that's shown in this picture?

6 A. Generally what I do is when I -- often when I pull in,  
7 I will -- and I did that today actually. I will pull back  
8 here and turn around because sometimes it's easier to get  
9 out of the parking area with my car facing, you know,  
10 towards this area, so I'll pull down, turn around like that  
11 and then pull straight back out. So oftentimes I will go  
12 back there either in my car or I'm often back there in  
13 person as well.

14 Q. All right. And do you ever use that trash receptor  
15 there?

16 A. Yes, that's the main trash receptor for the building,  
17 so anything that -- because we provide trash pick-up, so  
18 all the people in the building would be taking their  
19 garbage here.

20 Q. All right. If I could show you State's 7. What, if  
21 anything, does this show?

22 A. This is the rollup door that's on the garage side.  
23 This is a sliding lock and I think in this picture you can  
24 actually see a lock that is on the door.

25 Q. Okay. If I can show you State's 8.

1 A. Yeah, that is -- that's a close up picture of this,  
2 and I always put the lock on the right-hand side thinking  
3 that it would be a little harder to cut, but that's --  
4 that's how that -- actually that's how that looks today.

5 Q. Was the garage pullup door always secure?

6 A. It's always been secured. I've always had a lock on  
7 it.

8 Q. Okay.

9 A. We have upgraded the quality of the lock from then and  
10 now and now -- this was with Robbie's help, we purchased a  
11 lock that has a stronger bolt and it's harder to cut.

12 Q. Okay. If I can show you what's been marked as  
13 State's 9.

14 A. Yes. My property is right about where these trees  
15 are. That line runs back there and then, of course, back  
16 across the back of the building. This area here is --  
17 actually is where the furniture was found.

18 Q. Okay. Well, let me direct your attention to that.  
19 Do you recall that morning, Tuesday, November the 7th of  
20 2020?

21 A. I do recall because I had asked Robby -- and those  
22 are the -- here are the lights that Robbie put up for me.  
23 I had asked Robby -- Robby is a friend of mine, we've  
24 known each other for a long time, and he does all of the  
25 electrical work for the office, he does electrical work

1 for my house, so I had asked Robby would you swing by and  
2 put some lights up for me. And I can't remember if I was  
3 there or if he called me, but I remember coming out of my  
4 office door and walking around the corner and coming back  
5 and that's when he was asking me about the furniture out  
6 here and -- because he thought it was suspicious and he  
7 wanted to know basically why I put furniture out there.

8 Q. And was there supposed to be any furniture outside?

9 A. No. No, there was not supposed to be any furniture.

10 Q. Did you yourself look at the stuff that was outside  
11 the shed?

12 A. I did. You know, things started happening quickly at  
13 that point in time. I noticed -- my dad was in the antique  
14 business and I had quite a bit of furniture and stuff that  
15 I had inherited from him or inherited from my mom, and so  
16 I immediately noticed a four-poster bed that was sitting  
17 right here on the back of the building and there were two  
18 mattresses that had been stored with the bed, they were  
19 sitting there. It was misting, the rain, and they were  
20 soaking wet. And there was other furniture out there as  
21 well.

22 Q. If I can show you what's marked as State's 10, can  
23 you tell us if you recognize those items?

24 A. I can. There are the mattresses, mattress and box  
25 springs, there's the four-poster bed. This is -- it's

1 hard to tell from this picture. I think that is a -- on  
2 its side a chest. And I play music. They had a guitar  
3 case out there, too.

4 Q. Okay. So when you were out there with Robby, was  
5 there more stuff that was outside of the garage than just  
6 what that picture shows?

7 A. There was. With my dad being in the antique  
8 business, I had a number of pieces of furniture that had  
9 some value to them, but tons of sentimental value to them,  
10 and both my parents are deceased now, so what we did is  
11 we immediately took any furniture that had more significant  
12 maybe sentimental value to it, as well as cash value, and  
13 took those inside. It was raining, misting the rain. My  
14 first, you know, impression and my first reaction was hey,  
15 Robby, let's get this stuff inside.

16 Q. And so stuff was moved back inside at your direction?

17 A. It was.

18 Q. Was this before or after law enforcement had come?

19 A. I think that was before the police came because we  
20 were -- we wanted to get it in -- or I wanted to get it  
21 in and Robby was gonna help me and I think he had his  
22 helper there, so, yeah, we moved it pretty quickly, as  
23 we discovered it.

24 Q. And when you got there and you were talking with Robby  
25 and you noticed the problems, did you call Irmo Police

1 Department?

2 A. I did. I did.

3 Q. And I think I may have said the date wrong. Would it  
4 have been Tuesday morning --

5 A. It would have been Tuesday morning.

6 Q. November 10th?

7 A. Yeah.

8 Q. Of 2020?

9 A. 2020.

10 Q. A long time ago?

11 A. Yeah.

12 Q. If I could show you a few more photographs.

13 State's 11, 12, 13, 14, 15 and 16. If you could look  
14 at them and tell us if you recognize what they depict.

15 A. I can.

16 MS. MARTIN: Your Honor, I'd offer them into  
17 evidence.

18 MR. STORY: No objection.

19 THE COURT: Those numbers were what?

20 MS. MARTIN: 11 through 16.

21 THE COURT: All right. State's Exhibit 11 through  
22 16 are admitted into evidence without objection.

23 (State's Exhibit Number 11 through 16, photographs,  
24 were admitted into evidence.)

25 THE COURT: You may publish.

1 BY MS. MARTIN:

2 Q. So if you're looking at your building, how many  
3 entrances into the building are there?

4 A. Two.

5 Q. Okay.

6 A. One garage door and one single door.

7 Q. If I could show you State's 11.

8 A. That is the garage side with the rollup door.

9 Q. Okay. Here, let's use the number, but that is  
10 State's 11?

11 A. Right.

12 Q. Using this photograph, where would you go to go to the  
13 storage side?

14 A. Okay. The car's here, the storage door -- it's just  
15 a walk through, there's not a door on it, and it is right  
16 there.

17 Q. Okay. If I could show you State's 12, does this give  
18 you a view?

19 A. Yes. Yes, that's the door, the walkway, and you can  
20 see the storage side single door is open.

21 Q. Okay. What does State's 13 show?

22 A. And I apologize for the mess. This is -- this is the  
23 left-hand side of the storage building. What I've done is  
24 I put a lot -- I've got some of my office stuff in here,  
25 too, on shelves on this side. There's furniture on the

1 right-hand side, a lot of that that I got from my mom and  
2 dad. Other stuff I have put in the center and I was trying  
3 to leave an aisle on each side to walk.

4 Q. State's 14. Which side of the building does this  
5 show?

6 A. Okay. This is going into the door. This is the  
7 interior of the storage side and just -- these are some  
8 items that we had put down. I hadn't had a chance to  
9 properly store them yet.

10 Q. State's 15. Are we still on the storage side?

11 A. Okay. This is the right-hand -- let's see. This is  
12 the right-hand side that I was talking about, some shelving  
13 here, and this contains all -- some stuff from work, as  
14 well as some smaller items that were boxed up from my mom  
15 and dad, and then this continues to that end wall.

16 Q. Does this complete it here in State's 16 --

17 A. Okay.

18 Q. -- or is that on the interior?

19 A. This is on the interior and what this is, is that  
20 you're looking from the storage side. Here's the door.  
21 You're looking from here over into the garage.

22 Q. The stuff you saw that morning that was outside  
23 getting ruined --

24 A. Yes.

25 Q. -- would it have been on the garage side or the

1 storage side of the building?

2 A. It would have been -- it would have been on the  
3 storage side because the storage side had all the furniture  
4 and the items that I saw that were outside were -- was all  
5 furniture and -- with the exception of the mattress and the  
6 box springs.

7 Q. Okay. And do you have an idea of the value of the  
8 things that were outside that were then moved inside?

9 A. I do. I was able to go through and -- and find out  
10 and kind of identify everything that I think that was  
11 outside and the value of the stuff that was -- was out  
12 there was about \$7,000.

13 Q. All right. If someone was gonna steal a car that was  
14 in the garage, can you tell us whether they would have to  
15 move other items out of the way so the car could come out  
16 of the garage?

17 A. No. No, they would not have.

18 Q. Okay. So when you left work on Monday before this was  
19 reported on Tuesday, do you know whether or not the stuff  
20 was outside against your garage?

21 A. It was not, no.

22 Q. All right. We've talked -- in State's 11, this silver  
23 car, was it there in the garage back in November of 2020?

24 A. No. No, it was not.

25 Q. Okay. And is there some item of value that was there

1 in November of 2020?

2 A. I had -- my dad was a car -- car buff and he loved  
3 cars and I kind of inherited that from him, so I had an '89  
4 Maserati, which is -- looks a lot like an old BMW 3 Series,  
5 and it was a -- a nice little car, convertible, so it would  
6 have been right there where this car is.

7 Q. If I may approach the witness and show you State's 17  
8 and 18. Can you tell what these are photographs of?

9 A. This is the '89 Maserati, it's called a Spyder, and  
10 it's a convertible, and this is a picture of the outside  
11 and the inside.

12 MS. MARTIN: Thank you.

13 Your Honor, I'd move State's 17 and 18 into evidence.

14 MR. STORY: No objection.

15 THE COURT: State's Exhibit 17 and 18 are admitted  
16 into evidence.

17 (State's Exhibit Number 17 and 18, photographs, were  
18 admitted into evidence.)

19 BY MS. MARTIN:

20 Q. Is this the Maserati?

21 A. It is.

22 Q. And where was it parked in November of 2020?

23 A. In the garage.

24 Q. And State's 18. It shows the inside of the Maserati?

25 A. It is.

1 Q. Was this car -- how long have you had this car?

2 A. I bought the -- I had probably owned the car maybe  
3 about fifteen years --

4 Q. Okay.

5 A. -- and I bought it, of course, used, and so I would  
6 imagine about fifteen years.

7 Q. And where was this car normally kept?

8 A. It was always kept in the garage. It was very finicky  
9 and it did not weather well at all and, to be honest with  
10 you, was one of the reasons that I ended up building the  
11 garage because I had some cars and I wanted something, you  
12 know, to be able to put them kind of out of the weather.  
13 And, of course, the Maserati went in because it -- it did  
14 much better inside than it did out.

15 Q. Okay. When you had this car within your garage there,  
16 did you keep the top up or down?

17 A. No, a lot of times it -- it had a musty smell to it  
18 and I think it was just because it was old, it had the  
19 original carpet and everything, so I would put the top down  
20 just so it could -- could air out.

21 Q. Okay. And do you recall if you would have the windows  
22 up or down?

23 A. I generally would put the windows -- leave the windows  
24 up. I could take the top down with the windows up. And  
25 they were electric windows, which involved having to get in

1 and start the car to put them down, so often I just left  
2 them up.

3 Q. And where did you keep the keys for this vehicle?

4 A. Back in the garage on that one side there was  
5 a number of tools hanging and I had some old different  
6 keys, some from my dad's cars and -- and other things, and  
7 the Maserati keys were hanging there and they were on a  
8 Maserati key chain.

9 Q. Have you had an occasion to assess the value of this  
10 Maserati?

11 A. The car is worth -- it's worth -- in the shape that  
12 it's in because it's in very nice, clean shape, it's worth  
13 about \$17,000.

14 Q. And did you have an idea of how many of these types of  
15 cars were in the United States?

16 A. This was the last year they made this car. It's an  
17 '89. Very few imported. I think somewhere around two  
18 hundred or so. It's a very rare car.

19 Q. And where is this car now?

20 A. Actually Robby's brother is a mechanic and he has the  
21 car. He's been working on it. We had a bad fuel pump, so  
22 it's with him at the moment.

23 Q. Back in 2020, did you have anybody else working on  
24 your car doing detailing or anything of that nature?

25 A. No. No.

1 Q. Did you yourself do maintenance on the car and --

2 A. Well, I enjoy tinkering with them and so all of the  
3 work as far as detailed and washing and waxing, I did, so  
4 there was no one else who had been involved. If it needed  
5 repairs, I had a gentleman in Irmo that I would take it to  
6 him.

7 Q. Okay. And no work was being done on it back in 2020?

8 A. No.

9 Q. Do you remember when law enforcement came out there  
10 that Tuesday morning?

11 A. I do.

12 Q. And did you meet with the responding officer?

13 A. I did.

14 Q. And at some point did you meet with the investigator  
15 assigned to the case?

16 A. I did.

17 MS. MARTIN: I beg the Court's indulgence.

18 BY MS. MARTIN:

19 Q. Do you know somebody named Randall Corey Sternenberg?

20 A. I do not.

21 Q. Do you know someone named Dwight Powell?

22 A. I do not.

23 Q. Does this man here in the blue shirt, seeing him, do  
24 you recognize him from anywhere?

25 A. I do not.

1 Q. Has this man here ever been hired to do work on your  
2 car that was in the garage?

3 A. No, ma'am.

4 Q. Has he ever been hired as a handyman at the law firm?

5 A. No, ma'am.

6 Q. Do you have strangers work on your Maserati?

7 A. No, ma'am.

8 Q. Is there any reason fingerprints from Dwight Powell  
9 should be on that Maserati?

10 A. Absolutely not.

11 MS. MARTIN: I beg the Court's indulgence.

12 Please answer Mr. Story's questions.

13 THE COURT: Cross-examination.

14 MR. STORY: May it please the Court?

15 THE COURT: Yes, sir.

16 CROSS-EXAMINATION

17 BY MR. STORY:

18 Q. Mr. Thomas?

19 A. Yes, sir.

20 Q. You're an attorney?

21 A. I am.

22 Q. You're a member of the bar?

23 A. I am.

24 Q. You've been a member of the bar for forty years?

25 A. Yes.

1 Q. I'll be there God willing, but --

2 A. It goes by quickly.

3 Q. It's fast approaching.

4 A. Yeah.

5 Q. When you were admitted to the bar, were you required  
6 to submit your fingerprints to the FBI database?

7 A. I was.

8 Q. So your fingerprints are in NCIC?

9 A. They are.

10 MR. STORY: I beg the Court a brief indulgence.

11 No further questions.

12 THE COURT: Any redirect?

13 MS. MARTIN: No, Your Honor.

14 THE COURT: All right. The witness may step down.

15 (Witness excused.)

16 THE WITNESS: Your Honor, may I be excused?

17 MR. STORY: No objection.

18 THE COURT: All right. Yes, sir.

19 THE WITNESS: Thank you, Your Honor.

20 THE COURT: Is the State ready to call your next  
21 witness?

22 MR. SMITH: We are, Your Honor.

23 The State calls Sergeant De'Andre Hugue.

24 (Whereupon, De'Andre Hugue was duly sworn by the  
25 Clerk of Court.)

1 THE CLERK: If you'll have a seat over there,  
2 please. If you'll state your name and spell your last  
3 please for the record.

4 THE WITNESS: De'Andre Hugue. H-U-G-U-E.

5 DE'ANDRE HUGUE,

6 having been duly sworn, testified as follows:

7 DIRECT EXAMINATION

8 BY MR. SMITH:

9 Q. Good afternoon, Sergeant Hugue. Let me ask you this  
10 real quick. You pronounce that Hu-gee, like Huger Street  
11 over in Columbia?

12 A. Correct. Yes.

13 Q. Okay. Sergeant Hugue, how long have you been with the  
14 Irmo PD?

15 A. About ten years now.

16 Q. All right. Do you have any prior experience with any  
17 other law enforcement agencies?

18 A. I've been a corrections officer for three years at  
19 Alvin S. Glenn Detention Center.

20 Q. Okay. So what is your current rank, role, assignment  
21 with Irmo PD?

22 A. I'm a staff sergeant and I'm over patrol.

23 Q. Okay. Now, Sergeant, how did you get to be involved  
24 in this case?

25 A. I was originally dispatched to a burglary that had

1 already occurred.

2 Q. Okay. And where was that?

3 A. 7588 Woodrow Street.

4 Q. Okay. And that location's in Lexington County, right?

5 A. That's correct.

6 Q. Okay. So you said you've been with Irmo PD for about  
7 ten years?

8 A. Yes, sir.

9 Q. Would you have had occasion to patrol that area of  
10 town before?

11 A. Yes, sir.

12 Q. Based on your time with Irmo PD, would that be a  
13 pretty busy part of town during the day?

14 A. Yes, sir.

15 Q. All right. So you were called to this scene. What  
16 did you do once you got there?

17 A. I arrived on-scene and I made contact with the  
18 complainant, it was Mr. Thomas, and I met with him in his  
19 office.

20 Q. Okay. Did you speak with -- who did you speak with  
21 once you got on-scene?

22 A. Mr. Thomas.

23 Q. Anybody beside Mr. Thomas? Did you speak with anybody  
24 beside Mr. Thomas on-scene?

25 A. No, sir.

1 Q. Can you tell the jury little bit of what you observed  
2 when you got on-scene there?

3 A. What I observed, I spoke to Mr. Thomas. We went in  
4 the back behind the business, it was like a shed, and we --  
5 I spoke to him and he said some items was missing out of  
6 the shed. On the side of the business with the shed, they  
7 had like big items like mattresses and bed frames and other  
8 items that I can't recall exactly.

9 MR. SMITH: I beg the Court's indulgence one moment.

10 BY MR. SMITH:

11 Q. Sergeant Hugue, I'm gonna show you on the projector  
12 what's already been introduced into evidence as State's  
13 Exhibit Number 10. Do you recognize this?

14 A. Yes.

15 Q. What is that?

16 A. That's exactly what I seen when I spoke to Mr. Thomas  
17 when I walked to the rear of the business.

18 Q. Can you recall what condition these items were in when  
19 you observed them on November 10, 2020?

20 A. They were wet.

21 Q. When you were looking at the shed, Sergeant Hugue, did  
22 you observe any signs of forced entry?

23 A. Signs of a cut -- a cut lock, yes, sir. I observed a  
24 cut lock.

25 Q. Anything else?

1 A. No, sir.

2 Q. Can you tell us if you were informed about some items  
3 being move back inside of the shed?

4 A. Mr. Thomas did inform me that he did move -- he did  
5 ask an electrician to move some items in the shed, but I  
6 didn't know exactly what items were -- was removed --  
7 placed back in the shed.

8 Q. All right. Sergeant Hugue, I'm gonna show you on the  
9 projector what's been introduced into evidence as State's  
10 Number 17. Do you recall seeing this car on-scene the day  
11 you responded?

12 A. Yes, sir.

13 Q. Based on your recollection, how would you describe the  
14 condition of this vehicle?

15 A. Well taken care of.

16 Q. And did you -- what, if anything, did you observe on  
17 this vehicle?

18 A. I observed some fingerprints.

19 Q. Can you tell us whether the top was up or down on this  
20 vehicle?

21 A. It was down.

22 Q. Can you tell me if the windows were up or down?

23 A. The windows was up.

24 Q. Sergeant, you just mentioned that you observed what  
25 you thought to be fingerprints on the vehicle. Where did

1 you observe those?

2 A. On the driver's -- driver's side window.

3 Q. What did you do then?

4 A. At that point after observing the fingerprints, I  
5 contacted the on-call investigator.

6 Q. Who was the on-call investigator on that day?

7 A. Kelly Mountzouros.

8 Q. Did you take any photos of the scene yourself while  
9 you were there?

10 A. I did not.

11 Q. At the time that you responded to this scene, were you  
12 equipped with any sort of body-worn camera?

13 A. I was not.

14 Q. Okay. Based on your experience in law enforcement, is  
15 it more common for burglaries to occur in the nighttime or  
16 the daytime?

17 A. The nighttime.

18 MR. STORY: Objection. That's speculation.

19 THE COURT: Overruled.

20 MR. SMITH: I beg the Court's indulgence for a  
21 moment.

22 Sergeant, please answer any questions Mr. Story has  
23 for you.

24 THE COURT: Cross-examination.

25 MR. STORY: No questions for this witness, Your

1 Honor.

2 THE COURT: All right. The witness may step down.

3 (Witness excused.)

4 THE COURT: Mr. Story, without objection may he be  
5 excused?

6 MR. STORY: Absolutely, Your Honor.

7 THE COURT: Are you-all ready?

8 MR. SMITH: We are.

9 The State calls Lieutenant Andrea Grinstead.

10 THE COURT: Is everybody on the jury doing okay?  
11 Does anyone need a break before we call the next witness?

12 All good? Okay. Thumbs up.

13 All right. Proceed.

14 (Whereupon, Angela Grinstead was duly sworn by the  
15 Clerk of Court.)

16 THE CLERK: If you'll have a seat, please. State  
17 your name and spell your last, please, for the record.

18 THE WITNESS: Good afternoon. My name is Andrea  
19 Grinstead. G-R-I-N-S-T-E-A-D.

20 ANDREA GRINSTEAD,

21 having been duly sworn, testified as follows:

22 DIRECT EXAMINATION

23 BY MR. SMITH:

24 Q. All right. Good afternoon, Lieutenant Grinstead.

25 Wow long have you been with Irmo Police Department?

1 A. This past December was seventeen years that I've been  
2 employed by the Irmo Police Department.

3 Q. Do you have any prior law enforcement experience  
4 outside of Irmo PD?

5 A. Yes, sir. Prior to being hired by Irmo PD full-time,  
6 I was a reserve police officer for the Swansea Police  
7 Department for a couple of years.

8 Q. Lieutenant, what's your current role with Irmo PD?  
9 What do you do on a day to day basis?

10 A. Well, currently I'm the special operations division  
11 commander, which is just a real fancy term for I'm the  
12 lieutenant over the criminal investigations division and  
13 then the community services division. In addition to that,  
14 I'm also the Terminal Agency Coordinator, which is TAC  
15 officer, which is all the NCIC stuff. I do that for the  
16 department and make sure that everybody stays -- that are,  
17 we say, in compliance with NCIC and officers. I do grants.  
18 I'm the public information officer. I do the Facebook. I  
19 pretty much do it all.

20 Q. Who at Irmo PD is responsible for evidence that's  
21 submitted to the department?

22 A. Me. I'm also the primary evidence custodian.

23 Q. All right. So in that position, would you be  
24 responsible for all evidence that's submitted to Irmo PD?

25 A. Yes, sir. All evidence.

1 Q. I want to -- I want to get into that a little bit,  
2 Lieutenant. So do you-all have an evidence room at Irmo  
3 PD?

4 A. Yes, sir, we do.

5 Q. Can you tell me who has access to that room?

6 A. So there are only two officers at the department that  
7 have access to our evidence room. It is secured, locked up  
8 tight, and that is myself, which is the primary evidence  
9 custodian, and then my boss, Major John Hendricks, he is  
10 the alternate, so in case I'm not there or there's an  
11 emergency and I can't be there, he's the backup.

12 Q. And are you made aware of all evidence that's  
13 submitted to the police department?

14 A. Yes, sir.

15 Q. Who all at Irmo PD can access that evidence room?

16 A. Just myself and Major Hendricks.

17 Q. And is that a secure location?

18 A. Yes, sir.

19 Q. Lieutenant, could you tell us how you got involved in  
20 this particular case?

21 A. Absolutely. So Investigator Mountzouros submitted  
22 fingerprint cards to the evidence room on November 10th of  
23 2020.

24 Q. Okay. So what procedures do you-all have in place?  
25 What do you do to make sure that evidence isn't tampered

1 with once it's been put into your custody?

2 A. So when the officers put the evidence into a locker,  
3 they drop the key for that locker. They no longer have  
4 access to it. In order to access the evidence that's been  
5 dropped, you have to have a key to get into the evidence  
6 room and then it can be accessed from there, but once that  
7 evidence is dropped in by a police officer and they drop  
8 the key, nobody has access to it. Myself or the major  
9 would have to go in and retrieve it from there.

10 Q. And does Irmo PD, do you-all maintain internal records  
11 of this evidence?

12 A. We do.

13 Q. Do you recall evidence being submitted for this case?

14 A. According to my records, yes.

15 Q. When was that?

16 A. So, like I said, initially Sergeant Mountzouros  
17 submitted it on November 10, 2020, and then, like I said,  
18 once it's submitted, I moved it over into the evidence room  
19 on November 25, 2020.

20 Q. Okay. So can you tell me -- so where -- so that's a  
21 -- we're looking at about fifteen days there. Where is  
22 that evidence between Investigator Mountzouros dropping it  
23 into evidence and you checking it in?

24 A. In the locker that she dropped it in.

25 Q. Is that locker secure?

1 A. Yes.

2 Q. As part of your role as evidence custodian, are you  
3 responsible for taking evidence to and from SLED?

4 A. Yes, sir.

5 Q. How often do you do that?

6 A. I try typically to go once a month, but it just varies  
7 as to what else I have going on.

8 Q. So would you then -- do you take evidence to SLED --  
9 is it -- do you do it one case at a time, multiple times?

10 A. No, often when I take cases to SLED, I'm taking  
11 anywhere from twenty to thirty cases and depending on what  
12 those cases are there may be multiple pieces of evidence  
13 for those cases.

14 Q. Based on your records and chain of custody, do you  
15 recall taking evidence to SLED pertaining to this case?

16 A. Yes.

17 Q. What was that evidence?

18 A. It was a fingerprint card -- the fingerprint cards  
19 that were submitted by Sergeant Mountzouros and I took them  
20 to SLED on December 23, 2020.

21 Q. At any point in that process, did you add to or take  
22 anything from that evidence?

23 A. No, sir.

24 Q. Do you recall when that evidence was returned to you  
25 from SLED?

1 A. Yes, sir. It was returned on March 31, 2021.

2 Q. Okay. And where was that evidence returned to?

3 A. So typically when I get back evidence from SLED, it's  
4 a lot. It could be boxes, bags. I mean, we're talking  
5 multiple cases. And usually what will happen is when I get  
6 that evidence from SLED I come straight back to the PD and  
7 put it in a drop -- it's in a locker, it's secured, nobody  
8 can get to it. So I'll put everything in the locker that  
9 can go in there. If there's anything like -- that's like  
10 urine or DNA that has to be frozen or kept refrigerated,  
11 that goes straight into a refrigerator, but everything that  
12 doesn't have to be refrigerated goes into this drop locker  
13 and it stays there until I have time to get it out and  
14 transfer it back into the evidence room.

15 Q. Do you recall when you checked the evidence for this  
16 case back into the evidence room from that drop locker?

17 A. Yes, sir. According to the computer, it was April 1,  
18 2022. So that just meant that it stayed in that locker  
19 and that was the chance I was able to get to it and put it  
20 back in, but during that whole time from the time I signed  
21 for it until the time that it was logged back into the  
22 system, it was under my control in a locked room. Nobody  
23 else other than the major had access to it.

24 Q. During your involvement with this case, do you recall  
25 receiving a crime tip by e-mail?

1 A. I do.

2 Q. Who sent you that e-mail?

3 A. I believe it was Nick Burt from Lexington County  
4 Sheriff's Department.

5 MR. SMITH: Permission to approach the witness, Your  
6 Honor?

7 THE COURT: Very well.

8 BY MR. SMITH:

9 Q. Lieutenant Grinstead, I'm gonna show you what's been  
10 premarked as State's Exhibit Number 21. Do you recognize  
11 that document?

12 A. Yes, sir.

13 Q. How do you recognize that document?

14 A. This is the tip that was sent to me by the sheriff's  
15 department.

16 Q. And that was sent to your e-mail?

17 A. Yes, sir. On January 29, 2021, at 3:08 PM.

18 Q. Does that document appear to have been altered with or  
19 tampered in any way?

20 A. No, sir.

21 MR. SMITH: Your Honor, at this time I'd move State's  
22 Exhibit Number 21 into evidence.

23 MR. STORY: Your Honor, I do object. That -- at this  
24 time it's full of hearsay.

25 THE COURT: Yeah.

1           May I just speak to you-all?  Would you approach?

2           (Proceedings held at the bench; not reported.)

3           THE COURT:  I'll sustain the objection for now.  It  
4 can be marked for identification.

5           MR. SMITH:  Thank you, Your Honor.

6 BY MR. SMITH:

7 Q.       Lieutenant Grinstead, that document that you just  
8 identified for us, what did you do with it once you  
9 received it?

10 A.       After reviewing it and realizing that it pertained  
11 to a case that Sergeant Mountzouros was investigating, I  
12 forwarded it to her e-mail.

13 Q.       Okay.  So let's go back to the evidence in this  
14 particular case.

15 A.       Yes, sir.

16 Q.       Are you aware of any of that evidence being sent back  
17 to SLED?

18 A.       Yes, sir.  I understand at one point in -- Sergeant  
19 Mountzouros wanted the card sent back for further testing.

20 Q.       When was that?

21 A.       I believe it was on August 9, 2023.

22 Q.       And did you take that evidence to SLED on that date?

23 A.       No, sir.  I did not.  Sergeant Mountzouros took it.

24 Q.       Did you retrieve that evidence from SLED?

25 A.       I did.  On August 23, 2023, I signed for the return

1 of it from SLED and then from there, like I said, it was  
2 brought straight back to the PD, put in that drop locker  
3 where everything goes.

4 Q. And are you aware of that evidence going anywhere else  
5 at any point when --

6 A. Yes, sir.

7 Q. -- at any other point when that evidence was in your  
8 custody, are you aware of it going -- being checked out at  
9 other times?

10 A. No. No.

11 Q. Has anyone else viewed this evidence?

12 A. Oh, wait. I'm sorry. Let me -- let me go back  
13 because I want to make sure I understand you. Did you  
14 mean once I checked -- once I brought it back from SLED if  
15 I was aware that anybody messed with it while it was there  
16 or if it was checked out again? I'm sorry.

17 Q. Do you recall if the evidence was checked out again?

18 A. I'm so sorry. I do believe it was sent to SLED again.  
19 Sorry. I've got all this paperwork.

20 May it please the Court for just a moment?

21 Okay. So it looks like it was taken back to SLED on  
22 January 10, 2024.

23 Q. And was that evidence, again, returned to your  
24 custody?

25 A. Yes, sir. It was picked up on February 29, 2024. I

1 believe it -- Sergeant Mountzouros picked it up and she  
2 brought it back to the police department. I was not there  
3 that day, but Sergeant -- excuse me, Major Hendricks was  
4 there to take it from her and put it in the drop locker  
5 where it needed to go.

6 Q. And did you then check that evidence back in?

7 A. Yes, sir. I moved it back into the evi -- like  
8 through the computer on March 3, 2024.

9 Q. Okay. So March 3, 2024, that would be just about  
10 two weeks ago now. Between then and now has anyone else  
11 viewed this evidence?

12 A. Yes, sir. A private investigator who specializes in  
13 -- in latent prints, John Black, he viewed the evidence on  
14 March 12, 2024. I removed it from the evidence room and  
15 I remained with him and he looked over it, but it -- the  
16 evidence was always in my presence. I was never not in the  
17 room when he had it.

18 Q. Did Mr. Black mark on that evidence in any way?

19 A. Yes, sir. He initialled whichever parts of the  
20 evidence that he was going to make -- scan and be able to  
21 review, he initialled on the evidence cards.

22 Q. And can you tell me the next time that the -- can you  
23 tell me the next time that evidence was unsealed?

24 A. Yes, sir. On March 13, 2024, at the Solicitor's  
25 office for trial preparation.

1 MR. SMITH: I beg the Court's indulgence for a  
2 moment.

3 BY MR. SMITH:

4 Q. Lieutenant Grinstead, do you know how that evidence  
5 got to this courthouse for trial?

6 A. Today? Yes, sir. I met with Sergeant Mountzouros  
7 this morning at the Irmo Police Department and checked it  
8 out and handed it to her.

9 Q. And do you have that evidence with you now?

10 A. I do.

11 Q. Okay.

12 MR. SMITH: Permission to approach the witness,  
13 Your Honor?

14 THE COURT: Very well.

15 BY MR. SMITH:

16 Q. Was that evidence opened once it was brought to the  
17 courthouse?

18 A. Yes, sir, it was.

19 Q. Who was present?

20 A. I was present, Sergeant Mountzouros was present,  
21 attorneys for the prosecution were present and attorneys  
22 for defense were present.

23 MR. SMITH: Permission to approach the witness, Your  
24 Honor?

25 THE COURT: Very well.

1 BY MR. SMITH:

2 Q. All right. Lieutenant Grinstead, I'm gonna show you a  
3 couple of items for identification only.

4 A. Okay.

5 Q. If you could briefly review these and tell me if you  
6 recognize them.

7 A. Yes. These here are the two latent cards that were  
8 taken by Sergeant --

9 Q. Could you identify those by number, please.

10 A. Oh, I'm sorry. So State's Exhibit 25 are the two  
11 latent cards that were collected by Sergeant Mountzouros  
12 from the scene that day. State's Exhibit 29 is a ten-print  
13 fingerprint card for Mr. Powell, Dwight Powell. And  
14 then State's Exhibit 26 is -- it looks like three AFIS  
15 ten-prints from Mr. Powell. State's Exhibit 27 is an  
16 AFIS card for Randall Corey Sternenberg. And State's  
17 Exhibit 28 is an AFIS card for Michelle Harrison Eisinger.

18 Q. Thank you, Lieutenant.

19 Now, Lieutenant, I'm just gonna ask you again, at any  
20 time all of this evidence was in your custody, did you add  
21 to or take away from this evidence in any fashion?

22 A. No, sir.

23 Q. Did you alter it in any way?

24 A. Not the evidence itself, but there were a couple of  
25 times where I sealed the envelope and initialled it, but

1 anything inside the envelope, to be honest, I -- I hadn't  
2 even seen it with my -- like laid eyes on it until I took  
3 it out with Mr. -- excuse me, Mr. Black because the whole  
4 time it had been sealed and in an envelope.

5 Q. Were you -- were you present every time those  
6 envelopes were unsealed and opened?

7 A. Well, not at SLED, but out -- yes, with Mr. Black and  
8 at the Solicitor's office, and here, yes, sir.

9 Q. And at all times the evidence was in your custody at  
10 Irmo, was the evidence kept in a secure location?

11 A. Yes, sir.

12 MR. SMITH: I don't have anything further right now,  
13 Lieutenant Grinstead. Please answer defense counsel's  
14 questions.

15 THE COURT: Cross-examination.

16 MR. STORY: No questions for this witness, Your  
17 Honor.

18 THE COURT: All right. The witness may step down.

19 THE WITNESS: Thank you.

20 (Witness excused.)

21 THE COURT: Counsel approach.

22 (Proceedings held at the bench; not reported.)

23 THE COURT: All right. Ladies and gentlemen, that's  
24 our last witness for today, so we're getting out a little  
25 bit early. I'd like you to be in your jury room tomorrow

1 no later than 9:15 and we'll look to start testimony back  
2 up shortly thereafter.

3 If for some reason, which happens on occasion,  
4 there's some traffic jam or something in the morning,  
5 just make sure you give us a heads-up if you're gonna be  
6 running late. Try to be here on time, but do it safely.

7 You-all have a good evening. Please don't discuss  
8 the case with anyone or your family members tonight or  
9 amongst yourselves when you go back to the jury room, but  
10 we'll continue the trial tomorrow morning. I'd like you  
11 in your jury room by 9:15.

12 Thank you-all. Have a good night.

13 (Whereupon, the jury was excused for the day at  
14 3:44 PM.)

15 THE COURT: All right. So we can pick up where we  
16 left off tomorrow morning. I mean, the State only has --  
17 how many more witnesses tomorrow? Like three or four?  
18 We'll have a couple tomorrow and -- well, more than a  
19 couple.

20 Anything else for the record today?

21 MS. MARTIN: I don't have anything.

22 MR. STORY: No, Your Honor.

23 THE COURT: All right. We'll recess for the day.

24 I would like to chat with you-all briefly off the  
25 record, but we'll see you-all tomorrow morning.

1           (Whereupon, the proceedings were concluded for  
2 March 18, 2024, at 3:45 PM.)

3           (The following proceedings were held March 19, 2024,  
4 beginning at 10:07 AM.)

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

6           THE COURT: All right. Good morning. Please be  
7 seated.

8           I'm sorry for being late myself today.

9           Anything for discussion before we get on the record  
10 or anything?

11          MR. STORY: Nothing from the defense.

12          THE COURT: Okay. Thank you.

13          MS. MARTIN: Nothing from the State.

14          THE COURT: And we're ready to call our next  
15 witness?

16          MS. MARTIN: Yes, sir.

17          THE COURT: All right. Let's bring them in.

18          (Whereupon, the jury enter the courtroom at  
19 10:09 AM.)

20          THE COURT: All right. Mr. Foreman, ladies and  
21 gentlemen of the jury, welcome back. I hope you-all  
22 had a nice evening. Sure enough traffic caught us up a  
23 little bit this morning, myself included, so.

24          We're gonna pick up where we left off in our trial  
25 yesterday with the next witness in the State's case in

1 chief.

2 MS. MARTIN: Thank you, Your Honor. May it please  
3 the Court?

4 THE COURT: Yes, ma'am.

5 MS. MARTIN: The State calls Corey Sternenber *g*.

6 (Whereupon, Randall Sternenber *g* was duly sworn by  
7 the Clerk of Court.)

8 THE CLERK: If you'll have a seat on the witness  
9 stand. If you'll state your name and spell your last  
10 name for the record.

11 THE WITNESS: Randall Sternenber *g*. It's  
12 S-T-E-R-N-E-N-B-E-R-G.

13 RANDALL STERNENBERG,

14 having been duly sworn, testified as follows:

15 DIRECT EXAMINATION

16 BY MS. MARTIN:

17 Q. Mr. Sternenber *g*, you need to sit up a little bit and  
18 pull that mic a little closer to your mouth, please.

19 A. (Witness complies.)

20 Q. Thank you. Mr. Sternenber *g*, where are you from?

21 A. Irmo, South Carolina.

22 Q. Okay. And how far did you go in high school?

23 A. Tenth grade.

24 Q. Okay. So you dropped out in the tenth grade?

25 A. Yeah.

1 Q. What kind of work do you do?

2 A. I waited tables and moved furniture and worked at  
3 Dodgeland as a porter. Right now I'm on disability.

4 Q. All right. And, Mr. Sternenberg, are you a convicted  
5 felon?

6 A. Yes, I am.

7 Q. And have you been convicted of assault and battery of  
8 a high and aggravated nature?

9 A. Yes.

10 Q. Have you been -- been convicted of burglary in the  
11 third degree?

12 A. I have.

13 Q. Have you been convicted of burglary in the second  
14 degree?

15 A. Yeah.

16 Q. Have you been convicted of possession of meth?

17 A. I have.

18 Q. Have you been convicted of petit larceny enhanced?

19 A. Yeah. Yeah.

20 Q. Okay. Have you been held in the county jail?

21 A. I have.

22 Q. Have you been to South Carolina Department of  
23 Corrections?

24 A. Yes.

25 MR. STORY: Your Honor, sorry to interrupt.

1           Could we move the mic a little bit closer to his  
2 mouth?

3           THE COURT: Yes, sir.

4           Mr. Sternenberg, if you can --

5           THE WITNESS: Yeah.

6           THE COURT: You might just have to move your face a  
7 little bit closer.

8 BY MS. MARTIN:

9 Q.       Let's try. Can you hear?

10 A.       Yeah.

11 Q.       That's much better.

12 A.       Sorry.

13 Q.       So you have convictions for stealing things?

14 A.       I do.

15 Q.       And convictions for drugs?

16 A.       Yeah.

17 Q.       What kind of drugs have you used in your past?

18 A.       Meth.

19 Q.       Okay. And how long have you used meth?

20 A.       Four, five years.

21 Q.       And can you tell us whether or not meth affects your  
22 mind?

23 A.       Yeah, it does sometimes.

24 Q.       Can you tell the jury if you were charged with a  
25 burglary to a garage on Woodrow Street in Irmo?

1 A. Yes, I was.

2 Q. Okay. And in April of 2021, can you tell us whether  
3 or not you pled guilty to several different offenses?

4 A. I did.

5 Q. And did you plead guilty to the burglary of the garage  
6 on Woodrow Street or to a different burglary?

7 A. It was a different one.

8 Q. And can you tell us what location that burglary  
9 involved, if you recall?

10 A. It was on Lake Murray Boulevard.

11 Q. Okay. And during April of 2021, who was your  
12 prosecutor?

13 A. You were.

14 Q. Okay. And at the time of your plea back in 2021, who  
15 was your attorney?

16 A. Brad Kirkland.

17 Q. At the time of your plea in 2021, did you have a deal  
18 with the State, with me, that you would come into court and  
19 testify in a trial against Dwight Powell?

20 A. No, I did not.

21 Q. Okay. Do you have pending charges now?

22 A. I do.

23 Q. And who's your attorney on your pending charges?

24 A. Brad Kirkland.

25 Q. All right. And do you recall what those charges are?

1 A. Possession of a stolen vehicle and possession of meth.  
2 Under a gram, I think.

3 Q. Okay. And am I your prosecutor on that case?

4 A. You are. No, Player Long is. That's right.

5 Q. That's right.

6 Okay. And do you have any deals with anyone in my  
7 office about your new cases, your new charges?

8 A. No.

9 Q. All right. Have you been promised anything good that  
10 would happen to you if you testify here today?

11 A. No.

12 Q. Have you been threatened to come into court today by  
13 any members of my staff or law enforcement?

14 A. No. It was a subpoena.

15 Q. You're under subpoena to be here?

16 A. Yeah.

17 Q. Are you happy about being here? Nervous? How would  
18 you describe your reaction?

19 A. Not very -- not happy or -- kind of nervous, but,  
20 yeah.

21 Q. Okay. Well, let me ask you this. Do you know this  
22 man here in the white shirt?

23 A. Yeah.

24 Q. And what's his name?

25 A. Anthony Powell.

1 Q. Okay. And what do you know him by?

2 A. Amp.

3 Q. And how long have you known Amp?

4 A. Five or six years. Maybe longer. It's been a while.

5 Q. Okay. And did you-all travel in the same circles back  
6 in 2020?

7 A. Yes.

8 Q. Okay. And can you tell the jury what happened to you  
9 at the end of 2020?

10 A. I was arrested and -- at the storage facility on Lake  
11 Murray Boulevard.

12 Q. Okay. So you were arrested for -- was that a burglary  
13 you said?

14 A. Yes, it was.

15 Q. Okay. And were you using drugs during that time as  
16 well?

17 A. Yes, I was.

18 Q. When you were arrested for that storage unit burglary,  
19 where did you go?

20 A. Lexington County jail.

21 Q. Okay. And when you were in the Lexington County  
22 Detention Center, what, if anything, did you decide to do?

23 A. I wanted to come clean and tell law enforcement what  
24 -- everything, the stuff that I had done recently and what  
25 I knew about had happened, crimes. I went to the kiosk in

1 the jail and made a crime tip.

2 Q. Okay. Well, let's explore that a little bit. You  
3 said you went to the kiosk at the jail. Is that within the  
4 jail?

5 A. Yes, it's on the -- like where we go to rec.

6 Q. Okay. And is there a computer there?

7 A. Yes, it's like a computer screen with a keyboard  
8 that's attached to the wall.

9 Q. And you said you sent a tip; is that right?

10 A. Yeah.

11 Q. If I can show you what's been marked State's 21. Do  
12 you recognize this document?

13 A. Yeah.

14 Q. And what is that?

15 A. This is the form from the kiosk for the crime tips.  
16 I wrote what's on this one.

17 Q. Okay.

18 MS. MARTIN: Your Honor, I'd move to publish.

19 THE COURT: And that's exhibit?

20 MS. MARTIN: 21.

21 THE COURT: State's Exhibit 21.

22 MR. STORY: It's not in evidence yet.

23 MS. MARTIN: I just asked it to be put into evidence.

24 MR. STORY: I didn't hear that part. No objection.

25 THE COURT: Okay. Apologies.

1 State's Exhibit 21 is admitted into evidence.

2 (State's Exhibit Number 21, a crime tip, was  
3 admitted into evidence.)

4 THE COURT: You may published.

5 BY MS. MARTIN:

6 Q. So this is the crime tip you sent from the jail?

7 A. It is.

8 Q. Can you see the date that this was sent?

9 A. January 29, 2021.

10 Q. All right. You've got to keep your voice up.

11 A. January 29, 2021.

12 Q. Okay. And is this crime tip, it's a question and  
13 answer kind of format?

14 A. Yes, it is.

15 Q. Okay. And what information did you relay to law  
16 enforcement via this crime tip?

17 A. I told them about when Anthony and I went --

18 Q. Okay. Well, let's go exactly. Can you read what you  
19 wrote?

20 A. Yes, I can read it.

21 Q. Okay. On Number 4, what did you say? What happened?  
22 Please describe the incident.

23 A. Do you want me to read what I wrote?

24 Q. Please do.

25 A. Dwight Anthony Powell cleaned out a building full of

1 furniture on Woodrow Street in Irmo. He forced me to help  
2 him try to -- I can't see it. It's kind of blurred.

3 Q. Okay. If you can read it from here, the jurors will  
4 have this in evidence.

5 A. All right. Help him try to start a red Maserati  
6 convertible inside of it at gunpoint. I'm not sure of the  
7 address, but it is between a big church and a tire shop on  
8 Woodrow Street in Irmo. The building in front of it has  
9 green awnings and there is a red Jaguar convertible outside  
10 next to it.

11 Q. Okay. You can put that document down. So that crime  
12 tip you sent in January. Can you tell us why you sent that  
13 crime tip?

14 A. I --

15 Q. You need to move your hand and speak up.

16 A. I thought it might help me getting out. I thought if  
17 I confessed to being a part of it, it might not be a -- I  
18 thought we probably were gonna get caught and I wanted to  
19 let them know what happened.

20 Q. Okay. Can you tell us whether or not it's fair to say  
21 you wanted law enforcement to help you with your charges?

22 A. Yeah, that's part -- that's part of it, too, yeah.

23 Q. And after this happened, did law enforcement come see  
24 you at the jail?

25 A. They did.

1 Q. Do you recall what investigator came to see you?

2 A. Kelly Mountzouros and a partner, Skyler.

3 Q. Okay. Is Kelly here in the pink jacket?

4 A. Yeah.

5 Q. And where did you meet with her?

6 A. At the jail.

7 Q. Okay. And when you met with her, did she record your  
8 interview?

9 A. Yes.

10 Q. Did she advise you of your rights?

11 A. She did.

12 Q. Did you agree to speak to her with or without an  
13 attorney?

14 A. I agreed to speak to her without one.

15 Q. Without an attorney?

16 A. Yeah.

17 Q. Okay. And did you tell her about what was in that  
18 crime tip?

19 A. Yes, I did.

20 Q. Okay. And after you talked to her, did she ask you to  
21 provide a written statement?

22 A. Yes.

23 Q. And what did you tell her about a written statement?

24 A. I said I had started on it. I would finish it and  
25 give it to her when she came back.

1 Q. Okay. When you said you had started on it, explain to  
2 me what that means.

3 A. I was -- I'd been writing a lot of stuff trying to  
4 remember everything that happened and I had written about  
5 that, some of that, and so I finished it and then they came  
6 back to the jail and I gave it to them.

7 Q. Okay. So you gave her a written statement as well?

8 A. Yeah.

9 Q. All right. Had you written that statement before you  
10 met with the investigator? Had you written most of it?

11 A. Yeah.

12 Q. Okay.

13 A. About half of it.

14 Q. And then you added some to it?

15 A. Yeah.

16 Q. All right. And where were you when you wrote the  
17 statement?

18 A. I was in the Lexington County jail.

19 Q. And was the investigator with you when you were  
20 writing your statement?

21 A. No.

22 Q. Okay.

23 A. I was in a cell by myself.

24 Q. So let's go back in time to 2020. Do you recall what  
25 month or what type -- I'm sorry. Scratch that. Do you

1 recall the time of year you were arrested for the burglary  
2 of the storage units? Was it spring, summer, fall, winter?

3 A. It was fall.

4 Q. Okay.

5 A. Toward the end -- close to the end of the year.

6 Q. Close to the end of the year. Okay. And can you  
7 tell us how long was it between when you and Amp went to  
8 the garage in Irmo to the time you were arrested for the  
9 burglary at the storage units?

10 A. It was less than a week.

11 Q. Okay.

12 A. It was a few days, I think.

13 Q. Okay. All right. So this burglary in Irmo, can you  
14 tell us whether it was during the daytime or the nighttime  
15 that you-all went to Irmo?

16 A. It was nighttime.

17 Q. And can you tell us about where it was?

18 A. It was on Woodrow Street in Irmo. There's a church  
19 beside it and it's like right there near the middle of  
20 town.

21 Q. Okay. If I can show you what's been marked as  
22 State's 1 that's already in evidence.

23 A. Yeah, that's the building. It's behind there.

24 Q. Okay. And if I can show you what's been marked as  
25 State's 6, do you recognize that area?

1 A. Yeah, that's the garage we went in.

2 Q. That's the what?

3 A. That's the garage -- the storage garage that we went  
4 in.

5 Q. Okay. And you said something about a church. Do you  
6 recognize this location in State's 3?

7 A. Yeah, that's the church where we parked and ran  
8 across.

9 Q. Okay. All right. How did you get involved in  
10 committing this burglary?

11 A. He called me and said he was in town and wanted to  
12 pick me up and he was right near -- on my street and told  
13 me to come meet him and said if I didn't he'd pull up, and  
14 my roommate didn't want him around and I might have got  
15 kicked out, so I went out to meet him --

16 Q. Okay. So when you went out to meet him --

17 A. -- and I got --

18 Q. When you went out to meet him, you're talking about  
19 him. Who are you talking about?

20 A. Anthony Powell. Amp.

21 Q. Okay. When you went out to meet him, was it daytime  
22 or nighttime?

23 A. It was nighttime.

24 Q. And was he in a car or was he on foot?

25 A. In a car.

1 Q. All right. What kind of car?

2 A. A burgundy Volvo station wagon.

3 Q. And was there anybody else in the car?

4 A. Yeah, Tiffany Powell.

5 Q. Tiffany?

6 A. Tiffany Clayton.

7 Q. Okay. And who was Tiffany Clayton?

8 A. She's a friend of his and mine. I know her, too.

9 Q. Okay. And did you get in the car with them?

10 A. Yes, I did.

11 Q. And what, if anything, did Amp tell you you-all were  
12 gonna do?

13 A. We were going -- he needed me to help him get that car  
14 started. He said we're gonna do this and that's all there  
15 is to it and then we went and tried to start it and --

16 Q. Okay. Let's stop for a minute. So you-all are  
17 talking in the car. And, again, day or nighttime?

18 A. Nighttime.

19 Q. All right. And he tells you you're gonna do it?

20 A. Yeah.

21 Q. Did he say what you-all were gonna do?

22 A. We're gonna get that car started and take it.

23 Q. And take the car?

24 A. Yeah.

25 Q. Okay. And can you tell us when you-all proceeded to

1 go to the garage, is that a place you'd ever been before?

2 A. No.

3 Q. Okay. And had Amp ever been there before to your  
4 knowledge?

5 A. Yeah.

6 Q. How do you know this?

7 A. He told me about it, told me about the stuff, it was  
8 nice stuff in it, and when we got there we went straight  
9 in the -- there's a little door and a garage door. We went  
10 straight through the small one and it was unlocked, so.

11 Q. Okay. So on State's 6, which door did you go in?

12 A. The one on the right. The small door.

13 Q. Okay.

14 MS. MARTIN: If I may approach, Your Honor, again?

15 THE COURT: Very well.

16 BY MS. MARTIN:

17 Q. And see if -- I don't know if you can make this work.  
18 Can you point to the door you-all went in?

19 A. That one.

20 Q. Okay. And was that door locked or unlocked?

21 A. It was unlocked.

22 Q. Okay. And when you first got there, what, if  
23 anything, else did you notice about the area there?

24 A. There was some stuff on the other side to the -- to  
25 the left right back there.

1 Q. Okay. And did you see that stuff yourself?

2 A. Yeah.

3 Q. I'll show you State's 10. Was that some of the stuff  
4 you saw?

5 A. Yeah. It was nighttime.

6 Q. What?

7 A. It was nighttime. I couldn't see that clearly, but I  
8 could tell there was a mattress and a box and a headboard  
9 and stuff.

10 Q. Okay. So when you-all got there, had you been  
11 involved in moving any stuff from inside the garage to  
12 outside?

13 A. No.

14 Q. Okay. And when you went in the little door, where did  
15 you go next?

16 A. We went through -- it was a little room and stuff like  
17 -- just household stuff and then there's a little hallway  
18 and then to the left that's where the doorway to the garage  
19 where the car was.

20 Q. And what kind of car was this?

21 A. It was a Maserati, red, convertible.

22 Q. Okay. And when you-all went into the garage, and you  
23 said the plan was to -- to start the car, what was the  
24 intention to do once the car was started?

25 A. To leave with it.

1 Q. To leave with it?

2 A. Yeah.

3 Q. Did you-all take any equipment with you-all into the  
4 garage?

5 A. A battery. A car battery.

6 Q. Okay. And so who had a car battery?

7 A. They had it with them when they picked me up.

8 Q. All right. So who had the car battery?

9 A. Anthony had it with him.

10 Q. Okay. And did you-all carry that into the garage?

11 A. Yes, by --

12 Q. And can you tell us whether or not you-all hooked that  
13 battery up to the Maserati?

14 A. Yes, we did, and nothing happened. It didn't start,  
15 didn't turn over or anything.

16 Q. Okay. And at that point what, if anything, did  
17 you-all decide to do?

18 A. We -- he was gonna -- Anthony was gonna use the car  
19 battery that was in the car we came in, Tiffany's car, but  
20 we needed a tool like pliers or something to take it out  
21 with.

22 Q. All right. So did you-all leave there?

23 A. Yeah, we left. We went a couple of places looking --  
24 riding around to see if we could find some. We went to CVS  
25 to try to get some tools -- a tool like pliers or a wrench

1 or something to loosen the battery on her car to take it  
2 out and put it on that.

3 Q. All right. So did you-all ever go back to the area of  
4 the garage?

5 A. Yeah, we went back to it.

6 Q. All right. Was it that same night?

7 A. Yeah.

8 Q. And when you-all went back, do you remember where  
9 you-all parked?

10 A. The same place.

11 Q. Okay. Was that near the church or near the green  
12 awnings?

13 A. It's -- the church parking lot was like -- was like  
14 right next to it.

15 Q. Okay. And was Tiffany still with you-all?

16 A. Yeah.

17 Q. And when you-all went back that second time, what did  
18 you-all do?

19 A. We got the battery out and --

20 Q. What were you doing? Did you take the battery out?

21 A. I was standing. I was standing there looking around  
22 watching out to see if anybody --

23 Q. Kind of a lookout?

24 A. Yeah.

25 Q. And when -- who got the battery out of Tiffany's car?

1 A. Anthony.

2 Q. Okay. And when you take a battery out of a car, does  
3 the car still run?

4 A. Yeah, a little bit. If it's already started running,  
5 the batt -- the battery comes out, it will still keep  
6 going.

7 Q. Okay. So was Tiffany's car still running?

8 A. Yeah.

9 Q. And when you-all took the battery out of that car,  
10 where did you-all go?

11 A. Back to the garage, to the car, and hooked it up. I  
12 stood there and held it and Anthony tried to start it and  
13 this time it did start to turn over, but it didn't start,  
14 and we figured that it must need gas and --

15 Q. Okay.

16 A. -- then he said all right, let's go, and we left --

17 Q. All right.

18 A. -- and put the car back -- the battery back in  
19 Tiffany's car and left.

20 Q. All right. When you-all were trying to crank the  
21 Maserati on -- on those two occasions, can you tell us  
22 whether or not you had keys to the Maserati?

23 A. Yeah, he had keys.

24 Q. Okay. And you say "he". Who do you mean?

25 A. Anthony had the keys. I'm sorry.

1 Q. All right. And do you know where he got them from?

2 A. I -- I don't know.

3 Q. Okay. And when you-all decided to leave, where did  
4 you go?

5 A. They dropped me back off down the road from my house  
6 where they picked me up.

7 Q. And do you know -- when you got home, was it still  
8 nighttime?

9 A. Yeah, it was.

10 Q. And do you know where Tiffany and Dwight Powell went  
11 when they left you?

12 A. No.

13 Q. All right. Can you tell us if you moved any other  
14 stuff around that was within the storage unit side or the  
15 garage side?

16 A. No.

17 Q. Okay. To your knowledge, was anything removed from  
18 the garage that night?

19 A. No, not that night. Not that I know of.

20 Q. Okay. If I can show you what's been marked into  
21 evidence as State's 17, can you tell us whether or not that  
22 car looks familiar?

23 A. Yeah, that's the same car. That's the one that was in  
24 the garage.

25 Q. Okay. And this is a Maserati?

1 A. Yeah.

2 Q. Do you know the difference between a Maserati and a  
3 Jaguar?

4 A. Yeah.

5 Q. What car is in State's 3?

6 A. That one, that's the Jaguar.

7 Q. Okay. And State's 17, is this the car that was within  
8 the garage that night?

9 A. Yes, it is.

10 Q. Do you remember if the car windows were up or down?  
11 The car windows.

12 A. They were up.

13 Q. Okay. Can you remember if the car top was up or down?

14 A. It was down.

15 Q. Okay.

16 All right. When you communicated with law enforcement  
17 way back in January of 2021, can you tell us whether or not  
18 you told law enforcement you felt threatened?

19 A. Yeah, I felt threatened.

20 Q. Why did you feel -- why did you feel threatened and  
21 by whom?

22 A. By Anthony. I thought -- I mean, he was kind of  
23 just getting aggressive and saying -- getting louder and  
24 saying that I was gonna help and I felt like if I didn't  
25 something might happen right then or later on and I just

1 felt pressured into doing it.

2 Q. Okay. And can you tell us whether or not Amp had a  
3 weapon that evening?

4 A. Yeah.

5 Q. And did you tell that to law enforcement?

6 A. Yes.

7 Q. And what kind of weapon?

8 A. It's a handgun. I don't know what kind.

9 Q. Okay.

10 MS. MARTIN: I beg the Court's indulgence.

11 Please answer Mr. Story's questions.

12 THE COURT: All right. Cross-examination.

13 MR. STORY: May it please the Court?

14 THE COURT: Yes, sir.

15 CROSS-EXAMINATION

16 BY MR. STORY:

17 Q. Mr. Sternenberg, you -- you recall you were arrested  
18 November 12, 2020?

19 A. Yeah.

20 Q. You were arrested by Lexington County sheriff's  
21 deputies?

22 A. Yes, I was.

23 Q. And that was at the storage facility on Lake Murray  
24 Boulevard?

25 A. Yes, it was.

1 Q. I'm sorry, pardon me. Lake Murray Boulevard.

2 A. Yeah.

3 Q. And for that you were charged with burglary second  
4 degree, correct?

5 A. Yes, sir.

6 Q. You were charged with three counts of breaking and  
7 entering into a motor vehicle at that time?

8 A. Yeah.

9 Q. You -- and you testified previously you sent in the  
10 crime tips on January 29, 2021?

11 A. Yeah.

12 Q. So you waited through the end of November, correct?

13 A. Yeah.

14 Q. You waited through all of December, right?

15 A. I -- yeah.

16 Q. Okay. You're gonna have to verbally speak because --

17 A. Yes, I do.

18 Q. You can't just nod your head. And you waited until  
19 almost all of January, right?

20 A. Yeah, I guess -- yeah. I didn't wait. I was just  
21 kind of nervous about it and just trying to think of  
22 everything and I was getting --

23 Q. You --

24 A. I just did it when I did it.

25 Q. Okay. Now you said Brad Kirkland was your attorney,

1 right?

2 A. Yeah.

3 Q. He was not your first attorney, was he?

4 A. No.

5 Q. Ms. Zmroczek was originally appointed to your case,  
6 wasn't she?

7 A. Right.

8 Q. Now you testified here today that Anthony pressured  
9 you, right?

10 A. Yeah. I felt pressured, yeah.

11 Q. That he threatened you?

12 A. Yeah.

13 Q. He threatened you with a weapon?

14 A. He had it with him and, you know, it was --

15 Q. And when you originally spoke to law enforcement, you  
16 also told them that he had a badge?

17 A. Yeah, he had a badge. That was not that -- that  
18 wasn't that night, it was before. It was a night -- it was  
19 probably a week before the --

20 Q. Well, let's not get confused.

21 A. I'm not confused.

22 Q. Okay. We're --

23 A. I think you are.

24 Q. We're not talking about --

25 A. You're trying to tell me something --

1 THE COURT: I tell you what. Let's -- let's start  
2 over.

3 Mr. Story, you can re-ask your question and go from  
4 there.

5 BY MR. STORY:

6 Q. On the night you went to Woodrow Street, you said that  
7 Mr. Powell had a badge?

8 A. No. No, I did not.

9 Q. He didn't?

10 A. No, I didn't say that he had a badge that night. No.  
11 I was telling them about something else.

12 Q. Okay. You said it was an ATF badge, correct?

13 A. Yeah, I was telling them about another time when I had  
14 seen him in a stolen car --

15 Q. Okay.

16 A. -- and he was showing me the badge.

17 Q. And you said -- okay. You said a week prior to the  
18 incident on Woodrow Street that Anthony had been calling  
19 you?

20 A. I don't know if it was a week. I'm just --

21 Q. Okay. If I showed you a written statement, would that  
22 refresh your memory?

23 A. Yeah.

24 Q. So right here.

25 A. I run into him a couple of weeks before that.

1 Q. Right.

2 Okay. Now --

3 A. I ran into him. I mean, I'm not sure of the exact  
4 amount of days, but this was before.

5 Q. That's fine.

6 A. Yeah.

7 Q. But you testified today that the night that you-all  
8 were driving to Woodrow Street he had a gun, correct?

9 A. Yeah.

10 Q. And he threatened you?

11 A. Yeah.

12 Q. It's reasonable to say that you feared for your life?

13 A. Yeah.

14 Q. Okay. Now originally you told the investigator that  
15 you asked Ms. Clayton to stop at a Circle K?

16 A. Yeah.

17 Q. And that you bought a Polar Pop?

18 A. Uh-huh. Yeah.

19 Q. You bought that drink and that Anthony was following  
20 you closely?

21 A. Yeah.

22 Q. Correct? Isn't that true?

23 A. Following me closely?

24 Q. Uh-huh.

25 A. I don't know if I said that. I know they were right

1 there at the front of the store and I was thinking about  
2 walking off, but I just didn't do it. I just got back in  
3 the car.

4 Q. Okay. And you said that Circle K was just a minute  
5 from the Woodrow Street location?

6 A. Yeah, it's right about a minute from there. Not even  
7 that.

8 Q. Okay. Now you also told law enforcement in -- in  
9 the statement you gave to the -- Investigator Mountzouros,  
10 you told her that Anthony had threatened you prior to the  
11 incident at the storage facility, correct?

12 A. I can't recall.

13 Q. Okay. Well, if you saw your written statement, would  
14 that refresh your memory?

15 A. Yeah. Yeah. I mean --

16 Q. Okay.

17 All right. Here you go.

18 A. I mean, this isn't all about that night.

19 Q. Okay. Does that look like the statement you wrote?

20 A. Yeah, I wrote it. This was a while -- it was a long  
21 -- I'm not sure how long ago, three years ago or something.  
22 It was in 2021. I mean -- so what was your question again?

23 Q. My question was you said that Anthony drove you by the  
24 facility you were arrested at, correct?

25 A. Yeah.

1 Q. Okay. And he told you to go check it out, correct?

2 A. Yeah.

3 Q. And he threatened you to do that, too, correct?

4 A. He -- he pretty much threatened me every time I was  
5 around him.

6 Q. Okay.

7 A. He's punched me in the face. He's tried to steal my  
8 car before.

9 Q. Okay. That's not the question I asked you. The  
10 question I asked you was --

11 A. We'll, I mean, you're trying to confuse me.

12 Q. I don't want to confuse you.

13 THE COURT: Okay. Try not to talk over each other.  
14 You can ask the question again, Mr. Story.

15 BY MR. STORY:

16 Q. Mr. Sternenberg, you were arrested at a storage  
17 facility on Lake Murray Boulevard?

18 A. Yes, I was.

19 Q. And you told law enforcement that Anthony threatened  
20 you in order to get you to do that?

21 A. To do that? I --

22 Q. Let's look at your statement again.

23 MS. MARTIN: Your Honor, we have no objection if  
24 the statement -- the entire statement comes in.

25 MR. STORY: I'm not asking for the statement to

1 come in.

2 THE COURT: I don't think he's seeking that, but you  
3 can -- let Mr. Story refresh his recollection further.

4 THE WITNESS: It was all --

5 BY MR. STORY:

6 Q. Can you read that first paragraph?

7 A. Yeah. That's -- that's exactly what I said.

8 Q. Okay. You said that Anthony made you go to that  
9 storage facility, correct?

10 A. He -- pretty much, yeah, he did.

11 Q. And he threatened you?

12 A. Yeah.

13 Q. With his finger and a gun, correct?

14 A. Yeah, he made it -- yeah, he made it obvious what he  
15 wanted me to do and I did it.

16 Q. He -- he pulled up -- you said he pulled up next to  
17 your house after texting you, correct?

18 A. Yeah.

19 Q. And told you to go to that storage facility on Lake  
20 Murray Boulevard. That's what you wrote in your statement.

21 A. I'm trying to remember. Yeah.

22 Q. Let me let you see your statement again.

23 A. I don't remember --

24 Q. I don't want to confuse you. Just this first  
25 paragraph.

1 A. Okay. Yeah.

2 Q. So you said he dropped you off at that storage  
3 facility?

4 A. Yeah.

5 Q. And threatened you, told you to go into that storage  
6 facility, correct?

7 A. Pretty much, yeah.

8 Q. The storage facility you were arrested at?

9 A. Yeah, I went in and I stayed in there and ended up  
10 falling asleep in there.

11 Q. And you pled guilty to a burglary third, correct?

12 A. Yeah.

13 Q. Now you were charged with burglary second, correct?

14 A. I think so, yeah.

15 Q. Okay. And that's a more serious charge than burglary  
16 third, right?

17 A. It is.

18 Q. And you were charged with three counts of breaking and  
19 entering into a motor vehicle?

20 A. Yeah, I think so. I'm --

21 Q. And you ended up pleading guilty to two counts of  
22 breaking and entering into a motor vehicle?

23 A. I think so, yeah. I can't remember the exact -- I  
24 know some of the charges were reduced and dropped. One of  
25 them was dropped, some were reduced.

1 Q. Right. So you ending up pleading guilty in April of  
2 2021, right?

3 A. Yeah.

4 Q. The State, Ms. Martin, agreed to drop your burglary  
5 second down to a burglary third, correct --

6 A. I think --

7 Q. -- if you pled guilty to it?

8 A. Yeah, I believe so. My lawyer handled that.

9 Q. But you pled guilty in front of Judge McLeod, right?

10 A. I did.

11 Q. And she dismissed one breaking and entering into a  
12 motor vehicle, right?

13 A. Right.

14 Q. And she dismissed an attempted grand larceny, correct?

15 A. I think so.

16 Q. And she dismissed a burglary second degree, correct?

17 A. Right.

18 Q. She dismissed the burglary and grand larceny  
19 associated with this case, right?

20 A. Yeah.

21 Q. Yeah. They were dismissed?

22 A. (Nods head.)

23 Q. And you didn't -- your testimony was you didn't get a  
24 deal for your cooperation?

25 A. No. No, I did not.

1 Q. But you were sentenced to twelve years in prison  
2 suspended to probation, right?

3 A. Right.

4 Q. And you got three years of probation, right?

5 A. That's right.

6 Q. Are you on probation now?

7 A. No.

8 Q. No, you're not. And you got three years of probation  
9 in April of 2021?

10 A. Yeah. I violated it and I got sent to prison for the  
11 rest of the three-year sentence.

12 Q. You didn't get twelve years in prison though, didn't  
13 you?

14 A. No. It was up to the judge. It was up to the judge.  
15 That had nothing to do with any of this. It had -- it was  
16 a different judge and it was actually in Richland County  
17 because I had my probation transferred to Richland County,  
18 so I went to my probation violation hearing in Richland  
19 County.

20 Q. Okay. So you -- you did your time, right?

21 A. Right.

22 Q. Your probation was terminated?

23 A. Yeah.

24 Q. Right. Because if you plead to any offense, it's a  
25 violation of your probation, right?

1 A. Right.

2 Q. Okay. And you got out, correct?

3 A. I did.

4 Q. And you were charged with possession of a stolen  
5 vehicle --

6 A. Yes, I was.

7 Q. -- after you got out?

8 A. I was.

9 Q. And you were -- you bonded out of jail, right?

10 A. I did.

11 Q. And then you got arrested again for possession of  
12 methamphetamine, right? Correct?

13 A. Yeah.

14 Q. Yeah. And your testimony was that Ms. Martin is not  
15 prosecuting you for that, correct?

16 A. No, she's not.

17 Q. Player Long is prosecuting you for that, right?

18 A. Yeah.

19 Q. Player Long works for the Eleventh Circuit Solicitor's  
20 Office, doesn't he?

21 A. Yeah, I guess so.

22 Q. You guess so?

23 A. Yeah.

24 Q. Ms. Martin works for the Eleventh Circuit Solicitor's  
25 Office, right?

1 A. Right.

2 Q. They play for the same team?

3 A. Okay.

4 Q. Right?

5 A. Yeah.

6 Q. Do you recall speaking with Investigator Mountzouros  
7 January 29, 2021?

8 A. I -- yeah.

9 Q. And you told her what happened, right?

10 A. I did.

11 Q. And she asked you -- do you recall her asking you why  
12 are you coming forward with this information now? Do you  
13 recall that?

14 A. Yeah.

15 Q. And you told her because I'm in trouble?

16 A. Yeah.

17 Q. You were in trouble, weren't you?

18 A. Yeah.

19 MR. STORY: I beg the Court a brief indulgence.

20 BY MR. STORY:

21 Q. So, Mr. Sternenberg, I asked you -- you've testified  
22 that you wrote this statement, correct?

23 A. Right.

24 Q. And turned it over to Investigator Mountzouros?

25 A. Yeah.

1 Q. And didn't you say in your statement that you hate  
2 Anthony Powell?

3 A. Yeah.

4 Q. Okay.

5 MR. STORY: No further questions at this time.

6 THE COURT: Redirect.

7 MS. MARTIN: Thank you, Your Honor.

8 REDIRECT EXAMINATION

9 BY MS. MARTIN:

10 Q. If I could show you what's been marked for ID as  
11 State's 22. Take a minute and look at that and tell us  
12 if you recognize that document?

13 A. Yeah.

14 Q. All three -- four pages. Who wrote that?

15 A. I did.

16 Q. And is that the statement Mr. Story was questioning  
17 you about?

18 A. Yeah.

19 MS. MARTIN: Your Honor, we'd move it into evidence.  
20 Rule of completion.

21 THE COURT: Without objection, Mr. Story? Mr. Story?

22 MR. STORY: A brief indulgence, Judge.

23 THE COURT: Okay.

24 MR. STORY: No objection.

25 THE COURT: Very well. So admitted. State's

1 Exhibit 22 in evidence.

2 MS. MARTIN: Thank you.

3 (State's Exhibit Number 22, Sternenberg written  
4 statement, was admitted into evidence.)

5 BY MS. MARTIN:

6 Q. And this statement was given to Investigator  
7 Mountzouros in 2021?

8 A. Yeah.

9 Q. Okay. And let's back up a little bit about what you  
10 pled guilty to. You pled guilty to burglary third, right?

11 A. Yeah.

12 Q. But you also pled guilty to burg second violent,  
13 didn't you?

14 A. Yes.

15 Q. To the storage unit, the Lake Murray storage unit?

16 A. Yes.

17 Q. So you did plead guilty to one burg second violent?

18 A. I did.

19 Q. As well as the B&E and meth; is that right?

20 A. Yes.

21 Q. When was the first time you and I ever talked about  
22 you testifying in Dwight Powell's trial?

23 A. Well after that.

24 Q. Okay. Was it this year?

25 A. Yeah, it was this year.

1 MS. MARTIN: That's all we have, Your Honor.

2 THE COURT: Any recross?

3 MR. STORY: A brief indulgence.

4 THE COURT: Yes, sir.

5 MR. STORY: No further questions, Your Honor.

6 THE COURT: All right. The witness may step down.

7 (Witness excused.)

8 THE COURT: Counsel, would you-all approach?

9 (Proceedings held at the bench; not reported.)

10 THE COURT: I tell you what, ladies and gentlemen,  
11 we'll take a short recess. Refresh yourselves in the  
12 jury room and I'll get you back out here in a few minutes.  
13 As soon as you-all are ready, let the bailiff know and  
14 I'll get you back in here.

15 (Whereupon, the jury retires to the jury room at  
16 10:54 AM.)

17 THE COURT: A quick question.

18 MS. MARTIN: Okay.

19 THE COURT: I'll speak to you-all up here real quick.

20 (Proceedings held at the bench; not reported.)

21 THE COURT: All right. I've talked with the  
22 attorneys.

23 Mr. Kirkland, I've decided what I'd like to do is  
24 proffer your testimony first before it goes in front of  
25 the jury just to make sure, and I just made that decision

1 about forty-eight seconds ago, so let's go ahead.

2 And, Mr. Kirkland, if you'll come on up and I'll  
3 swear you in and we can get this done and make sure it  
4 passes muster.

5 (Whereupon, Bradley Kirkland was duly sworn by the  
6 Clerk of Court.)

7 THE COURT: All right. Ms. Martin.

8 BRADLEY MYERS KIRKLAND,

9 having been duly sworn, testified as follows:

10 EXAMINATION (In-Camera)

11 BY MS. MARTIN:

12 Q. Mr. Kirkland, what's your occupation?

13 A. I am an attorney. Specifically I specialize in the  
14 area of criminal defense.

15 Q. And let's just get right to it, do you know the  
16 defendant -- or co-defendant, Corey Randall Sternenberg?

17 A. I do. I represent him.

18 Q. Okay. Did you represent him at his plea in 2021?

19 A. I did.

20 Q. In 2021, did you and I discuss him being a State's  
21 witness in Dwight Powell's trial on this burglary charge?

22 A. No.

23 Q. When Corey Sternenberg pled guilty, did he plead  
24 guilty to burg second for the storage unit burglary?

25 A. Yes.

1 Q. Okay. And did the garage Irmo burglary get dismissed?

2 A. That was the -- the garage residence burglary?

3 Q. Right.

4 A. Yeah, that one got dismissed.

5 Q. Okay. And was his burglary charge to the garage, the  
6 Tommy Thomas case, dismissed because he had committed to  
7 being a State's witness in Dwight Powell's trial?

8 A. No.

9 Q. Corey Sternenberg has new charges, correct?

10 A. Say that one more time.

11 Q. Corey Sternenberg has new charges?

12 A. Yes.

13 Q. Do you represent him on those charges?

14 A. I do.

15 Q. Do you have any deal in place with anyone in the  
16 Solicitor's office on those charges?

17 A. We do not.

18 Q. Okay. And can you tell us if you were present this  
19 year when the trial team met with Corey Sternenberg for  
20 the first time?

21 A. Yes.

22 Q. And were any deals made with him in your presence  
23 about his new charges?

24 A. Absolutely not.

25 Q. Okay.

1 MS. MARTIN: Please answer any questions the defense  
2 may have.

3 THE COURT: Mr. Story.

4 MR. STORY: I don't have any questions during the  
5 proffer, Your Honor.

6 THE COURT: I just did it out of habit. Ms. Martin  
7 turned to me.

8 All right. That seems to be to the point.

9 Outside of it being a little outside the ordinary,  
10 any issues, Mr. Story?

11 MR. STORY: I still -- you know, my position is this  
12 is bolstering his testimony, so I object.

13 THE COURT: I think -- you know, I looked into  
14 this as well, and Mr. -- Mr. Kirkland's not gonna offer  
15 any testimony about Mr. Sternenberg's veracity or  
16 truthfulness or anything they discussed regarding what  
17 happened or what didn't happen. I think this really  
18 more confirms both direct and cross-examination for  
19 Mr. Sternenberg and as long as there's nothing --  
20 nothing appears to be going -- nothing will be said that  
21 improperly bolsters the previous witness, and whether  
22 it's ultimately corroborated is a question for the jury  
23 anyway.

24 If we keep it that simple I think we can be quick  
25 in and out, so obviously without -- I mean, Mr. Story,

1 you're free to do your own cross, but if your cross is  
2 in the same line as what you did with Mr. Sternenberg,  
3 although Ms. Martin may beat you to some of it anyway  
4 on her direct, but you may or may not have any questions  
5 or obviously please don't elicit any -- or attempt to  
6 elicit any improper bolstering by accident. I'm just  
7 saying -- I don't expect you to ask about his opinion  
8 on the truthfulness of Mr. Sternenberg, of course, so.

9 All right. Mr. Kirkland, you can have a seat.

10 Thank you.

11 (Witness excused.)

12 THE COURT: All right. The jury's ready to come  
13 back in.

14 All right. Is the State ready to proceed?

15 MS. MARTIN: Yes, sir.

16 THE COURT: Defense ready?

17 MR. STORY: Defense is ready, Your Honor.

18 THE COURT: Bring them in, please.

19 (Whereupon, the jury return to the courtroom at  
20 11:15 AM.)

21 THE COURT: All right. Ladies and gentlemen,  
22 Mr. Foreman, welcome back. We'll pick up with our next  
23 witness in the State's case in chief.

24 MS. MARTIN: Thank you, Your Honor. May it please  
25 the Court?

1           We call Brad Kirkland.

2           (Whereupon, Bradley Myers Kirkland was duly sworn  
3 by the Clerk of Court.)

4           THE CLERK: If you'll have a seat in the witness  
5 chair. If you'll state your name and spell your last  
6 name for the record.

7           THE WITNESS: My name is Bradley, B-R-A-D-L-E-Y.  
8 Myers, M-Y-E-R-S. Kirkland, K-I-R-K-L-A-N-D.

9                                 BRADLEY MYERS KIRKLAND,  
10           having been duly sworn, testified as follows:

11                                 DIRECT EXAMINATION

12 BY MS. MARTIN:

13 Q.    Good morning, Mr. Kirkland.

14 A.    Good morning. I may sort of look a little odd. My  
15 glasses just broke a few minutes ago and I haven't been  
16 able to repair them, so they're messed up.

17 Q.    All right.

18 A.    So I'm having trouble seeing.

19 Q.    Okay. Can you tell us what your occupation is?

20 A.    I am an attorney. Specifically I specialize in the  
21 area of criminal defense.

22 Q.    Okay. And did you know the fella that just testified,  
23 Corey Randall Sternenberg?

24 A.    Yes.

25 Q.    Did you represent him at his guilty plea in April of

1 2021?

2 A. I did.

3 Q. And in 2021, did you and I ever discuss him being a  
4 State's witness in the trial of Dwight Powell?

5 A. No.

6 Q. And did Mr. Sternenberg get a probation offer because  
7 he had committed to being a State's witness in Dwight  
8 Powell's trial?

9 A. No.

10 Q. Mr. Sternenberg actually did plead guilty to a burg  
11 second; did he not?

12 A. He did.

13 Q. To the storage units -- Lake Murray Storage Units?

14 A. Yes.

15 Q. In addition to other indictments?

16 A. Yes.

17 Q. All right. Was his burglary charge to Tommy Thomas's  
18 garage dismissed because he had committed to being a  
19 State's witness in any trial involving Dwight Powell?

20 A. No.

21 Q. Mr. Sternenberg has new charges; is that right?

22 A. He does.

23 Q. Do you represent him?

24 A. I do.

25 Q. And today does Mr. Sternenberg through you and my

1 office have any deal in place with anyone in our office, in  
2 the Solicitor's office, any deal in place that will benefit  
3 him because he just testified?

4 A. No, he -- but it's a -- it's a non-deal deal. The  
5 deal is that your office, and this is the same deal that  
6 has been offered to me for twenty-five years that I've  
7 been practicing law, the deal is the same as it always  
8 is in every single negotiation, the deal is that your  
9 office promises, which I don't personally believe is a  
10 promise at all, but nonetheless a promise to take into  
11 consideration the fact that he cooperated if and/or when  
12 -- it's if or when a plea offer is made, and additionally  
13 that your office, if he does plead guilty, will inform the  
14 judge that he did cooperate at a trial --

15 Q. Okay.

16 A. -- and that's it. And I advise my clients that that  
17 is no deal at all. That there is no promise because your  
18 definition of taking into consideration may not be at all  
19 what the Solicitor's office's definition of taking into --  
20 the charges into consideration is.

21 Q. And is that what was discussed this year when you and  
22 Corey met with the trial team?

23 A. That was discussed this year. That was never  
24 discussed back in 2021.

25 MS. MARTIN: Please answer Mr. Story's questions.

1 THE COURT: Cross-examination.

2 CROSS-EXAMINATION

3 BY MR. STORY:

4 Q. Mr. Kirkland.

5 A. Yes, sir. It's good to see you, Stephen.

6 Q. Do you mind if I call you Brad?

7 A. Yeah, do.

8 Q. You specialize in criminal defense, right?

9 A. Absolutely.

10 Q. Over twenty-five years?

11 A. Twenty-five. It will be twenty-six November 18th of  
12 this year.

13 Q. I'm not gonna ask you how many guilty pleas you've  
14 done, but I'm assuming it's been in the thousands?

15 A. Easily.

16 Q. And you know during a guilty plea the judge gives a  
17 colloquy?

18 A. Yes.

19 Q. And during that colloquy he asks you if it's in the  
20 best interest of the client to plead guilty?

21 A. Yes.

22 Q. And generally they also ask you do you feel if they  
23 went to trial that they would likely be found guilty?

24 A. Yes.

25 Q. And that's in nearly every colloquy?

1 A. I think it's been in every colloquy that I can  
2 remember.

3 Q. Let's say every colloquy then.

4 A. Yeah, I think -- I don't remember it not ever being  
5 in one, so, yes.

6 Q. All right. Are you familiar with the defense of  
7 duress?

8 A. Oh, of course.

9 Q. And you understand -- you know that duress is a  
10 defense to everything but taking an innocent life, right?

11 A. Yes.

12 Q. It is a defense to burglary?

13 A. Yes.

14 Q. It is a defense to breaking and entering a motor  
15 vehicle?

16 A. Yes.

17 MR. STORY: A brief indulgence.

18 No further questions, Your Honor.

19 THE COURT: Any redirect?

20 MS. MARTIN: No, Your Honor.

21 We'd ask that Mr. Kirkland be excused.

22 THE COURT: Without objection, Mr. Story?

23 MR. STORY: Without objection.

24 THE COURT: All right. Thank you, Mr. Kirkland.

25 (Witness excused.)

1 THE COURT: Next witness.

2 MR. SMITH: The State calls Investigator Kelly  
3 Mountzouros.

4 (Whereupon, Kelly Mountzouros was duly sworn by the  
5 Clerk of Court.)

6 THE CLERK: Have a seat on the witness stand. If  
7 you'll state your name and spell your last name for the  
8 record.

9 THE WITNESS: Kelly Mountzouros.  
10 M-O-U-N-T-Z-O-U-R-O-S.

11 KELLY MOUNTZOUROS,

12 having been duly sworn, testified as follows:

13 DIRECT EXAMINATION

14 BY MR. SMITH:

15 Q. Okay. It's still morning. Good morning, Investigator  
16 Mountzouros. Could you tell the jury a little bit about  
17 yourself, please.

18 A. Sure. Like I said, my name is Kelley Mountzouros. I  
19 currently work for Irmo Police Department. I've been there  
20 about twelve and a half years. I am the rank of sergeant  
21 and I'm over the criminal investigations division.

22 Q. Sergeant Mountzouros, you were in here when Sergeant  
23 Hugue and Lieutenant Grinstead testified, correct?

24 A. That's correct.

25 Q. You know about their roles with the department?

1 A. Yes, sir.

2 Q. Can you tell the jury how your role -- how  
3 investigations differs from their roles with the  
4 department?

5 A. Sure. So Sergeant Hugue, he's patrol, so they're  
6 usually the first to get dispatched to a call for service.  
7 Once they arrive on-scene, they usually get an overview of  
8 what's going on and if they think that there is a need to  
9 process evidence, collect evidence, take photographs, then  
10 we get called as the on-call investigator to respond to  
11 that scene.

12 Q. I'm sorry. So, Sergeant, how did you get involved in  
13 this particular case?

14 A. I was on call that day.

15 Q. Who called you to the scene?

16 A. Sergeant De'Andre Hugue.

17 Q. And when you got to the scene, what did you do?

18 A. The first thing I do when I get on-scene is I speak to  
19 the road supervisor who calls me so I can get an immediate  
20 understanding of what's going on and why they called me.  
21 Sergeant Hugue advised me that Mr. Thomas's garage had been  
22 broken into and there was some stuff moved around and he  
23 believed that there could be some evidence to collect from  
24 a red Maserati located inside of that garage.

25 Q. Sergeant Mountzouros, can you describe that incident

1 scene to us?

2 A. Sure. When -- you said -- I'm sorry. Say that one  
3 more time.

4 Q. The scene you responded to, would you describe it for  
5 us?

6 A. I want to make sure I was right. When I got there,  
7 it's off of Woodrow Street, and you can see Mr. Thomas's  
8 entrance right there at the beginning and if you drive  
9 around the building like was shown a couple of times  
10 before, the garage was on the back side of the building.  
11 When I got there, there was some miscellaneous furniture on  
12 the left-hand side of the building and the garage rollup  
13 door was open.

14 Q. Were there any other businesses around this location?

15 A. Yes. So if you are looking at Mr. Thomas's law firm,  
16 to the right of it is Union United Methodist Church and  
17 then to the left of it is -- or it used to be Carquest  
18 Auto Parts, and then right next to that was Mavis Tire.

19 Q. Sergeant, I'm gonna show you what's already been  
20 admitted into evidence as State's Exhibit Number 3. Is  
21 that an accurate depiction of the scene?

22 A. That's correct. That's the church.

23 Q. And State's Number 2?

24 A. Also the church entrance -- or one of them. Yes, sir.

25 Q. And Number 6, what is this?

1 A. That is Mr. Thomas's garage that was broken into.

2 Q. And State's Number 1?

3 A. That is the front and side view of Mr. Thomas's law  
4 firm and it was -- I was standing right by the entrance of  
5 the Union United Methodist Church.

6 Q. How do you -- how do you recognize these photographs,  
7 Sergeant?

8 A. I took them.

9 Q. And you just mentioned a second ago something about  
10 some furniture being outside?

11 A. Yes, sir.

12 Q. Do you recognize this photo?

13 A. Yes. That was what was on the left-hand side of the  
14 building.

15 Q. Who took this photo?

16 A. I did.

17 Q. About those businesses and the church you mentioned at  
18 the crime scene, did you do any -- do you know what those  
19 business hours would be around there?

20 A. Yes. So the church has daycare, so that's obviously  
21 gonna be more of a daytime business interaction for Monday  
22 through Friday, but the church throughout the entire week,  
23 including the weekends, they host different organizations,  
24 groups, activities, church itself, prayer group, anything  
25 like that, and those can range anywhere from early morning

1 hours until the evening about eight or nine. And then  
2 Mavis Tire and Carquest, just because they're more an auto  
3 parts kind of store or automotive, they are Monday through  
4 Saturday kind of a business.

5 Q. And you've been with Irmo PD for over a decade now,  
6 correct?

7 A. Yes, sir.

8 Q. Have you had occasion to patrol or respond to that  
9 area during daytime hours?

10 A. I have.

11 Q. Can you give me an opinion based on your time with  
12 Irmo PD if that would be a -- if there would be a lot of  
13 foot traffic in that area during the day?

14 A. There would. Foot and vehicle traffic actually  
15 because Woodrow Street is almost like a cut-through to  
16 another major -- Broad River Road. Also it runs parallel  
17 to two huge neighborhoods that we have, New Friarsgate and  
18 Old Friarsgate, so vehicles pass through that, and then  
19 there's a lot of foot traffic that people follow from the  
20 railroad tracks that's right in front of Mr. Thomas's  
21 building, they kind of use that to walk out of the  
22 neighborhoods to other establishments in the area.

23 Q. Sergeant, I'm gonna show you what's already been  
24 admitted into evidence as State's Exhibit Number 17. Do  
25 you recognize this?

1 A. Yes. That was Mr. Thomas's red Maserati that was  
2 located inside of his garage when I responded to the scene.

3 Q. Did you take this photograph of his car on the day you  
4 responded?

5 A. No.

6 Q. How many photographs did you take at the scene the day  
7 you responded?

8 A. Just one.

9 Q. Why only one?

10 A. A couple of reasons really. The lock was already  
11 broken off and missing, so there was nothing really to  
12 photograph there. The -- some of the stuff was already  
13 moved back in and then I couldn't find any forced entry to  
14 it, so there's really no other pictures to take to be  
15 honest with you.

16 Q. Did you speak with Mr. Thomas when you responded to  
17 the scene?

18 A. I did.

19 Q. Now you were in here when he testified yesterday,  
20 correct?

21 A. That's correct.

22 Q. Did you hear him testify as to the value of that  
23 vehicle?

24 A. Yes, I did.

25 Q. During your investigation, did you also make attempts

1 to confirm the value of that vehicle?

2 A. I did, and per Kelly Blue Book, you know how that  
3 works sometimes, good condition, fair, whatever it is, but  
4 I can tell you that it would be over \$10,000 in value.

5 Q. And can you remind us again -- so we know that  
6 Sergeant Hugue was first on the scene --

7 A. Uh-huh.

8 Q. -- why exactly you were called out. Why wouldn't this  
9 be an investigation he could have handled?

10 A. He said when he looked inside the garage he saw what  
11 appeared to him to be some possible fingerprints on a  
12 window, so he wanted me to come out to process those.

13 Q. And can you tell the jury how fingerprints can assist  
14 in criminal investigations?

15 A. Yeah. No two fingerprints are alike, so they're very  
16 unique and super helpful towards us because that can  
17 potentially help us identify who they belong to.

18 Q. And have you been trained in the collection of  
19 fingerprints for evidence?

20 A. I have. At the South Carolina Criminal Justice  
21 Academy in some basic and advanced classes.

22 Q. To your knowledge, are all law enforcement officers  
23 in South Carolina trained to some extent in fingerprint  
24 collection?

25 A. Yes, to my knowledge.

1 Q. Could you tell us a little bit about that supplemental  
2 education you've received in fingerprint collection?

3 A. I've taken some basic detective classes, some more  
4 advanced crime scene classes, some homicide classes as  
5 well, and throughout those classes, after you're done with  
6 them, at the end they do something called a practical,  
7 which is whatever you've learned that day, a week, two  
8 days, whatever the training was, they actually make you  
9 apply it and do it there on-scene to make sure that you're  
10 understanding and grasping the new training that you just  
11 received.

12 Q. And during your career, Sergeant Mountzouros, how many  
13 times would you say you've collected fingerprints from a  
14 scene?

15 A. Close to a hundred.

16 Q. Did you collect any fingerprints from this scene?

17 A. I did. I collected two.

18 MR. SMITH: Permission to approach the witness, Your  
19 Honor?

20 THE COURT: Yes, sir.

21 BY MR. SMITH:

22 Q. Sergeant, I'm gonna show you what was marked for  
23 identification yesterday as State's Exhibit Number 25. Can  
24 you tell me what those are?

25 A. These are the fingerprint cards that I took.

1 Q. And you recognize them because?

2 A. Of my handwriting on the back and the diagram that I  
3 drew and also because I sealed the envelope that they were  
4 in with my handwriting on it.

5 MR. SMITH: Your Honor, at this time I'd move  
6 State's Exhibit Number 25 into evidence.

7 MR. STORY: No objection, Your Honor.

8 THE COURT: State's Exhibit 25 is admitted into  
9 evidence.

10 (State's Exhibit Number 25, latent print cards, was  
11 admitted into evidence.)

12 BY MR. SMITH:

13 Q. Where did you locate those fingerprints?

14 A. I located them on the driver's door window that was  
15 up.

16 Q. Okay. And I heard you use the word "latent  
17 fingerprint". What does that mean?

18 A. It's basically -- it's a fingerprint that's made up  
19 of the body's oils and sweats on the skins surface and then  
20 when you touch another surface it transfers that print.

21 Q. And how many of these did you see on-scene?

22 A. I saw two.

23 Q. And how did they catch your eye?

24 A. It was because of the type of surface they were on.  
25 It was on glass obviously because it was a window, so when

1 they're on smooth surfaces like that they're easy to see  
2 and detect versus like a rougher substance that you can't  
3 really see sometimes the print on.

4 Q. And how do you know where to look for fingerprints at  
5 a scene?

6 A. Depending on the item that I'm processing, I try to  
7 take into account what would be reasonable where somebody  
8 would touch that item or need to touch it. So in this case  
9 because it was a vehicle, it's reasonable to assume that  
10 somebody would need to touch the door handle, the apex,  
11 which is kind of that little strip behind the window, or  
12 the window itself. Especially when you're shutting a door,  
13 sometimes you do it with your hand, sometimes you do it,  
14 you know, with a door handle, so that's how I usually  
15 figure it out and that's why I looked at the places that I  
16 did and found them.

17 Q. In your career, Sergeant, have you tried to lift  
18 latent fingerprints from various types of surfaces?

19 A. I have.

20 Q. And does the surface type affect the quality and  
21 visibility of fingerprints?

22 A. Yes, sir. Just like I explained before, the smoother  
23 the surface, the better. The rougher the surface makes it  
24 harder.

25 Q. And were these fingerprints you collected at this

1 scene, were they readily visible?

2 A. Yes, I could see them.

3 Q. If you would, Sergeant, please tell the jury how you  
4 collect fingerprints for evidence.

5 A. So I put gloves on. I use my fingerprint kit and in  
6 that kit there's -- I use black magnetic powder and a wand.  
7 It looks basically like a pen or a pencil with feather-like  
8 material on the end of it. It will dip that wand into  
9 some of the powder and then gently twist that wand over  
10 the fingerprint, barely touching it, just so that magnetic  
11 powder will stick to that fingerprint making it -- the more  
12 you do that, the easier it is to see it almost.

13 So once I developed it enough, I will get a piece of  
14 clear fingerprint tape, which is like masking tape. I will  
15 then place that piece of tape over that fingerprint, then  
16 carefully lift that piece of tape back up and then place  
17 it on an index card as in here because then that magnetic  
18 powder is transferring that print to this card.

19 Once that's done, then I fill out the back of the  
20 sheet with a diagram of where I printed that -- or where I  
21 lifted the print from and then some case information, like  
22 a case number, you know, all that stuff, incident location.

23 MR. SMITH: I beg the Court's indulgence for moment.

24 BY MR. SMITH:

25 Q. Sergeant, is that process you use to collect

1 fingerprints the same each and every time?

2 A. Yes.

3 Q. And how do you make sure when you are collecting a  
4 sample, what -- what do you do to ensure that it's suitable  
5 to be tested and isn't compromised?

6 A. I will put gloves on and keep them on the entire  
7 process. Once I'm done with them, I will put them in a  
8 manila envelope, such as this, seal it, and then drop it  
9 into an evidence locker like Lieutenant Grinstead was  
10 talking about yesterday. I turn the key and there's like  
11 a little keyhole, you drop the key in there, and I can't  
12 touch it again until I ask somebody to get it out of the  
13 evidence control, which is Lieutenant Grinstead or Major  
14 Hendricks.

15 Q. And we heard Lieutenant Grinstead testify yesterday  
16 that evidence room is a secure location?

17 A. Yes.

18 Q. Could you have walked into Irmo PD at any time and  
19 gotten those cards if you wanted to?

20 A. No.

21 Q. Do you know where your latent prints were taken for  
22 testing?

23 A. SLED.

24 Q. Lieutenant, I'm gonna show you what's been admitted  
25 into evidence as State's Exhibit Number 21. It's the crime

1 tip that Mr. Sternenberg submitted. Are you familiar with  
2 this document?

3 A. I am.

4 Q. How so?

5 A. Lieutenant Grinstead forwarded this e-mail to me on  
6 January 29th of 2021.

7 Q. At the time that this tip was made, had you made any  
8 arrests on this incident?

9 A. No.

10 Q. Once you received this tip, what did you do?

11 A. I thought it was going to be a good idea to go and  
12 interview Corey Sternenberg at Lexington County Detention  
13 Center just because the tip itself had very specific  
14 information in it that I believed only somebody who was  
15 there or committed the crime would know about.

16 Q. And when did you go do that interview?

17 A. I did it February 1, 2021.

18 Q. And you may have mentioned this already, but where was  
19 that?

20 A. At Lexington County Detention Center.

21 Q. Was that interview recorded?

22 A. It was.

23 Q. And you sat down with Mr. Sternenberg during the  
24 interview?

25 A. I did.

1 Q. Did you advise Mr. Sternenberg of his Miranda rights?

2 A. I did and he waived them, which means that he gave up  
3 his -- he wanted to talk to us without an attorney.

4 Q. But did he -- he did acknowledge that he understood  
5 them?

6 A. Yes, sir. He did.

7 Q. At any point during this interview did you make any  
8 threats or promises to Mr. Sternenberg?

9 A. No.

10 Q. Did you advise him that by talking he could be  
11 exposing himself to criminal charges?

12 A. Yeah.

13 Q. Did you charge Corey Sternenberg for this incident  
14 after speaking to him?

15 A. I did. Yes, sir.

16 Q. Did you ask him for a written statement?

17 A. I did.

18 Q. Did he provide one?

19 A. He did. He -- during the interview, he said that he  
20 kind of already started writing one and then after our  
21 interview he wanted to add a couple of more things, so I  
22 gave him a couple of more days to do so, and I went back to  
23 the detention center on February 4, 2021, and collected a  
24 four-page statement from him, a written statement.

25 Q. Lieutenant, I'm gonna put up on the board what's

1 already been admitted as State's Number 22. Is this the  
2 written statement that Mr. Sternenberg provided to you?

3 A. That is.

4 Q. So after -- so you did arrest Corey Sternenberg for  
5 this. Are you aware of how this case was resolved with  
6 respect to Mr. Sternenberg?

7 A. I was.

8 Q. And you heard -- you heard testimony today that with  
9 his plea this particular incident against Mr. Sternenberg  
10 was dismissed?

11 A. That's correct.

12 Q. Now during your career have you had occasion to meet  
13 with solicitors on cases that you've investigated?

14 A. Yes.

15 Q. In your experience, is it unusual for defendants with  
16 multiple charges to plead to, say, one charge in exchange  
17 for dismissing --

18 MR. STORY: Objection, Your Honor. Personal  
19 knowledge.

20 THE COURT: Well, it was a general question. I'll  
21 overrule the objection, but I don't want to talk about  
22 any specific cases here, Mr. Smith.

23 MR. SMITH: No, Your Honor.

24 BY MR. SMITH:

25 Q. Without talking about any specific cases, in your

1 knowledge and dealing with solicitors' offices, is it  
2 common for defendants to, say, plead to one charge in  
3 exchange for dismissal of another?

4 MR. STORY: Objection, Your Honor. My same -- my  
5 same objection. He's asking about plea negotiations  
6 in a courtroom and not necessarily what she discusses  
7 with the solicitors.

8 THE COURT: Let me speak with you real quick.

9 (Proceedings held at the bench; not reported.)

10 THE COURT: I'll sustain the objection.

11 MR. SMITH: Thank you, Your Honor.

12 BY MR. SMITH:

13 Q. And, Sergeant, based on your interview with  
14 Mr. Sternenber, did you identify any other suspects in  
15 this matter?

16 A. I did. The defendant, Dwight Powell, and then a  
17 Tiffany Clayton.

18 Q. And did you ultimately arrest Dwight Powell for this  
19 burglary and attempted grand larceny?

20 A. Yes, he was arrested.

21 Q. Did you verify his date of birth?

22 A. Yes. It was [REDACTED], 1982.

23 Q. Did you verify his SC identification number?

24 A. Yes. 0007943952.

25 Q. Is Mr. Powell in this courtroom?

1 A. He is. He's sitting over there with that white shirt  
2 and tie on at the defense table.

3 MR. SMITH: Your Honor, let the record to reflect  
4 that Sergeant Mountzouros has identified the defendant.

5 THE COURT: Very well.

6 BY MR. SMITH:

7 Q. Now we just heard from you that you identified a  
8 woman named Ms. Tiffany Clayton and we heard from  
9 Mr. Sternenberg they were driven to and from the scene by  
10 Tiffany Clayton. Were you able to locate this woman?

11 A. No. I tried a couple of different ways to try and  
12 find her by different phone numbers, addresses, tried  
13 something called an attempt to locate, which is basically  
14 if I get an address from a jurisdiction, I try to send  
15 those police officers to knock on the door and locate  
16 them. Those -- it yielded negative results for any of the  
17 attempts that I made.

18 Q. Why wasn't finding her a higher priority in this case?

19 A. So, I mean, beyond, you know, Corey's statement, there  
20 was no other corroborating evidence like I had with Corey  
21 and Dwight.

22 MR. STORY: Objection, Your Honor. They haven't  
23 laid a foundation for that, Your Honor.

24 (Proceedings held at the bench; not reported.)

25 BY MR. SMITH:

1 Q. Sergeant, did you obtain any physical evidence that  
2 Tiffany Clayton was present at the scene?

3 A. I did not.

4 MR. SMITH: I beg the Court's indulgence for a  
5 moment.

6 BY MR. SMITH:

7 Q. Sergeant Mountzouros, did you receive a report back  
8 from SLED on the fingerprints you submitted?

9 A. I did.

10 Q. And at some point did you request SLED go back and  
11 test those samples again?

12 A. I did.

13 Q. Is it common for you to do that?

14 A. I wouldn't say it's common, but it's not unheard of  
15 either.

16 Q. And did you take a newer known standard from defendant  
17 to test it?

18 A. I did.

19 Q. When was that?

20 A. I took the ten -- the newer ten-print standard from  
21 the defendant on August 9, 2023.

22 MR. SMITH: I beg the Court's indulgence for a  
23 moment.

24 BY MR. SMITH:

25 Q. All right. Sergeant Mountzouros, I'm gonna show you

1 what's been marked for identification as State's 29. Do  
2 you recognize those items?

3 A. I do.

4 Q. What are they?

5 A. This is the newer ten-print standard of the  
6 defendant's fingerprints that I took on August 9, 2023.

7 MR. SMITH: Your Honor, at this time I'd introduce  
8 those ten-prints as State's Exhibit Number 29.

9 THE COURT: For identification purposes only?

10 MR. SMITH: No, for evidence. She took them, Your  
11 Honor.

12 THE COURT: Okay.

13 All right. Any objection?

14 MR. STORY: No objection.

15 THE COURT: All right. So admitted. State's  
16 Exhibit 29.

17 (State's Exhibit Number 29, Powell fingerprint card,  
18 was admitted into evidence.)

19 BY MR. SMITH:

20 Q. And did you get results on that second test?

21 A. I did.

22 Q. Do you know when that was?

23 A. They came back on August 18, 2023.

24 Q. And did you add to or subtract from those items at any  
25 point?

1 A. Absolutely not.

2 Q. Briefly, Sergeant, I want to clarify a thing or two  
3 here. We saw the pictures earlier. We've seen two  
4 vehicles at Mr. Thomas's business. Is this the vehicle  
5 you checked for evidence?

6 A. No, it is not.

7 Q. Was it -- do you recall if it was on-scene the day  
8 that you responded?

9 A. I don't remember honestly.

10 Q. Going back to State's Number 17, is this the vehicle  
11 that you collected evidence from?

12 A. Yes.

13 Q. Do you recall if the top was down on the vehicle?

14 A. The top was down and the windows were up.

15 Q. And you mentioned in your testimony that you only  
16 collected fingerprints from the driver's side window?

17 A. Yes, sir.

18 Q. Why didn't you look for the entire -- why did you not  
19 print the entire car?

20 A. Again, just given the surface, those were the only  
21 ones that I really saw.

22 Q. And when you -- when you collected the prints from  
23 this car, where was it?

24 A. Where did I get them from?

25 Q. I'm sorry. Where was the car itself?

1 A. It was inside Mr. Thomas's garage. I'm sorry.

2 MR. SMITH: I don't have any further questions for  
3 you at this moment. Please answer defense's questions.

4 THE COURT: Cross-examination.

5 MR. STORY: May it please the Court?

6 THE COURT: Yes, sir.

7 CROSS-EXAMINATION

8 BY MR. STORY:

9 Q. Investigator Mountzouros, am I saying that correctly?

10 A. Yes.

11 Q. You received a crime tip from Corey Sternenberg on  
12 January 29, 2021?

13 A. That's correct.

14 Q. And that tip was from the detention center?

15 A. Yes. Ultimately, yes, it was.

16 Q. From the Lexington County Detention Center?

17 A. Yes.

18 Q. That's the local jail?

19 A. That's correct.

20 Q. That message was about a burglary?

21 A. Uh-huh. Yes, sir.

22 Q. In Irmo?

23 A. Yes, sir.

24 Q. And it contained details?

25 A. It did.

1 Q. As you previously testified, it contained details  
2 about the burglary at Tommy Thomas's office?

3 A. Yes.

4 Q. That only the perpetrator would know, correct?

5 A. Yes.

6 Q. And it mentioned Dwight Powell?

7 A. It did.

8 Q. And that is the first time you had heard that name in  
9 association with this investigation?

10 A. Yes.

11 Q. His name had not come up yet, correct?

12 A. It had not.

13 Q. And I just want to clarify one thing. Tiffany  
14 Clayton, Michelle Eisinger, to your knowledge are not the  
15 same person?

16 A. To my knowledge, no. Two different people.

17 Q. So as you testified, you to went to meet with Randy  
18 Sternenberberg?

19 A. Yes.

20 Q. At the jail?

21 A. Yes.

22 Q. Where he was an inmate?

23 A. Yes.

24 Q. I mean, you-all didn't just meet for coffee there,  
25 correct?

1 A. No.

2 Q. That's where he was living at the time?

3 A. He was being housed there. Yes, sir.

4 Q. And was not free to leave?

5 A. Correct.

6 Q. And so you spoke with him on -- I think it was

7 February 1st?

8 A. February 1st. Yes, sir.

9 Q. You took a recorded statement?

10 A. I did.

11 Q. And you said you've been an investigator for over a

12 decade?

13 A. I've been with Irmo PD about twelve and half, but been  
14 in investigations -- October will be nine years. So close  
15 to it.

16 Q. Close to it. And you're familiar with the offense of  
17 kidnapping in South Carolina, correct?

18 A. I am.

19 Q. And you know that if you hold someone against their  
20 will by threats that could be a kidnapping?

21 A. Correct.

22 Q. In fact, you told Mr. Sternenberg what he described  
23 that Mr. Powell did was a kidnapping, didn't you --

24 A. Yes.

25 Q. -- during that interview? And you're familiar with

1 the offense of possession of a weapon during a violent  
2 crime, correct?

3 A. Yes, I am.

4 Q. And you know that if someone possesses a weapon during  
5 a kidnapping that that is possession of a weapon during a  
6 violent crime?

7 A. Yes, sir.

8 Q. And you're familiar with the offense of impersonating  
9 a law enforcement officer, correct?

10 A. I am.

11 Q. And you know that if someone holds them self out as a  
12 law enforcement officer that that would constitute that  
13 offense?

14 A. Yes.

15 Q. Such as someone showing a badge to someone, correct?

16 A. Uh-huh.

17 Q. Like an ATF badge?

18 A. Yes, sir.

19 Q. That would constitute impersonating a law enforcement  
20 officer, right?

21 A. Yes.

22 Q. You did not charge Dwight Powell with kidnapping?

23 A. I did not.

24 Q. You did not charge Dwight Powell with possession of a  
25 weapon during a violent crime?

1 A. I did not.

2 Q. You did not charge Dwight Powell with impersonating a  
3 police officer?

4 A. I did not.

5 MR. STORY: A brief indulgence.

6 BY MR. STORY:

7 Q. Investigator Mountzouros, you previously testified on  
8 direct that you generally collect prints from places that  
9 hands may have touched?

10 A. Yeah, I try to do that on each item depending on what  
11 it is.

12 Q. Just depending on places where fingerprints are likely  
13 to be, right?

14 A. Yeah, where it's reasonable.

15 Q. All right. You didn't take fingerprints on the door  
16 of the storage facility, did you?

17 A. On the door of it? No. It was more of a -- a rigid  
18 surface, so it would have been harder to even locate them.

19 Q. During your investigation you didn't get any security  
20 footage from the local Circle K?

21 A. No, I -- well, by the time I found out about that the  
22 surveillance was already gone.

23 Q. So you went and checked?

24 A. I attempted, but it was already gone.

25 Q. Okay.

1 A. Yeah. It had already expired. And the other  
2 locations Mr. Sternenberg mentioned, the CVS.

3 Q. Okay. And you attended the criminal justice academy,  
4 correct?

5 A. I did.

6 Q. And at the criminal justice academy you're taught to  
7 write a report?

8 A. Yes.

9 Q. And to put everything important during an  
10 investigation in the report, correct?

11 A. Yes.

12 Q. You did not talk about going to the Circle K to get  
13 footage in your report, did you?

14 A. I did not.

15 Q. Okay. You also did not get an extraction of  
16 Mr. Sternenberg's phone, correct?

17 A. No, I did not.

18 Q. Okay.

19 MR. STORY: A brief indulgence.

20 No further questions, Your Honor.

21 THE COURT: Any redirect?

22 MR. SMITH: No, Your Honor, but we would excuse her  
23 subject to recall.

24 THE COURT: So the witness may step down subject to  
25 recall?

1 MR. SMITH: Yes, Your Honor.

2 THE COURT: All right. Very well.

3 (Witness excused.)

4 MS. MARTIN: May we approach?

5 THE COURT: Yes, ma'am.

6 (Proceedings held at the bench; not reported.)

7 THE COURT: All right. Ladies and gentlemen, we'll  
8 go ahead and break for our lunch now before we call our  
9 next witness. I'd like you to be back in your jury room  
10 at 1:15. That's an hour and twenty minutes. Have a nice  
11 lunch and we'll continue the trial afterwards.

12 Please don't discuss the case amongst yourselves or  
13 with anyone else, do any sort of independent research  
14 about the case or any of the parties involved with it,  
15 but have a nice lunch.

16 (Whereupon, the jury was excused for lunch at  
17 11:57 AM.)

18 THE COURT: Anything else for the record before we  
19 break?

20 MS. MARTIN: No, sir.

21 THE COURT: All right. Mr. Story?

22 MR. STORY: No, Your Honor.

23 THE COURT: All right. Have a nice lunch.

24 (Whereupon, a luncheon recess was taken at 11:58 AM.)

25 (Back on the record at 1:28 PM.)

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

2 THE COURT: Please be seated. Good afternoon.

3 All right. Are we ready to call our next witness?

4 MS. POPOWSKI: Your Honor, we don't have our --

5 MR. STORY: We just need our client.

6 THE COURT: Excuse me. I would have figure that

7 out.

8 (State's Exhibit Number 30 and 31 were marked for  
9 identification.)

10 THE COURT: All right. Are we ready to bring the  
11 jury in?

12 MS. MARTIN: Yes, sir.

13 THE COURT: All right.

14 MR. STORY: (Nods head.)

15 THE COURT: Mr. Story's head nods.

16 (Whereupon, the jury return to the courtroom at  
17 1:30 PM.)

18 THE COURT: All right. Mr. Foreman, ladies and  
19 gentlemen, welcome back. I hope you had a nice lunch.  
20 We'll pick up with the next witness in the State's case  
21 in chief.

22 MS. MARTIN: Thank you, Your Honor.

23 We'd call Saraphim Haftoglou.

24 (Whereupon, Saraphim Haftoglou was duly sworn by  
25 the Clerk of Court.)

1 THE CLERK: If you'll have a seat over there,  
2 please. If you will state your name and spell your  
3 last, please, for the record.

4 THE WITNESS: My name is Saraphim Haftoglou. That's  
5 H-A-F-T-O-G-L-O-U.

6 SARAPHIM HAFTOGLOU,  
7 having been duly sworn, testified as follows:

8 DIRECT EXAMINATION

9 BY MS. MARTIN:

10 Q. Thank you, sir. Can you, please, tell us where you're  
11 employed?

12 A. I work for the South Carolina Law Enforcement  
13 Division, also known as SLED.

14 Q. And how long have you been employed there?

15 A. I've been there -- June it will be seventeen years.

16 Q. And can you tell us what is your primary duty at SLED?

17 A. My primary duty at SLED is I'm the AFIS supervisor at  
18 SLED. AFIS is also known as the Automated Fingerprint  
19 Identification System.

20 Q. Okay. And can you tell us what the AFIS system does?

21 A. Yes. So the AFIS system is -- it keeps all  
22 fingerprints in our databases. So it's a database to  
23 identify other people throughout the state.

24 Q. And how does it identify people throughout the state?

25 A. It solely identifies people through fingerprints.

1 Q. Okay. And is it a state-wide database or a nationwide  
2 database?

3 A. Our system's a state-wide database. No one else's  
4 fingerprints than the state of South Carolina.

5 Q. Okay. And is the AFIS system open to the general  
6 public?

7 A. No. It's only open to other latent examiners who  
8 search our database and other law enforcement agencies.

9 Q. So would you say it's a secure system?

10 A. Yes.

11 Q. And can you tell us in what way the integrity of the  
12 AFIS system is protected?

13 A. Yeah. So everything submitted to us is submitted as  
14 it was. We don't alter anything. Anyone who has access  
15 to our system to submit or to search must pass certain  
16 protocols and security measures.

17 Q. Can you tell us in general what happens when someone  
18 is fingerprinted?

19 A. Yes. When a fingerprint comes into our system, it  
20 goes through and searches our entire database to see if the  
21 fingerprints match. If a fingerprint does match to that  
22 other person, it will identify them and send that message  
23 back to the individual and it will be added to their --  
24 what we call a State ID Number or SID. If that print does  
25 not exist in our system, it will create a brand new State

1 ID Number for that person.

2 Q. Okay. So it would be possible for someone to have  
3 multiple AFIS matches; is that correct?

4 A. Yes. So a submission is a transaction number, a  
5 unique number for that set of prints that come into our  
6 systems, so that State ID Number may have multiple  
7 transaction numbers underneath it or attached to it.

8 Q. And you said that they're eventually tried to be  
9 grouped by SID number; is that right?

10 A. Yes.

11 Q. Okay. And when we talk about ten-prints, what is a  
12 ten-print?

13 A. A ten-print is -- it's all ten fingers, so that's why  
14 it's called a ten-print card. We capture all ten prints.  
15 So if you've ever gotten your CWP, if you're a teacher,  
16 your real estate license, you would have gotten  
17 fingerprinted and they would capture all ten prints and  
18 submit it to us.

19 Q. Okay. Is a SID number unique to a person?

20 A. Yes.

21 Q. Okay. And were you asked to see if Dwight Powell has  
22 any known submissions within AFIS?

23 A. Yes.

24 Q. And does Dwight Powell have one or more than one known  
25 submissions?

1 MR. STORY: Objection, Your Honor.

2 THE COURT: Yes, sir.

3 MR. STORY: Could we approach?

4 THE COURT: Yes, sir.

5 (Proceedings held at the bench; not reported.)

6 BY MS. MARTIN:

7 Q. Okay. Back to where we were, can you tell us if you  
8 brought with you one or more than one AFIS cards connected  
9 to Dwight Powell?

10 A. I brought more than one.

11 Q. Okay.

12 MS. MARTIN: If I may approach the witness?

13 THE COURT: Yes, ma'am.

14 BY MS. MARTIN:

15 Q. Can you tell us these two documents, State's 30 and  
16 State's 31, did you bring those with you today?

17 A. Yes, I did.

18 Q. And where do they come from?

19 A. They were printed from our AFIS database.

20 Q. Okay.

21 MS. MARTIN: Your Honor, I'd move them into evidence  
22 at this time.

23 THE COURT: Without objection?

24 MR. STORY: Without objection, Your Honor.

25 THE COURT: All right. So admitted.

1 (State's Exhibit Number 30 and 31, Powell AFIS  
2 ten-print cards, were admitted into evidence.)

3 THE COURT: You may publish.

4 MS. MARTIN: Thank you.

5 BY MS. MARTIN:

6 Q. All right. So State's 30 is an AFIS known standard  
7 for what person?

8 A. That is for Dwight Anthony Powell.

9 Q. And on this document can you tell us the SID number  
10 identified with Dwight Powell?

11 A. Yes. It SC01370878.

12 Q. And what is the date of birth?

13 A. It is [REDACTED], 1982.

14 Q. All right. And what is the date of this known ten  
15 print?

16 A. It's 6-17-2021.

17 Q. Okay. In regards to State's Exhibit 31, who does this  
18 pertain to?

19 A. Anthony Dwight Powell.

20 Q. What SID number?

21 A. It's SC01370878.

22 Q. And what's the date of birth?

23 A. [REDACTED], 1982.

24 Q. And what's the date of the submission?

25 A. 11-25-2020.

1 Q. And can you tell when AFIS cards are submitted do they  
2 generally have a photograph?

3 A. The majority of our prints do have photographs.

4 Q. Okay. Are there latent print examiners that work at  
5 SLED?

6 A. Yes.

7 Q. And are you familiar with Kimmi Mears?

8 A. Yes. I've met her a couple of times.

9 Q. Is she an analyst there?

10 A. Yes, she's a latent print examiner.

11 Q. And would that analyst have access to the stored AFIS  
12 information?

13 A. Yes.

14 Q. Can you tell us whether or not she or any other person  
15 that has access, can they modify what is on the known AFIS  
16 side?

17 A. No. No one can modify the prints.

18 MS. MARTIN: Okay. I beg the Court's indulgence for  
19 moment.

20 Please answer any questions Mr. Story may have.

21 THE COURT: Cross-examination.

22 MR. STORY: No questions for this witness.

23 THE COURT: All right. Very well.

24 The witness may step down.

25 (Witness excused.)

1 MS. MARTIN: Thank you, sir. May he be excused?

2 MR. STORY: Without objection.

3 THE COURT: All right. The witness is excused.

4 MS. MARTIN: Your Honor, we'd call Kimberly Mears.

5 THE COURT: Very well.

6 (Whereupon, Kimberly Mears was duly sworn by the  
7 Clerk of Court.)

8 THE CLERK: If you'll have a seat, please. State  
9 your name and spell your last, please, for the record.

10 THE WITNESS: My name is Kimberly Mears. Last name  
11 is spelled M-E-A-R-S.

12 KIMBERLY MEARS,

13 having been duly sworn, testified as follows:

14 DIRECT EXAMINATION

15 BY MS. MARTIN:

16 Q. Ms. Mears, good afternoon.

17 A. Hello.

18 Q. Can you tell us what is your educational background?

19 A. I have a bachelor of science degree in biology from  
20 Winthrop University.

21 Q. And can you tell us where you're employed?

22 A. I'm employed with the South Carolina Law Enforcement  
23 Division, which is commonly known as SLED.

24 Q. And can you tell us how long you've been at SLED?

25 A. I've been with SLED since 2007. In my current role as

1 a forensic scientist in the latent print department since  
2 2011.

3 Q. And you said you're in the latent print department.  
4 Can you tell us how long there has been a latent print area  
5 at SLED?

6 A. Exactly, no. SLED started in the late 1940's and the  
7 fingerprint lab followed shortly thereafter.

8 Q. Okay. And can you tell us a little bit about your  
9 training?

10 A. Once I was hired by the latent print department, I  
11 successfully completed their in-house training program,  
12 which lasted about a year. I was also accepted into the  
13 latent print examiner training program sponsored by the  
14 National Institute of Justice. That was a ten-week  
15 program. Both of those trainings had courses or modules  
16 covering all aspects of fingerprint work.

17 Q. Okay. Is -- fingerprint analysis, is it common or  
18 uncommon?

19 A. It is very common.

20 Q. Okay. Is it something done just in the United States  
21 or is it done worldwide?

22 A. No, it's done worldwide.

23 Q. Can you tell us is testifying in court part of your  
24 job?

25 A. Yes, it is.

1 Q. Okay. And have you done so in the past?

2 A. I have. Approximately thirty or so times.

3 Q. And in the thirty or so times you've testified in a  
4 court of record, can you tell us have you been qualified  
5 as an expert?

6 A. Yes, each of those times.

7 Q. And specifically were you qualified as an expert in  
8 latent print comparisons?

9 A. Yes, I was.

10 Q. Does the technology of comparison software programs,  
11 as well as AFIS, assist you in doing your job?

12 A. Yes, they do.

13 Q. Are you a member of any professional associations?

14 A. The professional organization for my discipline is  
15 called the International Association for Identification,  
16 and, yes, I'm a member of that.

17 MS. MARTIN: Your Honor, we would offer her as an  
18 expert in latent print analysis and comparisons.

19 THE COURT: Any voir dire?

20 MR. STORY: No voir dire, Your Honor, and no  
21 objection.

22 THE COURT: All right. Ladies and gentlemen, a  
23 person testifying cannot give opinion testimony but  
24 testifies as to what they personally saw, heard or  
25 sensed by smell or something of that nature. However,

1 there is an exception when someone's qualified because  
2 of knowledge, education or experience and they're  
3 permitted to give their opinion in certain areas if the  
4 Court qualifies them that way.

5 This witness will be qualified in the area of latent  
6 print comparison and give opinion testimony in that area.  
7 It doesn't mean you must accept the opinion, but it is  
8 evidence for you to use in any way you see fit.

9 MS. MARTIN: Thank you.

10 BY MS. MARTIN:

11 Q. Can you tell us what is a latent print?

12 A. If you look closely at the palm side of your hand, you  
13 will see tiny little raised lines on your skin. Those are  
14 called ridges. Ridges are not running uniformly from one  
15 side of your hand to the other. On the end joints of your  
16 fingers, they are forming one of three distinct pattern  
17 types; an arch, a loop or a whirl. On the remaining joints  
18 and on the palm, they have a path or a flow that is unique  
19 to the area of the hand where they are found.

20 Now within that pattern or flow, the ridges are doing  
21 different things. One ridge may just stop, which is an  
22 ending ridge. One ridge may fork into two, which is a  
23 bifurcation, or the ridge may just be a dot that resembles  
24 a period at the end of a sentence. These are called ridge  
25 characteristics. These characteristics in relationship to

1 each other within the overall path or pattern are what make  
2 up your fingerprint. Now these ridges are aligned with  
3 sweat pores, so throughout the day when you exude sweat,  
4 you eat greasy food, touch your hair or your face, moisture  
5 accumulates on these ridges. When you go to touch a  
6 surface, the moisture transfers from your skin to that  
7 surface corresponding to the ridges on your skin. That is  
8 your latent print. The word "latent" meaning hidden or  
9 invisible and it needs some form of development to be seen.

10 Q. Okay. Something like magnetic black powder?

11 A. Yes, that can be used to make the print visible.

12 Q. Okay. And are latents available on all types of  
13 surfaces?

14 A. Leaving a comparison quality latent print is a chance  
15 event that depends on the person or the skin, it depends on  
16 the item being touched and it depends on the environment  
17 that that item is in.

18 Q. Okay. And are my fingerprints gonna differ from  
19 yours?

20 A. Yes, they are.

21 Q. Okay. My fingerprints are unique to me and me alone?

22 A. Each fingerprint is unique to each person and unique  
23 to the finger or area of skin. Just because one person has  
24 a fingerprint on their index finger, it's not gonna be the  
25 same to any of their other fingers.

1 Q. Okay. And when you're doing your job every day and  
2 you're making fingerprint comparisons and doing an  
3 analysis, what do you need -- what items do you need, two  
4 items, to make this analysis?

5 A. I need a latent or unknown print from a scene or from  
6 evidence and I also need a known print from an individual  
7 to compare to.

8 Q. Okay. And where are your known prints most commonly  
9 gathered from?

10 A. Occasionally we will receive them along with the  
11 evidence or we can retrieve them from AFIS, which is the  
12 Automated Fingerprint Identification System.

13 Q. Okay. Do you access a known AFIS print when you're  
14 trying to make an analysis? Do you -- what I'm asking --  
15 let me back up. Do you go to the original known print or  
16 do you somehow make a working copy?

17 A. If I need to -- each case is different, but if the  
18 case dictates that I need to pull a known fingerprint card,  
19 I will pull a copy from the fingerprint database. I will  
20 pull a copy of that known fingerprint card to use in my  
21 case for comparison.

22 Q. All right. And when making latent comparisons, how  
23 do you -- is there a routine way you first begin every  
24 case?

25 A. When doing the comparisons, we -- first when I get

1 the case, I do an inventory of the evidence to make sure  
2 I have what I'm supposed to have. Then if, depending on  
3 the evidence, if I am going to do a comparison, I'll get  
4 my unknown or latent print and my known print. I scan  
5 them in on your typical desktop scanner into what we call  
6 forensic comparison software. That allows me to have the  
7 two images, the known and the unknown, side by side on  
8 the screen. I can orient them however I need to, adjust  
9 the brightness or the contrast of the image and work from  
10 there doing a side by side comparison of them.

11 Q. All right. So in general let me ask you this. Is  
12 there a protocol within SLED that mandates how you do your  
13 testing procedures?

14 A. We do our comparison using the ACE-V methodology,  
15 which is mandated in our operations manual by SLED, yes.  
16 The ACE-V methodology, those letters stand for an analysis,  
17 comparison, evaluation and verification. Analysis is where  
18 I look at the evidence to determine is there an impression  
19 from ridge skin, is this impression from the end of a  
20 finger, part of a foot or part of a palm, is there enough  
21 information in this impression to be able to compare. Then  
22 I move to the comparison phase, which is where I do that  
23 side by side comparison of the unknown to the known looking  
24 for similarities or unexplainable differences between the  
25 two. Once I have done my comparison, I move to the

1 evaluation where I reach my conclusion of identified, not  
2 identified or inconclusive. Then the verification phase is  
3 where an independent examiner does their own ACE-V process  
4 of the two prints.

5 Q. Is that also known as peer review?

6 A. Yes, that verification phase is the peer review of my  
7 work by another qualified examiner.

8 Q. Okay. So speaking specifically about the case that  
9 brings you here today, can you tell us how you first got  
10 assigned to this case?

11 A. I received a phone call from an officer at Irmo Police  
12 Department asking -- just I happened to be the one to  
13 answer the phone asking if they could just generally add a  
14 suspect to this particular case in our system. So because  
15 I took that phone call, I went ahead and assigned this case  
16 to myself to go ahead and work.

17 Q. Okay. And can you tell us did you access latent  
18 prints that had been left at SLED by Irmo Police  
19 Department?

20 A. Yes, I did.

21 Q. And can you tell us about the inventory process at  
22 SLED? Is there a way that SLED tracks each and every item  
23 of evidence that is left there?

24 A. When physical evidence is submitted to the forensics  
25 lab, it is done so through the evidence control department.

1 The evidence is given to the technicians there. They  
2 create a case in our computer system, our laboratory  
3 information management system. They create a case. It's  
4 given a unique case number, lab number, and then each item  
5 of evidence submitted is given a unique barcode that tracks  
6 that item creating an electronic chain of custody for every  
7 move it makes while in the lab.

8 Q. And can you tell us when you yourself first laid hands  
9 on the submitted latents?

10 A. I took custody of -- if I could refer to my notes?

11 Q. Absolutely.

12 A. I took custody of the evidence in this case on  
13 January 27, 2021.

14 Q. And when you first looked at these latents, are you  
15 required to check the packaging or the way the item is  
16 submitted into evidence?

17 A. Yes. Part of our protocol is that we are required to  
18 document whether we receive the evidence in a sealed or  
19 unsealed manner.

20 Q. And would you have noted in your report or in your  
21 bench notes if there had been any packaging concerns  
22 regarding these latents?

23 A. Yes, I would have.

24 Q. And was there any such concerns?

25 A. No, there was not.

1 Q. Okay. I'm gonna show you what's been marked already  
2 in evidence items -- Item 25. Can you tell us if you  
3 recognize those?

4 A. Yes, I do.

5 Q. And how do you recognize those items?

6 A. The packaging has the barcode that I was explaining  
7 with SLED's lab number on it and then the evidence has the  
8 SLED lab number, item number and my initials on them.

9 Q. Okay. And your writing is on both of those documents?

10 A. Yes, that's correct.

11 Q. Okay. And are those the latents you used in your  
12 testing procedure?

13 A. Yes, they are.

14 Q. Okay. After you received those, what did you do  
15 next?

16 A. So as I explained, I did an inventory to confirm  
17 that I had the correct evidence that I was supposed to  
18 have. I then look at the evidence to determine are there  
19 any impressions here of value that I can compare to a  
20 known print. The impressions are then sub-item'd into  
21 1.1, 1.2, 1.3 just to keep everything straight so I can  
22 talk about a specific print. Any impressions that were of  
23 value for comparison, I then compared with the known prints  
24 of the known individual that was initially called in that  
25 got me involved with the case.

1 Q. Okay. And who was that person, please?

2 A. The name I was given was Michelle Eisinger.

3 Q. Okay. And in your testing procedure, were you able to  
4 receive any hits on Michelle Eisinger from those latents?

5 A. No, nothing was identified to her.

6 Q. Okay. And then what do you do -- after you have  
7 looked at the digitized latents, what is the next process  
8 in your analysis?

9 A. So my ultimate goal is to identify any prints that I'm  
10 given. So I did a comparison with the card from Michelle  
11 Eisinger and I was not able to answer whose prints these  
12 were, so I then search any prints on AFIS, the Automated  
13 Fingerprint Identification System. It is a database of  
14 fingerprints. We have a database strictly for South  
15 Carolina, as well as a Federal database. The prints were  
16 then searched on South Carolina's fingerprint database.

17 Q. And are you looking for a candidate or a hit? Is that  
18 what it's called?

19 A. The way AFIS works, I input an image, which is the  
20 unknown print from my lift, tell it is this a finger, is  
21 this part of the palm, what is the computer looking at. I  
22 then search it through the system or send it to search  
23 through the system. It then gives me a candidate list of  
24 potential matches that it has made. It's telling me hey,  
25 it might be these ten people. So I then go through the

1 unknown print with each of those ten people that the  
2 machine has given me and do a comparison that way.

3 Q. And did you receive any AFIS hits involving Corey  
4 Sternenberg?

5 A. Yes, I did.

6 Q. And then after you receive that you said you do a  
7 comparison side by side; is that correct?

8 A. That is correct. AFIS is essentially just a tool  
9 and so we have to go behind as examiners and do an actual  
10 physical comparison of the unknown print with the known  
11 print that it's telling us is a match. We can't just go  
12 off of that. We have to do our own individual side by side  
13 comparison.

14 Q. Okay. If I can show you what's been marked State's 27  
15 for ID only. Can you tell us if you recognize this  
16 document?

17 A. Yes, I do.

18 Q. What is that?

19 A. This is a known fingerprint card bearing the name  
20 Randall Sternenberg.

21 Q. Okay.

22 MS. MARTIN: Your Honor, I ask to move it into  
23 evidence.

24 THE COURT: Without objection?

25 MR. STORY: Without objection.

1 THE COURT: State's Exhibit Number 27 is admitted  
2 into evidence.

3 (State's Exhibit Number 27, Sternenberg known  
4 fingerprint card, was admitted into evidence.)

5 BY MS. MARTIN:

6 Q. And is your writing on that document?

7 A. Yes. SLED's item number, lab number and my initials  
8 are on the card.

9 Q. Okay. And I'll jump ahead for just a minute. At the  
10 end of all of your testing procedures, do you submit a  
11 copy -- the copy that is from AFIS, do you send that back  
12 to the agency as well with their latents?

13 A. Yes. This -- this physical card is printed from the  
14 database, used in my comparison and then it is sent back  
15 with evidence to the agency.

16 Q. Okay. So specifically in regards to Dwight Powell,  
17 were you able to find any hits or candidates for matching?

18 A. Yes, I was.

19 Q. Okay. After that you said you did the side by side  
20 comparison. Can you tell us a little bit more about how  
21 that's done?

22 A. So I get the candidate list from AFIS, I see what  
23 looks to be a potential hit, I then print a physical card,  
24 scan it in on my computer, on that desktop scanner, to do  
25 the side by side comparison in that comparison software.

1 I have the latent and unknown side by side on the screen,  
2 orient them how I need to, as I said, adjust the contrast  
3 and brightness to make it easy to see, and then it's  
4 essentially like a fancy version of paint where I can go  
5 in with colors and make marks, and I am looking at any  
6 similarities or disagreement or unexplained disagreement  
7 between the two to determine is this actually an  
8 identification or is it not.

9 Q. Okay. If I can show you for identification only  
10 State's 26, which are two cards. Can you tell me if you  
11 recognize them?

12 A. Yes, I do.

13 Q. Were those cards used in your testing?

14 A. Yes. These also have SLED's lab number, item numbers  
15 and my initials on them.

16 Q. And who do they pertain to?

17 A. These cards have the name Dwight Anthony Powell on  
18 them.

19 Q. Do they have a SID number?

20 A. Yes, they do.

21 Q. And do they have a date of birth?

22 A. Yes, they do.

23 Q. Do they match with each other?

24 A. Yes. They match with each other, yes.

25 Q. And those were the ones you sent back to Irmo; is that

1 correct?

2 A. That's correct.

3 Q. All right.

4 MS. MARTIN: I beg the Court's indulgence one moment.

5 May I approach the witness?

6 THE COURT: Yes, ma'am.

7 BY MS. MARTIN:

8 Q. If I can show you what's in evidence as State's 30  
9 and State's 31. Those are known AFIS cards from Dwight  
10 Powell. Can you tell us whether or not they match up with  
11 State's 26, the AFIS cards used in your testing procedure?

12 A. Yes, these are copies of the same cards.

13 Q. Okay. The dates of birth match to each?

14 A. Yes, that's correct.

15 Q. The SID numbers match to each?

16 A. Yes.

17 Q. Is there some protocol or magic number that is  
18 required in order to say that latents from a crime scene  
19 match to a known AFIS person?

20 A. No, there's no set number. It depends on the quality  
21 of the unknown print and the quantity of information  
22 available within it.

23 Q. Okay. We've talked a little bit about peer review.

24 So your work is viewed by another analyst at SLED?

25 A. That's correct. I -- I work my case and after I have

1 finished my case and written up my report, it is then sent  
2 to another qualified latent print examiner to go over  
3 themselves, basically work themselves, to see if they  
4 come to the same conclusion I did, and if they did and  
5 there are no issues found, then my report is issued to the  
6 investigating agency.

7 Q. Okay. And are you required to prepare a final report  
8 of your findings?

9 A. Yes, we are.

10 Q. And is this report always a part of your case file?

11 A. Yes, it is.

12 Q. And have you used this report to refresh your memory  
13 today?

14 A. Yes, I have.

15 Q. Do you believe that viewing your report would assist  
16 the jurors in understanding the testing procedure and any  
17 results?

18 A. Yes, it could.

19 MS. MARTIN: Your Honor, may approach the witness?

20 THE COURT: Yes, ma'am.

21 BY MS. MARTIN:

22 Q. State's Exhibit 20. Can you tell me if you recognize  
23 this document?

24 A. Yes, I do.

25 Q. Is that a report you made?

1 A. Yes, this is a copy of my report.

2 Q. And what is the date on that report?

3 A. It was issued on February 1, 2021.

4 MS. MARTIN: Your Honor, I'd move State's 20 into  
5 evidence.

6 THE COURT: Without objection?

7 MR. STORY: Without objection, Your Honor.

8 THE COURT: State's Exhibit 20 is admitted into  
9 evidence.

10 (State's Exhibit Number 20, a latent print report,  
11 was admitted into evidence.)

12 MS. MARTIN: Move to publish, Your Honor?

13 THE COURT: Very well.

14 BY MS. MARTIN:

15 Q. All right. You said the date was February 1st?

16 Do we have a laser pointer?

17 The date's February 1st; is that correct?

18 A. That's correct.

19 Q. All right. Can you tell us under items of evidence  
20 what we have there?

21 A. Item 1 is describing one of the latent lifts I  
22 received as evidence. It's describing that it is from the  
23 driver's side window. And then items -- as you can see,  
24 they're 1.1, 1.2 and 1.3. Those are all individual prints  
25 or impressions that are on the lift itself. So Item 1.1,

1 latent impression represented on Item 1, basically just  
2 saying it's a print on the lift, and Item 1.1 was  
3 identified to the card bearing the name Randall Corey  
4 Sternenberg. Item 1.2, another impression or print on the  
5 lift, was identified to the card bearing the name Anthony  
6 Dwight Powell. And then Item 1.3, another print on the  
7 lift, was identified to Randall Corey Sternenberg.

8 Q. All right. Let's talk more about that. You rename  
9 the items numbers in your report; is that correct? The  
10 AFIS cards are given another item number?

11 A. Yes. The known fingerprint cards, when they are  
12 printed and used in one of our cases, when they're used  
13 for a comparison, we add them to our computer system as  
14 an item of evidence.

15 Q. Okay. And can you tell us whether or not the Corey  
16 Sternenberg, Item 4, would correlate to State's 27?

17 A. Yes. It has SLED's lab number, Item 4, and my  
18 initials.

19 Q. Okay. And would State's 31 correlate to Dwight  
20 Powell to the card dated 11-25-20? You may also need the  
21 identification only. 28 ID.

22 A. I think you may have given me an incorrect card.

23 Q. Sorry. I did. Sorry.

24 A. Yes. State's Exhibit 31 matches State's ID 26.

25 Q. Okay.

1 A. And it has SLED's lab number, Item 5, and my  
2 initials. And if you look at where it says Item 1.2,  
3 latent impression represented on Item 1 under results,  
4 that line identified with Item 5, Powell comma Anthony  
5 Dwight. That's for the items 4 and 5. That's where those  
6 numbers are coming from.

7 Q. So can you tell us what part of the ten-print this  
8 identified to Dwight Powell?

9 A. That Item 1.2 impression is identified to the left  
10 ring finger.

11 Q. All right. If we can continue, on page 2 these are  
12 more examinations or side by side comparisons; is that  
13 correct?

14 A. That's correct. Yes.

15 Q. Okay. And anything in important on page 2?

16 A. I believe the top is cut off.

17 Q. Sorry.

18 A. We have the second latent left -- or the second  
19 piece of evidence that I received is another latent lift  
20 indicated as coming from the driver's side window. And  
21 then again 2.1, 2.2, 2.3 and 2.4 are all impressions or  
22 prints that were on the latent lift.

23 Q. If I can bring your attention to Item 2.4. Can you  
24 explain that to us?

25 A. Could you move it up just a little bit?

1 Q. I'm so sorry.

2 A. Okay. So Item 2.4 is a latent impression represented  
3 on Item 2, another print on the lift. It was not  
4 identified to the fingerprint cards bearing the name  
5 Michelle Eisinger or Randall Sternenberg and then it was  
6 inconclusive based on the quality of Item 5, Anthony  
7 Powell. Inconclusive means that I cannot tell for one  
8 reason or another. In this particular instance, the area I  
9 needed to compare with, the latent print or the unknown  
10 print from the scene, was an area of the skin that wasn't  
11 well represented on the known card. That area was unclear  
12 or cut off or for some reason I couldn't use it to compare.

13 Q. Okay. And page 3 talks about the known print card  
14 from Anthony Dwight Powell; is that correct?

15 A. Yes.

16 Q. So is it possible when you reach an inconclusive,  
17 would it be common or uncommon to have the agency resubmit  
18 known prints and the latent again to ask you to retest?

19 A. Yes. When I reach an inconclusive, as I said, that  
20 means I can't tell one way or the other. So this  
21 particular print is potentially still unidentified and so  
22 you can see that line kind of on the middle of the page,  
23 please submit clear and complete known finger and palm  
24 prints for further comparison. That is me asking the  
25 reader of the report to submit better known standards for

1 me to do a comparison with.

2 Q. And subsequent to that did Irmo Police Department  
3 submit or resubmit ten-prints from Anthony Powell?

4 A. Yes, they did.

5 Q. Okay. So if I could show you what's already been  
6 identified under State's 29. Were these prints submitted  
7 to you?

8 A. Yes, these are the additional known prints that were  
9 submitted for comparison.

10 MS. MARTIN: Your Honor, we'd move State's 29 into  
11 evidence.

12 THE COURT: Without objection?

13 MR. STORY: Sorry, Your Honor. I beg the Court's  
14 indulgence.

15 No objection, Your Honor.

16 THE COURT: All right. State's Exhibit 29 is  
17 admitted into evidence.

18 (State's Exhibit Number 29, Powell ten-print card,  
19 was admitted into evidence.)

20 BY MS. MARTIN:

21 Q. And can you tell us from a review of your notes when  
22 this new ten-print card and the latents were resubmitted to  
23 SLED?

24 A. They were submitted on August 9th of 2023.

25 Q. Okay. After those were submitted for retesting, do

1 you redo all of the latents that are submitted or how do  
2 you handle that?

3 A. If a print -- a latent or an unknown print has already  
4 been identified or determined to be of no value or not  
5 identified with a specific person, no, we do not go back  
6 and test again with that same person.

7 Q. So specifically in regards to Mr. Powell, are you  
8 looking at the 2.4 from your first report?

9 A. Yes, that is the only print from the first report that  
10 had an inconclusive result so that's the only one that I  
11 had left to look at for my second report.

12 Q. And when you went back through the analysis, did the  
13 new -- I'm gonna say new known ten-print card that the Irmo  
14 officer submitted, was that able to help you have a not  
15 inconclusive? Were you able to reach a result or was the  
16 result the same?

17 A. Again, it was inconclusive. The area I needed to  
18 compare on the known print or on the known standard was not  
19 reported.

20 Q. But, in fact, did you get another hit on a different  
21 AFIS card associated with Dwight Powell?

22 A. Yes. When I reached the inconclusive with the newly  
23 submitted prints from Irmo, I then searched it -- searched  
24 Item 2.4, the unknown latent print, on AFIS and did receive  
25 a hit with an additional card bearing the name Anthony

1 Powell.

2 Q. Okay. And, again, at some point did you record your  
3 results into a written report that was peer reviewed?

4 A. Yes. The process is the same as it was with the first  
5 report.

6 Q. And, again, do you think the jury could benefit from  
7 looking at your written report?

8 A. Yes, I do.

9 Q. If I can show you what's been marked State's  
10 Exhibit 19. Can you identify this?

11 A. Yes, I can.

12 Q. And what is this?

13 A. This is a copy of the second report that was issued.

14 Q. And what is the date of the second report?

15 A. August 18, 2023.

16 MS. MARTIN: Your Honor, I'd move State's 19 into  
17 evidence.

18 MR. STORY: No objection.

19 THE COURT: All right. State's Exhibit 19 is  
20 admitted into evidence.

21 (State's Exhibit Number 19, a latent print report,  
22 was admitted into evidence.)

23 BY MS. MARTIN:

24 Q. Is this where the date -- so, again, I draw your  
25 attention to Item 2.4. Can you tell us what the results

1 were in your side by side analysis?

2 A. If you could move it up just a little bit.

3 Q. Okay.

4 A. There you go. So Item 2.4, again, latent impression  
5 represented on Item 2, was identified with SLED's Item 7,  
6 fingerprint card bearing the name Dwight Anthony Powell,  
7 Jr.

8 Q. And if I could show you State's 30. Would this  
9 correlate to Item 7 that you used in this testing  
10 procedure?

11 A. Yes, it does.

12 Q. And what is the date on that AFIS known standard?

13 A. June 17, 2021.

14 Q. And your first report was February 1st?

15 A. February 1st of 2021.

16 Q. Right. So it hit on a newer AFIS; is that correct?

17 A. Yes. This card, State's Exhibit 30, was not available  
18 to me at the time my first report was issued.

19 Q. On that last report, can you tell us what finger or  
20 part of the finger or hand does it match on Dwight Powell?

21 A. Item 2.4 is identified to the right thumb of the  
22 Item 7 known fingerprint card.

23 Q. If I can show you State's 23. Can you identify what  
24 that is?

25 A. This is known as a court chart or fingerprint chart

1 that I created.

2 Q. And does it pertain to the first testing procedure  
3 from February or the second testing procedure from August?

4 A. The first from February. This is -- this is dealing  
5 with Item 1.2.

6 Q. Okay. That was matched to Dwight Powell?

7 A. That's correct.

8 MS. MARTIN: Your Honor, I'd move State's 23 into  
9 evidence.

10 MR. STORY: No objection.

11 THE COURT: All right. State's Exhibit Number 23  
12 is admitted into evidence.

13 (State's Exhibit Number 23, a fingerprint chart,  
14 was admitted into evidence.)

15 MS. MARTIN: Your Honor, may I have her come down  
16 and explain the chart?

17 THE COURT: Sure.

18 Please make sure the court reporter can hear your  
19 testimony as well.

20 BY MS. MARTIN:

21 Q. Can you tell us what's on here?

22 A. This side is a representation or a scanned image of  
23 the unknown or latent print from the evidence I received.  
24 This side is a scanned image of the finger -- excuse me --  
25 fingerprint block of the known fingerprint card that I

1 received. As you can see, between the two the overall  
2 pattern types I was explaining, the arch, the loop or the  
3 whirl, these both have the overall same looping pattern or  
4 flow of the ridges, and then these red lines are pointing  
5 to specific ridge characteristics that I explained, the  
6 bifurcation, the ridge ending or the dot. And the A, B, C,  
7 that's just to help you line them up. This line matches  
8 this line. So each letter corresponds to the same line on  
9 each side.

10 And this is just an overall visual representation of  
11 what I was explaining when I say that I'm looking at ridge  
12 characteristics and their relationship to each other within  
13 the overall print. So, for example, line F, you can see  
14 this black line is running downward and then it just stops  
15 right here. The same over here. This black line is  
16 running downward and then just stops right there. So I'm  
17 looking for agreement between the two. Any unexplained  
18 differences between the two would mean that these prints  
19 were not identified. So there's no unexplainable  
20 disagreement between these two.

21 Obviously when you're looking at it, you see this  
22 white line across that doesn't look the same, that is just  
23 a crinkle in the tape when the lift was created off of the  
24 vehicle. The actual angle of the loop is not exactly the  
25 same. If you think about your skin, if you just touch your

1 fingers, skin is a pliable surface. If you just lightly  
2 touch something, there's hardly any of the skin making  
3 pressure -- or excuse me -- making contact with that  
4 surface. If you push down really hard, there's a lot of  
5 surface -- or excuse me -- a lot of area of the skin making  
6 contact with that surface. That is what we call kind of a  
7 stretching. The skin is stretched in a way to make this  
8 more elongated, but it doesn't change the fact that it's  
9 the same print.

10 Q. Are the letter points in agreement?

11 A. Yes. Each of these, A through I, are demonstrating  
12 ridge characteristics in agreement between the two. There  
13 are more characteristics and agreements; however, if I were  
14 to mark everything on here you would be looking at a bunch  
15 of tangled red lines and it wouldn't mean anything to you.  
16 This is just enough to show you kind of the process I'm  
17 doing as I work my way around the print from the unknown to  
18 the known.

19 Q. Okay. Please have a seat.

20 A. (Witness complies.)

21 Q. And this is from the first report, correct?

22 A. That is correct.

23 Q. And did we do a court exhibit for the second report?

24 A. No, we did not.

25 Q. Okay. And I didn't ask you to do that, right?

1 A. No.

2 Q. Okay. So in summary, can you tell us in your expert  
3 opinion how many matches from the latents at the crime  
4 scene identify with the known ten-prints of Dwight Powell?

5 A. There were two.

6 Q. Okay. And were there two latents involving two  
7 fingers?

8 A. Each of the latents were identified to a different  
9 finger, yes.

10 Q. Okay.

11 MS. MARTIN: I beg the Court's indulgence.

12 Please answer Mr. Story's questions.

13 THE COURT: Cross-examination.

14 MR. STORY: May it please the Court?

15 THE COURT: Yes, sir.

16 CROSS-EXAMINATION

17 BY MR. STORY:

18 Q. Ms. Mears.

19 A. Hello.

20 Q. I'm -- so I'm looking for the first report. Your  
21 first report is dated February 1, 2021, correct?

22 A. That's correct.

23 Q. And you testified that you received a call from Irmo  
24 Police Department, correct?

25 A. That is correct.

1 Q. Adding another suspect to the -- to the list  
2 essentially?

3 A. I believe this case initially came in with no suspects  
4 and so a call came in adding one, yes.

5 Q. Okay. You don't recall the exact date of that phone  
6 call, do you?

7 A. If I may refer to my notes?

8 Q. Sure.

9 A. I received that call on January 27, 2021.

10 Q. And it's fair to say you got to work fairly quickly.  
11 You assigned the case to yourself you said, right?

12 A. I went ahead and took custody of the evidence that  
13 day, yes.

14 Q. All right. Thank you.

15 So Ms. Martin asked you some questions about your  
16 qualifications and you are an expert in the field?

17 A. Yes, that's correct.

18 Q. And I believe that -- so obviously you got your degree  
19 in biology, correct?

20 A. Yes.

21 Q. And then you went to the SLED latent print academy,  
22 correct?

23 A. The SLED lab, yes.

24 Q. SLED lab?

25 A. Yes.

1 Q. For latent prints, right?

2 A. That's correct.

3 Q. And then you also attended the National Justice  
4 Academy?

5 A. It was a latent print examiner training program  
6 sponsored by the National Institute of Justice.

7 Q. And then you're also a member of the -- can you  
8 tell me that again, the International Association for  
9 Identification?

10 A. That's correct. Commonly known as the IAI.

11 Q. And you keep up with studies and research in your  
12 field, correct?

13 A. That's correct.

14 Q. And you are -- you're familiar with the FBI/Noblis  
15 black box study, correct?

16 A. I am familiar with it, yes.

17 Q. You're familiar with the Miami-Dade Research Study,  
18 correct?

19 A. I don't know I'm familiar with that name specifically.

20 Q. Okay. Well, specifically my understanding is it was a  
21 study done in the Miami-Dade area comparing the error rates  
22 for -- well, not comparing the error rates, but it studied  
23 the error rates in both positive fingerprint identification  
24 and negative fingerprint identification. Do you recall  
25 that?

1 A. There have are been several studies on error rates.  
2 I can't say that I'm familiar with that one.

3 Q. Okay. But you are familiar with the FBI/Noblis black  
4 box study?

5 A. Yes, I am.

6 Q. And that study in particular, as well as others, do  
7 show error rates in fingerprint positive identification,  
8 correct? Greater than zero?

9 A. It is my understanding that the studies in error rates  
10 differ in what they are trying to show and how accurate  
11 that they are. As I explained, we have identification,  
12 non-identification and an inconclusive. There are --  
13 different studies account for those inconclusives  
14 differently. Some discount them altogether because it's  
15 not an identification or a non-identification. Some of  
16 them are included in counting it as a wrong identification.  
17 So the studies are a little bit skewed when trying to  
18 specifically address error rates.

19 Q. Okay. Well, let's talk about the FBI/Noblis black  
20 box study since you said you're familiar with that one.  
21 That did show an error rate greater than zero for positive  
22 identification, correct?

23 A. When I say I'm familiar with it, I mean that I am  
24 aware that it exists and I have read it at some point, but  
25 I can't tell you specifically and cite what it says.

1 Q. Okay. But so you are familiar with studies that  
2 show there are error rates for positive fingerprint  
3 identification, correct?

4 A. They do exist, yes.

5 Q. Okay. And you're familiar with those studies?

6 A. Yes.

7 Q. Okay. Are you familiar with the Brandon Mayfield  
8 case?

9 A. Yes, I am.

10 Q. Yeah. The Madrid train bombing?

11 A. Yes, I am.

12 Q. An attorney in Oregon was -- his fingerprint was  
13 misidentified on bomb-making materials in Madrid, Spain,  
14 correct?

15 A. That's correct.

16 Q. And he was arrested. It was a false-positive  
17 identification, right?

18 A. That is correct.

19 Q. Okay. Thank you.

20 MR. STORY: A brief indulgence.

21 No further questions Your Honor.

22 THE COURT: Any redirect?

23 MS. MARTIN: Yes.

24 REDIRECT EXAMINATION

25 BY MS. MARTIN:

1 Q. Is there anything in your testing procedures and in  
2 your side by side analysis and in the results you provided,  
3 anything to give you cause for concern that there's an  
4 error being made?

5 A. No, there was not.

6 MS. MARTIN: Thank you.

7 THE COURT: Any recross?

8 MR. STORY: No, Your Honor.

9 THE COURT: All right. The witness is excused.

10 (Witness excused.)

11 THE COURT: Your Honor, we would recall Kelly  
12 Mountzouros.

13 THE COURT: Very well.

14 She was under oath earlier, so the witness is still  
15 under oath from before.

16 THE CLERK: Yes, sir.

17 KELLY MOUNTZOUROS,

18 having been previously sworn, testified as follows:

19 DIRECT EXAMINATION

20 BY MR. SMITH:

21 Q. Good afternoon, Sergeant Mountzouros. We've heard  
22 testimony today that -- from Ms. Mears that an AFIS card  
23 was analyzed on a Michelle Eisinger. Did we hear that  
24 testimony?

25 A. Yes.

1 Q. How did that name get to be involved in your  
2 investigation?

3 A. There was an investigator from another agency outside  
4 of Irmo Police Department that gave me some information  
5 that she might be a person of interest. So I couldn't  
6 ignore it, but I found no evidence to support that she was  
7 a person of interest after that.

8 Q. And you were here for Ms. Mears's testimony that none  
9 of the prints were identified to Michelle Eisinger?

10 A. That's correct.

11 MR. SMITH: I beg the Court's indulgence for a  
12 moment.

13 Nothing further, Your Honor.

14 THE COURT: Any questions from the defense?

15 MR. STORY: A brief indulgence.

16 THE COURT: Very well.

17 CROSS-EXAMINATION

18 BY MR. STORY:

19 Q. Investigator Mountzouros, you said you got information  
20 from another department, correct?

21 A. That's correct.

22 Q. And they actually sent you messages, correct?

23 A. They gave me screen shots of the messages. That's  
24 correct.

25 Q. Screen --

1 MS. MARTIN: Objection, Your Honor. May -- may we  
2 approach?

3 (Proceedings held at the bench; not reported.)

4 THE COURT: All right. We'll take a short break  
5 here, ladies and gentlemen, and I'll get you back in here  
6 as soon as I can. So go on back to the jury room, do not  
7 discuss the case, and I'll get you back out here shortly.

8 Thank you.

9 (Whereupon, the jury retires to the jury room at  
10 2:37 PM.)

11 THE COURT: Can we take three minutes and I'll be  
12 right back?

13 (Recess taken at 2:38 PM.)

14 (Back on the record at 2:40 PM.)

15 BAILIFF: Remain seated.

16 THE COURT: All right. So let's just refresh where  
17 we were. This witness was brought up on recall and there  
18 was testimony about someone else who was a person of  
19 interest.

20 Was that -- we had a document that was marked for  
21 identification yesterday that was not admitted into  
22 evidence that I thought was a tip. Was that what that  
23 had to do with or was that something different?

24 MS. MARTIN: No, sir. The tip is in evidence.

25 There is an AFIS card --

1 THE COURT: There was more than one? Okay.

2 MS. MARTIN: There's two things not in evidence.  
3 Right here. It's Michelle Eisinger's ten-print card,  
4 28 for ID only, it's not in evidence, and then 26 ID  
5 only are the actual copies of Dwight Powell's AFIS  
6 cards. Everything else is in.

7 THE COURT: Okay. So, Mr. Story, why don't you take  
8 me to what you're --

9 MR. STORY: Okay. As far as I understand it, Your  
10 Honor, so they recalled Investigator Mountzouros for --  
11 and the only question they asked her about was why she  
12 submitted Michelle Eisinger's name as a person of interest  
13 to SLED. So -- and I don't know what their objection  
14 to my question was. I think it was foundation and her  
15 personal knowledge, I'm not a hundred percent sure, but  
16 my contention is I ought to -- because they recalled her  
17 and asked her about her investigation, I ought to be able  
18 to cross-examine her about where she got this information  
19 from.

20 Now what I believe she'll say is that --

21 THE COURT: Well, hold on. Before you get to,  
22 what you believe she'll say, I mean, the point is she  
23 -- Michelle Eisinger was at least some part of this  
24 investigation to police as a potential person of interest,  
25 but at some point excluded as a person of interest.

1           Is that accurate?

2           MR. STORY: I'm not sure she was excluded as a  
3 person of interest.

4           THE COURT: Maybe that's the wrong terminology, but  
5 she -- I don't remember the specific words she said, but  
6 she was --

7           MR. STORY: I think --

8           THE COURT: -- certainly not a --

9           MR. STORY: -- she said there was no evidence to  
10 conclude -- I'm not sure.

11          THE COURT: I think excluded is the wrong word,  
12 but -- so why can't Mr. Story ask the question about how  
13 she came to the opinion that this person was not a person  
14 of interest?

15          MS. MARTIN: She -- she is not gonna be able to  
16 testify to information she gathered because she doesn't  
17 know where it was gathered from, Facebook screen shots  
18 and things of that nature that came from another agency.  
19 They don't even talk about Michelle Eisinger, they talk  
20 about a Sula Wolfe, and, Your Honor, they're not relevant.  
21 They're dated 10-16 of 2020, so it's before our incident,  
22 so these records are not relevant.

23          MR. STORY: Your Honor, they asked about it.  
24 They've got to be relevant. They asked the investigator  
25 about where she got the information.

1           So, Your Honor, what I believe the Investigator  
2 thought and maybe still believes, I don't know, was  
3 that these records were actually from Michelle Eisinger.  
4 And this was a Facebook message that has specific --  
5 excuse me. It's actually a screen shot sent to an Irmo  
6 investigator from the Columbia Police Department  
7 investigator that had back in October specific details  
8 that match up with Tommy Thomas's garage. That's why  
9 she submitted Michelle Eisinger as a person of interest  
10 and I should be able to ask her about the basis of why  
11 she started investigating or looking at Michelle Eisinger  
12 as a person of interest. They can't -- I mean, they  
13 essentially asked her about it and then just want to leave  
14 it at that --

15           THE COURT: Uh-huh.

16           MR. STORY: -- and not let me cross on it.

17           THE COURT: All right. Ms. Martin.

18           MS. MARTIN: Your Honor, I just can't tell you how  
19 strongly I object. This is a screen shot that we don't  
20 know where it's from. I don't know that it's from  
21 Facebook, I don't know whose account it's from, and I  
22 don't think our witness can either.

23           THE COURT: How does she know this person was not a  
24 person of interest?

25           MS. MARTIN: She answered the question she found no

1 evidence. That's what she said. No physical evidence  
2 linking Michelle Eisinger to the crime.

3 THE COURT: Did she review the documents that  
4 Mr. Story is -- that you were talking about?

5 MS. MARTIN: Has she reviewed them today?

6 THE COURT: Yeah. I mean, that's part of the  
7 investigation?

8 MS. MARTIN: She had them in her case file, but we  
9 would never be able to get them into our -- into court.

10 THE COURT: I'm not saying they need to get to  
11 the jury. I'm just saying, I mean, it's part of the  
12 investigation; was it not?

13 MS. MARTIN: It was, but they would never be able  
14 to go in front of a jury without authentication.

15 THE COURT: I'm not -- I'm not saying that they'd  
16 go to the jury. I'm just saying if it was used in some  
17 way, shape or form as part of the investigation to come  
18 up with some opinion on who or who was not the person  
19 that committed the burglary we're about today, I mean,  
20 that seems to have some relevance.

21 So, Mr. Story, just to be clear, you're -- you want  
22 to be able to cross-examine in what particular way?

23 MR. STORY: So simply the basis of her information,  
24 where -- I want to ask her some more and flesh out why  
25 she thought Michelle Eisinger was a person of interest.

1 And they recalled her for the specific --

2 THE COURT: Well, no, she -- the reason she thought  
3 she was a person of interest was because someone told her  
4 to look into it, right?

5 MR. STORY: I know, and sent her these screen  
6 shots --

7 THE COURT: Okay.

8 MR. STORY: -- that had specific details about Tommy  
9 Thomas's garage in them, and that's it really.

10 THE COURT: Okay.

11 MR. STORY: I can't tell you how strenuously I think  
12 this goes to the right of confrontation.

13 THE COURT: You're both strenuously objecting. I  
14 get it.

15 All right.

16 MS. MARTIN: Your Honor, would it help for you to  
17 review the documents we're talking about?

18 THE COURT: Actually it would. That's always a  
19 good idea. You-all can just walk up here together.

20 (Proceedings held at the bench; not reported.)

21 (Whereupon, a portion of the record was read back.)

22 THE COURT: I think -- all right.

23 Well, to me this document, whatever it is, was  
24 turned over in discovery. I mean, it was part of the  
25 investigation in a sense that -- well, actually I can't

1 speak to the witness, but if it was used or not used in  
2 determining whether or not another person was or was  
3 not an appropriate person of interest, I think that's  
4 fair game for cross-examination. Obviously I don't  
5 think this entire -- I don't think this thing is -- well,  
6 based off what we've heard now, I don't think this thing's  
7 admissible to be published to the jury per se, but I think  
8 you can at least use the document in cross-examination  
9 at least to find out why or why not a certain person was  
10 or was not an appropriate person of interest for the  
11 allegations here.

12           You know, Mr. Story, if you get an answer of I don't  
13 know, you might be stuck with it, so -- we don't know who  
14 this -- I don't know who this person is obviously. I  
15 thought I heard this name uttered at some other point in  
16 this trial, but no one knew who it was or maybe that was  
17 during our discussion we had during the break.

18           But I'll allow you to delve into it some in light  
19 of the fact that -- if it was used, which I don't know,  
20 but you can at least delve into it without publishing all  
21 the details.

22           Does that make sense?

23           MR. STORY: It does, Your Honor.

24           THE COURT: Because if she didn't rely on it, we  
25 don't need to publish the details.

1 All right. Anything else before we bring them back  
2 in?

3 MS. MARTIN: No, sir.

4 THE COURT: All right.

5 (Whereupon, the jury return to the courtroom at  
6 2:59 PM.)

7 THE COURT: All right. Ladies and gentlemen,  
8 we'll pick up where we left off. We'll continue with  
9 the cross-examination of this witness.

10 MR. STORY: Thank you, Your Honor.

11 BY MR. STORY:

12 Q. Okay. Investigator Mountzouros, I think when we left  
13 off you said you received information from another law  
14 enforcement agency that Michelle Eisinger may be a person  
15 of interest, right?

16 A. They sent me screen shots of a message that might be  
17 related.

18 Q. Okay. Which was related -- that was related to  
19 Michelle Eisinger was the information you had from the  
20 other agency?

21 A. Allegedly. That's what they told me it was, yes.

22 Q. Okay. And not asking you specific details about what  
23 anyone told you, they sent you a screen shot?

24 A. That's correct.

25 Q. Okay. And the screen shot was of Facebook messages?

1 A. Again, allegedly. I could never confirm that.

2 Q. Okay. But that's what it appeared to be?

3 A. It was a message, yes. A screen shot of a message.

4 Q. And the date was from October 16, 2020?

5 A. I don't have it in front of me, but I'll -- I'll trust  
6 you on that if that's what it says.

7 MR. STORY: For identification only, Your Honor.

8 BY MR. STORY:

9 Q. Does that appear to be the screen shot you received?

10 A. Yes, that is.

11 Q. And can you tell me the date of the last message?

12 A. Sure. October 16, 2020.

13 Q. Okay. You previously testified in your earlier  
14 testimony that you received a crime tip from Corey  
15 Sternenberg?

16 A. Yes.

17 Q. And it contained specific details about the items --  
18 specifically a red Maserati in Tommy Thomas's office?

19 A. That's correct.

20 Q. The Facebook post that you received also had specific  
21 details about Tommy Thomas's office, correct?

22 A. It did.

23 Q. Including a red Maserati?

24 A. It did.

25 MR. STORY: I beg the Court a brief indulgence.

1 No further questions, Your Honor.

2 Thank you.

3 THE COURT: Anything else of this witness?

4 MR. SMITH: Briefly, Your Honor.

5 REDIRECT EXAMINATION

6 BY MR. SMITH:

7 Q. Without going into details, can you tell us if  
8 Mr. Thomas's law office had been burglarized at any point  
9 prior to our incident date on or about November 9, 2020?

10 A. Did I have any evidence of that? Is that what you're  
11 asking? I'm sorry.

12 Q. Are you aware of any other reports of his business  
13 being burglarized?

14 A. Yes.

15 Q. And based on the information that was relayed to you  
16 in that screen shot, what was the date on those -- of those  
17 messages, wherever they came from?

18 A. October 16, 2020.

19 Q. And what was the date that you were called out for  
20 this case?

21 A. November 10, 2020.

22 Q. And at the end of your investigation, did you find  
23 any evidence to charge Michelle Eisinger with this specific  
24 incident?

25 A. No, I did not.

1 MR. SMITH: Nothing further, Your Honor.

2 THE COURT: Recross?

3 MR. STORY: No recross, Your Honor.

4 THE COURT: All right. The witness may step down.

5 (Witness excused.)

6 MS. MARTIN: Your Honor, the State rests.

7 THE COURT: Ladies and gentlemen, the State has  
8 rested their case. I've got some matters to take up  
9 with the attorneys at this time. If you could step back  
10 in the jury room, I'll get you back out here as soon as  
11 I can. Please don't discuss the case.

12 Thank you.

13 (Whereupon, the jury retires to the jury room at  
14 3:03 PM.)

15 THE COURT: Okay. Any motions?

16 MR. STORY: Your Honor, I have a motion.

17 THE COURT: Okay.

18 MR. STORY: At this time, Your Honor, the defense  
19 moves for a directed verdict of acquittal. Taking the  
20 evidence in the light most favorable to the State, they  
21 have failed to present competent evidence in an attempt  
22 to prove every element of offenses charged in the  
23 indictments. They have not proved every element that  
24 on or about the date in the indictment that my client  
25 committed an attempted grand larceny or a burglary in

1 the nighttime of that law office, Your Honor, and I move  
2 for a directed verdict of acquittal.

3 THE COURT: All right. Any response from the State?

4 MS. MARTIN: Thank you, Your Honor. May it please  
5 the Court?

6 Your Honor, certainly we think it's a jury question.  
7 We have a witness who testified that he, along with the  
8 defendant, committed this burglary and this attempted  
9 grand larceny and we have scientific undisputed evidence  
10 that places Dwight Powell's fingerprints on the Maserati  
11 within an enclosed garage.

12 THE COURT: Okay.

13 All right. I find there's direct and circumstantial  
14 evidence in order to submit the case to the jury. I'm  
15 concerned with the existence of the evidence and not its  
16 weight, but I think there's enough evidence here for the  
17 jury to decide whether or not to issue a verdict in this  
18 case, so the motion's denied.

19 All right. Do we need to -- Mr. Powell?

20 THE DEFENDANT: Yes, sir, Your Honor.

21 THE COURT: Madam Clerk, if you'd place Mr. Powell  
22 under oath, please.

23 THE CLERK: If you'll raise your right hand, please.

24 (Whereupon, Dwight Anthony Powell was duly sworn by  
25 the Clerk of Court.)

1           THE COURT: All right. Mr. Powell, I'm gonna  
2 explain to you some of your rights at this time. If you  
3 do not understand anything I say, please let me know.  
4 And if you want me to explain something in more detail,  
5 please let me know that as well.

6           Do you understand that?

7           THE DEFENDANT: Yes, sir, Your Honor.

8           THE COURT: We've now reached the stage of the  
9 trial where you may present your defense. You have the  
10 right to claim the protections given to you by the Fifth  
11 Amendment of the Constitution of the United States. The  
12 amendment states, in part, no person shall be compelled  
13 in any criminal case to be a witness against himself.  
14 This means that you cannot be required to testify in this  
15 case. You have the right to testify on your own behalf;  
16 however, no one can make you testify. This is a personal  
17 right and no one can waive this right except you.

18          Do you understand that?

19          THE DEFENDANT: Yes, sir, I do, Your Honor.

20          THE COURT: All right. If you decide to testify,  
21 you will be subject to the same rules that govern other  
22 witnesses and may be examined and cross-examined on any  
23 relevant issue in this case.

24          In addition, if you have any convictions involving  
25 dishonesty or a false statement or for crimes punishable

1 by imprisonment for more than one year and the Court  
2 determines that the probative value of admitting this  
3 evidence outweighs its prejudicial effect to you, the  
4 solicitor will be able to introduce your record and  
5 attack your credibility.

6 Do you understand that?

7 THE DEFENDANT: Yes, sir, I do, Your Honor.

8 THE COURT: If you decide to testify, this decision  
9 on your part must be freely, voluntarily and intelligently  
10 made with the knowledge of the protections given to you by  
11 the Fifth Amendment and the consequences of your decision  
12 to testify.

13 If you decide not to testify, I will instruct the  
14 jurors that they cannot give the fact that you did not  
15 testify any consideration whatsoever and there's to be  
16 absolutely no prejudice to you because you did not testify.  
17 It is left entirely up to you whether or not you testify.

18 You may talk with your attorney, your family and  
19 friends or anyone else, but the final decision is left  
20 entirely up to you.

21 Do you understand what I've explained to you, sir?

22 THE DEFENDANT: Yes, sir, I do, Your Honor.

23 THE COURT: All right. Do you have any questions  
24 about what I've explained to you, sir?

25 THE DEFENDANT: No, sir, I do not.

1 THE COURT: Do you wish to discuss the matter with  
2 your attorneys?

3 THE DEFENDANT: I would like a minute, Your Honor.

4 THE COURT: Okay. That will be fine.

5 THE DEFENDANT: Thank you, sir.

6 THE COURT: Why don't we take at least ten minutes  
7 and we'll get back on the record shortly.

8 THE DEFENDANT: Thank you, Your Honor.

9 MR. STORY: Thank you, Your Honor.

10 THE COURT: All right.

11 (Recess taken at 3:08 PM.)

12 (Back on the record at 3:19 PM.)

13 THE COURT: All right. Please be seated.

14 Okay. Mr. Story, what are our intentions here?

15 MR. STORY: I'll let Mr. Powell answer, but I  
16 believe his intention is to assert his right to remain  
17 silent, Your Honor.

18 THE COURT: Mr. Powell.

19 THE DEFENDANT: Yes, sir. I'd like to choose to  
20 exercise my Fifth Amendment right.

21 THE COURT: Very well.

22 THE DEFENDANT: Yes, sir.

23 THE COURT: Do you-all have any witnesses you want  
24 to call today?

25 MR. STORY: We do not.

1 THE COURT: All right. Do you intend to put up any  
2 witnesses?

3 MR. STORY: We do not.

4 THE COURT: Okay. Well, just for the record, are  
5 you resting your case?

6 MR. STORY: We will rest.

7 THE COURT: Okay. Do you wish to reassert all your  
8 previously filed objections and motions?

9 MR. STORY: All our previous -- yes, Your Honor.  
10 I reassert all our previous objections and motions.

11 THE COURT: Okay. So noted.

12 It's -- please be seated. It's 3:20. I tell you  
13 what, you-all come up here as far as scheduling.

14 (Proceedings held at the bench; not reported.)

15 THE COURT: All right. We had a bench conference  
16 up here about charges. The only charge -- I believe  
17 the defense wanted to make one specific charge request.

18 Mr. Story.

19 MR. STORY: Yes, Your Honor. I would ask for a  
20 lesser included for burglary third in the charges, as  
21 well as the verdict form. Your Honor, the only -- if  
22 the jury finds that the defendant committed every element  
23 of burglary except that it occurred in the nighttime,  
24 they can find him guilty of burglary third, Your Honor.

25 Yeah. So -- and the burden is on the State to prove

1 every element of the offense beyond a reasonable doubt.

2 Your Honor, of course, you are gonna charge that  
3 they can believe part of what the witnesses say, all  
4 of what the witnesses say. If they believe that --  
5 everything that some of the witnesses say except that  
6 the State has not proven, and that's the standard,  
7 they have to prove it beyond a reasonable doubt, that  
8 it occurred in the nighttime, that is a burglary third,  
9 and I am asking for a charge for burglary in the third  
10 degree, Your Honor.

11 THE COURT: All right. Would the State like to say  
12 anything on this?

13 MS. MARTIN: Sure.

14 THE COURT: Any response from the State?

15 MS. MARTIN: Your Honor, we would object to any  
16 burglary third charge being given to the jury. Your  
17 Honor, when you're trying to decide what choices a jury  
18 should be given, there has to be some evidence in the  
19 record that a lesser charge would be appropriate, and  
20 the only thing that is in the record in testimony from  
21 the owner of the business is that he believed -- the  
22 law firm of Tommy Thomas, that it would have happened  
23 the night before, and then the -- the co-defendant of  
24 Dwight Powell continuously over and over said that the  
25 entire process, going there, leaving, then coming back

1 the second time and leaving, it all occurred at night.  
2 So there is no evidence within the record that a jury  
3 could legitimately determine that it happened in the  
4 daytime.

5 THE COURT: Okay.

6 MR. STORY: And, Your Honor, I disagree.

7 Mr. Thomas's testimony that he left that afternoon,  
8 came back in the morning, is circumstantial. It's  
9 certainly conceivable that the jury could determine that  
10 a burglary occurred. We don't know what time. And it  
11 could potentially be during the daytime hours.

12 THE COURT: Okay.

13 MR. STORY: And so I'm asking for burglary third.

14 THE COURT: All right. I will take it under  
15 advisement and make a decision on it and let you know,  
16 okay?

17 Anything else for the record today?

18 MS. MARTIN: Not from the State, Your Honor.

19 THE COURT: Remind me of this tomorrow, but the  
20 plan would be to -- I need to let them go now for the  
21 day obviously, but we will bring them back in the  
22 morning.

23 And, Mr. Story, just for the record, you know, I'll  
24 tell the jury we've heard from the State and you'll now  
25 have an opportunity to hear from the defense and the

1 defense may call their first witness and you say at this  
2 time the defense rests, I'll tell them the defense rests,  
3 and now we're gonna move on into closings, but we don't  
4 have to break to renew motions tomorrow morning.

5 Does that make sense?

6 MR. STORY: It does, Your Honor. Thank you.

7 THE COURT: All right. You-all have a good evening.  
8 Thank you.

9 MS. MARTIN: Are you gonna bring them in now and  
10 tell them?

11 THE COURT: Oh, thank you.

12 Bring them in.

13 (Whereupon, the jury return to the courtroom at  
14 3:29 PM.)

15 THE COURT: All right. Mr. Foreman, welcome back.

16 We're gonna go ahead and recess for the day and  
17 continue the trial tomorrow morning. Although it will  
18 be about like we did today, I'm actually gonna ask you  
19 to be in your room at 10:15 so you don't have to worry  
20 about the traffic rush and we hope to get started shortly  
21 thereafter and continue on with the trial, we will  
22 finish tomorrow, and we'll go from there, okay?

23 All right. Please don't discuss the case with  
24 anyone today or tonight. Don't do any independent  
25 research of the case or any of the parties involved.

1           You-all have a nice evening and we'll see you  
2 tomorrow, all right?

3           (Whereupon, the jury was excused for the day at  
4 3:30 PM.)

5           THE COURT: All right. We'll get the charges out  
6 shortly and I'll see you-all in the morning.

7           MS. MARTIN: Thank you.

8           (Whereupon, the proceedings were concluded for  
9 March 19, 2024, at 3:30 PM.)

10           (The following proceedings were held March 20,  
11 2024, beginning at 10:33 AM.)

12           BAILIFF: All rise. Court's now in session. The  
13 Honorable Walton J. McLeod presiding.

14           THE COURT: All right. Thank you. Be seated.  
15 Okay. Sorry for the delay.

16           Any issues to discuss this morning?

17           MR. SMITH: Yes, Your Honor.

18           Briefly regarding charges, specifically to the  
19 charge of burglary in the second degree, it was on page  
20 -- I beg the Court's indulgence -- on the top of page 9  
21 of your charges. Element two of burglary second states  
22 that the defendant entered or remained in the dwelling  
23 during the nighttime. We would request that that, of  
24 course, be building, remained in the building, at night.

25           That's the only issue the State has with the charges.

1 MR. STORY: No objection. I just had to say it.

2 THE COURT: Okay. Outside of that okay? Anything  
3 else?

4 MS. POPOWSKI: Yes, Your Honor.

5 We're asking for a burglary third instruction and  
6 at this time I guess we'll make the argument for that.

7 THE COURT: Okay.

8 MS. POPOWSKI: Obviously the Solicitor's already  
9 sent you an e-mail with some case law and it's our  
10 position that it comes down to whether or not it's  
11 uncontroverted as to whether or not this happened at  
12 nighttime.

13 We're arguing that whether or not it happened at  
14 nighttime is a disputed fact for the jury to decide.  
15 The e-mail said that the victim testified that it  
16 happened at night, but that's not my recollection,  
17 Your Honor. My recollection was that the victim didn't  
18 know when it happened. The victim arrived on-scene  
19 sometime that morning in the daylight hours as he  
20 testified that he saw furniture on the side of the  
21 building.

22 In fact, the dates on the warrant in this case  
23 ranged from 11-7 to 11-10 and law enforcement wasn't  
24 called to the scene until like 10 AM.

25 There was testimony from law enforcement in this

1 case that this is a high traffic area and there were  
2 early morning activities at the church and a lot of  
3 congestion around the area, which was meant to somehow  
4 imply that there's no way they did this during the day  
5 because there was a bunch of traffic and somebody would  
6 have seen them. They never quite got to that point, but  
7 I think that that's evidence that they -- that it is  
8 disputed whether or not this happened during the daytime  
9 or the nighttime.

10 Your Honor, the co-defendant did testify that it  
11 happened at night, but we would argue that the jury can  
12 disbelieve all or part of his testimony and that he had  
13 tremendous credibility issues, Your Honor.

14 So it's our position that nighttime is a disputed  
15 fact in this case and that a reasonable jury could find  
16 that the State didn't prove that beyond a reasonable  
17 doubt. To argue that we had to somehow produce  
18 evidence that this happened during the daytime would  
19 be burden-shifting and we're asking for an instruction  
20 on burglary third.

21 THE COURT: Anything else from the State?

22 MS. MARTIN: No, Your Honor. Just the e-mail we  
23 sent with the Berson --

24 MR. SMITH: I believe Berntsen.

25 MS. MARTIN: -- Berntsen case attached.

1           Your Honor, I believe for a lesser included to be  
2 sent to the jury there has to be some evidence tending  
3 that it could be a possible outcome and there's nothing  
4 in the testimony, no evidence whatsoever, that says it  
5 is a possibility it happened in the daytime.

6           MS. POPOWSKI: Your Honor, I just --

7           MS. MARTIN: And also, Your Honor, the warrant --  
8 the warrants aren't evidence. They're not part of the  
9 record.

10          MS. POPOWSKI: That's true.

11          THE COURT: Fair enough.

12          Ms. Popowski.

13          MS. POPOWSKI: Yes, Your Honor. I don't think  
14 that's what the case law says, that there has to be any  
15 evidence in the record. In fact, the case that the  
16 State cited, I went and looked at the Goldenbaum case  
17 that's cited within the case that the State cited, and  
18 in that case the incident location was in an apartment  
19 complex. The defendant lived across the hall from the  
20 victim and the victim testified that she was sleeping at  
21 the time of the attack. The Court found that the victim's  
22 apartment complex and apartment was unquestionably a  
23 dwelling. I don't think that that fact could be in  
24 dispute in this case. I think I've put forward a couple  
25 of examples of how the fact that this happened at night

1 is in dispute. The only person that has testified for  
2 sure that this happened at night was the co-defendant  
3 and we believe that his credibility is in question.

4 THE COURT: Okay. As I recall, yesterday when we  
5 were finishing up the charge, we also talked about other  
6 factors concerning why burglary second is appropriate and  
7 burg third is not.

8 Wasn't there not also testimony about --  
9 Mr. Sternenberg testified that Mr. Powell had a firearm  
10 at the time that this occurred?

11 MS. MARTIN: Yes, Your Honor. He did say that.

12 THE COURT: No specific testimony. I just remember  
13 it to be -- outside of possessing it in front of people.

14 MR. SMITH: That's correct. Your Honor, I believe  
15 the testimony was that when Mr. Sternenberg and Mr. Powell  
16 met the first time was that Mr. Powell did have a handgun;  
17 although there is no specific testimony that it was used  
18 during the commission of the burglary.

19 THE COURT: When you say the first time, you're  
20 referring to what?

21 MS. MARTIN: Your Honor, he did say that it was  
22 used to threaten him and in his written statement that  
23 is in evidence that we haven't read out loud, it talks  
24 about on the way to the garage Sternenberg {sic} had the  
25 gun across the seat and said we're gonna do it no matter

1 what, so.

2 THE COURT: He testified that he felt threatened.

3 MS. MARTIN: Right, and that Powell had a gun at  
4 that time.

5 THE COURT: Okay. I don't think the issue of the  
6 nighttime is the only thing in play here and that's why  
7 I think it's -- burglary second degree is obviously a  
8 burglary in the night while burglary third degree in  
9 these specific circumstances is not.

10 Now certainly it's easy to say well, it was charged  
11 as a lesser included, just do it, I just don't think  
12 it's appropriate here. So I'll respectfully decline the  
13 request for burglary third.

14 I'll print out a fresh copy of the charge and verdict  
15 forms. It will be the same but for the word "dwelling"  
16 in a building being swapped out.

17 And as a reminder, I'll call -- I'll tell the jury  
18 it's time for us to hear the defendant's case, you-all  
19 can rest, and that it's time for closing arguments and  
20 move right into that. The State will open and close in  
21 full. Defendant will have the last word.

22 So I'll get a copy of it and then we'll get started.

23 (Pause in proceedings.)

24 THE COURT: All right. Anything else before I bring  
25 the jury in?

1 MS. MARTIN: Nothing from the State, Judge.

2 MR. STORY: Nothing from the defense.

3 THE COURT: All right. Let's bring them in.

4 (Whereupon, the jury enters the courtroom at  
5 10:44 AM.)

6 THE COURT: All right. Mr. Foreman, ladies and  
7 gentlemen of the jury, welcome back. I hope you had a  
8 nice evening.

9 When we left yesterday, the State rested. We'll  
10 now have an opportunity to hear from the defendant's  
11 case.

12 Mr. Story.

13 MR. STORY: Your Honor, at this time the defense  
14 rests.

15 THE COURT: Very well.

16 Ladies and gentlemen, the defense has rested their  
17 case. The parties have presented their evidence in this  
18 case. It's now time for the attorneys to make their  
19 closing arguments. The arguments of the attorneys are  
20 not evidence in this case. Their statements and arguments  
21 are meant to help you understand the evidence and apply  
22 the law to the evidence. You should disregard any remark,  
23 statement or argument which is not supported by the  
24 evidence presented during the trial or the law that I  
25 will explain to you after the arguments.

1           At this time please give your complete and undivided  
2 attention to the attorneys as they make closing arguments.

3           MS. MARTIN: Thank you, Your Honor. May it please  
4 the Court and Mr. Story?

5           THE COURT: Yes, ma'am.

6           MS. MARTIN: Good morning.

7           Ladies and gentlemen, we all have a job to do in  
8 regards to this matter. The victim started it by calling  
9 law enforcement, then law enforcement themselves, as well  
10 as SLED, gathered evidence. They followed any leads.  
11 When a witness with knowledge came forward, they made  
12 arrests, and then they came into this courtroom and they  
13 took this stand under oath and told us what they did.

14           Here in the courtroom the red-coat bailiffs, they  
15 take good care of you. The clerk's the record-keeper.  
16 The court reporter takes down every word that's being  
17 said. Security provides security. And the judge rules  
18 over the evidence and rules how the trial will go.

19           The prosecution team here, we bring forth witnesses  
20 with knowledge about the crime in order to seek justice.  
21 Defense counsel has been and will be in just a few  
22 minutes a zealous advocate for his client.

23           Now it's almost time for you to do your job as  
24 jurors. You swore Monday, on Monday, that you would  
25 base your verdict on the evidence and the law. Those

1 two things, right? To be a conscientious juror, there  
2 are three things you needed to do. Have you listened  
3 to the testimony? You have. We've been watching.  
4 You-all have been attentive. You-all have been watching,  
5 looking. So, yes, you've listened. Have you looked at  
6 the evidence? Have you looked at the exhibits that we  
7 put up on the screen? And you will have those with you  
8 back there in the jury room.

9 And the last thing, the third L, is have you  
10 followed the law. And Judge McLeod just told you he's  
11 gonna read to you line by line, word for word, what law  
12 applies in this case.

13 Now when you-all left the jury pool, when you-all  
14 were out there and you came up here and you sat here,  
15 you didn't leave your common sense out there, did you?  
16 No. You brought it with you. It's there with you now.  
17 It's with you and I'd ask that you use your common sense  
18 today when you go back to your jury room and you have an  
19 opportunity for the first time to talk about the case.

20 Ladies and gentlemen, it's not a complicated or  
21 complex case. It been two days, nine witnesses, less  
22 than thirty exhibits, and you're gonna, as I said, get  
23 to review those exhibits in evidence. Your decision  
24 should not be a difficult one, but Mr. Story because of  
25 the rules of court, he gets to go last. He gets to

1 have what they say is the last word. So this is my only  
2 opportunity to talk to you and to address certain things  
3 that I'd ask you to consider during your deliberation.

4 I'm trying to anticipate some of what the defense is  
5 gonna say to you because they're gonna attack and they're  
6 gonna pick apart everything about the State's case, and  
7 although the case may seem to be cut and dried, seems  
8 pretty straightforward, a good defense attorney like  
9 Mr. Story, he's gonna bring up non-issues. Non-issues.

10 What's a non-issue? Things that don't really  
11 matter. Things that don't matter for what you're here  
12 for. Things that don't apply to your job, which is to  
13 seek a verdict; guilty or not guilty, and they do this,  
14 to distract you from Dwight Powell's obvious guilt.  
15 Non-issues.

16 Who's Michelle Eisinger? Who's Sula? What did  
17 they know about a burglary to a lawyer's garage back in  
18 October of 2020? Our incident is November 2020, so it's  
19 a distraction.

20 Why did Corey Sternenberg really get probation when  
21 he pled guilty back in 2021? A distraction. What about  
22 this one? I'm sure it's gonna come up. Fingerprints.  
23 Latent examinations, is that a valid science? You know  
24 they're gonna attack this, the most critical piece of  
25 evidence that puts Dwight Powell inside that garage with

1 that red Maserati back in 2020, so, of course, they're  
2 gonna want you to ignore that.

3 The defense throughout the last two days have done  
4 nothing but try to distract you from the most obvious  
5 truth that Dwight "Amp" Powell and Corey Sternenberg and  
6 the driver, Tiffany Clayton, are guilty as charged.

7 Let's talk about the witness testimonies. You, as  
8 jurors, get to decide what you believe from what the  
9 witnesses told you. And as Judge McLeod just said, you  
10 can believe all of it, none of it, some of it. I'd ask  
11 you to remember who is on trial. What has this trial  
12 been about? It's about what Dwight Powell did back  
13 then. Corey Sternenberg's already been to court.

14 Law enforcement's not on trial, but let's talk  
15 about law enforcement. All trials are learning  
16 opportunities for investigators to improve their work.  
17 Could Mountzouros have gotten Sternenberg's phone to  
18 try and track down calls to see if she could verify when  
19 Dwight Powell and Sternenberg were talking? I don't  
20 know. We don't even know if Sternenberg had his phone  
21 when he was arrested. When she did get a lead two and  
22 a half months later, she tried to look for video at the  
23 Circle K, CVS, the places that Sternenberg said they'd  
24 gone back and forth that night. Of course, it was all  
25 taped over and gone.

1           She explained to us that she only took the one photo  
2 of the stuff left outside because there wasn't a reason  
3 to take a picture of the garage. There was no forced  
4 entry. The lock that had been there was cut and gone.  
5 If they had left the cut lock, I'm sure we would have  
6 had that photograph, but it wasn't there. She's told you  
7 that she's looked for Tiffany Clayton, the driver, who's  
8 apparently in hiding or perhaps moved out of state. Law  
9 enforcement even resubmitted the fingerprints to try and  
10 gather as much evidence as possible when the first report  
11 said hey, there's one area that's inconclusive. Well, but  
12 that first report did have the one print already matched  
13 to Dwight Powell.

14           Lieutenant Grinstead, she gave us all kinds of dates  
15 when evidence went here, when it went there and how it  
16 was moved around, and she told us about the security of  
17 the evidence room at the Town of Irmo.

18           SLED told us that Dwight Powell is a member of the  
19 statewide database for known ten-prints and that he  
20 brought to court two of Dwight Powell's known ten-prints.  
21 The SLED analyst painstakingly went through her testing  
22 procedure. She explained to us her job and how she did  
23 it. She provided her reports for your review. She had  
24 no concern about the quality of the latents, she had no  
25 concern about her equipment, and she told you that SLED

1 has a protocol that she follows and that peer review  
2 means somebody else on both of those test procedures  
3 looked behind her at her work and at her reports.

4 Ladies and gentlemen, Sternenberg's burglary, it's  
5 over. He's pled to some cases, he had other cases that  
6 were dismissed, and he's already been to prison for  
7 those. He and his attorney, you-all remember Brad  
8 Kirkland, they told you that there was no requirement  
9 for Sternenberg to come into court and testify in this  
10 trial some three years after Sternenberg has pled guilty.  
11 They told you that him being a State's witness was first  
12 discussed with the trial team early this year. Is that  
13 lawyer not to be believed?

14 Now Sternenberg does have two small charges pending  
15 now, but it's not his court time. It's not his day in  
16 court. And, of course, of course, Sternenberg hopes and  
17 his lawyer hopes that maybe him testifying will put in a  
18 good word with a judge at a later time, but, again, it's  
19 not his court date. That's not for your consideration.  
20 It has nothing to do with the guilt or innocence of  
21 Dwight Powell. You're not here to judge the way the  
22 criminal justice system works or to pass any kind of  
23 judgement on plea bargains when I'm sure you don't have  
24 all of the relevant information. Your only job is to  
25 decide if the State has proven beyond a reasonable doubt

1 that Dwight Powell is guilty of attempted grand larceny  
2 and burglary in the second degree.

3 And we do have to talk about Corey Sternenberg. We  
4 certainly do. Did he come in here all dressed up in a  
5 fancy suit wearing a tie, clean-cut and trying to pretend  
6 he is something he's not? No. He came straight off the  
7 street. He came straight off the street, a convicted  
8 felon, a thief, a meth addict. Someone who does meth and  
9 steals things. Is he somebody you'd want to come over  
10 for Thanksgiving? Is he somebody you'd want to baby-sit  
11 your children? Is he some upstanding member of our  
12 community? No, no, no. No, he's not, but is he somebody  
13 who could have knowledge about crimes committed in his  
14 circle of acquaintances? Of course he is. You don't  
15 have to like him. I don't have to like him. I was his  
16 prosecutor. The State can't choose what witnesses have  
17 knowledge of crimes. We can't even choose who our victims  
18 are.

19 I'd ask you to remember when Corey Sternenberg was  
20 up there, you heard him, the way he spoke, his demeanor,  
21 his mannerisms, a meth user for six years, barely had  
22 any teeth. Did he seem skittish and nervous? How  
23 intelligent did he appear to be? This tenth grade high  
24 school dropout. When you get a chance, look at his  
25 penmanship, look at the way he writes, the way he spells

1 words. The defense would have you believe that he's  
2 some kind of criminal mastermind? No. A drug addict  
3 whose brain's fried, but he told us what he did and he  
4 told us what Amp did back in 2020.

5 Ladies and gentlemen, he's too messed up to maintain  
6 a lie for four and a half years. He would have had to  
7 work out this big conspiracy in January of 2021. Isn't  
8 it more believable he told the truth about what he and  
9 Amp did together? There is no question whatsoever that  
10 Sternenberg told law enforcement about this burglary,  
11 when he first sent that crime tip, he sent it to try and  
12 help himself. That's true. That's very, very true. I  
13 mean, he didn't come forward out of the goodness of his  
14 heart. He didn't come forward because he did something  
15 bad and he wanted to confess. No. He did want to trade  
16 his information to get currency. That's exactly what the  
17 defense said and that is what happened. But, again, his  
18 motives, why he did it, it doesn't matter. It doesn't  
19 matter.

20 Let me say that again. His motives don't matter  
21 because there is unbiased science that can tell us and  
22 has told us who was in that garage. This is where your  
23 common sense comes in. What type of witnesses are  
24 available to provide assistance to law enforcement when  
25 they're trying to solve a crime? What type of witnesses

1 are available to come into court with the knowledge  
2 needed by solicitors to prosecute criminals? It's not  
3 gonna be your school teacher. It's not gonna be your  
4 preacher. It's not gonna be the president of the Chamber  
5 of Commerce. Unh-unh. It's gonna be other criminals,  
6 of course. Snitches, paid informants.

7 You see that all the time on true crime shows.  
8 What's that old saying? Birds of a feather flock  
9 together. Corey and Amp. Was the information that he  
10 provided truthful about the burglary of Mr. Tommy's  
11 garage? That's the question. Why did Sternenberg take  
12 so long, from November 13th to January 29th, to send the  
13 crime tip? It doesn't matter. It's a nonissue.

14 Please take time to see what he wrote in his crime  
15 tip, the details he provided. Everything that's in there  
16 is what he told you yesterday. What did he say and  
17 when did he say it? The timeline is important. The  
18 e-mailed crime tip was January 29th of '21. The first  
19 SLED fingerprint report that had the one match was  
20 February 1st of '21.

21 Then you also heard about his audio -- the taped  
22 interview that Mountzouros did with Sternenberg and then  
23 you have his pages and pages of his written statement  
24 and what he said yesterday on the stand. Look through  
25 this, the paperwork that he said that he got at the jail.

1           Tiffany Clayton picked me up, had a gun in his hand,  
2 stopped at the Circle K. Bla, bla. Just keep reading  
3 it. Went to there, yelled at me to hurry up and help.  
4 He put a battery in and hooked it up. He told me to  
5 hold it there. When he tried to start the car, nothing  
6 happened. He told me we're leaving. We're leaving. I  
7 thought it was over. He told Tiffany to drive, said he  
8 needed pliers to take the battery out of her car and we  
9 were then to put in the Maserati. Went a couple of places,  
10 didn't find any. Made another trip. Had Tiffany pull  
11 into the church. He removed the battery and handed it  
12 to me and said go, run in there. I followed and nearly  
13 started the car. He said it just needed gas. We left.

14           That's what he wrote in 2021. Isn't that what he  
15 told you-all yesterday? He's been consistent in telling  
16 everyone that he and Amp did this together. The plan  
17 was to steal the Maserati that's clearly worth well over  
18 \$10,000 and maybe also to steal the approximately \$7,000  
19 worth of stuff that had been outside when Tommy Thomas  
20 and the electrician got there.

21           Sternenberg told us that Powell had already been  
22 to the garage before he was picked up that night.  
23 Sternenberg told us about the stuff he saw outside.  
24 He told us that the door, the little door inside the  
25 storage side, was open. And we know that door's always

1 kept unlocked. Is this believable, those details? If  
2 Sternenberg's admitting doing a burglary and an attempted  
3 grand larceny, why would he lie about those little  
4 details? It doesn't make sense.

5 And, yes, again, we know why he wanted help. He  
6 reached out to law enforcement because he wanted help  
7 with his charges. And how did that work out for him?  
8 Law enforcement charged him with another burglary.  
9 With this burglary.

10 Defense is -- seems like they're insinuating that  
11 something fishy was going on with how Sternenberg's cases  
12 were handled. That's not true, ladies and gentlemen.  
13 His own lawyer told you he pled to several cases,  
14 including burglary, and that there was no requirement  
15 that he come into court and testify. You've seen enough  
16 crime dramas to realize how the system works. Did  
17 Sternenberg seem happy or excited or gleeful to be here?  
18 Did he seem vindictive towards Dwight Powell? Does he  
19 hate Dwight Powell like the defense suggested? Maybe he  
20 does. He wrote some ugly things about him in his writing,  
21 but he told you that I subpoenaed him. I made him to  
22 come to court and that the first time I talked to him  
23 about what he would say in trial was this year, just a  
24 few weeks ago.

25 Now Mr. Story asked Sternenberg's attorney about

1 duress. Well, we never really got a definition of what  
2 duress is or what it means. I assume, he's trying to  
3 talk about how Sternenberg said Amp made him do these  
4 things, that he forced him to do these things, and that  
5 is what Sternenberg said then and what he said now.  
6 Sternenberg said he's afraid of Amp and that he had a gun  
7 and he made him do it. Is that the truth? Sternenberg  
8 said I felt like I had to do what Amp said, that if I  
9 didn't something bad would happen, that he had a gun and  
10 he felt threatened.

11 The thug lifestyle cannot begin to explain to you  
12 how those kinds of people live. It's hard for normal  
13 citizens to understand why Sternenberg felt that way  
14 and how he could try to explain why he legitimately  
15 felt threatened, so the defense is gonna say well, you  
16 just can't believe anything he says.

17 And maybe he did exaggerate the extent of the  
18 threats, maybe he could have gotten away, but does it  
19 matter? He told us what he told us. He didn't want law  
20 enforcement to be so hard on him and maybe he just wanted  
21 to minimize his role in it. Does it matter? It's a  
22 nonissue whose idea it was. But does Sternenberg, does  
23 he appear to be a leader or is he more likely a follower?  
24 Again, it's a nonissue. What does any of that have to  
25 do with Amp being there and part of the burglary? A

1 consistent witness who put himself in jeopardy trying to  
2 get himself out of trouble, but thankfully that's not the  
3 only evidence you have to consider.

4 Science has backed up what Corey Sternenberg told  
5 us. The latent print examinations. The science has been  
6 around over eighty years. It's used nationwide. It's  
7 used worldwide. I don't know about you-all, but when I  
8 think about fingerprints, I think about Sherlock Holmes  
9 and I think about a big magnifying glass, but nowadays  
10 there's computer technology. There's software that  
11 enhances that process and aids in the process. Basic  
12 fingerprinting is taught at the academy to every law  
13 enforcement officer and Mountzouros has said she's had  
14 even more advanced training, that she's done close to a  
15 hundred lifts.

16 The AFIS director from SLED has told us about a  
17 statewide fingerprint database and he brought two of  
18 Dwight Powell's AFIS cards here. They have his name,  
19 they have his date of birth, they have his SID number,  
20 all which are unique, and they all belong to Dwight  
21 Anthony Powell.

22 The qualified expert from SLED has told you what  
23 she found after comparing Dwight Powell's fingerprints  
24 to the latents from the crime scene. Are you just  
25 supposed to ignore that -- that science that corroborates

1 or backs up what Corey Sternenberg has told you?

2 Now Kimberly Mears, the scientist, told you that  
3 she found not one, but two different fingerprints.  
4 Two different fingers of Dwight Powell matched to two  
5 different latents found on the car that was inside the  
6 locked garage. She explained in depth how on the first  
7 report, Item 2.4 says it's inconclusive, inconclusive,  
8 and it says please submit better prints and palm prints  
9 for further examination. So what did Mountzouros do?  
10 In August of last year, that's what she did. She  
11 resubmitted them. A test was redone August 18th. We  
12 get the results of the second fingerprint. Dwight Powell  
13 between the time of the first test and the second test  
14 had a new AFIS card on file. Look at the dates. You're  
15 gonna have all of that with you. You're gonna have all  
16 of that with you.

17 Now the diagram that she explained showing the points  
18 of agreement, it's hard to see, but I'm not a scientist  
19 and I don't have the fancy equipment she has, but there  
20 are nine points of agreement on that one print. She said  
21 there's even more, but she didn't want the red lines to  
22 be distracting, and she didn't do a chart for the second  
23 one.

24 The defense asked her about margins of errors and  
25 wrong results. What did the expert who's testified as

1 an expert in over thirty trials tell you-all? She said  
2 you can make the statistics and the numbers turn out  
3 however you want. If you count inconclusives as errors,  
4 that's your margin of error.

5 Dwight Powell was with Corey Sternenberg on that  
6 night in that garage in Irmo and they were there for the  
7 express purpose of stealing stuff. What other explanation  
8 is there for two fingerprints of Dwight Powell on that  
9 car? Tommy Thomas says I don't know him. I don't know  
10 him. I don't let anybody else do work on my car. Another  
11 nonissue. Why weren't Tommy Thomas's fingerprints on his  
12 own car? Mountzouros told you I just did the obvious ones  
13 on the glass. Again, a nonissue.

14 Corey Sternenberg told you about the event, and the  
15 science corroborated it, that he was there and that Dwight  
16 Powell was there. What are the chances that Sternenberg  
17 was lying about who was with him and then the prints  
18 identify Dwight Powell as being there? Use your common  
19 sense.

20 Has the State proven an attempted grand larceny?  
21 Attempt. An effort to accomplish a goal, the taking and  
22 carrying away of goods more than ten thousand without  
23 consent, intent to permanently deprive. It's not an  
24 accomplished event. It's an attempted event. You know  
25 they were trying to steal the car. Dwight even took a

1 battery with them and then they even took the battery  
2 out of Tiffany Clayton's car. I learned something new.  
3 I didn't know if a battery comes out of a running car  
4 that the car stays on, so I did learn that. So their  
5 plan, steal the Maserati, steal the stuff that's outside.  
6 Why else was that stuff staged outside? Attempted grand  
7 larceny.

8         Burglary in the second degree. A person is guilty  
9 of burglary enters a building. Fingerprints on a car  
10 inside a locked garage. Without consent. Tommy Thomas  
11 didn't let him in there. Intent to do a crime in the  
12 nighttime. Clearly nighttime.

13         You-all know where this is in Irmo. Woodrow Street.  
14 The church across the street has a daycare Monday through  
15 Friday, has events there on Saturday, has church there  
16 on Sunday. Look how close the garage is. Nighttime.  
17 Tommy Thomas said Monday night when I left work I would  
18 have noticed all that stuff outside. Tuesday morning,  
19 early morning, the electrician's there and says oh, we've  
20 got a problem. That's burglary, ladies and gentlemen.

21         Like Kyle told you in the beginning, all the bad  
22 things done at night eventually come to light. What  
23 happens today is extremely important. Dwight Powell  
24 needs to be held accountable for his crimes.

25         Let's talk about the last thing. The burden of

1 proof. Beyond a reasonable doubt. The most confusing  
2 thing for juries to understand. Beyond a reasonable  
3 doubt. You don't have to be sure beyond any doubt, you  
4 don't have to be sure beyond all doubt. You don't have  
5 to be a hundred percent convinced. You don't have to be  
6 absolutely convinced. Ladies and gentlemen, there are  
7 few things you can know with absolute certainty, but if  
8 you are firmly convinced, then by your juror's oath you  
9 must find him guilty.

10 Has there been an attempted grand larceny? Has  
11 there been a burglary? Has the -- the criminals, have  
12 they been identified? The latents matched to Dwight  
13 Powell. It was at nighttime. You have expert analysis.

14 Dwight Powell is guilty beyond any reasonable doubt  
15 and at the appropriate time we would ask that you find  
16 him guilty of burglary and guilty of attempted grand  
17 larceny.

18 Thank you.

19 THE COURT: Mr. Story.

20 MR. STORY: May it please the Court?

21 THE COURT: Yes, sir.

22 MR. STORY: Opposing counsel and members of the  
23 jury.

24 Why are you coming forward with this information?  
25 It's because I'm in trouble. Not for the truth. Not for

1 justice. Not because he wanted the things done at night  
2 to come to light, but because he was in trouble sitting  
3 in a jail cell. Corey Sternenberg told law enforcement  
4 a story to try to get help. The Government's admitted  
5 this. He sold the solicitor's office a story to try to  
6 help himself and he tried to sell you a story on that  
7 witness stand this week, and I'm asking you not to buy  
8 it. I'm asking you not to buy what he's trying to sell.

9 The solicitor's office are the brokers for Corey.  
10 They -- the story started with Corey and then went  
11 through them and they're trying to sell it to you today  
12 and I'm asking you not to buy Corey Sternenberg's brand  
13 of justice.

14 Let's talk about what happened. Corey Sternenberg  
15 was arrested at a storage unit. He was charged with  
16 breaking into storage units. He was found at the scene.  
17 He was charged with breaking into several motor vehicles.  
18 Corey Sternenberg, who the Government's admitted was a  
19 meth addict and a criminal, a violent criminal no less.  
20 He had an assault and battery of a high and aggravated  
21 nature on his record and he got caught at that storage  
22 unit and he sat in jail charged with burglary, two counts  
23 of burglary, three counts of breaking and entering into  
24 a motor vehicle, and it was November 13, 2020. And he  
25 stayed in jail in November, the Thanksgiving holidays.

1 He didn't go to anybody's home that day. He sat in jail  
2 through Thanksgiving and he waited and he sat. He got  
3 appointed an attorney. We don't know what they talked  
4 about, but they probably talked about things attorneys  
5 and clients talk about. He probably heard Corey's version  
6 of the events and Corey remained in jail. December came.  
7 Christmas came and it went and Corey stayed in jail. He  
8 didn't contact law enforcement through all of December.  
9 But a story had started to develop in his mind. He had  
10 nothing to do but sit around and think and think of a way  
11 out of this, and he sat and he waited.

12 New Year's came and went and he was still in jail.  
13 It wasn't until almost the end of January that he sent  
14 in a crime tip through that screen at the kiosk to law  
15 enforcement telling them about details of a break-in that  
16 he participated in at Tommy Thomas's office. Who knows  
17 all the stuff that he knows about, but he knew that he  
18 could finally get some help, that he could finally get  
19 somebody to listen if he gave them details about a  
20 burglary, if he gave them specific details, and if gave  
21 them somebody else. No, he couldn't just put it on  
22 himself. He needed to give them another name, too,  
23 because he's no good to law enforcement if he just  
24 confesses. He's got to give them somebody else. He's  
25 got to give them another fish to fry, and that's what

1 he did.

2 He started thinking about all the people he could  
3 possibly name and he named Dwight Anthony Powell,  
4 somebody he thought they could believe, and then he got  
5 some traction. Once he sent that in toward the end of  
6 January, law enforcement came to talk to him, and did he  
7 admit what he did? No. No. No. No. He tried to make  
8 it out like he was forced into it. Nobody had heard this  
9 story for months, but he started telling them a story.

10 Now remember what Investigator Mountzouros testified  
11 to. Story -- Corey had been writing a statement, but he  
12 wasn't done. After all those months he hadn't put in a  
13 statement with all that he wanted to tell the police.  
14 He wasn't -- he wasn't even finished after all those  
15 months. He needed more time even after law enforcement  
16 came to talk to him.

17 And what did he tell them? Oh, the storage units,  
18 it wasn't me. I was forced to by Anthony Powell, I was  
19 forced to. And then that burglary, let me tell you, that  
20 thing in Irmo, that was his fault, too. You see, he had  
21 a gun and he had been calling me and calling me and I  
22 knew people didn't like him and so I had to walk off  
23 from -- from my roommate's house and then he came and  
24 picked me up and he threatened me with a gun and he  
25 showed me a badge. Yeah. Yeah. I thought -- I didn't

1 know what it was. It was a badge, a law enforcement --  
2 an ATF badge. Alcohol, tobacco. Yeah, he was -- he was  
3 pretending to be a Fed, a Federal agent, and he threatened  
4 me and he had a gun and he told me we were gonna do this.

5 And then -- and then -- and Tiffany was driving and  
6 -- and -- yeah, yeah, Tiffany Clayton, she was driving.

7 And, oh, and they did drugs. Yeah. They smoked some  
8 methamphetamine. But I didn't. I didn't smoke any  
9 methamphetamine.

10 You-all read his statement. I didn't do it. The  
11 statement that he wrote is in evidence. I didn't  
12 participate in that even though, you know, he admitted  
13 he's been a drug addict and he's got drug charges, but  
14 I didn't participate in that, no.

15 So he -- they did drugs and then he showed me a gun  
16 and then he said okay, we're gonna go commit this burglary  
17 here, let's go, and then they drove me. And it was at  
18 night. It was late at night and we went and the door  
19 was already open, I didn't break into it, and -- and he  
20 had a battery. He was trying to get in this car. It was  
21 a Maserati, it was a red Maserati, I remember that, and  
22 he tried to get it started with a battery. And then  
23 after all that they couldn't get it -- oh, but they took  
24 the battery out of the Volvo, yeah, they put that in  
25 there. And then we left and we drove all around. No,

1 before that I went to the Circle K and I got a drink, it  
2 was a Polar Pop, it was a Polar Pop, I remember that, and  
3 I got a drink and -- and then we went and tried to --  
4 and then we tried to get some pliers and bla, bla, bla,  
5 trying to get this car started, and then we just forgot  
6 about it.

7 And then, you know, we couldn't -- they said it  
8 needed gas, so he forgot about it, but that wasn't the  
9 last I heard. No. You see, he started texting me and  
10 calling me all the time and I was ignoring him, but then,  
11 you know, he threatened me again. He drove me by this  
12 storage facility and told me to go check it out, break  
13 into that, but I didn't want to do it. But then he kept  
14 riding by my house and calling me and texting me and  
15 calling me and texting me over and over and threatening  
16 me and making out like he was gonna shoot me. And so,  
17 yeah, I had to go break into that storage facility because  
18 he wanted me to do it. And sure, you know, I mean, he  
19 wasn't anywhere around when the police got there, it was  
20 just me, but trust me, he forced me it do it.

21 That's the story he was trying to sell law  
22 enforcement and law enforcement charged him with this  
23 burglary, this other one.

24 Now Investigator Mountzouros testified that they  
25 didn't have any names prior to that and then like manna

1 from Heaven Corey Sternenberg sends this tip with details  
2 and now they've got two names. Actually had three names  
3 after he wrote the statement.

4 So they call SLED. Remember they had taken the  
5 latent prints and sent them, but then they called SLED  
6 and Ms. Mears assigned the case to herself. They had  
7 the story before they had any evidence. Before they had  
8 checked out the fingerprints.

9 Now so Corey sat in jail and in April he pleaded  
10 guilty to some charges. They dismissed the charges  
11 associated with this case. They dismissed those charges  
12 and then they dismissed another vehicle charge and Corey  
13 pled and he got probation, okay?

14 Now there doesn't have to be a specific plea deal.  
15 And you-all heard his attorney, Mr. Kirkland, testify.  
16 They don't make promises, but they tell you they'll  
17 take it in consideration when they're making their plea  
18 offers. You see, the solicitor has absolute discretion  
19 over what to offer for a guilty plea. Absolute discretion  
20 for what to drop and what to offer somebody to plead to.  
21 And Corey wanted to keep those folks happy and he still  
22 wants to keep those folks happy because, remember, he got  
23 the three years of probation, so that worked out. The  
24 problem is Corey can't stop stealing. Then he gets out  
25 and while he's on probation he gets charged with another

1 larceny and they violate his probation. He's looking at  
2 twelve years on the probation, but he got eighteen months  
3 and now he's out. Well, what happened after that? There  
4 were no deals for his testimony today, but he ends up  
5 getting more charges and he has Mr. Kirkland for his  
6 attorney for those, too, possession of a stolen vehicle,  
7 and then he gets a drug charge.

8 So he still wants to keep those folks happy. He's  
9 still gonna tell them what they want to hear. He's still  
10 gonna try to sell his story with the only currency he's  
11 got, which is a story.

12 Now let's talk about the prints. The problem is  
13 the prints don't get a conviction. The prints don't prove  
14 anything beyond a reasonable doubt. Law enforcement took  
15 some prints. And, remember, they had the names from Corey  
16 Sternenbergs first. So, if you remember, at the end of  
17 the day fingerprints is not science like we normally think  
18 of it. What happens, as Ms. Mears testified, there are  
19 two images that they end up looking at and they look at  
20 it and compare it and they show you, you know, there's  
21 swirls and whirls and loops at different points, and it's  
22 her opinion that they're the same.

23 Now, remember, the other print was inconclusive,  
24 so what did they do? They had to try to go back and get  
25 another known print. This one isn't good enough, let's

1 go try to get another print, try to get another print,  
2 okay, and now, now finally, okay, yeah, I think -- I  
3 think that's it. This isn't that, folks. At the end of  
4 the day it is a person's opinion.

5 Now let's talk about what Ms. Mears testified  
6 to because I believe the solicitor misstated the  
7 cross-examination or her answers to it. I asked her  
8 about studies that she -- some of which she said she was  
9 familiar with, that show that there are error rates in  
10 positive identification, and she tried to say well,  
11 different studies show different things, but finally  
12 admitted that yes, there are error rates in positive  
13 identification.

14 And then I asked her about a famous example of a  
15 person whose fingerprint was misidentified in the 2004  
16 Madrid train bombings, a person who was in Oregon the  
17 whole time, but his fingerprint was in a database and  
18 his fingerprint popped up on a bombing in Madrid and he  
19 was falsely charged with acts of terror, and she said she  
20 was familiar with that, and she finally said yes, there  
21 are mistakes made. Yes, it is not perfect. Yes, there  
22 are errors.

23 You know what I see in these fingerprints and you  
24 know what they see in these fingerprints? I'll show you  
25 a little example.

1 All right. I'm not an artist. Let me start over.  
2 Okay. It's not the best. You-all know what this is? Is  
3 it a bunny rabbit or is it a duck? Quack. Quack. What  
4 is it? Well, when you look at it this way, again, you  
5 know, I'm not the best here, it looks like a duck looking  
6 up this way. If you look at it from this way, it looks  
7 like a rabbit looking this way, a bunny rabbit. Now my  
8 daughter loves rabbits. She loves bunnies, okay? Loves  
9 them. And so we have a book that's got this duck rabbit  
10 and it causes all kinds of confusion. And I'm like yeah,  
11 it could be a duck and she says no, that's a bunny.  
12 That's a rabbit. I was like no, look at it. No. No.  
13 That's a rabbit. That's a rabbit. She sees what she  
14 wants to see. She sees what she wants to see and refuses  
15 to see anything else, and that's what they do with these  
16 fingerprint comparisons. They had the names. They saw  
17 what they wanted to see.

18 Let's talk about the charges in this case. First,  
19 there is burglary in the second degree. Now the State  
20 -- in order to find him guilty, you have to find the  
21 State has proven each element beyond a reasonable doubt.  
22 That there was entry into the building with intent to  
23 commit a crime. There's no evidence, none whatsoever,  
24 that Dwight Powell did that. For that you need to believe  
25 Corey Sternenberg and you need to believe him beyond a

1 reasonable doubt. They're asking you to believe this man.  
2 They're asking you to trust this man's story. A person  
3 that they admit is a thief and a criminal. A person they  
4 say you would not trust to invite over for Thanksgiving,  
5 but trust him with another man's life and freedom is what  
6 they're asking to you do. Trust him.

7 He told you that they entered that building with  
8 intent to steal the car. Trust him when he says it was  
9 at night. Trust him when he says it was at nighttime.  
10 I mean, Tommy Thomas was there during part of the day and  
11 it's a really, really busy street, so surely if it was  
12 in the daytime somebody would have seen them, but isn't  
13 it odd that on this busy street in Irmo where there's  
14 churches, where there's a law office, where there's  
15 multiple businesses that they were out there trying to  
16 -- somebody had already come and opened up the gate and  
17 had taken things out and went and picked up Corey  
18 Sternenberg and brought him back and they tried to put  
19 in a battery and it didn't work and they went and got  
20 pliers and then they went back and they took out a battery  
21 out of a car and they put it -- tried to put it in the  
22 other car and then they put the battery in the Maserati  
23 and back in the Volvo and it took them all this time and  
24 there's no security anywhere and nobody drove by and saw  
25 them. No one. Believe Corey is what they're asking you

1 to do. Believe his story.

2 Attempted grand larceny. And, again, there's no  
3 evidence of that except for Corey's story. He's the one  
4 who told you they were trying to steal the car. You know  
5 what? You know who didn't believe Corey? The police.  
6 They didn't believe Corey's story. I asked Investigator  
7 Mountzouros if she was familiar with the crime of  
8 kidnapping. If you force somebody into a car at gunpoint  
9 and make them go somewhere, that's a kidnapping. Corey  
10 -- and she even said that what Corey said happened sounded  
11 like a kidnapping. Didn't charge Dwight Powell with  
12 kidnapping. Corey said he had a gun. Didn't charge  
13 Dwight Powell with possession of a weapon during a violent  
14 crime. And he said he had a badge, an ATF badge. Didn't  
15 charge him with impersonating a law enforcement officer.

16 You know who else didn't believe Corey, thought  
17 his story had no credibility? His own attorney, Brad  
18 Kirkland. Now we don't know about their conversations,  
19 but let's talk about what Brad did testify to. I asked  
20 him if he was familiar with the defense of duress and  
21 it's a defense to anything but murder. If you feel like  
22 your life is in danger, you're forced to do something,  
23 that's duress. Corey Sternenberg, in his statement,  
24 claimed he was under duress, that he was threatened when  
25 he broke into that storage unit and broke into those

1 cars, but he pled guilty to it. He was advised by an  
2 attorney specializing in criminal defense for over  
3 twenty-five years and during his plea his attorney told  
4 the judge that he thought it was in his best interest  
5 to plea and he knows that if he goes to trial the State  
6 would have to prove him guilty beyond a reasonable doubt  
7 of each element of the offense. And he doesn't have to  
8 prove himself innocent, he wouldn't have to prove duress.  
9 He would just have to show that yeah, he did it, but  
10 there's a possibility, a reasonable doubt, that he was  
11 forced to do it. That's all they would have to show and  
12 yet he pled guilty. And when the judge asked him if he  
13 thought he would likely be found guilty at trial, he  
14 told him yes, yes, he would. Why? Because Mr. Kirkland  
15 didn't believe there was a shred of credibility that  
16 Dwight Powell forced him to do those things. None. None.

17 There was nothing else to back up Corey's story.  
18 There was no cell phone. Cell phones collect all kinds  
19 of evidence. They store missed calls, they will store  
20 texts, and if Dwight Powell had been calling Corey, that  
21 would be on the phone. If he had been texting Corey, that  
22 would be on the phone.

23 Investigator Mountzouros didn't put in her report  
24 that she went to Circle K. She testified that she did,  
25 they didn't have any video surveillance. It's not just

1 Circle K. It was all -- there was no video surveillance  
2 anywhere of the car that Corey described. There's no  
3 evidence anywhere to back up his story. Not cell phones,  
4 not video, not anything, but they need you to believe him.  
5 They need you to believe him beyond a reasonable doubt  
6 when nobody else does because they need a conviction.  
7 They need to convict somebody of this offense. They  
8 didn't convict story -- Corey. His charges related to  
9 the burglary of Tommy Thomas's office were dismissed.  
10 They need you to buy his story.

11 Another thing, the last thing I'm gonna say before I  
12 sit down, is I agree with the solicitor about one thing,  
13 and that's Corey Sternenberg is not on trial. He's not.  
14 He's not on trial. Dwight Powell's on trial and it's his  
15 life and his freedom that's at issue today and Corey can  
16 get up and he can try to get all the help he wants, he  
17 can try to please the solicitor. I'm asking you folks not  
18 to buy it. If you have doubts, do not think about this  
19 months from now. If you have doubts about Corey's story,  
20 have them today. Ladies and gentlemen, please have them  
21 today. I'm asking you to find Dwight Powell not guilty.

22 Thank you.

23 THE COURT: All right. Members of the jury, it is  
24 now my duty as the trial judge to instruct you on the law  
25 applicable in this case. In that regard, it is your duty

1 as jurors to accept and apply the law as I now state it  
2 to you. Furthermore, it is your exclusive duty to decide  
3 all the issues of fact in this case and to determine the  
4 effect, value, weight and truth of the evidence. All  
5 the parties have the right to expect you will carefully  
6 consider and evaluate the evidence and apply the law of  
7 this case to it so that in the end all parties will  
8 receive a fair and impartial trial.

9         During this trial you and I have separate duties to  
10 perform. As the trial judge, it is my responsibility to  
11 preside over this trial and rule upon the admissibility  
12 of the evidence offered during the trial. You, as members  
13 of the jury, are to consider only the evidence before you.  
14 If you have any preconceived ideas as to what the law is  
15 or what you think the law ought to be and it does not  
16 now agree with what I now tell you the law is, you are  
17 obligated under your oath to abandon those preconceptions  
18 because you are sworn to accept the law as I now state it  
19 to you.

20         In this trial you are the sole and exclusive judge  
21 of the facts. Do not infer that I have an opinion about  
22 the facts in this case from anything I have said or done  
23 during the course of this trial. The law simply does  
24 not permit me to have an opinion about the facts. As  
25 jurors, it is your duty and your duty alone to determine

1 the effect, value, weight and truth of the evidence  
2 presented during this trial.

3 The evidence from which you will decide the facts of  
4 this case are, one, the sworn testimony of witnesses both  
5 on direct and cross-examination; two, the exhibits which  
6 have been admitted into evidence; and, three, any facts  
7 to which all the attorneys have agreed and stipulated.

8 The following things are not evidence and you  
9 must not consider them as evidence in deciding the  
10 facts of this case. One, statements and arguments of  
11 the attorneys; two, questions and objections of the  
12 attorneys; three, testimony that I instruct you to  
13 disregard; four, questions and answers given during  
14 the qualification and selection of the jury; and, five,  
15 allegations set forth in the indictments.

16 While the argument of counsel is a beneficial part  
17 of every trial, you should remember that the statements  
18 made by counsel are not evidence. In presenting arguments,  
19 counsel often refer to the evidence; however, you should  
20 base your verdict on the evidence as you remember it.  
21 Therefore, if there are any conflicts between the  
22 recollection of counsel about the evidence and your own  
23 recollection, you should consider -- you should rely upon  
24 your own understanding of the evidence.

25 Now evidence may be direct or circumstantial.

1 Direct evidence is testimony by a witness about what the  
2 witness personally saw, heard or did. Circumstantial  
3 evidence, on the other hand, is indirect evidence.  
4 Stated differently, it is proof of one or more facts from  
5 which one can find another fact. You may consider both  
6 direct and circumstantial evidence equally and crimes may  
7 be proven by circumstantial evidence. The law makes no  
8 distinction between the weight or value to be given to  
9 either direct or circumstantial evidence; however, to the  
10 extent that the State relies on circumstantial evidence,  
11 all of the circumstances must be consistent with each  
12 other and when taken together point conclusively to the  
13 guilt of the accused beyond a reasonable doubt. If  
14 these circumstances merely portray the defendant's  
15 behavior as suspicious, the truth has failed. The State  
16 has the burden of proving the defendant guilty beyond  
17 a reasonable doubt. This burden rests with the State  
18 regardless of whether the State relies on direct evidence,  
19 circumstantial evidence or some combination thereof.

20 The fact that the defendant elected not to testify  
21 is not a factor to be considered by you in any way in  
22 your deliberations and in your consideration on the  
23 question of whether the defendant is guilty or not guilty.  
24 It must not be considered in any manner whatsoever against  
25 him. An accused has the constitutional right to remain

1 silent and the assertion of that right cannot be considered  
2 by you in your deliberations. Under your oath you are to  
3 reach no inference and draw no conclusion whatsoever from  
4 the fact that the defendant elected not to testify. His  
5 decision should not even be discussed in the jury room.  
6 It is not to enter your minds in making your decisions.  
7 The State has the entire burden of proof and the accused  
8 has no burden to prove anything.

9 Furthermore, it is your job as jurors to determine  
10 the credibility or believability of the witnesses who've  
11 testified in this case. You must evaluate the evidence  
12 and decide which evidence convinces you of its truth.

13 In determining the believability of witnesses who've  
14 in this case, you may believe one witness over many or  
15 many over one. You may believe a part of the testimony  
16 of a witness and reject the remaining part. You may  
17 believe the testimony of a witness in its entirety or  
18 reject it in full. You may consider whether the witness  
19 has an interest in the result of the trial, whether the  
20 witness is prejudiced toward either party, the opportunity  
21 for the witness to have seen the matters and things about  
22 which the witness may testify, and the way the witness  
23 acts on the witness stand.

24 Now the rules of evidence ordinarily do not permit  
25 witnesses to testify to opinions or conclusions. An

1 exception to this rule exists for witnesses we call  
2 expert witnesses. A witness who by education and  
3 experience has become an expert in some art, science,  
4 profession or calling may state an opinion as to relevant  
5 and material matter in which the witness claims to be an  
6 expert and may also state the reasons for the opinion.  
7 You should consider any expert opinion received in  
8 evidence in this case like any other evidence and give it  
9 the weight you think it deserves. If you decide that the  
10 opinion of an expert is not based on sufficient education  
11 and experience or if you conclude that the reasons given  
12 in support of the opinion are not sound or that the opinion  
13 is outweighed by other evidence, you may disregard the  
14 opinion entirely. An expert witness's testimony is to be  
15 given no greater weight than that of other witnesses simply  
16 because the witness is an expert. Further, you are not  
17 required to accept an expert's opinion even though it is  
18 not contradicted.

19 The defendant has pled not guilty to these  
20 indictments and that plea puts the burden on the State  
21 to prove the defendant guilty. A person charged with  
22 committing a criminal offense in South Carolina is never  
23 required to prove his or her innocence. I charge you that  
24 it is an important rule of the law that the defendant in  
25 a criminal trial no matter what the seriousness of the

1 charge may be will always be presumed to be innocent of  
2 the crime for which the indictment was issued unless guilt  
3 has been proven by evidence satisfying you of that guilt  
4 beyond a reasonable doubt.

5 This presumption of innocence does not end when you  
6 begin your deliberations, but it accompanies the defendant  
7 throughout the trial unless you reach a verdict of guilt  
8 based on evidence satisfying of you that guilt beyond a  
9 reasonable doubt.

10 The presumption of innocence is like a robe of  
11 righteousness placed about the shoulders of the defendant  
12 which remains with the defendant unless it has been  
13 stripped from the defendant by evidence satisfying you  
14 of the defendant's guilt beyond a reasonable doubt.

15 The presumption of innocence is not mere legal theory.  
16 It's not just a legal phrase. It's a substantial right  
17 to which every defendant is entitled unless you, the jury,  
18 are satisfied from the evidence of the defendant's guilt  
19 beyond a reasonable doubt.

20 Now the State has the burden of proving the  
21 defendant guilty beyond a reasonable doubt. Some of you  
22 may have served as jurors in civil cases where you were  
23 told that it is only necessary for you to prove that a  
24 fact is more likely true than not true, such as by the  
25 greater weight or preponderance of the evidence. In

1 criminal cases, the State's proof must be more powerful  
2 than that. It must be beyond a reasonable doubt as to  
3 each element of each offense charged.

4         What is a reasonable doubt in the law? A reasonable  
5 doubt is the kind of doubt that would cause a reasonable  
6 person to hesitate to act. Proof beyond a reasonable  
7 doubt is proof that leaves you firmly convinced of the  
8 defendant's guilt. There are very few things in this  
9 world that we know with absolute certainty and in criminal  
10 cases the law does not require proof that overcomes every  
11 possible doubt. If, based on your consideration of the  
12 evidence, you are firmly convinced that the defendant is  
13 guilty of the crime charged, you must find the defendant  
14 guilty. If, on the other hand, you think there's a real  
15 possibility that the defendant is not guilty, you must  
16 give the defendant the benefit of the doubt and find him  
17 not guilty.

18         Mere suspicion, however strong, is not enough to  
19 sustain a conviction. Suspicion implies a belief or  
20 opinion as to guilt based on facts or circumstances which  
21 do not amount to proof.

22         In order to establish criminal liability, criminal  
23 intent is required. The dictionary defines intent as  
24 the state of a person's mind that directs his action  
25 toward a specific object. Criminal intent must be proven

1 by the State beyond a reasonable doubt. Criminal intent  
2 is always a matter that must be determined by the jury  
3 from the circumstances surrounding the situation. There  
4 is no way to prove intent to a mathematical certainty.  
5 There is no medical science that can dissect a person's  
6 brain to determine what the person had in mind, so the  
7 law says that criminal intent may be inferred from  
8 circumstances shown to have existed. This is how you  
9 make a determination whether or not the element requiring  
10 intent was present. Criminal intent is a mental state, a  
11 conscious wrongdoing. It is up to you to determine what  
12 the defendant intended to do based on the circumstances  
13 shown to have existed.

14 I'm gonna now explain to you the law as it applies  
15 to the charges against the defendant. The defendant is  
16 charged with second degree burglary. To prove second  
17 degree burglary, the State must proof beyond a reasonable  
18 doubt the defendant entered a building without consent  
19 with the intent to commit a crime in the building.

20 A building is a structure, vehicle, watercraft or  
21 aircraft, where a person lodges or lives or where people  
22 assemble for the purpose of business, government,  
23 education, religion, entertainment, public transportation  
24 or public use or where goods are stored.

25 Finally, the State must prove beyond a reasonable

1     doubt that either, one, when effecting entry or while in  
2     the building or immediate flight therefrom, he or another  
3     participant in the crime was armed with a deadly weapon.  
4     A deadly weapon is any article, instrument or substance  
5     which is likely to cause death or great bodily injury or  
6     used or threatened to use a dangerous object or displayed  
7     what would appear to be a knife, pistol, revolver, rifle,  
8     shotgun, machine gun, or other firearm, or, two, the  
9     defendant entered or remained in the building in the  
10    nighttime.  Nighttime is the period between sunset and  
11    sunrise during which there is not enough daylight to  
12    recognize a person's face except by artificial light or  
13    moonlight.

14           The defendant is charged with attempted grand  
15    larceny.  The State must prove beyond a reasonable doubt  
16    the defendant attempted to take and carry away the  
17    property of another against the will or without the  
18    consent of the other person.  The slightest removal of  
19    the property or the complete possession of the property,  
20    even for an instant, by the defendant is enough to show  
21    a taking and carrying away of the property.  The State  
22    must also prove beyond a reasonable doubt the defendant  
23    intended to permanently deprived the owner of the  
24    property.  Finally, the State must prove that the value  
25    of the thing taken was \$10,000 or more.

1           An attempt is an effort to accomplish a crime which  
2 does not succeed. An attempt includes a specific intent  
3 to do a particular criminal act along with an act falling  
4 short of the act intended. The State must show more than  
5 mere preparation and intent. There must be some overt  
6 act committed in the effort to commit the crime. Intent  
7 means intending the result which actually occurs, not  
8 accidentally or involuntary. Intent may be shown by acts  
9 and conduct of the defendant and other circumstances from  
10 which you may naturally and reasonably infer intent.

11           Now a verdict in this case cannot be based upon  
12 sympathy, passion, prejudice or emotion or some other  
13 consideration not found in the evidence. I charge you  
14 that as jurors you must decide the issues involved in  
15 this proceeding based solely upon the evidence which you  
16 hear during the course of the trial. Your verdict must  
17 be without bias and without prejudice to any party. You  
18 cannot allow yourselves to be governed by sympathy, by  
19 prejudice, by passion, by public opinion or some other  
20 consideration not found in the evidence.

21           Let me say something about your deliberations.  
22 Deliberation is defined as careful consideration,  
23 weighing up with a view to decision. The genius of our  
24 jury system is that it allows twelve good men and twelve  
25 good women from twelve different backgrounds, life

1 experiences and perspectives to consider the evidence,  
2 talk about it and ultimately reach a verdict. We call  
3 them deliberations for a reason. You are to consider  
4 the evidence in this case carefully and deliberately and  
5 discuss it in a calm, thorough and courteous manner.  
6 Listen to the views of all your fellow jurors, consider  
7 other people's points of view and talk through and discuss  
8 the evidence. And, remember, if you're doing something  
9 deliberately, you're not in a big hurry and you should not  
10 be in a hurry here. This case is very important to all  
11 the parties and this trial is their only day in court.

12       When you retire to the jury room, you should discuss  
13 the case with your fellow jurors to reach an agreement  
14 if you can do so. Your verdict must be unanimous. Each  
15 of you must decide the case for yourself, but you should  
16 only do so after you have impartially considered all the  
17 evidence, discussed it fully with the other jurors and  
18 listened to the views of your fellow jurors. Do not be  
19 afraid to change your opinion if the discussion persuades  
20 you that you should, but do not come to a decision simply  
21 because other jurors think it is right. It is important  
22 that you attempt to reach a unanimous verdict, but, of  
23 course, only if each of you can do so after having made  
24 your own decision. Do not change an honest belief about  
25 the weight and effect of the evidence simply to reach

1 a verdict. In other words, do not change your opinion  
2 solely for the sake of reaching a unanimous verdict.

3 Now I will give you a copy of these instructions  
4 in written form. During your deliberations you may refer  
5 to the instructions to guide your decisionmaking. You  
6 must consider the instructions as a whole and not follow  
7 some and ignore others. Please return the instructions  
8 to the Court at the time the verdict is rendered.

9 Now there are two possible verdicts in this case --  
10 that you may find in this case; guilty or not guilty.  
11 There is no significance whatsoever in the order in which  
12 I state these possible verdicts. It's simply one must be  
13 stated first. Ladies and gentlemen, your verdict must be  
14 a unanimous one.

15 Mr. Foreman, when the jury agrees on the verdict,  
16 you will write the verdict on the verdict form, then  
17 knock on the jury room door and inform the bailiff that  
18 you've reached a verdict. At that time we will receive  
19 you back into the courtroom.

20 I ask that you now return to the jury room, but do  
21 not begin your deliberations until you are told by the  
22 clerk or bailiff to do so. There are some matters that  
23 must be discussed with the attorneys before you can begin  
24 your deliberations.

25 Can I get the lawyers up here real quick?

1 (Proceedings held at the bench; not reported.)

2 THE COURT: I neglected one additional point I  
3 need to charge you on, ladies and gentlemen.

4 Mere presence at the scene is not sufficient -- is  
5 not sufficient to prove someone guilty of a crime. A  
6 defendant's presence where a crime is being committed or  
7 mere association with a person who commits a crime does  
8 not make a defendant an accomplice or aider and abetter  
9 of the person committing the crime.

10 So I've got some additional matters to talk to the  
11 attorneys about. At this time go to the jury room.  
12 Please do not discuss the case, but we'll get further  
13 instructions to you shortly.

14 Thank you.

15 (Whereupon, the jury retires to the jury room at  
16 11:58 am.)

17 THE COURT: We'll add that into the copy that goes  
18 back to the jury. Thank you for bringing that up.

19 Any issues with the jury charge?

20 MS. MARTIN: None from the State, Your Honor.

21 MR. STORY: None from the defense.

22 THE COURT: All right. We'll alter that charge.

23 We've got to get the alternates back in here, but let's  
24 wait a few minutes.

25 If the attorneys would please come up and make sure

1 the evidence is all in order.

2 (Pause in proceedings.)

3 (Whereupon, the alternates enter the courtroom.)

4 THE COURT: All right. Hey, Juror Number 39?

5 JUROR NUMBER 182: I'm 182.

6 THE COURT: Oh, I've got the wrong list.

7 Okay. 182 and 103.

8 JUROR NUMBER 103: Yes, sir.

9 THE COURT: All right. We're about to give the  
10 case to the jury. We didn't lose anybody over the last  
11 two days, so we won't need you, but I'd like you to hang  
12 out in the room behind here, assuming it's open. We've  
13 got your lunch brought up.

14 You-all can hang for thirty minutes just in case  
15 something crazy happens before they start deliberating.  
16 I'll keep you for a little bit, then you'll be free to  
17 go.

18 Thank you for being here. Thank you for paying  
19 attention and I hope your experience has been okay thus  
20 far.

21 Just hang out for a little bit, but I don't think  
22 we'll need you much longer, okay?

23 Thanks.

24 (Whereupon, the alternates were excused at 12:06 PM.)

25 (Whereupon, the evidence was submitted to the jury

1 and deliberations commenced at 12:07 PM.)

2 (Back on the record at 2:25 PM.)

3 THE COURT: All right. I'm informed that we have  
4 a verdict.

5 Anything before we bring the jury back in?

6 MS. MARTIN: Nothing from the State, Your Honor.

7 MR. STORY: Nothing from the defense.

8 THE COURT: Okay. Let's bring them back in.

9 (Whereupon, the jury returns to the courtroom at  
10 2:27 PM.)

11 THE COURT: All right. Mr. Foreman, ladies and  
12 gentlemen of the jury, welcome back.

13 Mr. Foreman, I understand you have a verdict?

14 FOREPERSON: Yes, sir.

15 THE COURT: Was your verdict unanimous?

16 FOREPERSON: Yes, sir.

17 THE COURT: Please hand it to the bailiff.

18 All right. Madam Clerk.

19 THE CLERK: The State versus Dwight Powell. We,  
20 the jury, as to Indictment 2024-GS-32-0234, for the  
21 charge of attempted grand larceny, unanimously find  
22 beyond a reasonable doubt the defendant guilty.

23 We, the jury, as to Indictment 2021-GS-32-01351,  
24 for the charge of burglary second degree, unanimously  
25 find beyond a reasonable doubt the defendant guilty.

1           So signed by the foreperson today, March the 20th,  
2   2024.

3           Mr. Foreman, ladies and gentlemen of the jury, if  
4   this is your verdict please indicate so by raising your  
5   right hand.

6           (Jury complies.)

7           THE CLERK: All hands raised.

8           THE COURT: All right. Mr. Story, anything for the  
9   jury?

10          MR. STORY: Your Honor, I do ask that we poll the  
11   jury.

12          THE COURT: Very well.

13          Madam Clerk.

14          THE CLERK: As I call your number, if you'll hold up  
15   your hand. I'm gonna ask you is this your verdict and is  
16   it still your verdict at which time I will ask you to  
17   respond.

18          Juror Number 116. Is this your verdict and still  
19   your verdict?

20          JUROR NUMBER 116: Yes.

21          THE CLERK: Thank you.

22          Juror 92.

23          JUROR NUMBER 92: Yes.

24          THE CLERK: Thank you.

25          Juror 210.

1 JUROR NUMBER 210: Yes.  
2 THE CLERK: Thank you.  
3 Juror 206.  
4 JUROR NUMBER 206: Yes.  
5 THE CLERK: Juror 7.  
6 JUROR NUMBER 7: Yes.  
7 THE CLERK: Juror 66.  
8 JUROR NUMBER 66: Yes.  
9 THE CLERK: Juror 165.  
10 JUROR NUMBER 165: Yes.  
11 THE CLERK: Juror 195.  
12 JUROR NUMBER 195: Yes.  
13 THE CLERK: Juror 31.  
14 JUROR NUMBER 31: Yes.  
15 THE CLERK: Juror 59.  
16 JUROR NUMBER 59: Yes.  
17 THE CLERK: Juror 85.  
18 JUROR NUMBER 85: Yes.  
19 THE CLERK: And Juror Number 8.  
20 JUROR NUMBER 8: Yes.  
21 THE CLERK: All jurors polled.  
22 THE COURT: Very well.  
23 Counsel, anything else for the jury before they're  
24 discharged?  
25 MS. MARTIN: Nothing from the State, Your Honor.

1 MR. STORY: Not at this time, Your Honor.

2 THE COURT: All right. Ladies and gentlemen of  
3 the jury, when you come into the courthouse on a Monday  
4 morning, you never know what's waiting for you. You  
5 didn't know you were gonna get selected for a jury. You  
6 just knew you were supposed to show up.

7 But we want to thank you for your service this week.  
8 Make no mistake that your serving as a juror is public  
9 service, okay? So our -- both our criminal and our civil  
10 justice systems can't function unless we can move cases  
11 and your service this week is an important part of that,  
12 so thank you for your service.

13 You are free to go at this time. I think we will  
14 need to have the foreman speak with the clerk over here  
15 before you depart. You're free to go. You're certainly  
16 -- we'll pivot into the next stage from here, you're  
17 welcome to stay, but thank you for your service this  
18 week. I hope it was a good experience.

19 You're free to go.

20 (Whereupon, the jury was excused at 2:30 PM.)

21 THE COURT: All right. Mr. Story, are you ready to  
22 proceed, sir?

23 MR. STORY: Are we back on the record, Your Honor?

24 THE COURT: Yes, sir. Any post-trial motions?

25 MR. STORY: Yes, Your Honor.

1           At this time I do move for a judgment notwithstanding  
2 the verdict of acquittal in that no reasonable jury could  
3 have found the defendant guilty based on the evidence  
4 presented, and I move for a new trial, Your Honor.

5           And I also renew all previous objections and motions.

6           THE COURT:   Okay.

7           All right.  Your motion -- okay.  So any response  
8 from the State?

9           MS. MARTIN:  Your Honor, I think your ruling should  
10 stand.  There's been nothing new presented that would  
11 change.

12          THE COURT:  I'll deny the motion for a new trial.  
13 I thought there was sufficient evidence for the jury to  
14 review in coming up with this verdict, so your motion for  
15 a new trial is denied.

16          Okay.  Anything else?  And you renew all your  
17 previous --

18          MR. STORY:  Yes, Your Honor.

19          THE COURT:  -- previous motions and objections.

20          All right.  We've just finished the trial of  
21 Mr. Dwight Powell and the jury found him guilty of  
22 attempted grand larceny and burglary second degree.

23          I'll hear from the State.

24          MS. MARTIN:  Thank you, Your Honor.  May it please  
25 the Court?

1           Your Honor, as you know, this case is quite old.  
2           It's the oldest case that I have on my personal docket.  
3           Your Honor, there were times where we tried to resolve  
4           this via plea bargain. There were times that Richland  
5           County sent their cases over for me to handle a plea and  
6           it just didn't work out. There was even a time when I  
7           couldn't put my hands on Corey Sternenberg and we had  
8           offered the defendant a very, very, very generous offer,  
9           which he declined.

10           Your Honor, the judge -- the jury has now decided,  
11           which I think was a very clearcut case. Mr. Powell  
12           has a horrible record. Your Honor, his rap sheet is  
13           voluminous. It's not one of the worst I've ever seen,  
14           but he has many convictions. I'd like to give you those  
15           now.

16           THE COURT: Do you have them on my paper, too?

17           MS. MARTIN: I have them on my paper that you can't  
18           read, but I'll --

19           THE COURT: All right. I'll try to write. I'll try  
20           to write. Thank you.

21           MS. MARTIN: 2011 he has a conviction for pointing  
22           and presenting. 2012, public disorderly conduct. 2016,  
23           harassment second degree. 2019, grand larceny over  
24           2,000, less than 10,000. 2019, possession of meth.  
25           2019, possession of heroin. 2019, possession of a weapon

1 by one convicted of a violent crime. 2019, forgery.  
2 2019, possession of stolen vehicle. 2019, shoplifting.  
3 2020, burglary pled down to entering premises without  
4 permission. He has a 2020 probation violation. He is  
5 on probation now. He has a hold out of Richland County  
6 for a probation violation. He has a hold from Camden  
7 Public Safety.

8 Your Honor, I submit to the Court that the reason  
9 I'm not stating any convictions since 2020 is because  
10 the defendant has actually been incarcerated this whole  
11 time.

12 I have six other files totalling seven or eight  
13 indictments of pending charges against Mr. Powell.  
14 I'm very familiar with him. Your Honor, he's been  
15 arrested by Irmo, Newberry, Saluda, Kershaw, Lexington,  
16 Batesburg-Leesville, Richland.

17 Your Honor, he is a danger and we'd ask for a  
18 significant prison sentence.

19 Mr. Tommy Thomas, the victim, is in court. He  
20 wanted the Court to be aware that he trusts your  
21 discretion. He did have many items that were stolen  
22 that we -- we went with an attempted grand larceny, but  
23 he had many items that were stolen he says that night  
24 that were very sentimental and, Your Honor, he just  
25 leaves it in your discretion, but he wanted the Court

1 to know he wasn't avoiding your courtroom.

2 I beg the Court's indulgence just one moment.

3 And the reason, Your Honor, he's been in jail for  
4 two years is because his bond was revoked by a circuit  
5 court judge who found he was a danger to the community  
6 because he kept getting rearrested.

7 THE COURT: Okay. Anything else from the State?

8 MS. MARTIN: No, Your Honor.

9 THE COURT: Mr. Story.

10 MR. STORY: May it please the Court?

11 Your Honor, I'm just very disappointed in the  
12 verdict. Your Honor, Mr. Powell is forty-one years old.  
13 I represented him -- I will say this. His record starts  
14 at 2011. He doesn't have any more serious felonies on  
15 his record. I know he's got a number of lesser serious  
16 offenses, nothing violent. I just have a very, very  
17 difficult time believing that, you know -- anyway, I  
18 won't address it. The jury's made their statement.

19 THE COURT: Well, your experience with him has been?

20 MR. STORY: My experience, and I've represented him  
21 -- as I said, I've represented him for all the charges  
22 from 2019 on. When he was out on bond, he was very easy  
23 to get ahold of. He was -- came to my office every  
24 appointment. He -- I mean, he was just as respectful as  
25 he could possibly be. His mother, Evelyn Powell, has

1     been with him the whole time, the whole way. You know,  
2     she's just been such a great person to talk to about  
3     Anthony.

4             A couple of things that I do want to bring up,  
5     Your Honor, you know, again, these are the most serious  
6     charges that he's been convicted of. He's never been  
7     to prison. I know he's got a number of less serious  
8     offenses. He has been in jail 1,093 days since his bond  
9     was revoked by the State.

10            THE COURT: Any time before then?

11            MR. STORY: He did on this charge. And I beg the  
12     Court's indulgence.

13            And so -- and I know -- anyway, let me get back.  
14     Sorry. I was a little flustered, but let me get back  
15     to Mr. Anthony Powell. He is from Saluda, was born and  
16     raised. Ms. Evelyn raised him. He's a graduate of  
17     Saluda High School. He served in the Army National Guard  
18     for four years and was honorably discharged, then he went  
19     and got a certificate at Saluda Tech. And, you know, as  
20     I stated, his record didn't start until 2011, so he's  
21     certainly not a lifelong criminal by any means.

22            And so, Your Honor, I just ask that you take all of  
23     that into consideration. He is on probation for charges  
24     I pled him to years ago.

25            THE COURT: I'm sorry. I didn't -- I didn't realize

1 that. He's on probation now?

2 MR. STORY: The State mentioned it, but --

3 MS. MARTIN: I told you.

4 MR. RENTIERS: That's correct, Your Honor.

5 THE COURT: I forgot to go to Mr. Rentiers, but  
6 I'll --

7 MS. MARTIN: But it can't be handled --

8 MR. STORY: It's our understanding that cannot be  
9 handled in Lexington unless Mr. Rentiers knows something  
10 different.

11 MR. RENTIERS: That's correct.

12 THE COURT: I heard Richland and probation. Maybe  
13 that's why I --

14 MR. RENTIERS: And there's victims to notify also.

15 THE COURT: Okay. So we're not handling that today.

16 MR. RENTIERS: That's correct, Your Honor.

17 MR. STORE: Your Honor, I just -- and Ms. Popowski's  
18 on it. Okay. So we have one day extra on these charges.

19 THE COURT: So 1,094.

20 MR. STORY: I would ask for 1,094 days credit and  
21 just asking for mercy from the Court, Your Honor.

22 THE COURT: Does he wish to speak?

23 Mr. Powell, you don't have to, but you certainly  
24 have the right to.

25 THE DEFENDANT: Yes, sir. I don't know what I'm --

1 THE COURT: Do you want to talk to your lawyer  
2 before you do? That will be fine.

3 MS. POPOWSKI: Yes.

4 MR. STORY: Your Honor, I'm sorry to interrupt. He  
5 does want to briefly address the Court.

6 THE COURT: That will be fine. Yes, sir.

7 THE DEFENDANT: Yes, sir, Your Honor.

8 Judge McLeod, I'd just like for you to know before  
9 you sentence me that before I come in here this week, I  
10 turned down a time served with probation plea last July.  
11 I just would like for you to be aware of that.

12 I have been incarcerated -- Saturday will be three  
13 years. I have got gotten a stronger and closer and wiser  
14 relationship with the Good Lord and I prayed that -- for  
15 him to use me wherever he sees fit. With that being said,  
16 I guess the South Carolina Department of Corrections is  
17 where I'm gonna be going, so I just would -- I just --  
18 that was my prayer, so if he answered that and whatever  
19 you see fit, I'm willing to take it on the chin, Your  
20 Honor.

21 THE COURT: Okay. Well, I'm not here to give it to  
22 anybody on the chin. I'm here to try to find the most  
23 reasonable resolution based upon everything I've been  
24 told here today, so.

25 MR. STORY: And, Your Honor, I apologize to

1 interrupt. I did neglect one very important thing. So  
2 while Anthony has been in jail, he did save a guard from  
3 an assault.

4 THE DEFENDANT: I do have -- Sergeant Floyd, I  
5 saved her from seriously body injury or death. I was  
6 an inmate worker for the past year. I got moved from --  
7 even though I was a -- had a violent charge, they moved  
8 me from behind the door to an inmate worker position,  
9 which I've been doing for fourteen months. She sent an  
10 e-mail over to Mr. Story and so whatever it's worth,  
11 Your Honor.

12 MR. STORY: And, Your Honor, that's correct.

13 Ms. Lisa Williams, my paralegal, she was in  
14 communication with Sergeant Floyd who confirmed it, so  
15 it's not just my client's telling us this. We do have  
16 confirmation. And so we ask for mercy from the Court.

17 THE COURT: Okay. Fair enough. I don't -- I'd  
18 like to engage a little bit more here. I'm not gonna  
19 talk bout anything having to do with the case, but I'm  
20 gonna talk about him and his life.

21 You know, in 2011 things started to go a different  
22 way for you. Is this drug-related? Are you -- is he  
23 okay talking about that a little bit?

24 THE DEFENDANT: Your Honor, I lost my father around  
25 that time. I was raised by my parents on the go-cart

1 track. My father was drag racer. He was my rock. I  
2 fell off for a couple of years and went down the wrong  
3 path, got on drugs. Then I had another guy come along.  
4 He was like my father. I raced for him. I was a  
5 certified electrician. I made \$33.18 an hour and he  
6 got hit with 13,800 volts and got killed right beside  
7 me at a chemical plant, DSM Columbia Nitrogen in Augusta,  
8 Georgia. After that I went through some counseling and,  
9 yeah, I had -- I wasn't applying myself. I've been  
10 incarcerated, like I said, the three years, but before  
11 that I wasn't -- I was basically from female to female  
12 and drugs were related.

13 THE COURT: I'm sure you haven't been in active  
14 addiction for the last 1,094 days, but prior to that was  
15 that an issue?

16 THE DEFENDANT: With all that being said, at the  
17 end of the day I am a grown man. I have a daughter  
18 that's twenty-two. She just graduated from college with  
19 criminal forensics and psychology, so she's probably  
20 wondering what happened to dad is what I come up with.  
21 I have a son that's seventeen. He's wrestling at Aiken  
22 High. I do have still a good relationship with my ex-wife  
23 and my kids.

24 THE COURT: All right. Thank you.

25 THE DEFENDANT: That's it.

1 THE COURT: Is that all?

2 THE DEFENDANT: Yes, sir, Your Honor.

3 THE COURT: I'm gonna take a short recess.

4 MS. MARTIN: Your Honor, I do have one thing.

5 Since they talked about him being an inmate worker and  
6 him providing help to a CO, I don't doubt that's true,  
7 I didn't know that though, but just in the last ten  
8 days he's been charged with providing contraband to his  
9 inmates at the jail. He, along with a barber, were  
10 sneaking in phone chargers, so, you know, they obviously  
11 made a mistake when they promoted him to an inmate worker.  
12 That was a charge that's left pending that carries  
13 ten years. That will probably be the next case.

14 MR. STORY: And, Your Honor, that is brand new.  
15 I have no discovery on it. He's presumed not guilty.

16 THE COURT: Fair enough.

17 All right. Thank you-all.

18 (Recess taken at 2:50 PM.)

19 (Back on the record at 3:01 PM.)

20 BAILIFF: Remain seated. Come to order. Court's  
21 now in session.

22 THE COURT: All right.

23 You know, Mr. Powell, I hope you can get back to  
24 where you were before 2011. I mean, you know, you're  
25 forty-one now. Back when you were almost twenty-seven

1 is when things started to go sideways a little bit. I  
2 know you had good employment back then and I hope you  
3 can, frankly, acquire some -- some skills and trades  
4 while you serve your sentence. I've tried to not overdo  
5 it, but I've tried to also give account to not just  
6 the charges you're here for today, but also the past  
7 convictions, the specific convictions you have on your  
8 record, so.

9 On the charges of attempted grand larceny and  
10 burglary second degree, they'll be concurrent sentences  
11 of eight years in the Department of Corrections. Credit  
12 for 1,094 days.

13 That's all. Court will be in recess until the next  
14 case.

15 (Whereupon, the proceedings were concluded for  
16 March 20, 2024, at 3:02 PM.)

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C E R T I F I C A T E

I, Stacy S. Johnson, Official Court Reporter for the Eleventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete transcript of record of all the proceedings had and the evidence introduced in the hearing of the captioned case in Circuit Court on March 18th-20th, 2024.

This transcript may contain quoted material. Such material is reproduced as read by the speaker.

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

October 7, 2024

*Stacy S. Johnson*  
STACY S. JOHNSON  
CIRCUIT COURT REPORTER

DOCKET NO. 2021GS3201351

**The State of South Carolina**

**County of Lexington**

**COURT OF GENERAL SESSIONS**

**AUGUST TERM 2021**

**THE STATE**

**vs.**

**Dwight Anthony Powell Jr**

**CDR #: 0086**

**Indictment for**

**Burglary 2nd degree**

**§ 16-11-0312(B)**

**S.R. Hubbard III, SOLICITOR**

**WITNESSES**

Lexington County Sheriffs Department

A : Mountzourous

Law Enforcement Case #: 2002305

AGM

**ARREST WARRANT NUMBER**

**2021A3220400020**

**ACTION OF GRAND JURY**

**TRUE BILL**

*[Signature]*  
Foreperson of Grand Jury  
Date: 9-1-24

**VERDICT**

*Guilty*

*[Signature]*  
Foreperson of Petit Jury  
Date: 3/20/24

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

Defendant

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

Defendant

Witness  
C.C.C. PLS. and G.S.

A TRUE COPY  
*[Signature]*  
Lex. Co. C.C.C.P., G.S. & H.C.

**RECEIVED**  
MAR 28 2024  
SC Court of Appeals

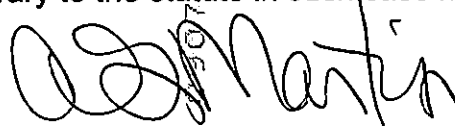
STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF LEXINGTON )  
 )

INDICTMENT FOR  
Burglary 2nd degree  
§ 16-11-0312(B)

At a Court of General Sessions, convened on May 2021, the Grand Jurors of Lexington County present upon their oath:

That Dwight Anthony Powell Jr along with a codefendant did Lexington County, South Carolina on or about November 7, 2020 knowingly and willfully enter a building located at 7588 Woodrow St., Irmo without consent and with the intent to commit a crime therein, and the entering or remaining occurred in the nighttime, in violation of § 16-11-312 (B) of the Code of Laws of South Carolina, 1976, as amended.

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



SR. ASSISTANT SOLICITOR

SCANNED 05/07/2021

A TRUE COPY  
Lex. Co. C.C.C.P., G.S. & R.C.

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MAR 28 2024  
SC Court of Appeals

DOCKET NO. 2024GS320234

The State of South Carolina  
County of Lexington

LEXINGTON COUNTY GENERAL  
SESSIONS

February Term 2024

THE STATE

vs.

Dwight Anthony Powell, Jr

Indictment For

Attempted Grand Larceny

SC Code: §16-13-30(B)(2)

CDR Code: 3421

Class E Felony

S.R. Hubbard III, Solicitor

WITNESSES

Kelly Mountzouros - Irmo Police Department

Law Enforcement Case #: 2002305

AGM

ARREST WARRANT NUMBER

2024GS320234

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date: 3-5-24

VERDICT

Guilty

Foreperson of Petit Jury

Date: 3/26/24

INDICT



**CERTIFICATE OF COUNSEL FOR APPELLANT**

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

Respectfully Submitted,

**RECEIVED**

**Aug 22 2025**

**SC Court of Appeals**

  
Joanna K. Delany  
Appellate Defender

South Carolina Commission on Indigent Defense  
Division of Appellate Defense  
PO Box 11589  
Columbia, SC 29211-1589

ATTORNEY FOR APPELLANT

This 22nd day of August, 2025.

**RECEIVED**

**Aug 22 2025**

**SC Court of Appeals**

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

\_\_\_\_\_  
Appeal from Lexington County

Honorable Walton J. McLeod, IV, Circuit Court Judge

\_\_\_\_\_  
THE STATE,

RESPONDENT,

V.

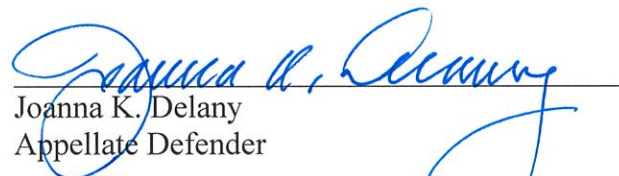
DWIGHT ANTHONY POWELL, JR.

APPELLANT

APPELLATE CASE NO. 2024-000490

\_\_\_\_\_  
CERTIFICATE OF SERVICE  
\_\_\_\_\_

Pursuant to Rule 262(a)(3) and Rule 262(c)(3), SCACR, the undersigned hereby certifies a true copy of the Record on Appeal in the above-referenced case has been served upon Andrew D. Powell, Esquire, at the primary e-mail address listed in the Attorney Information System (AIS), this 22nd day of August, 2025.

  
\_\_\_\_\_  
Joanna K. Delany  
Appellate Defender

South Carolina Commission on Indigent Defense  
Division of Appellate Defense  
PO Box 11589  
Columbia, SC 29211-1589

ATTORNEY FOR APPELLANT