

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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S.C. SUPREME COURT

Honorable George M. McFaddin, Circuit Court Judge

TRENTON M. BARNES,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2023-001267

APPENDIX

GARY H. JOHNSON
Appellate Defender

ALAN WILSON
Attorney General

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1330

D. RUSSELL BARLOW
Senior Assistant Deputy Attorney General
P.O. Box 11549
Columbia, SC 29211-1549
(803) 734-3737

ATTORNEY FOR PETITIONER

ATTORNEYS FOR RESPONDENT

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[THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:

STATE'S EXHIBIT 439 (VIDEO)]

STATE OF SOUTH CAROLINA	)	GENERAL SESSIONS
	)	
County of Richland	)	2014-GS-40-00745
		2014-GS-40-00746
		2014-GS-40-00747
		2014-GS-40-00749
	)	
STATE OF SOUTH CAROLINA,	)	
	)	
	)	
vs.	)	TRANSCRIPT OF RECORD
	)	
LORENZO B. YOUNG AND	)	
TRENTON BARNES,	)	
	)	
DEFENDANTS,	)	

October 27, 2014
Columbia, South Carolina

BEFORE:

THE HONORABLE ROBERT E. HOOD, JUDGE.

APPEARANCES:

KATHRYN LUCK CAMPBELL, ASSISTANT SOLICITOR
DOLLY GARFIELD, ASSISTANT SOLICITOR
NICOLE SIMPSON, ASSISTANT SOLICITOR
Attorneys for the State

MARK SCHNEE, ESQ. (Trenton Barnes)
TRACY PINNOCK, ASSISTANT PUBLIC DEFENDER
STEPHEN KRYZSTON, ASSISTANT PUBLIC DEFENDER
JACQUELYN BAMBACH, ASSISTANT PUBLIC DEFENDER
Attorneys for the Defendants

KAREN AMBROZIAK
Official Court Reporter

C O N T E N T S

INDEX OF EXHIBITS:

(There were no exhibits introduced.)

INDEX OF WITNESSES:

(There were no witnesses called.)

1 THE COURT: All right. We're on the record in State
2 of South Carolina vs. Trenton Barnes and Lorenzo Young.

3 Where is Mr. Barnes?

4 MR. SCHNEE: Right over here, Your Honor.

5 THE COURT: Good morning. How are you, sir?

6 (There was no response).

7 And are you Mr. Young?

8 MR. KRYZSTON: He is, Your Honor.

9 THE COURT: Okay. Good morning.

10 All right. We've been in a pretrial conference for
11 awhile now discussing some issues that potentially for
12 this case, the trial docket this week.

13 Does the defense have motions?

14 MR. KRYZSTON: We'd move to continue, Judge.

15 THE COURT: Okay. And based upon what?

16 MR. KRYZSTON: We just received discovery,
17 approximately four-and-a-half hours of interrogations
18 yesterday at 5:00 p.m. I have not had an opportunity to
19 review them, and I believe there would be an issue with
20 our effectiveness as counsel moving forward.

21 THE COURT: All right. And is one of those
22 interviews of a cooperating codefendant?

23 MR. KRYZSTON: It is, Your Honor. The -- I believe a
24 key witness for the State, Troy Stevenson.

25 THE COURT: All right. Mr. Schnee?

1 MR. SCHNEE: Judge, I would join in that motion. I
2 received the same information, actually shortly after the
3 public defenders did. There's too much information to go
4 through before the trial.

5 THE COURT: All right. Mr. Young, stand up, raise
6 your right hand.

7 LORENZO YOUNG, after being duly sworn,
8 testified as follows:

9 THE COURT: How old are you, sir?

10 THE DEFENDANT: Twenty years old.

11 THE COURT: Put your hand down. How far did you go
12 in school?

13 THE DEFENDANT: Tenth grade.

14 THE COURT: Okay. Did you grow up in Columbia?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: Okay. Now, do you understand that your
17 attorneys are asking for me to continue your case?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: And do you understand why they're asking
20 for me to continue your case?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: Have you discussed that continuance with
23 your attorneys?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: And are you in agreement with their

1 decision to continue your case?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: And do you understand that you will
4 remain in custody until your case is scheduled for trial?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: Do you have any questions, not about the
7 case specifically but about the issue of me continuing
8 your case before I rule on that motion?

9 THE DEFENDANT: No, sir.

10 THE COURT: Are you in agreement with your attorney's
11 decision to request me to continue your case?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: All right. Thank you. You may sit down.
14 Thank you very much.

15 All right. Mr. Barnes, raise your right hand.

16 TRENTON BARNES, after being duly
17 sworn, testified as follows:

18 THE COURT: All right. Have you understood that your
19 attorney has asked-- excuse me. Let me rephrase that.
20 Do you understand that your attorney has asked me to
21 continue your case?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: And do you understand why your attorney
24 is asking me to do that?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: And have you discussed that with your
2 attorney?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: And do you believe that is best decision
5 for your case at this time?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Do you have any questions for me about
8 that decision?

9 THE DEFENDANT: No, sir.

10 THE COURT: And do you understand that you will
11 remain in custody until your case is tried if I grant this
12 motion for a continuance?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: And is that what you want me to do?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: Okay. All right. Thank you very much.
17 You may be seated.

18 All right. The State can put whatever they need to
19 on the record.

20 MS. GARFIELD: Your Honor, we did receive a request
21 from defense counsel for some discovery. In ascertaining
22 what they requested, we did find these interviews. They
23 were turned over yesterday afternoon.

24 We believe that the substance of those interviews is
25 consistent with what has previously been provided to

1 defense counsel. The State is prepared to go forward. We
2 understand Your Honor's inclined ruling.

3 THE COURT: Why were they not turned over before?

4 MS. GARFIELD: Your Honor, there is no excuse. The
5 Solicitor's Office did not know they existed. As soon as
6 we learned they existed, we turned them over.

7 THE COURT: Why did law enforcement not turn them
8 over?

9 MS. GARFIELD: I believe it was just a complete
10 oversight, Judge.

11 THE COURT: Okay. For the record, that is completely
12 and totally impermissible in every single way, shape, or
13 form.

14 Defendants have a constitutional right to know and
15 understand, a statutory right to know and understand, a
16 right that under the South Carolina Rules of Criminal
17 Procedure to know, understand, and be given the time to
18 completely understand what the case is against them.

19 The idea of law enforcement holding on to audio taped
20 interviews of potential witnesses and not disclosing that
21 until the Sunday night before trial starts on Monday is
22 completely and totally 100 percent inappropriate. The law
23 could not be more clear on that issue.

24 Now, this isn't an issue of suppression. I'm not even
25 considering an issue of suppression, but anything like that

1 is completely and totally discoverable and must be turned
2 over, period, end of story, not up for discussion.

3 MS. GARFIELD: We understand, Judge. This is
4 completely not an intentional act.

5 THE COURT: I understand that, but I need whoever at
6 the City of Columbia makes these decisions to understand
7 that discovery abuses like this are not going to be
8 tolerated.

9 Were those audio recordings to include information
10 that would be favorable to the State and I were not
11 granting a continuance, all that evidence would be deemed
12 inadmissible in a trial. That's the level of seriousness
13 in the day and age we live in with the discovery rules.

14 The State, meaning the Solicitor's Office, is
15 presumed under the law -- this is the United States
16 Supreme Court law that says the State is responsible for
17 knowing every single thing the City of Columbia or any
18 other police agency has. That's not the law according to
19 Judge Hood. That's the law according to the law of this
20 land and precedent involving discovery.

21 So for future reference, law enforcement needs to
22 make sure that every single thing that you have is turned
23 over. If this was -- let me give you an example. If
24 these recordings were some form of a confession by one of
25 the defendants that was going to trial and I did not

1 continue the case, more than likely, I would deem it
2 inadmissible, and you would lose that evidence.

3 Evidence has to be turned over. Discovery has to be
4 turned over for them to prepare whatever defense they want
5 to. That's up to them to decide. That's not a decision
6 for me or a decision for the Solicitor's Office, but it is
7 up to their attorneys to decide.

8 They have a right to fair and full disclosure of the
9 evidence once it is requested pursuant to the rules which
10 has been done in this matter.

11 I do not like to continue cases. I do not have a
12 history of continuing cases, but I believe that in an
13 abundance of caution and in the interest of justice as to
14 Mr. Young and to Mr. Barnes in ensuring that their rights
15 are not violated and the rules are followed, I am going to
16 continue their case.

17 Now, at this point in time, this trial is on for the
18 week of November 10th. I understand that is the week of
19 Veteran's Day. Tuesday is a State and a county holiday,
20 so there will not be court on Tuesday, but we will start
21 court on that Monday and do that trial -- do this trial
22 that week.

23 Now, my question is do we want to take care of some
24 pretrial this week so that we can make that go faster?

25 MR. KRYZSTON: I think if you give us some time, we

1 could, again, address issues and perhaps deal with
2 pretrial at some point this week. Maybe give us day or
3 two to get our ducks in a row and get back to you.

4 THE COURT: Do you have an objection to that
5 Ms. Garfield or whoever is talking?

6 (Indicating in the negative.)

7 What about you, Mr. Schnee?

8 MR. SCHNEE: I'm fine with doing pretrial on
9 Wednesday.

10 THE COURT: Okay. All right.

11 MR. SCHNEE: Whatever is the Court's convenience.

12 MS. GARFIELD: Judge, I'm just inquiring. Are there
13 motions this week? We have not seen a motions docket as
14 of today.

15 THE COURT: Yes. It went out this morning. I'm
16 sorry.

17 MS. GARFIELD: Okay. Because of that, we would ask
18 for Tuesday.

19 THE COURT: I apologize for the motions docket not
20 going out. I had --

21 MS. GARFIELD: Not a problem.

22 THE COURT: I'm in a law clerk rut. Emily just
23 started. So the motions docket -- this is unrelated to
24 the case, but the motions docket went out this morning for
25 Wednesday. So how about Thursday?

1 MS. GARFIELD: Yes, sir.

2 THE COURT: Okay. Do you have an objection to
3 Thursday?

4 MR. KRYZSTON: No, sir.

5 THE COURT: What about you?

6 MR. SCHNEE: Thursday is fine, Your Honor.

7 THE COURT: Okay. So let's start Thursday morning at
8 9:30. We'll spend -- if you all will get a list to the
9 solicitor's office of what motions you want to do so they
10 can make sure that they have all of the appropriate
11 witnesses here.

12 We will do as much pretrial as we can on Thursday so
13 that when the case comes up -- and I'll be the trial judge
14 that week -- we can just -- we can move into it a little
15 bit faster.

16 MR. KRYZSTON: Thank you, Judge.

17 THE COURT: Okay. Any objection to that?

18 MR. SCHNEE: That's fine, Your Honor. Thank you.

19 THE COURT: How about you?

20 MR. KRYZSTON: No, Judge.

21 THE COURT: Okay. Ms. Garfield, do you understand?

22 MS. GARFIELD: Yes, sir.

23 THE COURT: Okay.

24 MR. KRYZSTON: Judge, just so I -- I'm sorry.

25 THE COURT: Hold on one second.

1 (Pause.)

2 Okay. Go ahead.

3 MR. KRYZSTON: Judge, just lastly, I mean, if we're
4 at the conclusion of this hearing, we would, obviously,
5 take the opportunity to renew Riddle v. Ozmint, Rule 5 --

6 THE COURT: Yes.

7 MR. KRYZSTON: -- all discovery protections.

8 THE COURT: I think they understand their obligations
9 with discovery.

10 MR. KRYZSTON: Certainly.

11 THE COURT: And for the record, the Solicitor's
12 Office did not know about these recordings, and when they
13 did, they promptly turned them over so...

14 MS. GARFIELD: Yes, sir.

15 THE COURT: Thank you very much.

16 MS. GARFIELD: I'm meeting with law enforcement this
17 afternoon, if there is anything else.

18 MS. PINNOCK: Yes, sir.

19 THE COURT: Thursday morning at 9:30. Somebody make
20 sure these two gentlemen are transported. They do not
21 need to be dressed out for that hearing, and we will do as
22 much pretrial as we can for that hearing.

23 MR. KRYZSTON: Thank you, Your Honor.

24 MS. GARFIELD: Thank you, Judge.

25 MS. CAMPBELL: Thank you.

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(Whereupon, the proceedings were concluded.)

CERTIFICATE OF REPORTER:

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

I, Karen Ambroziak, Official Court Reporter for the
5th Judicial Circuit of the State of South Carolina, do
hereby certify that the foregoing is a true, accurate and
complete Transcript of Record of the proceedings had and
evidence introduced in the trial of the captioned case,
relative to appeal, in the Court of General Sessions for
Richland County, South Carolina, on the 27th day of
October, 2014.

January 23, 2015

s/Karen Ambroziak

Karen Ambroziak, RPR
Circuit Court Reporter

STATE OF SOUTH CAROLINA)	
)	COURT OF GENERAL SESSIONS
County of Richland)	2014-GS-40-0745
)	2014-GS-40-0746
)	2014-GS-40-0747
)	2014-GS-40-0749
)	
)	2014-GS-40-0752
)	2014-GS-40-0754
)	2014-GS-40-0755
)	2014-GS-40-0756
The State)	2014-GS-40-0757
)	
)	PRETRIAL
vs.)	TRANSCRIPT OF RECORD
)	
Lorenzo Young)	
and)	
Trenton Barnes,)	
)	
Defendants)	

October 30, 2014
Columbia, South Carolina

BEFORE:

The Honorable Robert Hood, Judge

APPEARANCES:

Dolly Garfield, Asst. Solicitor
Kathryn Luck Campbell, Asst. Solicitor
Nicole Simpson, Asst. Solicitor
Attorneys for the State

Mark Schnee, Esq.
Tracy Pinnock, Esq.
Jacqueline Bambach, Esq.
Stephen Krzyston, Esq.
Attorneys for the Defendants

KAREN AMBROZIAK
Official Court Reporter

WITNESSES

MATTHEW McCOY

Direct Examination by Ms. McDuffie	18

Cross Examination by Ms. Pinnock	23

EXHIBITS

STATE'S EXHIBITS

<u>No.</u>	<u>Description</u>	<u>ID</u>	<u>EV</u>
1	Search Warrant	18	
2	Search Warrant	18	
3	Photo	58	
4	Photo	58	
5	Photo	58	
6	Photo	58	
7	Photo	58	

COURT'S EXHIBITS

<u>No.</u>	<u>Description</u>	<u>ID</u>	<u>EV</u>
1	Email	66	
2	Pretrial Motions Submitted	80	
3	Affidavit	80	
4	Sealed Notes	109	

CERTIFICATE OF REPORTER

130

1 THE COURT: Okay. We're on the record in the
2 State of South Carolina versus Trenton Barnes. Where
3 is Mr. Barnes?

4 MR. SCHNEE: He is right over here, Your Honor.

5 THE COURT: Good afternoon, Mr. Barnes.
6 Mr. Barnes is present and represented by Mark Schnee,
7 and the State of South Carolina versus Lorenzo Young.
8 Mr. Young. Good afternoon, how are you, sir?

9 THE DEFENDANT: Doing good, sir.

10 THE COURT: Great. He is present and represented
11 by Stephen Krzyston of the Public Defender's Office.
12 The State is represented by Ms. Campbell and others.
13 All right. We're here for the purposes of pretrial
14 motions. All right. What motion do you want to start
15 with? You're up first, Mr. Krzyston.

16 MR. KRZYSTON: Judge, we're moving to sever the
17 trials at current. We have discussed in chambers at
18 length some of the objections, some of our objections
19 regarding Bruton, and I think actually primarily we're
20 going to be moving to sever the trials based on
21 Mr. Young's 6th and 14th Amendment rights of the
22 federal constitution, as well as his Article I,
23 Section 14 rights of the South Carolina Constitution.

24 The South Carolina provides in pertinent part
25 that any person charged with an offense shall enjoy

1 the right to be fully heard either by himself or by
2 his counsel or both. Further, Section 17-23 of the
3 South Carolina code indicates that every person
4 accused shall at his trial be allowed to be heard by
5 counsel, may defend himself and shall have at his
6 trial an opportunity to be heard by counsel and may
7 defend himself and shall have a right to produce
8 witnesses and proofs in his favor and to meet the
9 witnesses produced against him face-to-face.

10 Judge, it is defense counsel's belief that the
11 defenses of Mr. Barnes and Mr. Young are going to be
12 mutually antagonistic. One can easily see that there
13 is evidence, for instance character evidence, that
14 Mr. Barnes could potentially and is constitutionally
15 entitled to present, but if he were to present that
16 evidence it would infringe on Mr. Young's
17 constitutional rights. For instance, if Mr. Barnes
18 presents any evidence regarding Mr. Young's character
19 without us first going into or offering evidence of
20 Mr. Young's good character, then the presentation of
21 that character evidence on Mr. Barnes' behalf would
22 obviously infringe on the rights provided to Mr. Young
23 through 404(b) of South Carolina Rules of Evidence.

24 The Court really should not be placed in a
25 position to decide or pit the constitutional rights of

1 the defendants against each other.

2 Certainly Mr. Barnes has a right to present a
3 full defense. I believe he has a right to go into
4 Mr. Young's character evidence. However, Mr. Young
5 has a right to have a trial free from that character
6 inference unless he opens the door. It's for those
7 reasons that I believe the motion to sever is
8 primarily mandated by the 6th and 14th amendment
9 rights and then obviously the South Carolina
10 Constitution. If Your Honor again is not inclined to
11 sever on those grounds, I think that the possible
12 Bruton issues involved add credence to counsel --- to
13 my argument that the trial should be severed on the
14 previously mentioned grounds.

15 I know we discussed what Bruton requires, and I
16 think it's fair to say that Hinson tells us where we
17 have a non-testifying codefendant's statement, which
18 potentially implicates a defendant that the statement
19 should be redacted so far or to the extent that it
20 would not implicate the defendant.

21 Again, I believe the state government has
22 consented to, if you will, creating a statement from
23 Mr. Barnes that is in line with Bruton. I think there
24 is the potential, however remote, that again
25 Mr. Barnes' defense and Mr. Barnes' counsel does

1 create a Bruton issue, and if we do get into trial and
2 we get through the State's case without creating a
3 Bruton issue, or the potential that we get through our
4 case without creating a Bruton issue, I think we could
5 get through those two cases and then potentially have
6 Mr. Barnes' defense create a Bruton issue, which would
7 arguably under manifest necessity require a mistrial.
8 For those two reasons we're moving and asking the
9 court to sever the trial.

10 THE COURT: Thank you. Ms. McDuffie?

11 MS. McDUFFIE: May it please the Court. Your
12 Honor, we believe that joinder of these charges is
13 appropriate. Criminal defendants who are tried
14 jointly are not entitled to separate trials as a
15 matter of right. That's State v. Kelsey. Your Honor,
16 here, there are no Bruton issues. We do not intend to
17 offer any testimonial statements by Mr. Barnes at all
18 in this case, Your Honor, so I don't think that Bruton
19 or the confrontation clause will be an issue, Your
20 Honor.

21 THE COURT: You mean you will not introduce
22 statements of Mr. Barnes that will implicate
23 Mr. Young?

24 MS. McDUFFIE: We're not offering statements of
25 Mr. Barnes period ---

1 THE COURT: Okay. Very good.

2 MS. McDUFFIE: --- made to law enforcement, Your
3 Honor, in this case. So there will be no testimonial
4 statements of Mr. Barnes offered. That way there are
5 no Bruton issues or no confrontational clause issues.

6 Further, Your Honor, Mr. Krzyston just said that
7 Barnes would have a constitutional right to introduce
8 character evidence of Lorenzo Young. I don't think
9 that's a correct statement of law. I think Your Honor
10 would have to determine that that evidence is
11 admissible, Your Honor, and I don't know under what
12 theory just offering character evidence of him would
13 be admissible, Your Honor. I don't think the defense
14 has stated a specific ground on which they think it
15 would prejudice their client.

16 Further, Your Honor, the defense has shown no
17 reason why the trials shouldn't be joined. There is
18 no basis on which prejudice or they have shown that
19 prejudice would result to their client for trying both
20 defendants jointly, and further, Your Honor, direct
21 the Court's attention to State v. Page, which is
22 a 2013 Court of Appeals case.

23 THE COURT: Page?

24 MS. McDUFFIE: Yes, Your Honor, cited at 406 S.C.
25 272. That's dealing with Langford and severance and

1 joinder. The Court specifically said that although
2 the solicitor no longer had the exclusive authority to
3 determine the order in which cases are called, the
4 solicitor retains discretion in choosing how to
5 proceed with a case. They further go on to talk about
6 it, Your Honor, that prosecutorial discretion on
7 deciding how to prosecute a case remains under the
8 supervision of Your Honor. However, if the solicitor
9 determines that a joint trial or separate trials would
10 best facilitate the efficient administration of
11 prosecutorial duties, a trial court may still join or
12 sever to protect a defendant's right to a fair trial.

13 However, Your Honor, there has been no reason for
14 you to grant severance based on violation of rights
15 since no rights have been asserted that would be
16 violated by joining these cases, Your Honor.

17 THE COURT: All right.

18 MR. KRZYSTON: And, Judge, just to come back for
19 a brief rebuttal, I understand the State does not
20 intend to offer any testimony or evidence from
21 Mr. Barnes, but that does not foreclose the
22 possibility that Mr. Barnes' counsel would offer that
23 same evidence.

24 Now I understand there are some collateral issues
25 related to that, but the fact remains that I think it

1 is persuasive and I think it goes on towards building
2 an argument that, again, the rights of Mr. Young and
3 Mr. Barnes are odd in this matter and I think it
4 requires severance.

5 Ms. McDuffie indicated that the defendant, or
6 Mr. Young, has asserted no prejudice or has no basis
7 for asserting prejudice, and my rebuttal to that would
8 be that should Mr. Barnes offer 404(b) evidence,
9 Mr. Young would be prejudiced by the introduction of
10 that evidence if Mr. Young does not open the door to
11 that type of evidence. I think that clearly puts us
12 in a situation, again, where we're starting to pit
13 constitutional rights of the defendants against each
14 other. Certainly joined trials are permissible, but
15 it is within the trial court's sound discretion to
16 sever the trials when these types of constitutional
17 issues arise.

18 This case, again, the danger that Mr. Young would
19 suffer undue prejudice from having these types of
20 constitutional arguments against each other is clear.
21 I think that, you know, Mr. Barnes defense is and will
22 be antagonistic to Mr. Young. I think it will be so
23 antagonistic as to, again, infringe upon his
24 constitutional rights.

25 THE COURT: You agree with me that everything you

1 just said pure speculation, right?

2 MR. KRZYSTON: I believe it's pure speculation at
3 this point, Your Honor, only because we haven't
4 entered testimony. But again, I mention that simply
5 because you can see the ease with which we can tread
6 into this territory and tread into this dangerous area
7 where again Mr. Barnes and Mr. Young are fighting each
8 other and the court is stuck in the position of saying
9 either Mr. Barnes' constitutional rights are superior
10 to Mr. Young's or Mr. Young's constitutional rights
11 are superior to Mr. Barnes'.

12 THE COURT: All right.

13 MS. McDUFFIE: Your Honor, again, it's
14 speculation. He has asserted no rights that are
15 violated by joining these.

16 MR. KRZYSTON: Again, Judge, among his rights
17 under the South Carolina Federal Constitution is a
18 right to be fully heard, a right that Mr. Barnes also
19 separately possess, so if it is Mr. Barnes' intention
20 to offer --- and, again, this just one example which
21 would easily derive character evidence, we're going to
22 be immediately in a situation where we're pitting the
23 defendants' rights against each other.

24 THE COURT: Mr. Schnee.

25 MR. SCHNEE: Judge, I do feel it necessary as an

1 officer of the court to address this issue in terms of
2 not my entire strategy, but at least certain issues.
3 I certainly understand the State saying that they have
4 no intention of using any statement that my client
5 made to law enforcement and thinking that will solve
6 the Bruton problem.

7 However, I plan on spending a significant amount
8 of time cross-examining Investigator McCoy and
9 pursuant to Kyles v. Whitley, I will be going into the
10 integrity and the thoroughness of the investigation.
11 Pursuing that, I will be bringing the witnesses he has
12 interviewed, the content of some of these interviews,
13 if necessary, if it hasn't come out, if it's been
14 hidden. If it's contradictory to what other witnesses
15 have said that he, as the lead investigator is aware
16 of.

17 While I know Your Honor is already generally
18 inclined not to have any of the audio come in, I can
19 foresee the possibility that some of it will be
20 required to be played for impeachment purposes. I
21 think the voices on the audio itself are the best
22 evidence compared to any alleged transcript that the
23 State may want to come up with. I do not believe it
24 is entirely speculative by Mr. Krzyston that I will be
25 introducing evidence that is not only antagonistic to

1 his own defense, but contrary to his client's
2 constitutional right to a fair trial.

3 THE COURT: All right. Thank you.
4 Next.

5 MR. KRZYSTON: Next motion or just ---

6 THE COURT: Next motion.

7 MR. KRZYSTON: I believe we'll be moving to
8 suppress. Ms. Pinnock will ---

9 MS. PINNOCK: Yes, sir, Your Honor. May it
10 please the Court. We're respectfully requesting that
11 the search warrant S13-0293 that was executed on
12 Mr. Young's house be suppressed. The warrant
13 affidavit itself fails on its face. I provided Your
14 Honor with a copy of our written memorandum in support
15 of this motion and in the green folder that I placed
16 on the bench. It contains a copy of the warrant
17 itself along with the supporting case law, Judge.

18 Your Honor, the law requires that when a warrant
19 is based off of information received from tips that
20 the affiant provide some sort of information pretty
21 much vouching for the reliability of this informant
22 where they get their knowledge, why they used this
23 person in the past, whether or not this person is a
24 reliable informant in providing information when they
25 are swearing out warrants in front of a magistrate for

1 the issuance of a search warrant.

2 Your Honor, the basis and the support of the
3 assertions of probable cause in this case, there is no
4 mention in the affidavit that was signed by the
5 municipal court judge to indicate there is any
6 reliability provided to the signing judge by the
7 investigator when he took out --- when he requested
8 the search warrant.

9 We actually know for a fact that based on the
10 discovery provided by the solicitor, there's a
11 conversation that happened between Investigator McCoy
12 and the informant mentioned in the affidavit, Your
13 Honor. That's Mr. Donald Moore. Mr. Moore is not
14 previously known by Investigator McCoy. He was
15 somebody who was provided to Investigator McCoy by
16 another law enforcement agency. There is no history
17 between them. They had met the first time on the day
18 he was interviewed and provided his statement that
19 later led to the information that was provided by Mr.
20 Moore, but there's no way that I'm aware of or that we
21 have any record of that there is any reliability
22 assertions made by the investigator so, Your Honor, I
23 would argue that the affidavit itself fails. There
24 was a lack of probable cause when the judge signed the
25 warrant, so I would ask --- and we're moving to

1 suppress the search warrant and all evidence obtained
2 thereafter.

3 MS. McDUFFIE: Your Honor, I have Investigator
4 McCoy here. I can call him to testify. However, Your
5 Honor, I think that the testimony in this case may not
6 be necessary.

7 Your Honor, when he --- when Investigation McCoy
8 uses the term informant, he is talking about Donald
9 Moore. Donald Moore is a witness in this case.
10 Donald Moore gave a written statement that --- the
11 fact that he gave a statement to law enforcement was
12 put in the application of the affidavit for the search
13 warrant, Your Honor. Instead of putting witness, he
14 used the word informant, but at no point in time was
15 this represented to be a confidential informant. In
16 fact, he informed the magistrate --- the municipal
17 recorder of the fact that it was an individual named
18 Donald Moore and the substance of the statement that
19 Mr. Moore gave to law enforcement, Your Honor, there
20 is no need for him to put in the reliability of a
21 witness to a crime who has given a statement who is
22 not a confidential informant.

23 I understand that the term or use of the term
24 informant could be, you know, construed as confusing
25 or misleading, but, Your Honor, our own Supreme Court

1 in State v. Driggers talks about an eyewitness with
2 ---uses the term non-confidential informants and it
3 discusses informants in that matter in terms of
4 reliability of non-confidential informants or
5 eyewitnesses as opposed to confidential informants.

6 In this case, the search warrant, the facts that
7 relate to the magistrate did not rely on the
8 confidential informant, it was made clear to the
9 magistrate the identity of the individual and the
10 information that was known by the individual and
11 relayed to law enforcement and therefore, Your Honor,
12 we would ask you allow the evidence and search warrant
13 in.

14 MS. PINNOCK: Your Honor, if I may.

15 THE COURT: Sure.

16 MS. PINNOCK: Mr. Moore, when he was interviewed
17 by law enforcement, he did not actually witness
18 anything first hand. State v. Driggers is cited in my
19 memorandum, Judge, and the basis of that, the
20 Driggers, was an eyewitness to certain things that
21 were going on. He had a special relationship --- the
22 court mentioned a special relationship, gave him the
23 ability to gain the knowledge that he did get, but
24 it's not --- it's not an issue of whether or not the
25 person was named. The affidavit does not name who the

1 informant was. The affidavit says informant. We do
2 not have any record from the city court that says what
3 Mr. McCoy relayed to the signing judge, so the only
4 information we have to go on is the affidavit that
5 we've been provided. If the investigator would like
6 to testify about what he told the municipal judge
7 prior to signing, I don't even know if that would
8 remedy the situation, Judge, because in oral
9 supplement, oral testimony supplementing what was told
10 to the magistrate, in certain cases that's not enough.
11 The affidavit is required to have some sort of
12 reliability statement in it.

13 All we know is that information was obtained from
14 Mr. Moore. After that information was obtained, they
15 moved on to a photo array and then we're getting a
16 warrant. There was no probable cause, there was no
17 support for probable cause. The records that we have
18 provided to us to review in this matter, I do not
19 believe the warrant should have been signed by the
20 judge, so again lacking any indication from the
21 investigators in the affidavit, in the warrant
22 affidavit, I think makes it flawed on its face and I
23 think it should be suppressed.

24 THE COURT: Where is the search warrant?

25 MS. PINNOCK: It's in the folder. If I may

1 approach, Judge.

2 THE COURT: Thank you.

3 MS. PINNOCK: And the supporting case law is also
4 there.

5 THE COURT: Okay. Thank you.

6 MS. McDUFFIE: Your Honor, if I may. At the time
7 Investigator McCoy went to the municipal recorder, he
8 applied, at the exact same time, he applied for a
9 search warrant 2849 Lucille Drive and also for 3054
10 Bronx Road. He went over the probable cause for both
11 of those cases at the same time, swore to the
12 affidavits and I'd ask that you review all of those
13 that were presented to the magistrate at the time.

14 MS. PINNOCK: Judge, we're not making a motion on
15 the search warrant executed at Mr. Barnes residence,
16 just Mr. Young's residence.

17 MS. McDUFFIE: Your Honor, I think the proper
18 standard is a totality of the circumstances what the
19 magistrate knew and further written affidavits are
20 allowed to be orally supplemented. There's a long
21 string of case law I'm happy to provide Your Honor.

22 They have discussed the warrants as a whole with
23 the magistrate, and then swore individually to each of
24 them and they were issued. I'll hand them up.

25 THE COURT: I think we'll need some testimony as

1 to that issue.

2 MS. McDUFFIE: If it please the Court, the State
3 calls Investigator McCoy.

4 MATTHEW MCCOY,
5 after being duly sworn, testified as follows:

6 THE CLERK: Please have a seat there, sir. State
7 your full name for the record.

8 THE BAILIFF: Watch your step.

9 (WHEREUPON, State's Exhibit Numbers 1 and 2 were
10 marked for identification only.)

11 THE WITNESS: Investigator Matthew D. McCoy.

12 THE COURT: Just so we have this right, your
13 issue is in the part of the ---

14 MS. PINNOCK: State's ---

15 THE COURT: --- affidavit that deals with the
16 reason for the affiant's belief that the property
17 sought is on the subject's premises, correct?

18 MS. PINNOCK: Yes.

19 THE COURT: Okay. So you don't have an issue
20 with description of the property or the description of
21 the premises. It's more what he told or didn't tell
22 or what he included in the affidavit or didn't include
23 in the affidavit as to why he believes he was entitled
24 to a search warrant?

25 MS. PINNOCK: Yes, Your Honor.

1 THE COURT: Is that correct?

2 MS. PINNOCK: Yes, sir.

3 THE COURT: Okay. Okay.

4 MS. McDUFFIE: Your Honor, it's a search warrant
5 that's been labeled as Exhibit 2.

6 THE COURT: Okay.

7 DIRECT EXAMINATION:

8 BY MS. McDUFFIE:

9 Q Investigator McCoy, where are you employed?

10 A The Columbia Police Department.

11 Q And were you investigating a homicide that
12 occurred in July of 2013 on Tommy Circle?

13 A Yes, I was.

14 Q And in --- in following up on that investigation,
15 on July 3rd, did you go to the municipal recorder to
16 swear out two search warrants?

17 A I did.

18 Q And please tell the Court the circumstances when
19 you arrived at the municipal court as to what you did.

20 A I brought the affidavit in, the search warrant,
21 into the courthouse to the Warrant Division. We had
22 spoken with Donald Moore and gotten the audio recorded
23 statement from him regarding his --- what he knew
24 regarding this incident.

25 When I went down to the courthouse to swear out

1 the warrant, I gave her the affidavit, Angela Ladson.
2 She was the municipal recorder at the time.

3 I also advised her that Mr. Moore, Donald Moore,
4 and I gave his name, that he came in and gave us this
5 information and also told her what he had told us
6 regarding this incident; that it coincided with what
7 was on the surveillance video that was not released to
8 the media.

9 Q Let me stop you right there. At the time that
10 you applied for the search warrant, which is in
11 State's Exhibit 2 from Bronx Road, were you also
12 applying for one for Lucille Drive?

13 A Yes, I was; 2849, I believe. Yes, it's 2849
14 Lucille Drive.

15 Q And those search warrants were applied for or
16 requested at the same time?

17 A At the exact same time. They were actually
18 handed to her at the same time. I gave her the
19 overall circumstances there.

20 Q And you said that Donald Moore specifically had
21 information that --- that y'all deemed credible?

22 A That's correct.

23 Q And that was that he knew information about what
24 occurred that was not released in the media or in the
25 video --- the video footage released to the media of

1 that --- of the crime?

2 A Correct. When the video was released to the
3 media, it didn't show the actual shooting. There were
4 some other instances that occurred during that
5 incident that were not released.

6 When he came in to advise us what he knew of this
7 information, he relayed that to us, the information
8 that was not released to the media. It matched
9 exactly what the surveillance video showed which was
10 all relayed to Angela Ladson.

11 THE COURT: Say that last part again.

12 THE WITNESS: Which that information was relayed
13 to the --- Angela Ladson.

14 THE COURT: The magisterial recorder?

15 THE WITNESS: Yes, that's correct. We feared for
16 Donald Moore's safety at the time, which is why his
17 name was not on the affidavit.

18 BY MS. McDUFFIE:

19 Q Okay. So instead of saying a witness or a person
20 who gave a statement, you used the term "informant"?

21 A Correct. I used the term informant because he
22 gave us information regarding it. Normally, we would
23 put his name in there, but you know, we thought his
24 safety was in jeopardy, and the nature of the crime,
25 as well as we weren't sure how much you could get from

1 the search warrant and how long his name would be out
2 on there on the street, if you will. We thought it
3 best to keep his name out of the report and orally
4 supplement with the judge.

5 Q And you further put in the application for the
6 search warrant that Mr. Moore knew details that were
7 not released to the media and were not public
8 knowledge?

9 A I believe that's what it says, yes.

10 Q And you orally supplemented the municipal
11 recorder with what that specific information was?

12 A That's correct. It was primarily --- what it
13 was, it was that when he received the information from
14 one of the codefendants about occurred, it was about a
15 --- that she had struck one of them with a knife.

16 It turned out to be a spoon later, but that she
17 had actually fought back, which was not in any of the
18 video, fought back when the --- when the handguns were
19 pointed at her while she was being robbed. That was
20 information that was, again, not released to the media
21 which gave him a lot of credibility for us.

22 MS. McDUFFIE: Beg the Court's indulgence.

23 (Pause.)

24 BY MS. McDUFFIE:

25 Q And, again, you applied for both of these search

1 warrants at the same time?

2 A That's correct, the exact same time. We walked
3 them both down there at the same time.

4 Q And you briefed her on the circumstances
5 surrounding both cases?

6 A Yes.

7 Q And then the municipal recorder issued search
8 warrants for both residences?

9 A That's correct.

10 MS. McDUFFIE: No further questions, Your Honor.

11 THE COURT: Cross?

12 MS. PINNOCK: May it please the Court.

13 CROSS-EXAMINATION:

14 BY MS. PINNOCK:

15 Q Investigator McCoy, when did you meet Donald
16 Moore, approximate timeline?

17 A If you'll give me a moment, I'll look back at my
18 notes here.

19 (Pause.)

20 It was the day he was brought up to headquarters
21 and interviewed. I believe it was on the 2nd or 3rd.
22 Give me a moment.

23 (Pause.)

24 On the 2nd of July.

25 Q Had you ever talked to him before that date?

1 A No. That was the first time I ever met him.

2 Q You had never seen him before?

3 A No.

4 Q Had Investigator Reese ever seen him before?

5 A Not to my knowledge.

6 Q You actually got a phone call from another law
7 enforcement agency, right?

8 A It was our law enforcement agency. It was a
9 sergeant that was on the street that night, and he had
10 --- Mr. Moore had walked up to one of his officers on
11 the street and actually flagged him down. They had a
12 rapport and knew each other.

13 Q Okay. But they didn't give you a history of how
14 they knew him?

15 A No. I don't know what the history was. It was
16 something to do with where he worked with taking a
17 report or something, a crime that he had committed.

18 Q Against Mr. Moore, correct?

19 A I believe it was Mr. Moore, but I'm not sure.

20 Q Okay, and you said that you did not put Mr.
21 Moore's name into the affidavit because you feared for
22 his safety?

23 A That's correct.

24 Q You considered him a witness?

25 A That's correct.

1 Q How many times did you talk to Mr. Moore during
2 your investigation in this case?

3 A He was interviewed first on the 2nd, and he was
4 again --- I think he was brought up the next day.
5 Yeah, the next day on the 3rd. He was also talked to
6 --- which is when the warrants were signed out that
7 same day.

8 I don't believe I had any conversation after
9 those two interviews. I believe Sergeant Reese spoke
10 to him one more time or two more times on the phone.

11 Q Okay. So there were prior phone calls --- I
12 mean, subsequent phone calls?

13 A That's correct. We talked to him multiple times
14 during the investigation, myself --- he was actually
15 interviewed and recorded those two dates that he was
16 talked to.

17 Q Okay. And you took the information that you
18 learned from Donald Moore and you told that to the
19 magistrate --- to the --- to the judge?

20 A That's correct, went down there, and she was
21 somewhat familiar with what they were investigating.
22 She saw the paper. I went over the case with her,
23 showed her my affidavit, and then I advised her that
24 in there where it says informant, Donald Moore, he
25 gave us a witness --- I'm sorry, an oral statement

1 that was audio recorded. Twice we talked to him, also
2 he picked some of them out of a lineup just to see if
3 he knew them so he could tell us who he was talking
4 about.

5 I advised her of that, and I also advised her of
6 the information regarding what he had told that
7 matched up with the video that was not released to the
8 media.

9 Q Okay. He didn't ---

10 A That the public wouldn't have known.

11 Q He didn't --- according --- as far as you know,
12 he didn't say he saw anything personally?

13 A As far as I know, he said he didn't see anything
14 personally.

15 Q He said his relationship with Troy Stevenson,
16 which is who he said he got his information from
17 right, correct?

18 A That's correct.

19 Q He didn't even know him. He met him at the
20 probation office once.

21 A He --- he advised us that --- he indicated that
22 he knew of him, but I believe that was --- what you're
23 saying there is what he had advised us.

24 Q Okay.

25 A He knew of him from the streets.

1 Q But he didn't --- he didn't consider himself a
2 friend?

3 A He --- he didn't consider himself a friend. He
4 said they had done some crimes together. They were a
5 person who --- they had done some things together,
6 some illegal activities, but he never used that term
7 friend.

8 Q So they had committed crimes together? Are you
9 sure?

10 A That's what --- that's what he had advised us.

11 Q Okay.

12 A He talked about the robberies that they had done
13 and ---

14 Q But again, he didn't witness anything, right?

15 A He --- right. He indicated he was not an
16 eyewitness to anything.

17 Q And you had never met him before that day?

18 A Not before that day, no.

19 Q You didn't have any background information on him
20 before you sat down and talked to him?

21 A Nothing. The only thing I had was --- we had the
22 DMV records. I had pulled the name Donald Moore just
23 so I'd know who I was talking to.

24 MS. PINNOCK: Okay.

25 Beg the Court's indulgence.

1 (Pause.)

2 Thank you. I have no further questions.

3 THE COURT: Redirect?

4 MS. McDUFFIE: No, Your Honor.

5 THE COURT: All right. Thank you, sir. You can
6 step down.

7 THE COURT: All right. Now, you can come back to
8 where you were before, Ms. McDuffie.

9 MS. McDUFFIE: Your Honor, I believe that he has
10 shown, that he has demonstrated that there has not
11 been a confidential informant in this case, there
12 hadn't been, reliability is not necessary to be shown.
13 While it is not necessary, he went a step further than
14 he even had to by telling the municipal recorder the
15 information that they believed to be reliable, the
16 facts that he specifically stated for Your Honor.
17 Your Honor, to further rely on the most recent case is
18 State v. Pope, which is decided August 20th of 2014,
19 so I apologize, there's no citation assigned to it as
20 of yet.

21 THE COURT: Did you say Pope?

22 MS. McDUFFIE: Pope, P-O-P-E. It's Court of
23 Appeals decided August 20, 2014. It says additionally
24 a non-confidential informant should be given a higher
25 level of credibility because he exposes himself to

1 public view and the possible civil or criminal
2 liability should the information he provided be false.
3 Further, Your Honor, they had no reason to believe
4 that his information was untrue. The officers acted
5 and did everything appropriately in terms of procuring
6 the search warrant.

7 Your Honor, the search warrant clearly states
8 probable cause. However, should Your Honor find that
9 there isn't probable cause, we would rely on State v.
10 Herring, the officers acted in good faith on a warrant
11 they reasonably believed to have probable cause and
12 there were no false statements or misstatements made
13 in the curing of the warrant and therefore the
14 exclusionary rule should not apply.

15 THE COURT: Ms. Pinnock.

16 MS. PINNOCK: Yes, Your Honor, just briefly, I
17 would just point out State v. Johnson 302 S.C. 243.
18 That is a 1990 case, Your Honor, but that deals with
19 an individual who had personally seen a quantity of
20 drugs in somebody's house. They accompanied the
21 affiant to the magistrate's office and provided a
22 statement and the court in that case held that that
23 wasn't enough. Without some indication of reliability
24 on the information being provided to them by the
25 affiant in --- written in the affidavit for the search

1 warrant. That still did not satisfy the requirements.

2 So, Judge, we can call Mr. Moore whatever we want
3 to. Either way he is still an informant. He showed
4 up with no history, no background. They did no
5 investigating as to whether or not this person could
6 be trusted. He is coming in providing second hand
7 knowledge, not even anything that he witnessed
8 personally, to law enforcement. There was no
9 corroboration --- no corroborating evidence found by
10 law enforcement. After that fact, the only thing that
11 law enforcement corroborated they spoke to Mr. Moore
12 was that Mr. Young lived at the address that they
13 pulled up on the DMV.

14 That's the only acts that were taken with law
15 enforcement after speaking with Donald Moore, getting
16 that information, and again, there is no reliability,
17 there is no support shown by law enforcement when the
18 investigators swore out the warrant. Again, I would
19 say the warrant fails on its face. It's lacking
20 probable cause and again we would be moving to
21 suppress the search warrant, all items taken out of
22 Mr. Young's house, and all the subsequent evidence
23 that was obtained thereof.

24 THE COURT: Anything further, Ms. McDuffie?

25 MS. McDUFFIE: No, Your Honor.

1 THE COURT: Okay. All right. Next motion.

2 MR. KRZYSTON: Judge, we'll just take care of
3 some preliminary motions and settle the record. I
4 believe we have already done this, but we're just,
5 again, based on the voluminous e-mails we received
6 since the continuance on Monday, we are going to renew
7 Rule 5, as well as Brady v. Maryland, and Riddle.
8 Judge, we're also moving to sequester all witnesses,
9 as well, as to settle the record of any and all
10 potential witnesses.

11 THE COURT: Okay.

12 MR. KRZYSTON: And, Judge, I ---

13 THE COURT: Hold on. I'm taking notes.

14 MR. KRZYSTON: Sorry.

15 THE COURT: So you're renewing your Rule 5, Brady
16 and Riddle motions; is that correct?

17 MR. KRZYSTON: It is, Your Honor. With regard to
18 the Riddle motion, we're specifically --- we'd like to
19 highlight that we're specifically renewing it
20 vis-a-vis Donald Moore's testimony and statements
21 today, and Troy Stevenson, Mr. Barnes, Lorenzo Young,
22 anybody involved in the case whatsoever.

23 THE COURT: Okay. Does the State want to respond
24 to that?

25 MS. GARFIELD: Yes, sir, we just want to put on

1 the record, after the case was continued Monday, I
2 said I would get with CPD to make sure that we had
3 everything. I did do that. I met with Investigator
4 McCoy Monday afternoon and physically went through his
5 case jacket page by page. I got things that were not
6 in my notebook. That doesn't mean my co-counsel
7 didn't have it. I personally didn't have it. I
8 shared that with defense counsel as well as all CDs
9 that we had. We had copies made and distributed them
10 to all parties. Everyone has gotten copies with the
11 exception of Ms. Zmroczek, who has been out with strep
12 throat since Monday. I do have a copy for her. She
13 is aware of that.

14 Also, I have instructed Investigator McCoy go
15 personally to his hard drive at the Columbia Police
16 Department to make copies of any and all records that
17 may pertain to this case, which he did provide me
18 approximately four more CDs from that. I gave me those
19 yesterday. Those copies have been turned over to all
20 parties in question. Plus I went through everything
21 we had, such as things in my office, like jail
22 records. I know that we had turned it over to at
23 least Mr. Young's attorneys. I made sure we scanned
24 all that and sent it over. If anything else comes
25 into our possession, I'll send it over as soon as I

1 possess it.

2 At this point I believe we have everything that
3 we intend use in the course of these proceedings. As
4 far as any Riddle information is concerned, certainly
5 we always consult the lawyers representing these
6 individuals that are testifying. We will turn over
7 anything that comes to our knowledge that could be
8 exculpatory or contradictory in the testimony they
9 previously gave to the testimony they planned to give
10 on the stand.

11 THE COURT: All right. Very good.

12 All right. Sequestering witnesses, I assume
13 there is no objection to that as long as it's
14 reciprocal?

15 MS. CAMPBELL: Your Honor, I don't know --- do
16 they want all witnesses or just lay witnesses? A lot
17 of times they don't include all the law enforcement,
18 since they're ---

19 MR. KRZYSTON: All witnesses, Judge.

20 THE COURT: Except for the lead investigator?

21 MR. KRZYSTON: Yes, sir.

22 MS. CAMPBELL: Your Honor, with the Court's
23 permission, there are two lead investigators in this
24 case. Is that going to be a problem?

25 MR. KRZYSTON: No, Your Honor.

1 MS. CAMPBELL: And I believe you already said you
2 made it reciprocal.

3 THE COURT: Yes, it will be reciprocal. Are
4 there victim family members that are potentially
5 testifying that you know of?

6 MS. CAMPBELL: No.

7 THE COURT: Okay.

8 MS. CAMPBELL: I mean, we'll double check that,
9 but I don't know of any victim's family members that
10 would be actual lay witnesses or any type of witnesses
11 in this case.

12 THE COURT: Okay. I just want you to double
13 check that. That happens sometimes.

14 MR. SCHNEE: Judge, may I inquire briefly as to
15 the status of my client's mother whether she is one of
16 the witnesses.

17 MS. CAMPBELL: She is on our witness list so she
18 would be sequestered.

19 MR. SCHNEE: I'd ask that my client's mother be
20 allowed to stay.

21 THE COURT: We'll come back around to that.

22 MS. CAMPBELL: Okay.

23 THE COURT: Okay. So are you good on
24 sequestering witnesses, Mr. Krzyston?

25 MR. KRZYSTON: I'm sorry, Judge?

1 THE COURT: Are you good on sequestering
2 witnesses?

3 MR. KRZYSTON: Yes, Your Honor.

4 THE COURT: Okay. And I say this before every
5 trial. I know you all are probably tired of hearing
6 me say it, but I don't know who all these people are,
7 so I don't know who they all are, but yet I have the
8 best opportunity to see them, so it's kind of weird,
9 but I need y'all through each other and through your
10 staff, you know, somebody holler if somebody walks in
11 the room, so we can stop things and get that taken
12 care of.

13 MS. CAMPBELL: Just for clarification purposes of
14 this motions hearing, I do have an investigator in the
15 courtroom. Is that a problem? There's not any
16 testimony.

17 THE COURT: Okay.

18 MS. CAMPBELL: Well, we just put up testimony,
19 but I mean ...

20 THE COURT: Right.

21 MS. CAMPBELL: I don't want to violate your
22 order.

23 THE COURT: I don't know what --- I mean, I have
24 a list of the motions.

25 MS. CAMPBELL: These are the witnesses that

1 defense counsel requested we have here today.

2 THE COURT: Do you want them sequestered, Mr.
3 Krzyston?

4 MR. KRZYSTON: No, Your Honor, we only asked for
5 one witness.

6 MS. CAMPBELL: Mr. Schnee asked for six.

7 THE COURT: Do you want them sequestered,
8 Mr. Schnee?

9 MR. SCHNEE: I do, Your Honor.

10 THE COURT: All right. All the other witnesses
11 need to leave the courtroom.

12 MR. KRZYSTON: And, Judge, in the interest of
13 facilitating your order, we would ask the State
14 disclose its witness list. We will absolutely do the
15 same, but in order to facilitate that.

16 THE COURT: Hold on. Let me get my calendar up.
17 Do you think you can get them a witness list by
18 next Thursday?

19 MS. CAMPBELL: Yes, sir, if they can give us one
20 as well.

21 MR. KRZYSTON: Certainly, Your Honor.

22 THE COURT: Okay.

23 MS. CAMPBELL: Thank you.

24 MR. KRZYSTON: Next Wednesday, Your Honor?

25 THE COURT: Next Thursday.

1 MR. KRZYSTON: Next Thursday.

2 THE COURT: If you want to do it before that, you
3 can but you need to do it by then.

4 MS. CAMPBELL: Your Honor, it's just been brought
5 to my attention. I believe the defendant's mother is
6 in the courtroom, Mr. Barnes' mother.

7 THE COURT: I have no clue.

8 MS. CAMPBELL: So at this point the sequestration
9 is ---

10 THE COURT: Yeah, at this point she needs step
11 out. We'll step back to that.

12 MS. CAMPBELL: Just step outside. Thank you.

13 THE COURT: And then did you say motion to settle
14 the records.

15 MR. KRZYSTON: Yes, Your Honor.

16 THE COURT: Okay.

17 MR. KRZYSTON: I suppose we can probably do that
18 with the exchange of the witness list.

19 MS. PINNOCK: Judge, I spoke with Ms. Campbell
20 this morning. She informed me that they are running
21 rap sheets on everybody.

22 THE COURT: Okay.

23 MS. SIMPSON: We started that this morning,
24 Judge. There are two witnesses that we don't have
25 them for, but we're going to get those, but the rest

1 of them...

2 We'll turn those over.

3 THE COURT: Okay. Good.

4 MS. SIMPSON: We can do that right now, Judge.

5 THE COURT: Okay.

6 MS. CAMPBELL: Just give me a minute to sort
7 through them.

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

9 MS. BAMBACH: Your Honor, number four, five and
10 eight all go together. Motion to exclude any
11 reference to gang activity or involvement, prior bad
12 acts and any of Mr. Young's behavioral issues that we
13 received several pages of disciplinary records from
14 jail for Mr. Young. Obviously, based on 404(b) we
15 would be moving to exclude those. I described all
16 those circumstances in my written motion.
17 Specifically with ---

18 THE COURT: Let's start with gang activity or
19 involvement.

20 MS. BAMBACH: Okay.

21 THE COURT: It will be easier to do them one at a
22 time instead of lumping them together, so gang
23 activity or involvement.

24 MS. BAMBACH: Gang activity or involvement, I
25 have a 2013 Court of Appeals case State v. ---

1 THE COURT: Tell me what you think it potential
2 is before we get to the law.

3 MS. BAMBACH: There is --- this case is actually
4 is very riddled with gang allegations. Donald Moore
5 the lead witness, I don't want to say too much,
6 everything is in my written motion. I don't know if
7 there is any media in here or ---

8 THE COURT: Where is your written motion?

9 MS. BAMBACH: On that folder right on the top.
10 Several witnesses Donald Moore, Michael Schaefer speak
11 to Mr. Young's alleged gang involvement. I just gave
12 it to --- okay. Well, Donald Moore specifically
13 mentions, I would say at least ten allegations of
14 Lorenzo Young having gang involvement, has
15 conversations where he actually says that he is a
16 higher ranking Bloods member. He talks about gang
17 banging and gang repercussions on the street, talks
18 about guns, talks about this Ale House lick not being
19 sanctioned by the Bloods. Alfred Wright, one of the
20 State's witnesses, had a conversation allegedly with
21 Lorenzo Young at the jail, states about being with the
22 Bloods.

23 Michael Schaefer also is a State's witness who
24 talks about this lick not being sanctioned by the
25 gang. Rolanda Coleman, a state witness, references

1 gangs and all interrogations with all witnesses or
2 with all defendants, Investigator McCoy, Investigator
3 Eunice, Investigator Reese, they all discuss gang
4 references in every single interview that is present
5 that we have. There is photos and pictures, videos
6 that the State may introduce with gang signs in them
7 of Lorenzo Young.

8 I would argue that this is --- firstly, we never
9 got any specific information with any gang ---

10 THE COURT: Let's see what they want to introduce
11 first and then we'll come back around.

12 Okay.

13 MS. CAMPBELL: Your Honor, do we agree with the
14 defense case as far as the defendants involved, is
15 riddled with gang information because all three were
16 members of the gang. However it's our understanding
17 of the elements of --- that this thing that not a gang
18 initiated thing. Therefore we do not feel like any
19 reference to the gangs should be included unless, of
20 course, they open the door in our case. Specifically
21 the two witnesses they talk about --- Mr. Shafer talks
22 about how Lorenzo Young tells him he is a gang member.
23 I believe he said is a Blood and Mr. Donald Moore, who
24 you've heard about, also references the defendants
25 being members of gangs. That's one reason for his

1 fear, which was expressed and you just heard about as
2 far as any retaliation in this case. As far as any
3 possible photos, Your Honor, and there are some videos
4 and stuff that you can get into later after you've
5 heard the defense motions as far as what we're trying
6 to introduce as far as --- well, I can get to that
7 later. We do not intend and we would caution --- we
8 would ask for a little latitude in leading our
9 witnesses through these areas to make sure they don't
10 mention the fact they are in gangs.

11 Remember however, they are going to go into the
12 fact that they were forthcoming or that they were
13 scared or other reasons that may open the door into
14 the reasons, the underlying reasons, why these people
15 were scared, but other than that, we do not intend to
16 offer any gang associations in our case in chief and
17 any photographs and things we intend to offer we would
18 argue before you before we would show them to the
19 jury.

20 MS. BAMBACH: Again, I --- for 404(b) and 403
21 this would be extremely improper character witness.
22 The two witnesses, Michael Schaefer and Donald Moore,
23 both say this was not sanctioned by the gang.

24 THE COURT: Well, I'm not going to let them
25 testify that.

1 MS. BAMBACH: This incident doesn't have anything
2 to with the gang and I don't know why ---

3 THE COURT: She just said ---

4 MS. BAMBACH: --- it's coming ---

5 THE COURT: She just said she is not introducing
6 any of that.

7 MS. BAMBACH: But being in fear for ---

8 THE COURT: Here is what I heard her say. If
9 this is not what you said, just tell me.

10 MS. CAMPBELL: Yes, sir.

11 THE COURT: What I heard Ms. Campbell just say is
12 that they're not going into anything about gangs.

13 MS. CAMPBELL: No, sir.

14 THE COURT: They have no intention of introducing
15 testimony about Mr. Young or Mr. Barnes being in a
16 gang and so therefore they're going to stay away from
17 that. Now, one thing that she asked for was a little
18 bit of latitude about leading with these witnesses
19 around this. They're not police officers, they're lay
20 witnesses. And the other thing --- and everybody has
21 got to be careful about this, but if the defense opens
22 the door to these issues, then you're going to be in a
23 different situation, so I'm not going to allow
24 anything in reference to gang activity in the State's
25 case in chief unless the door is opened by the defense

1 as to those issues.

2 MS. CAMPBELL: The only other thing I would
3 address or note, and I just got --- in scanning the
4 second page, she talks about how Donald Moore does
5 witness in the days leading up to this, a conversation
6 where the defendants are talking doing a lick. We
7 don't think the term "lick" is gang oriented. Simply
8 that means a robbery, on the street. We do not think
9 that we should be precluded from going into
10 Mr. Young's discussions of how they were going to do a
11 lick at the Ale House, which the business next door to
12 where this is and under the State's theory they went
13 to do the lick in the Ale House that night. It was
14 closed so they went to the bakery and that would be
15 under State v. Beck.

16 MS. BAMBACH: And in response the term "lick", I
17 don't have a problem with that being gang related.
18 However, I would argue that the planning of the lick
19 of the Ale House, they were obviously never charged
20 with this. There is no evidence of any attempt to do
21 this robbery of the Ale House on the surveillance
22 video that we have.

23 THE COURT: Wait, wait. We're on gang activity.

24 MS. BAMBACH: Oh, well, she was just saying about
25 the lick of the Ale House.

1 THE COURT: She said lick as a gang term.

2 MS. BAMBACH: I don't have a problem with lick as
3 the gang term.

4 THE COURT: So we're over the gang issue?

5 MS. BAMBACH: Yes.

6 THE COURT: Okay.

7 MS. BAMBACH: I was just using lick in the motion
8 because that's how everybody indicates --- references
9 the Ale House, the witnesses also on the Ale House.

10 THE COURT: Okay.

11 MS. CAMPBELL: I just wanted to be clear.

12 THE COURT: All right. Now, let's move on to
13 prior bad acts, pending burglary charges or any
14 uncharged alleged criminal act. Go ahead with that.

15 MS. BAMBACH: Your Honor, there are shall several
16 bad act allegations from several witnesses in this
17 case that would be pertaining to Mr. Young and
18 obviously I believe they would be extremely
19 prejudicial not probative and only going to improper
20 character evidence. They're all listed in my written
21 motion.

22 Again, there's allegations from Donald Moore
23 about guns, about are prior robberies, talking about
24 Lorenzo holding a gun. These are all prior. These
25 are not connected to this incident in any way.

1 Lorenzo does not have a criminal record, however
2 he have does have pending charges. I would ask that
3 none of those be allowed to get into.

4 None of these acts go to --- none of these are
5 connected at all whatsoever to the charges now. They
6 don't go to any exceptions. There would be no --- I
7 don't see them going to the motive. None of his prior
8 arrests would go to his motive. They're not
9 substantially similar in any way. They would just
10 obviously go to show improper character evidence in
11 this case.

12 There's some videos and pictures from Mr. Young's
13 phone that we believe the State will try to introduce
14 and again there's going to be an issue with a picture
15 of a gun, and again there is never a gun introduced
16 into evidence so I would ask to keep all references to
17 Mr. Young having a gun, at a prior time, being in
18 possession of a gun, anything and everything Donald
19 Moore is going to talk about pretty much it would be
20 about Lorenzo Young's alleged prior bad acts and I
21 don't believe that any of them go to motive, intent,
22 absence of mistake, common scheme or plan or identity.

23 THE COURT: Yes, ma'am.

24 MS. CAMPBELL: We aren't intending to go into any
25 of his pending charges that are unrelated to this,

1 Your Honor. He does have, I believe, three or four
2 sets of home invasions, a burglary first charge, and
3 other charges, robberies. We do not intend go into
4 any of those. However, Your Honor, as far as the
5 context of what led up to in the days prior and what
6 happened on this night, we are going into his
7 involvement, including his having a gun not only
8 through what Mr. Moore and we can proffer or give you
9 a statement about basically what Mr. Moore's
10 parameters of what he can testify to and in addition
11 to that, what's extremely important is when they got
12 Mr. Young's phone, they were able to do a dump
13 pursuant to a search warrant.

14 At that time, there are several videos, Your
15 Honor, of these defendants having guns. We would only
16 be intending to offer evidence from those videos and
17 we've done some still shots, Your Honor, because it
18 would be problematic with the videos, which we would
19 provide you at the proper time, that show him actually
20 holding the type of gun that was used in this crime.
21 It talks about, I think in one video he is talking
22 about how he has this Glock, things of that nature.
23 We do understand that we would want to somehow
24 sanitize those down. We have elicited some still
25 shots, Your Honor, that might also aid the Court in

1 that --- but purposes of showing whether or not he has
2 a gun, I think it's extremely important.

3 In addition to that, Mr. Young's girlfriend
4 Rolanda Coleman, gives a statement, Your Honor. She
5 also talks about how he has the gun before and after,
6 just immediately after this crime, and how it
7 disappears, so as far as that evidence goes, we are
8 not going into any of his other armed robberies, any
9 of his other burglaries, any of his other kidnapping
10 or any of those charges or assaults, but we are going
11 to go into his having a gun at and around the time, as
12 long as we can link it up, to this crime just in the
13 same way we'll go into what clothing he was wearing.
14 It's the same type of evidence that we will be going
15 into.

16 THE COURT: All right.

17 MS. BAMBACH: In response to the videos and the
18 pictures with the guns, these are days before the
19 shooting. This is not the day of. Donald Moore
20 states of seeing Lorenzo with a 40 and the gun that
21 Lorenzo Young is alleged to have used in this is a 45
22 Glock. Also, regarding Ms. Coleman, she states in her
23 statement, her interview that she doesn't know what
24 type of gun it is, just based on anything, she --- I
25 don't know how she would be able to link that gun to

1 this crime, regarding the gun.

2 Regarding videos and the pictures, they are ---
3 with the guns are days before this. They're not from
4 the day of. Donald Moore states that it's a 40, and
5 he is a self-proclaimed higher ranking gang member so
6 he knows his guns and I would just argue that I don't
7 believe any of that is proper at all. There is no gun
8 in evidence. There was no gun ever found. There is
9 no gun even to be compared to.

10 There are several manufactures that make the same
11 type of gun, the 45 Glock, the same type of bullets
12 and I just don't believe that any of the prior videos
13 or pictures from his phone should be able to connect
14 him to this crime.

15 MS. CAMPBELL: And, Your Honor, we would ask for
16 the Court's permission, perhaps we can submit the
17 videos, as well as the stills for your review prior to
18 finalizing this argument because I think we also have
19 had the video reviewed by a firearms expert at SLED as
20 far as the type of guns that were used in this. We
21 also have identifying people --- people able to
22 identify the people on the videos, including mostly
23 Mr. Lorenzo Young and it is his phone that these are.

24 Now in the videos, Your Honor, and we've narrowed
25 it down. There are other videos with other guns, but

1 we've narrowed it down to two or three that we think
2 are relevant as far as the type of gun that was used
3 in this case. We are aware, Your Honor, just so you
4 will be prepared, during the course of these videos
5 Mr. Young is on there pointing the gun at people
6 talking about who he is going to kill, not mentioning
7 the lady that got killed in this case, but other
8 people. We concede that we don't think that would be
9 admissible. That's why we have tried to find a way to
10 submit this information without bringing out the gang
11 affiliation, number one, and number two the fact that
12 he is talking killing multiple people and who he is
13 going to shoot. He's got a 30 --- he puts in like a
14 30 clip and they talk --- he and the codefendants on
15 the video, talk about these things.

16 THE COURT: All right. Let me see all that stuff
17 so I can look at it when I analyze this part of the
18 motion.

19 And I need some kind of summary of what Mr. Moore
20 and what Ms. Coleman would potentially testify to.

21 MS. CAMPBELL: I can get that to you tomorrow or
22 today.

23 THE COURT: Monday is fine.

24 MS. BAMBACH: Your Honor, I haven't seen any
25 videos where Mr. Young is threatening to kill anyone.

1 I know about the pointing guns, but I don't believe he
2 threatened to kill anyone.

3 MS. CAMPBELL: I believe in his rap, he is
4 talking watch out so and so. That may be my inference
5 that he is feigning violence towards these people.

6 THE COURT: Okay. All right. Hold on just a
7 second. So they're going to get me whatever they
8 intend on introducing in a summary and you need to get
9 Ms. Bambach copy of that, too.

10 MS. CAMPBELL: We'll get both a copy.

11 THE COURT: Let's do that by Monday.

12 MS. BAMBACH: Could I will ask that that be
13 entered as a Court's exhibit?

14 THE COURT: Sure. That's fine. Mr. Schnee,
15 anything?

16 MR. SCHNEE: Yes, Your Honor, if I may just very
17 briefly, with regards to Rolanda Coleman, if the State
18 is calling her as a witness, she is obviously the
19 girlfriend of Lorenzo Young. She has a lot of
20 information that allegedly is part of an alibi for
21 him. However, she also has pending charges that are
22 mutual with Mr. Young, which I believe is burglary
23 first. So in terms of cross-examining Ms. Coleman, I
24 guess, just to kind of put Your Honor back on notice
25 of the separate issue that that could create some

1 problems for Mr. Young in terms of prior bad act
2 testimony coming in. She does have a motive to lie
3 because of the pending charges.

4 MS. McDUFFIE: Your Honor, I think Mr. Schnee can
5 go into what the charges are and what they carry, but
6 the facts surrounding the charges --- I don't know how
7 that would --- how it would all be admissible or how
8 it could create an issue in this case.

9 MR. SCHNEE: Not necessarily the facts, but the
10 fact that she is the codefendant of Lorenzo Young by
11 itself, that they were both charged in this, and now
12 she has a motive to cover up this alleged crime
13 because they have a mutual child and someone has to be
14 out of jail and paying for the child and raising the
15 child, so she has a motive to lie to benefit Lorenzo
16 Young. Obviously that makes it very difficult to
17 bring up if Lorenzo Young is sitting here.

18 I just want to put Your Honor on notice with that
19 particular problem with prior bad act testimony.

20 THE COURT: Okay.

21 MR. KRZYSTON: Judge, just quickly to address
22 something that was said by Ms. Campbell. She
23 indicated that SLED, that somebody at SLED, had viewed
24 the videos that were previously referenced. We do not
25 have a report from SLED indicating that they have done

1 so. Additionally, Ms. Campbell indicated that
2 witnesses have viewed the videos and made statements
3 identifying individuals in the video. We do not have
4 any witness statements indicating as much. We would
5 move to renew Rule 5, Riddle and Brady and
6 specifically again highlight those crimes.

7 MS. CAMPBELL: We just had those reviewed this
8 morning, Your Honor, and we'll turn over that
9 information today.

10 THE COURT: Thank you. Okay. All right. Let's
11 talk about behavior at the Alvin S. Glenn Detention
12 Center.

13 MS. BAMBACH: The State has provided us with
14 Lorenzo Young's disciplinary and behavioral history at
15 the jail. I would argue that again this would be
16 improper character evidence that would just be used
17 merely for propensity. They don't show any cause or
18 connection between his prior bad acts at the jail and
19 this crime.

20 Also, it's probative value is definitely
21 substantially outweighed by the danger of prejudice.
22 It would inflame the jury between the issues here and
23 his disciplinary records at the jail are not related
24 in any way to these charges at all. We would just ask
25 that that would be considered prior bad act evidence

1 and improper character evidence and not be admissible.

2 MS. CAMPBELL: We agree unless they open the
3 door.

4 THE COURT: All right. Next.

5 MR. KRZYSTON: Judge, we would be moving to
6 exclude certain pictures in the case. Specifically
7 autopsy pictures as well as pictures taken from the
8 crime scene itself, as well as the execution of the
9 search warrants. I think the easiest issue to take up
10 is my objection to the pictures taken in connection
11 with the execution of the search warrant on 3054 Bronx
12 Road. As, Your Honor, previously heard ---

13 THE COURT: So let's go through all the different
14 sets of pictures we have so I can make sure I follow
15 you.

16 MR. KRZYSTON: Certainly.

17 THE COURT: We have the crime scene.

18 MS. CAMPBELL: Crime scene, which are the bakery.
19 That's the bakery on Tommy Circle.

20 THE COURT: Hold on. I want to make sure I get
21 all the groups.

22 MR. KRZYSTON: I believe that's 93 Tommy Circle.

23 THE COURT: And then you have Bronx Road.

24 MS. CAMPBELL: Bronx Road, which is the Defendant
25 Young's residence.

1 MR. KRZYSTON: 3054 Bronx.

2 THE COURT: And there's photos from where the
3 search warrant was executed?

4 MR. KRZYSTON: Correct, Your Honor.

5 THE COURT: What's next?

6 MS. CAMPBELL: There's Lucille Drive, which is
7 Defendant Barnes' and Stevenson's residence.

8 THE COURT: And the search warrant was executed
9 there, correct?

10 MS. CAMPBELL: Yes, sir.

11 THE COURT: Okay.

12 MS. CAMPBELL: And then finally the autopsy, as
13 well as --- I'm not including the phone dump photos.

14 THE COURT: Okay.

15 MS. CAMPBELL: Those are the videos and photos
16 are separate.

17 THE COURT: I just want to make sure I knew which
18 group you were talking about.

19 MR. KRZYSTON: Certainly, Your Honor.

20 THE COURT: I didn't mean to interrupt you.

21 MR. KRZYSTON: No, no.

22 THE COURT: Go ahead.

23 MR. KRZYSTON: I think the immediate grouping of
24 photographs that we can deal are the photographs from
25 3054 Bronx Road.

1 THE COURT: Okay.

2 MR. KRZYSTON: We object to the entry of these
3 photographs insofar as we objected to the search
4 warrant. We believe the search warrant is void on its
5 face. Based on that we would move to exclude those
6 photographs.

7 THE COURT: Well, if the search warrant is out,
8 the photos are out.

9 MR. KRZYSTON: Correct.

10 THE COURT: Okay.

11 THE COURT: I agree with that principle of law.

12 MR. KRZYSTON: Thank you, Judge. The next
13 grouping of photographs, I believe that we should take
14 up --- I don't believe we have any objection to the
15 Lucille Drive photographs. I don't think we have a
16 constitutional standing to object to that warrant.

17 With regard to the autopsy photos, we would
18 object to any entry of autopsy photos. State v.
19 Collins provides that autopsy photos should only be
20 entered where it's necessary for an expert to explain
21 a material element of a crime. In Collins it --- the
22 case concerns death by dog mauling. The decedent in
23 that case ---

24 THE COURT: Are you talking about the new case on
25 that or the old one?

1 MR. KRZYSTON: I believe the new one that was
2 just decided by the ---

3 THE COURT: The new one that said all photos are
4 admissible?

5 MS. CAMPBELL: Yes.

6 MR. KRZYSTON: I believe it's still
7 discretionary, Judge. I believe that the reason
8 Collins --- the court in Collins allowed those
9 photographs, was because they went towards proving a
10 material element of the crime and they survived
11 obviously the 403 analysis. In Collins the defendant
12 responded, I believe --- the respondent objected to
13 those photographs because he felt they were overly
14 prejudicial, and I believe the court originally sent
15 those photographs --- said those photographs should
16 not be admitted. The Supreme Court then reversed the
17 decision based on the fact that in Collins the
18 introduction of the photographs was designed to aid an
19 expert in helping the State establish a material
20 element of the crime. In Collins, again, the decedent
21 perished from a dog attack. The autopsy photos were
22 offered by the state in an effort to help the expert
23 on the stand, the medical examiner, explain to the
24 jury a material element in actually the keeping of a
25 dangerous animal, on statute of ---

1 THE COURT: I'm very familiar with the case.

2 MR. KRZYSTON: Here in the ---

3 THE COURT: Let's do this. I think the only
4 way --- this is how I would prefer to deal with the
5 autopsy photos, and I'm going to let you make your
6 argument, but I think it will make more sense to me if
7 we do it this way.

8 Number one, the State figures out what autopsy
9 photos they intend on introducing so we're not talking
10 about photos they don't want to introduce, but number
11 two, I think, you know, if they're going to make the
12 argument that the doctor needs it, then I'm going to
13 need to hear from her why she needs it. Then I'll let
14 you come back and ---

15 MR. KRZYSTON: Sure.

16 THE COURT: --- And flesh all that out based on
17 what she says or doesn't say based upon that. Does
18 that make sense?

19 MR. KRZYSTON: Certainly, Judge.

20 THE COURT: So do you have the autopsy photos?

21 MS. McDUFFIE: Yes, Your Honor, and we've
22 actually --- there are a number of autopsy photos that
23 were originally taken. Dr. Durso, we've spoken with
24 her and she has reviewed all of those photographs and
25 chosen one, two, three, four, five of the photographs

1 that would be necessary to her testimony and
2 definitely assist her.

3 THE COURT: Have you seen which five those are?

4 MS. McDUFFIE: I have shown them.

5 THE COURT: Let's go ahead and get those five
6 marked.

7 MR. SCHNEE: I have not seen these.

8 THE COURT: Give them to Mr. Schnee.

9 MR. SCHNEE: I haven't seen any of the photos. I
10 mean, I've seen the photos, I just don't know what
11 they planned on using.

12 THE COURT: Okay.

13 MS. McDUFFIE: Your Honor, it's my understanding
14 that the defense for Mr. Young only has objections, I
15 believe, to four of the photos, not all five.

16 MR. KRZYSTON: Of the autopsy?

17 MS. McDUFFIE: One of them ---

18 MR. KRZYSTON: Okay, yeah.

19 MS. McDUFFIE: Yeah, and if we want to go ahead
20 we can mark those we can or if not at later time.

21 THE COURT: All right. Let's go ahead and mark
22 those.

23 (WHEREUPON, State's Exhibit Numbers 3 - 7
24 were marked for identification only.)

25 MS. McDUFFIE: Your Honor, I'll hand you what's

1 been premarked as State's 3, 4, 5, 6, and 7. And I
2 believe, as I said, that defense counsel does not have
3 an objection to State's exhibit 7, and I'm not sure
4 about ---

5 MR. SCHNEE: What was 7?

6 MS. MCDUFFIE: The projectile.

7 MR. SCHNEE: Okay. I have no objection to that
8 one.

9 MS. MCDUFFIE: What about the other four?

10 MR. SCHNEE: There is one that shows I believe a
11 bullet entrance wound. Which one is that?

12 MS. MCDUFFIE: This one?

13 MR. SCHNEE: No, that's the one. Not --- yeah,
14 that's --- it's the other three I don't understand
15 what the purpose is.

16 MS. MCDUFFIE: I believe they are reconsidering
17 their objection so I'll let defense counsel address
18 that.

19 THE COURT: Which one do you object to?

20 MR. SCHNEE: Number 6 is a bullet entrance wound.
21 I do not object to that as long as it's just limited
22 to that photo and not multiple types of photos like
23 that. Number 7 is a projectile that looks like it's
24 on a piece of carpet. No objection there. The other
25 three ---

1 THE COURT: Hold on. Hold on.

2 MR. SCHNEE: I'm sorry, I'm talking too quickly.

3 THE COURT: The other three you do object to?

4 MR. SCHNEE: I do, and ---

5 THE COURT: You don't need to come back to the
6 reason. I just need to know so I can review them and
7 then determine whether or not we need Durso's
8 testimony to talk through them.

9 MR. SCHNEE: Okay.

10 THE COURT: I just need to know what I need to
11 focus on.

12 MR. SCHNEE: Sure, but I would just like to be
13 very brief about it. I don't know why the State wants
14 to use them. I guess that's part of the problem.

15 THE COURT: Okay. Where are you on number 6?

16 MR. KRZYSTON: Judge, we're prepared to withdraw
17 the objection on number 6.

18 THE COURT: Okay. So no objection by either
19 defendant pursuant to the proper foundation, of
20 course, as to State's Exhibit Number 6 or State's
21 Exhibit Number 7. Both defense counsels are objecting
22 to State's Exhibits 3, 4, and 5. I'm going to review
23 these when I get a chance and then I'll report back to
24 everybody whether --- or if we need to schedule a time
25 to get Dr. Durso up here or we just do it during the

1 trial due to her schedule to make certain --- you all
2 aren't cut off from making any legal arguments. I'll
3 let you make whatever arguments you need to on those
4 at that time.

5 Okay. So as to crime scene photos.

6 MR. KRZYSTON: As to crime scene photos, Judge,
7 we're arguing that they will not survive the 403
8 analysis. Obviously that they are unduly prejudicial
9 and substantially --- they do not substantially
10 outweigh the danger of unfair prejudice, Judge.
11 Additionally, I would add that I suspect, and again
12 this is speculation, but I do suspect that these will
13 become cumulative evidence. I know that there is a
14 video recording of the incident in question that
15 actually gave rise to the allegations. I would expect
16 the State to play that video.

17 In the event they do play that video, I believe
18 that first off the photographs would be cumulative.
19 Second, if they are cumulative and even if they
20 aren't, but especially if they are cumulative, they
21 only serve to prejudice the jury. Certainly they will
22 see the actions that gave rise to the allegation in
23 first person. They will see the natural state in
24 which the decedent fell. I don't believe there is any
25 probative value to additional pictures which show the

1 decedent on the ground in a pool of blood.

2 I think those photographs are specifically
3 calculated to arouse the sympathy and prejudice of the
4 jury members.

5 THE COURT: Okay. So, let's start with this
6 question: Does the State intend on introducing the
7 video?

8 MS. CAMPBELL: Yes, sir.

9 THE COURT: Okay. And have you narrowed down
10 what crime scene photos?

11 MS. CAMPBELL: Yes, sir, I've been able to show
12 those to Mr. Young's counsel. I don't think
13 Mr. Schnee had an opportunity to see these yet.

14 MR. SCHNEE: No, I have not.

15 THE COURT: Okay. So let's do this. Make sure
16 Mr. Krzyston and Mr. Schnee see which crime scene
17 photos the State intends on introducing and then get
18 Karen to mark those and then get me the photos and get
19 me the video.

20 MS. CAMPBELL: Yes, sir.

21 THE COURT: I want to be able to look at both so
22 I can understand your cumulative argument.

23 MR. KRZYSTON: Certainly.

24 THE COURT: I have not seen the video at all, so
25 I don't want to be making that decision in a vacuum.

1 I want to be able to look at the video, see what's on
2 the video and look at the photos to compare and
3 contrast, so as not only to understand the 403
4 argument, but also to look at the cumulative part of
5 that 403 analysis.

6 MR. KRZYSTON: Judge, I have an additional, I
7 guess you would say, an additional grouping of
8 photographs, if you will.

9 THE COURT: Okay.

10 MR. KRZYSTON: When they obtained the video from
11 93 Tommy Circle, I believe they had it doctored by the
12 Lexington County Sheriff's Department to kind of clean
13 up the video. You know how these things have a little
14 static every now and then. In the process of doing
15 that the Lexington County Sheriff's Department
16 actually developed still images from the video itself,
17 so in discovery there are a volume of images that are
18 generated from the actual doctored video itself. We
19 would obviously object to pictures and stills of the
20 decedent insofar as it's consistent with our objection
21 to, you know, related to the crime scene photos, as
22 well, as the autopsy. Again, my arguments are going
23 to be based on 403.

24 THE COURT: Let's figure out exactly what you
25 want to introduce. Get them marked as State's

1 Exhibits and then make sure the defense knows which
2 ones they are, and then give me the video that you
3 intend on introducing and the images.

4 MR. KRZYSTON: Essentially the same issue. I
5 just wanted to ---

6 THE COURT: Right. I understand.

7 MS. CAMPBELL: And, Your Honor, I want to
8 clarify, too. They told us --- my understanding was
9 they were objecting to the ones that display the
10 victim's body, because that can narrow it down.

11 MR. KRZYSTON: Right. And I don't mean to
12 broaden my objection. It's completely in line with
13 what we're ---

14 THE COURT: Okay. Your issue is one that shows
15 the victim ---

16 MS. CAMPBELL: There at the scene.

17 THE COURT: Correct.

18 MR. KRZYSTON: Correct.

19 THE COURT: Deceased.

20 MS. CAMPBELL: Correct. I assume Mr. Schnee ---
21 and I don't mean to put words in your mouth.

22 MR. SCHNEE: Judge, actually, I would like to
23 inquire as to which version of the video. We have the
24 original raw footage from four separate cameras. We
25 have a compilation that he was done, I believe, by the

1 Columbia police department that only shows the
2 movement throughout the different cameras, and then
3 there was the private investigating firm that Troy
4 Stevenson actually hired and all four images are time
5 synched and put onto one master image. I'd ask which
6 one they're going to use.

7 THE COURT: I have no idea.

8 MS. CAMPBELL: We'll be glad to provide you with
9 all of them, so as not to spend a lengthy amount of
10 time on it.

11 THE COURT: Okay.

12 MS. CAMPBELL: It takes place quickly so we'll
13 get you all of it so you can determine whichever one
14 you want to.

15 THE COURT: Great.

16 MS. CAMPBELL: Not that we would be introducing
17 all three, but that would perhaps help narrow down.

18 MR. KRZYSTON: And the risk of sounding
19 complicit, I'm obviously going to have an objection to
20 the same material as --- the third party video that
21 was doctored or cleaned up by sheriff investigators,
22 as well.

23 THE COURT: All right. Anything else on
24 Mr. Young?

25 MR. KRZYSTON: I believe that's all for us as far

1 as pretrial is concerned, Your Honor.

2 THE COURT: All right. Good. All right.

3 Mr. Barnes.

4 MR. SCHNEE: If it please the court, Your Honor.
5 My first motion, much like Mr. Krzyston's, is to renew
6 my Brady and Rule 5 motion. Towards that end, I do
7 have some documentation that I'd like to present Your
8 Honor.

9 First is an email that I sent to Dolly yesterday.
10 If I may approach.

11 THE COURT: Yes.

12 MR. SCHNEE: I'd like to have this marked as a
13 Court's Exhibit.

14 (WHEREUPON, Court's Exhibit Number 1 was marked
15 for identification only.)

16 MR. SCHNEE: Judge, after Ms. Garfield had gone
17 through all the various CDs and everything else, she
18 e-mailed myself and defense counsel for Mr. Young,
19 and handed over a stack of CDs and DVDs, almost all
20 of them were deflective or at least had deflective
21 information. I'm going through --- at least as far
22 as I can tell, there is only one new item on there,
23 and that would be a recording that was done by
24 Investigator Moorner on Lorenzo Young. It is an
25 interview that is approximately an hour-and-a-half of

1 an interview that we have never heard.

2 Today in the courtroom, Ms. Campbell indicated
3 that videos that were taken from Lorenzo Young's
4 phone were sent to SLED and some expert has looked at
5 it and determined what the guns were or something
6 like that and that they have lay witnesses who have
7 viewed the videos and identified the people on them.

8 When Mr. Krzyston raised his Riddle and Rule 5
9 and Brady motions, those last two issues weren't even
10 addressed. So, I am going to once again ask if there
11 is any information of any type that they have that we
12 do not.

13 MS. GARFIELD: Judge, there is nothing that we
14 have at this time that I'm aware of. I have not
15 spoken individually and don't believe my co-counsel
16 has spoken individually with lawyers who are
17 representing these people to know what may be turned
18 over. I know there's some discrepancy that Ms. Good
19 has provided to Mr. Schnee. I was not a part of this
20 particular meeting and don't know the details about
21 that. That's not necessarily related to what you're
22 saying. I don't know if it is or not.

23 As far as videos, I believe that was addressed on
24 the record that that video is taken to SLED this
25 morning and if there is any report or anything that is

1 further generated, we'll certainly turn it over. We
2 did not say that lay witnesses have reviewed the
3 video. We indicated that law enforcement officers
4 reviewed the video and we will share that with you,
5 the substance of what they will be able to identify.

6 MR. SCHNEE: So it's only law enforcement that
7 watched those videos?

8 MS. GARFIELD: Yes, sir.

9 MR. SCHNEE: Okay. I maybe misunderstood.

10 THE COURT: Okay.

11 MR. SCHNEE: Judge, at this time I'd call
12 Investigator McCoy to the stand.

13 THE COURT: What is this for?

14 MR. SCHNEE: Brady and Rule 5 issues. I have a
15 number of questions about his investigation and what
16 was turned over and when.

17 THE COURT: All right.

18 MS. GARFIELD: And, Judge, first I did want to
19 address the video that he said he received yesterday
20 that was new. That was new to us, as well. We
21 discovered it about the same time as Mr. Schnee did
22 and I assume Mr. Young's attorney.

23 As Your Honor is aware, Monday afternoon after we
24 did adjourn, I made it clear that I would be meeting
25 with the Columbia Police Department to go over

1 everything. At that time we did an exhaustive search
2 of everything Investigator McCoy had and did turn that
3 over. There's an audio recording of Lorenzo Young and
4 I believe what happened is, if you look at the
5 discovery that Investigator McCoy gave our office a
6 year ago, as well as the same CD that was provided by
7 Ms. Simpson in preparing for this trial in September,
8 there are two audio recordings labeled. I'm not going
9 to say it's --- I don't have it before me. I printed
10 it. I don't know where I put it.

11 On Lorenzo Young's interview and second recorder,
12 the second recording, Investigator McCoy explained to
13 me that when they went to interview Lorenzo Young,
14 Investigator McCoy possessed a recorder. Investigator
15 Moorer possessed a recorder. They both had these
16 recorders on. They conducted an interview of
17 approximately 26 minutes and Investigator McCoy leaves
18 the interview room. Investigator Moorer continues to
19 interview Mr. Young for approximately an hour,
20 hour-and-a-half. I might be wrong on the times, but
21 at least an hour.

22 Investigator McCoy, when he gave us those
23 interviews and it's labeled Lorenzo Young recording
24 and second recorder, he believed he was providing both
25 of those interviews to us. However, when you open

1 both interviews, they are the same record from
2 Investigator McCoy. He has thought all along that he
3 gave us both of them.

4 What had happened is Investigator Moorer saved
5 her recording under the name of Lorenzo Gilmore, which
6 is obviously a complete error, a mistake. There's
7 another case involving Lorenzo Gilmore that
8 Investigator Moorer is aware of. Your Honor has to
9 realize this incident happened in the early morning
10 hours of Sunday, July 1st, and these interviews, for
11 your knowledge, were actually taken in the late hours
12 of Friday, July 5th and these officers were exhausted.

13 We're not really sure how it happened. We know
14 she saved it as Lorenzo Gilmore. Investigator McCoy
15 did not turn over that particular interview to us
16 until we went down there and got those yesterday. I
17 don't think it's intentional. I don't think it's
18 willful. I don't think it warrants any kind of --- I
19 know Mr. Schnee is moving to sanction me for this. I
20 don't believe it rises to that level. I believe this
21 is complete human error. Is this an excuse?

22 Absolutely not, but it is an explanation.

23 THE COURT: Are you planning on using that
24 statement?

25 MS. GARFIELD: No, sir.

1 THE COURT: All right. So you're going to call
2 Investigator McCoy to the stand?

3 MR. SCHNEE: Yes, Your Honor.

4 THE COURT: Okay.

5 MS. McDUFFIE: Your Honor, we would object. I
6 don't know under what basis that he's calling
7 Investigator McCoy to the stand. I mean, where he is
8 going with this, if it's a fishing expedition or what
9 he is doing. I think the proper standard is that he
10 needs to make a threshold showing that the evidence
11 that supposedly we have suppressed is material in
12 Brady and Rule 5, and once he makes that threshold
13 showing, then I think that the law is that the court
14 should conduct a hearing at that point to determine
15 about that and that's from State v. Bryant 307 S.C.
16 458.

17 THE COURT: 307 what?

18 MS. McDUFFIE: South Carolina 458.

19 THE COURT: So are you good with that,
20 Mr. Schnee?

21 MR. SCHNEE: Judge, I have no problem making a
22 showing, but I think the showing is very clear.
23 Investigator McCoy didn't interview with Troy
24 Stevenson in March of this year, that at least as far
25 as I can recall, the solicitor's office told you on

1 Monday in chambers and on the record that they had
2 absolutely no knowledge that that recording existed,
3 but that they thought all the information obtained
4 with it was turned over.

5 Obviously as a defense attorney for Mr. Barnes, I
6 never heard any of the content that was in that new
7 recording. I need to inquire from Investigator McCoy
8 as to what content was relayed in any other form ---
9 the physical recording obviously wasn't. The question
10 becomes was that information actually relayed to
11 anyone in the solicitor's office prior to Sunday at
12 5:00 p.m. or 4:00 p.m. or whatever time they actually
13 got it. We obviously didn't get it until after
14 5:00 p.m.

15 McCoy --- Investigator McCoy was just on the
16 stand and started talking about interviews with Donald
17 Moore. That was conducted by Kevin Reese, that he is
18 aware of. It doesn't appear anywhere in his report or
19 anywhere in Kevin Reese's reports. This isn't a
20 fishing expedition. I have affidavits, including one
21 from Amy Zmroczek, which I'm happy to present to Your
22 Honor. When Ms. Zmroczek and Troy Stevenson met with
23 the solicitor's own internal investigator last week,
24 their investigator was aware of all the content from
25 that March interview that I was still not aware of and

1 that Mr. Young's attorneys are still not aware of.

2 Obviously someone in the solicitor's office must
3 have been, so I'm trying to find out when that
4 information was given. That is all Brady material,
5 this is all Riddle material and it is all subject to
6 Rule 5. That wasn't turned over until Sunday at 5:00
7 or 5:30 p.m. They obviously had it before that time,
8 and I need to inquire as to how long and when anything
9 was turned over and why perhaps the recording wasn't
10 turned over.

11 I think there is a threshold showing and I think
12 I'm entitled to do this.

13 THE COURT: I don't know how Bryant has anything
14 to do with this situation.

15 MS. McDUFFIE: Your Honor, I'll go back and
16 pull ---

17 THE COURT: I mean, Bryant is an example of the
18 State not turning over information because they don't
19 believe it's exculpatory.

20 MS. McDUFFIE: Right. I mean, I think ---

21 THE COURT: They gave it to the judge --- or they
22 didn't give it to the judge. The judge just ruled it
23 was not exculpatory and said the State doesn't have to
24 disclose it. It said the judge should inspect the
25 contested material. It says the State must produce

1 undisclosed evidence for the judge's inspection once a
2 defendant has established a basis that the material
3 contains exculpatory or impeachment evidence.

4 MS. McDUFFIE: Right, Your Honor. I mean,
5 because Mr. Schnee is saying there is a Brady
6 violation, but to say to be a Brady violation there
7 has to be something that has been suppressed or not
8 disclosed to them, but he has to make a threshold
9 showing to the court and then Your Honor can conduct a
10 hearing. I think what he is trying do is to impugn
11 the integrity of the prosecution, and I think the case
12 law on that is pretty clear that whether the
13 prosecutors failed to reveal evidence pursuant to
14 Brady is negligence or intentional act is irrelevant
15 because it's a Brady violation regardless of good or
16 faith of the prosecutor. I don't know where he is
17 trying to go with this, but there has been nothing
18 suppressed and there's been no allegation that the
19 information that was turned over late, but yet still
20 within plenty of time for them to prepare for trial
21 --- there's an issue in terms of, you know, due
22 process or fairness with that information. I think
23 what he was just trying do is go on a fishing
24 expedition. I don't know the relevance of what the
25 information that he is seeking.

1 THE COURT: What is it that you want to ask
2 McCoy?

3 MR. SCHNEE: Judge, I'm having to respond to what
4 Ms. McDuffie says or Your Honor's question.

5 THE COURT: My question.

6 MR. SCHNEE: Okay. Judge, what I want to ask
7 Investigator McCoy is in terms of the nature of his
8 investigations about when information that he received
9 was turned over to either Ms. Garfield or other
10 solicitors, other investigators. It's very obvious
11 that throughout the Troy Stevenson interview he talks
12 about interviewing prior witnesses that I have no
13 knowledge of. He does say, "I interviewed someone two
14 weeks ago." He doesn't mention the name. We don't
15 have that interview as far as I can tell. There are
16 multiple instances throughout all of Investigator
17 McCoy's reports that just --- they don't make sense
18 with what we actually have received so far. There are
19 a lot of gaps. I don't have anything from him in a
20 typed out report and I even put that in an email. The
21 typed out report that I have from him ends on
22 August 29th, of 2013, but he is clearly still
23 investigating in December, in January, February,
24 March, and in April and I don't even know how far it's
25 gone.

1 The simple fact is if Your Honor looks at my
2 motions list, I have listed a lot of different
3 potential remedies that are available to Your Honor.
4 I list as one of the remedies a dismissal of all
5 charges. I am also requesting a continuance based on
6 the fact that we have now been given even more new
7 information and, based on my review of that, how long
8 it's taking and how it's affecting every other audio
9 recording and having to go through that.

10 Whether --- the issue isn't whether this was
11 disclosed, and I don't believe some of it has been
12 disclosed yet, but I think the bigger issue is the
13 timing of the disclosure in terms of what is the
14 appropriate remedy.

15 If all of this was turned over in April instead
16 of October, we wouldn't even have a motion as a
17 violation of Brady. It's the timing of the aspects,
18 not just the lack of disclosure. The problem is we
19 have both. I also have an affidavit that I can
20 present to Your Honor, and I would like to.

21 THE COURT: This is criminal court. I don't want
22 to see an affidavit. If you have a witness, call
23 them.

24 MR. SCHNEE: Judge, this happens to be Anna Good.
25 She is in a federal C.L.E. in Charleston. She will be

1 available tomorrow, if you would like to hear her
2 testimony.

3 THE COURT: Federal C.L.E.s in Charleston mean
4 nothing me.

5 MR. SCHNEE: I understand that, Your Honor, but
6 that's why I was ---

7 THE COURT: So I will allow you to ask --- you
8 know, what does whether or not McCoy lied to a witness
9 have to do with anything as to whether or not
10 something was disclosed? If McCoy says to a witness,
11 "I interviewed somebody two weeks ago, that says you
12 were there." The United States Supreme Court says he
13 can do that. If they don't have a report on that, then
14 you can cross-examine him about it in the trial. How
15 is that a discovery violation?

16 MR. SCHNEE: Judge, I'm not accusing Investigator
17 McCoy of lying to Troy Stevenson in the in the
18 interview.

19 THE COURT: I'm not either. I'm just giving you
20 that as an example.

21 MR. SCHNEE: But what Investigator McCoy says,
22 it's corroborating because he talked to someone two
23 weeks ago and it's same. We don't have any interview
24 or any information from a witness that says it's the
25 same, so while he could have been lying, he could have

1 also been saying, yes, I interviewed somebody else and
2 he hadn't told everyone who he has interviewed. That
3 would be the basis of the Brady violation.

4 THE COURT: What do you need his testimony for to
5 prove that?

6 MR. SCHNEE: I'd like to cross-examine him to
7 find out exactly what witnesses he interviewed. He
8 said throughout his interviews in March that he plans
9 on interviewing a lot of people that have never been
10 interviewed as far as I know, and I'm willing to bet
11 they have been based on what I have from affidavits
12 from two other lawyers who have been involved in
13 interviews and in the investigation by the solicitor's
14 office as of last week.

15 THE COURT: Do you want to respond to that?

16 MS. GARFIELD: Your Honor, first of all I think
17 we might have been able to clear this up if Mr. Schnee
18 had called me and asked me these questions instead of
19 bringing it to the courtroom.

20 There was an interview done two weeks a prior.
21 That was done with Isaiah Burns. That audio was
22 provided to Mr. Schnee on Monday. Mr. Schnee on
23 Monday made it clear that he needed at least 12 hours
24 in order to be prepared and Your Honor remedied that
25 by continuing the case. As far as the interview that

1 took place in March, and I went through this because
2 Ms. Zmroczek let me know that Mr. Schnee had contacted
3 her about an affidavit. I went back and looked at my
4 emails and Ms. Zmroczek e-mailed me on Friday night
5 around 10:45 p.m., telling me that her client, Troy
6 Stevenson, would like to talk to Investigator McCoy.
7 I then forwarded the information to Investigator McCoy
8 and we had a conversation. Investigation McCoy at
9 that time took it over and he and Ms. Zmroczek planned
10 a meeting several weeks afterwards. He audio-recorded
11 that interview with Troy Stevenson. He did not think
12 to run up here and bring it to me because when I spoke
13 with him this morning, he told me he found it to be
14 consistent with every other interview Troy Stevenson
15 gave, which is what we presented in-chambers to you on
16 Monday. Your Honor, as I told you on Monday ---

17 THE COURT: Has that interview been turned over?

18 MS. GARFIELD: That was the interview that came
19 up over the weekend, yes, sir.

20 THE COURT: Okay.

21 MS. GARFIELD: And I told Your Honor that I had a
22 memory of an audio, but I did not know that that
23 interview was audio taped until I will got it on
24 Sunday afternoon.

25 MR. SCHNEE: Judge, it's not the existence of the

1 audiotape that's the problem. It's the content of
2 that conversation.

3 THE COURT: You have it now, though, right?

4 MR. SCHNEE: I do have that now, yes.

5 THE COURT: Okay.

6 MR. SCHNEE: The problem is I think I'm missing a
7 lot of content from other conversations that I don't
8 even know happened, but based on what was said during
9 that interview, it is blatantly obvious that some of
10 them did happen or absolutely were going to happen.

11 THE COURT: And do you have a list of those?

12 MR. SCHNEE: I can provide you a list of names.

13 THE COURT: Okay. Let's take a ten minute break.
14 Give them to Ms. Garfield.

15 MR. SCHNEE: All right.

16 (WHEREUPON, a short break was taken.)

17 (WHEREUPON, Court's Exhibit Numbers 2 and 3 were
18 marked for identification only.)

19 THE COURT: All right. We're back on the record.

20 MS. GARFIELD: Thank you, Your Honor. Mr. Schnee
21 did provide us a list of these witnesses that he is
22 alluding to and they would be Ashley Carter, Marcus
23 Johnson, Marquis Johnson, Azo Sequant Williams, Darryl
24 Samuels, E.T. Nelson, Joshua Green, Latoya Barnes
25 other than the one reported phone call that was made

1 earlier on, Tyreek Taylor, also known as Smiley and
2 Short. Your Honor, I've spoken with Investigator
3 McCoy. He has not made any interviews with these
4 individuals. He does say that some of these names
5 were referenced in an interview with Troy Stevenson
6 back in March, but most of that information was given
7 to him through Mr. Stevenson's attorney, Ms. Zmroczek.
8 Ms. Zmroczek represented to Investigator McCoy, from
9 what he told me, that she had information that these
10 individuals have shared with her, and that she is
11 going to provide that to Investigator McCoy and as of
12 today, October 30, 2014, she has not done so.

13 Also, he was inquiring whether or not Sergeant
14 Reese had investigated --- I'm sorry, had interrogated
15 Donald Moore in the year 2014. Sergeant Reese
16 indicates to me that he has not conducted any such
17 interview. Your Honor, he had also previously, and I
18 didn't get a chance to respond, claimed that
19 Investigator Cambo Streater with our office, when he
20 was interviewing Troy Stevenson last week, did have
21 contents of that audio recording. We dispute that.

22 We --- Ms. Simpson provided an audio recording of
23 the interviews to go over Mr. Stevenson's prep with
24 and that interview not on there. There is no reason
25 that Investigator Streater would have been familiar

1 with that.

2 Lastly, Your Honor, I want to clarify that once I
3 turn all that over that information to Investigator
4 McCoy to get in touch with Ms. Zmroczek and to conduct
5 that, I don't routinely follow up with law
6 enforcement. It's not because I don't want to, I just
7 simply don't have time to. Again, obviously, it's not
8 an excuse, just an explanation. Our paperwork is
9 quite voluminous and, in fact, Ms. Good in the back
10 here, she just replied that she has had a client that
11 wants to testify. I turned that over to the
12 respective law enforcement agency. Unless that
13 officer gets back in touch with me, I really don't
14 follow up on it.

15 There is no reason I would have kept this
16 interview from Mr. Schnee or any of the other parties
17 involved as we have maintained since we discovered it,
18 we believe that the State --- that Troy Stevenson, we
19 maintain that the statements that Troy Stevenson gave
20 are consistent with his other interviews, and
21 subsequently, as we have also mentioned, we have no
22 plans to use it anyway.

23 THE COURT: Okay.

24 MR. SCHNEE: Judge, as far as I can tell, what
25 the State is saying is they had no --- is that the

1 solicitor's office had no knowledge of the content of
2 the interview from March, and now they're saying also
3 in addition they don't believe any of the content is
4 different. First, Your Honor, I would ask Your Honor
5 to listen to both.

6 THE COURT: I don't know whether it's different
7 or not matters at this point.

8 MR. SCHNEE: But the problem ---

9 THE COURT: I mean, it mattered Monday. It
10 mattered whatever day you all came back in my chambers
11 and said you just got four hours worth of interviews.
12 A difference mattered then. That's why I continued
13 the case. Thank God I did. I mean, I'm not worried
14 about her statement about whether it's different or
15 not. The investigator's opinion as to whether or not
16 the statements are the same or if they're
17 contradictory is just --- at this point, since I've
18 continued the case, it's kind of irrelevant to me, but
19 what's your issue with the timing?

20 MR. SCHNEE: My problem is that last Wednesday
21 Cambo Streater met with Troy Stevenson and Amy
22 Zmroczek. If Ms. Garfield is saying that Cambo
23 Streater had no knowledge of the March 24th interview,
24 there are two problems. First, that essentially
25 creates just willful blindness as to what law

1 enforcement has and, yes, that's why it's continued
2 and everything else.

3 The problem I have more importantly than that is
4 the Riddle violation that results because the
5 information that Troy Stevenson gave, while not
6 completely different is a substantial addition with
7 humongous amounts of details and topics that were
8 never discussed and the only thing that I got from
9 Ms. Garfield was an email on Thursday, October 23rd at
10 5:19 p.m. and it listed a number of different
11 witnesses. It said Troy Stevenson reports that --- it
12 says that he thought --- and I'm sure that's a typo
13 Donald Moore had the guns.

14 That's actually contained in the March 24th
15 interview, as well, but all of the other specific
16 facts that Amy Zmroczek says Cambo Streater discussed
17 with Troy Stevenson about the alleged planning of the
18 robbery, hours and hours before, at Azo's place, it's
19 a recording studio a few blocks away from where all
20 this happened, it's a pretty small area, the fact that
21 Marcus Johnson is the one who came up with the idea.

22 THE COURT: Didn't we talk about all of this on
23 Monday?

24 MS. GARFIELD: Yes, sir.

25 MR. SCHNEE: Judge, the problem I have is that

1 Cambo Streater was told all this information on
2 Wednesday and on Thursday the only thing that I was
3 told by the solicitor's office was that he added
4 something about Donald Moore may have the guns, but
5 all of this information was new and wasn't disclosed.
6 I don't understand how that can happen. That's the
7 problem I'm having, and I think that is intentionally
8 withholding evidence. It is incredibly important
9 impeachment evidence because his stories, especially
10 the March 24th interview, now contradicts a lot of
11 other things that he had said previously, contradicts
12 things that his mother said and other witnesses had
13 said in prior statements, so it is very much material
14 for Brady, either as incriminating or impeachment or
15 as exonerating depending on which aspects and all of
16 that was withheld until we magically got that
17 recording. I think that is a problem that's why one
18 of the remedies that I'm asking for is dismissal of
19 all the charges.

20 THE COURT: So, here is what I heard him say.
21 What I'm hearing Mr. Schnee say, and I'm going to put
22 this in my own words, is that you all, the solicitor's
23 office, told me Monday morning that the first time you
24 knew about this March interview and the audio
25 recording of it was sometime over the weekend and you

1 turned it over, okay. And what I hear Mr. Schnee
2 saying is that Investigator Streater with the
3 solicitor's office, met with Troy Stevenson the week
4 before that and discussed all the stuff that was in
5 the March 2014 interview, so if the solicitor's office
6 didn't know about it how did Cambo Streater know about
7 it at the interview before the weekend happened.

8 MS. GARFIELD: That's what I believe he is
9 saying, too. It's just not true.

10 THE COURT: So what's not true?

11 MS. GARFIELD: First of all, I have said if I
12 knew about there being a meeting between law
13 enforcement and Troy Stevenson in March, I had
14 forgotten. I just didn't have a recollection.

15 THE COURT: I'm not --- no, no. You're missing
16 where I'm going.

17 MS. GARFIELD: Oh, I was just addressing each
18 thing you said in your own words.

19 THE COURT: Okay.

20 MS. GARFIELD: I said that I never knew about an
21 audio recording until Saturday, which Sunday is when I
22 got to listen to it. I don't know how Investigate
23 Streater would have known the contents of that audio
24 recording when I had never seen it, Ms. Simpson had
25 never seen it, Ms. Campbell had never seen it. It was

1 all new to us Monday morning, which is why we had
2 frantically had people listening to it to tell us what
3 was on it. As far as Investigator Streater having
4 known about it, if he had known about it and we had
5 all known about it, I don't know why we would have
6 turned over all this new information about Donald
7 Moore having the guns when Mr. Schnee says it was in
8 that interview. It would have been new. Ms. Simpson
9 has the CD that Mr. Streater used when he met with
10 Mr. Stevenson last week. That interview is not on it
11 because we did not have it.

12 THE COURT: So the State's premise is that
13 Ms. Zmroczek's affidavit is a misrepresentation to the
14 court?

15 MS. GARFIELD: We've never seen it.

16 THE COURT: Give it to them.

17 MR. SCHNEE: It's not signed.

18 MS. GARFIELD: It's not signed, Judge.

19 MR. SCHNEE: It's an email that confirms her
20 statement. You can talk to her, you can bring her in
21 when she is actually healthy enough and not
22 contagious.

23 MS. GARFIELD: So did she personally appear
24 before you?

25 MR. SCHNEE: I personally spoke her over the

1 phone and by email as to the content of --- that all
2 statements in here are ---

3 THE COURT: You've got to be kidding me,
4 Mr. Schnee.

5 MR. SCHNEE: Like I said, she is out sick. I'm
6 happy to have her --- she is available and willing to
7 come testify any time when she is not ---

8 THE COURT: Don't ever say to the word affidavit
9 to this court, ever, ever unless it is a real
10 affidavit in compliance with the South Carolina rules
11 of court. Do you understand me?

12 MR. SCHNEE: I understand that.

13 THE COURT: Okay. That's not an affidavit.

14 MR. SCHNEE: This is a statement that Amy
15 Zmroczek says is her statement.

16 THE COURT: Okay. That's fine.

17 MR. SCHNEE: Okay.

18 THE COURT: But it is not an affidavit.

19 MR. SCHNEE: Okay. I would like to present, Your
20 Honor ---

21 THE COURT: Because if it is an affidavit and it
22 contains a material misrepresentation, we have a major
23 problem. Do you understand the difference?

24 MR. SCHNEE: I do understand that. I also do
25 have an actual affidavit that is signed and notarized

1 by Anna Good, and I would like to be present that as
2 well.

3 THE COURT: All right. Let the solicitor's
4 office see it.

5 MR. SCHNEE: Anna Good, as I said, is the
6 attorney for Donald Moore. Her statement in her
7 affidavit specifically says that Cambo Streater was
8 told by Donald Moore that he lied about something in
9 his prior interview with the Columbia Police
10 Department. That was never disclosed to us. It's
11 also my understanding that Investigator Streater never
12 bothered to ask what the lie was, so we don't actually
13 know what the lie is, but we know that Donald Moore
14 lied about something involving his prior interview.
15 Again, that was not disclosed as of last Thursday.
16 The statement says that Donald Moore is the exact same
17 as his prior testimony.

18 MS. GARFIELD: Which we have maintained all along
19 is the contents, and all of his statements are
20 consistent.

21 MR. SCHNEE: Except apparently he says he has
22 lied to the Columbia Police Department about something
23 in his last recorded conversation.

24 MS. GARFIELD: I'm sorry. I'm referring to Troy
25 Stevenson. Troy Stevenson. As far as Ms. Good is

1 concerned, the first I heard of this is when Ms. Good
2 contacted me yesterday to give me a heads-up, saying
3 that she was going to Mark Schnee's law office to sign
4 such affidavit. I met with Ms. Good on Monday morning
5 prior to jury selection. We discussed scheduling, and
6 she had some issues with picking up her children on
7 Tuesday. She was going to reschedule that so that she
8 would be available because we anticipated calling her
9 at that time. At no time did she disclose any
10 information concerning a lie to us, and I believe ---
11 obviously we always consult and expect attorneys who
12 are representing anyone that is testifying to provide
13 us information that we believe should be disclosed.

14 THE COURT: Well, that may be true, Ms. Garfield.
15 However if an investigator to the solicitor's office
16 is told by a witness in the trial that he lied to
17 somebody that also has an obligation to be turned
18 over.

19 MS. GARFIELD: At this point I'm going to turn it
20 over to Joanna because she --- I felt like --- I
21 didn't want to be a witness. She did, she went and
22 she spoke to Investigator Streater concerning these
23 allegations.

24 MS. McDUFFIE: Your Honor, Investigator Streater
25 is here. He is available to testify about the

1 substance to the court. What he informed me is that
2 he went in to interview Ms. Good's client, Mr. Moore.
3 They went to one of the offices on the fourth floor.
4 He had some trouble playing the audio for Mr. Moore,
5 so he got another investigator in the office, Nicole
6 Bryan to assist in that. She sat in for the remainder
7 of the interview with Ms. Good.

8 Mr. Streater and Mr. Moore --- basically Mr.
9 Moore did not feel like talking. They played most of
10 the lengthy interview. At some point Anna said, you
11 know, I think he has heard enough and stopped it and
12 said he didn't need to hear anymore. Mr. Streater
13 then asked Mr. Moore, you know, when you're called to
14 testify, is your testimony going to be consistent with
15 that statement and Mr. Moore gestured yes to him with
16 his head and his mouth and made a emotion yes.

17 Mr. Streater then asked him do you have any
18 questions you want to ask of us and he said no and
19 then Ms. Good indicated they needed a minute and
20 Mr. Streater and Ms. Bryan left the office and allowed
21 the two of them to talk privately and then Ms. Good
22 and her client left. They also told me that several
23 times during --- while he was listening to the audio,
24 while Mr. Moore was listening to the audio, Ms. Good
25 asked them to leave so she could talk to her client

1 privately, which they did. At no point did Cambo ever
2 hear him say that he lied about something.

3 Your Honor, if he had heard him say he lied about
4 something, the next question would have been what and
5 there's no --- I mean, it just doesn't make sense.

6 Your Honor, also I talked to Ms. Nicole Bryan.
7 She's not here. She is in Texas. Her daughter is
8 graduating from basic training but should Your Honor
9 want to hear Mr. Streater's testimony, he is
10 available.

11 THE COURT: All right. All right. Let's move on
12 to your next motion. I'm coming back to that one.

13 MR. SCHNEE: Yes, Your Honor. Judge, I think
14 I'll skip any other Brady and Rule 5 issues at this
15 point.

16 My next motion I'm going to move yet again for a
17 continuance based on the length of time it has taken
18 me to go through the Troy Stevenson interview. I
19 haven't even begun to listen to Lorenzo Young's
20 extended interview. I still haven't gone through all
21 of Isaiah Burns' interview either because I'm now
22 having to go back and relisten to every witness's
23 prior statement and compare it. It's not simply a
24 matter of did I not write anything down or not pay
25 attention the first time, months ago.

1 The problem I have now is because of how much
2 Troy Stevenson has added, now lots of things I'm
3 finding in other witness's statements are
4 contradictory. I don't believe I can fully
5 investigate all of these audio recordings, dealing
6 with all the differences in the next week and a half,
7 and I don't think it's appropriate particularly since
8 all of disclosures are their responsibility, so I'm
9 asking for a continuance past the 10th.

10 THE COURT: Okay. Next motion?

11 MR. SCHNEE: I would at this time move to reveal
12 the deal, if there is any deal, with Troy Stevenson or
13 any other witness with their testimony.

14 MS. GARFIELD: There's been no offers.

15 MR. SCHNEE: Or attempted offers or anything like
16 that.

17 MS. GARFIELD: There's been no offers.

18 THE COURT: To any witness?

19 MS. GARFIELD: No, sir.

20 THE COURT: Okay.

21 MS. GARFIELD: The only offer that's been
22 extended in this case was to Mr. Young, which he
23 rejected.

24 THE COURT: All right.

25 MR. SCHNEE: Okay, Judge, I believe it was some

1 time last week, maybe the week before. I obviously
2 don't recall, the State turned over a final jail phone
3 call from my client. I'm really not sure when it was
4 turned over. It's a standard eight or nine or so
5 minute jail phone call. It's between my client and
6 his mother. They are talking about a lot of different
7 things. The only thing I can assume that the State
8 wants to use it for is because my client says
9 something about the letter that was written that Your
10 Honor is aware of. All the rest of the content is
11 where they're talking about a lot of crimes, a lot of
12 other people committing crimes. I don't know if they
13 even intend on using it, but if they do, I would ask
14 that everything be redacted other than the point of,
15 yes, this letter that I sent you. I think that was
16 something along the lines of the State.

17 THE COURT: What about that?

18 MS. SIMPSON: Your Honor, with respect to that
19 call, that was the primary reason there was also a
20 handwriting exemplar taken in this case and subsequent
21 to that hearing, this jail call was made. That would
22 be our primary purpose for offering it. Should we
23 actually play the recording, we will redact anything
24 and go over the redactions, go over those with the
25 defense prior to introducing it.

1 THE COURT: Okay. Next.

2 MR. SCHNEE: Judge, if there are other jail calls
3 they plan on using, I would ask obviously the same, if
4 they play whatever portion.

5 THE COURT: Are there other jail calls as to
6 Mr. Barnes?

7 MS. GARFIELD: None that have been made as of
8 today.

9 THE COURT: Okay.

10 MR. SCHNEE: I only ask because we did receive a
11 lot of jail calls originally in discovery, so I'm just
12 making sure. If they're not using them that's fine.

13 My next motion is dismiss indictment number
14 2014-GS-40-757. That charge is a common law
15 conspiracy case. Judge, the basis of my motion is
16 section 69-19-1210. That would be the transfer of
17 jurisdiction from the family court to General
18 Sessions. My client at the time was 16 years of age.
19 That would be under subsection 4, I think. I'm sorry.

20 Well, it's in that statute. I'm looking for the
21 right section in there. Anyway, my client was 16
22 years of age. This is not a felony. It does not ---
23 it's not an A, B, or C felony. It does not carry 15
24 years or more. This court has no jurisdiction to hear
25 anything on these charges. It has to go through the

1 family court first. There was never a waiver hearing,
2 and I ask that Your Honor dismiss the indictment
3 itself with prejudice pursuant to the lack of
4 jurisdiction.

5 THE COURT: What was the statute number you said?

6 MR. SCHNEE: 63-19-1210.

7 MS. GARFIELD: Your Honor, I agree with his
8 analysis this court does not have jurisdiction. It
9 will be remanded to the court of family court. We
10 instructed Mr. Schnee Monday morning that we would not
11 be proceeding on this charge.

12 MR. SCHNEE: And, she did say they were not
13 proceeding on it, but I would like it officially
14 dismissed on the record.

15 MS. GARFIELD: I have believe the statute
16 requires us to remand it.

17 MR. SCHNEE: Remanding it is fine.

18 THE COURT: Okay. Next.

19 MR. SCHNEE: Judge, I do have a written motion
20 that I handed up dealing with the photograph issues,
21 but I think Your Honor has essentially ruled on that.

22 THE COURT: I haven't ruled on that. We'll
23 circle back around to the photos.

24 MR. SCHNEE: Settle the record of all witnesses
25 and the defendants. We think we've also --- we now

1 have those rap sheets, so we can discuss it with the
2 State and see if there are any points of contention on
3 that.

4 MS. McDUFFIE: We just need to get a copy of
5 those motions.

6 MR. SCHNEE: Certainly, I gave you ---

7 MS. McDUFFIE: I know earlier today you said you
8 had some additional motions.

9 MR. SCHNEE: I had all the copies, so I handed
10 them to someone.

11 MS. McDUFFIE: We can...

12 MR. SCHNEE: Well. That's fine.

13 Judge, especially if Your Honor is still
14 considering the severance, I would of course, make the
15 same motion regarding gang activity and any testimony
16 regarding that. I think that's already been dealt
17 with by consent by the State. I just want to put it
18 on the record there is a written motion as well as a
19 memorandum with it.

20 My next motions would be a motion to prevent
21 visible shackling of my client in front of the jury.
22 Deck v. Missouri is clear and on point on this. It's
23 a U.S. Supreme Court case that says absent any
24 specific acts that my client has committed, either in
25 the courtroom involved in this case in the past or any

1 specific --- anything that can be shown that my client
2 would be a trouble to have in the courtroom, there is
3 no absolutely no way the jury can see my client in
4 shackles.

5 And I think that we all know this --- and I have
6 two issues that I want to raise, first is when the
7 jury is being brought in for selection. As their
8 coming down through those doors and my client is
9 sitting down with his back to them, the jurors can see
10 underneath the table and see his shackles. I know
11 that because I was on a jury pool a year or two ago
12 and I could see the under the table and I could see
13 the shackles.

14 THE COURT: Did they put you on a jury?

15 MR. SCHNEE: No, they did not. They struck me.

16 THE COURT: Okay.

17 MR. SCHNEE: I did want to mention that --- for
18 during jury selection.

19 THE COURT: Which table are you referring to?

20 MR. SCHNEE: That would be this table over here.

21 THE COURT: The one with all the wood underneath
22 it?

23 MR. SCHNEE: The wood underneath it is --- the
24 problem is when they're walking in and there's nothing
25 blocking the back view.

1 THE COURT: Okay.

2 MR. SCHNEE: I'm just saying I personally saw the
3 shackles so I'm asking that they not be on during jury
4 selection.

5 THE COURT: Okay.

6 MR. SCHNEE: Likewise, if my client testifies,
7 I'd ask he be treated like any other witness, walk up
8 to the witness stand, testify and then walk back to
9 his seat.

10 THE COURT: What else? What are you standing up
11 for?

12 MR. KRYZYSTON: I would join in that motion, Your
13 Honor, and ask to have Mr. Young unshackled during
14 selection, as well.

15 THE COURT: Okay. Keep going.

16 MR. SCHNEE: I think the only other motion that
17 we can address at this point is dealing with the
18 Belcher case in terms of implied malice from the use
19 of a firearm. Obviously that's something that the
20 State is going to try to prove, but obviously has not
21 even remotely proven yet. I would ask you're your
22 Honor prohibit them from arguing anything about that
23 in opening and depending on what happens during the
24 trial, but also potentially closing. Certainly in
25 opening statements I would ask that they exclude it

1 since they haven't proven any of that yet.

2 THE COURT: What's your intentions in regards to
3 that?

4 MS. GARFIELD: That will not be mentioned in
5 opening, Judge.

6 THE COURT: Okay. Do you have shock belts?

7 THE DEPUTY: I think we have one.

8 THE COURT: You have one.

9 THE DEPUTY: We have not used it in years because
10 of prior ruling from Judge Cooper.

11 THE COURT: Can I pick the deputy to test it out?
12 At least everybody's going to stay awake.

13 All right. I'll think about that. All right.
14 Now is this table the one that's open, the one closer
15 closest to the bench?

16 MR. SCHNEE: Yes, sir.

17 THE COURT: What did we do about that the in that
18 last trial. I can't remember.

19 MS. PINNOCK: You ordered that they switch it.

20 THE COURT: They moved the clerk's table over
21 there?

22 MS. PINNOCK: Yes.

23 THE COURT: All right. What else, Mr. Schnee?

24 MR. SCHNEE: Judge, I think that's it at this
25 time other than the any other remaining Brady issues.

1 THE COURT: Okay. Do you want to go through the
2 rest of these Brady issues that you've listed?

3 MR. SCHNEE: Well, Judge I'm still interested in
4 questioning witnesses as to what was turned over and
5 what was said.

6 THE COURT: Why don't you keep going through your
7 Brady issues and then we'll come back to who you get
8 to question.

9 MR. SCHNEE: Well, Judge, do you want me to
10 address what I believe are the Brady problems or what
11 I ---

12 THE COURT: The motion to compel complete Crime
13 Stoppers information.

14 MR. SCHNEE: Okay. Judge, there's a --- in terms
15 of the Crime Stoppers, I know that Young's lawyers had
16 filed a motion. Your Honor had reviewed some Crime
17 Stoppers information. We had been provided a summary
18 of some Crime Stoppers tips. In the recorded
19 interview since then, I have relisted to one by a Mary
20 Brown. She was just a general witness that had a
21 phone recorded conversation with the police and she
22 indicated she was one of the people that called Crime
23 Stoppers and what she told them. Based on what she
24 told them I looked at the actually tips that we
25 received and it doesn't appear that that tip was given

1 to us, so I'm asking to get a more complete copy of
2 all the Crime Stoppers tips they do have, including
3 any of the people they actually talked to. I would
4 like to know their names, their contact information,
5 many of these people were actually interviewed. Some
6 of them have been shown lineups. The very first one
7 even indicates in Crime Stoppers and in the summary
8 that one of the police investigators went and talked
9 to this person and showed them lineups. I can only
10 assume that would be Donald Moore, but I don't know.
11 I would ask for all Crime Stoppers to be given
12 pursuant to the statute and Rule 5.

13 THE COURT: Do you have any Crime Stoppers
14 reports other than the ones that I have looked at?

15 MS. SIMPSON: No, Your Honor, those were the only
16 tips that were provided and that law enforcement has.

17 MR. KRZYSTON: Judge, I apologize, but I forget
18 to raise this during our portion of the hearing. I
19 don't believe Your Honor actually ever ruled on the
20 record as to my motion to compel which was held about
21 a month ago between Ms. Simpson and myself. I would
22 just ask that Your Honor make his ruling official for
23 our purposes.

24 THE COURT: All right. So I reviewed the actual
25 Crime Stoppers tips that were provided to me by the

1 solicitor's office, and I feel reviewed the summary of
2 the tips that the solicitor's office has provided to
3 defense and this counsel and pursuant to the law in
4 regarding to Crime Stoppers tips, the summaries are
5 completely and totally appropriate and that's all that
6 has to be turned over. Now, if there are any
7 additional Crime Stoppers tips that are known to law
8 enforcement or the solicitor's office about this case,
9 then they need to provide those to me and their
10 potential use in the summary.

11 MR. KRZYSTON: Thank you, Judge.

12 MR. SCHNEE: Judge, I would just ask that if
13 anyone from law enforcement interviewed any of those
14 people, that I'm not aware of, then they should turn
15 over that information from the interviews.

16 THE COURT: I reviewed the Crime Stoppers tips.
17 There was some information in the Crime Stoppers tips
18 that was not originally turned over, and I am sure in
19 the summary that was turned over that that additional
20 information was in there. There is nothing else in
21 the Crime Stoppers that is relevant to the case or
22 exculpatory to the case in any way, shape, or form.
23 I've looked at them with my own eyes myself.

24 MR. SCHNEE: Okay. Thank you, Your Honor.

25 MR. KRZYSTON: Thank you, Your Honor.

1 MR. SCHNEE: My next motion is to compel the
2 Federal 302's. We were given Federal investigations
3 that have since been redacted by the State of South
4 Carolina. We were given it for two witnesses and only
5 two witnesses. When I met with Ms. Simpson a couple
6 weeks ago, she indicated that there were quite a few
7 different witnesses that they were going to be
8 providing.

9 They have since provided --- they have not
10 provided those documents though. What I have is
11 something from Walters, which I know the State has
12 said they're not using as a witness and then I have a
13 separate interview with Darryl Alston. However, based
14 on the recordings that we were given on Sunday,
15 Michael Schaefer was also interviewed --- I'm sorry.
16 He was also interviewed by the federal government. He
17 mentions that. I would inquire if there is a federal
18 interview on Michael Schaefer.

19 Additionally, we have handwritten letters from
20 Thomas O'Brien Williams, who I know has given federal
21 proffers because I have represented him on the state
22 charges. I don't know if the State is going to be
23 using him as be witness, but I would ask that they
24 turn over the federal proffer for that, as they
25 indicated he had talked to them, the federal

1 government, about this case and I don't know what
2 else.

3 Finally, I know that there was another witness
4 that Ms. Simpson had mentioned by the name of William
5 Gibson, who I used to represent on State and Federal
6 charges, who apparently gave information regarding
7 this case. That has not been turned over and that is
8 why Ms. Simpson and I met in your chambers a number of
9 weeks ago. Eventually Your Honor told me to file a
10 motion and I did. That ended up in front of Judge
11 Goldsmith and he said that Your Honor had to deal with
12 it and then I went out-of-town for vacation, came
13 back, and now we're here. It never came up again.

14 I would, once again, ask that all the federal
15 302's be turned over in their unredacted form that the
16 State received. The State received slight redactions
17 from the federal government. Anything that would have
18 been confidential, the federal government or redacted
19 --- I'm asking for all of 302's from all of the
20 witnesses at this time.

21 MS. SIMPSON: Your Honor, if I may. I provided
22 Your Honor a packet with the complete 302's for all
23 the witnesses as they related to Mr. William Gibson's
24 case, his codefendant in that case is Taddrick Gibson.
25 This is another --- while, there are State murder

1 charges, the proffers in that case are regarding Blood
2 gang members and a number of people who were arrested.
3 What I've done, Your Honor, is they actually --- of
4 course, in their proffers, gave information regarding
5 numerous incidents, different bad acts on unrelated
6 individuals to this case so with respect to what was
7 turned over to Mr. Schnee and Mr. Krzyston, that is
8 the only reference in those 302's to this case in the
9 bakery, or the Hunnewell murder, Walters and I believe
10 Darryl Alston.

11 I'm not aware of whether Michael Schaefer was
12 ever interviewed by the feds or for what purpose. I
13 can tell Your Honor I do not have those federal
14 proffers with respect to the investigation into
15 Taddrick and William Gibson as it relates to that.

16 And, Your Honor, I brought this to defense
17 counsel's intention because he did in fact represent
18 William Gibson, so there are a number of people
19 related to that case and after speaking with
20 co-counsel we determined Mr. Walters, which would have
21 been a potential key witness or had information, that
22 we would not be calling that witness and at that time
23 that was Mr. Schnee's primary concern with respect to
24 the State's case. So I provided Your Honor complete
25 form 302's, and we do not feel they are relevant to

1 this case or that defense counsel is entitled to it
2 under any theory or principle of law.

3 MR. KRZYSTON: Judge, I would join in Mr. Barnes'
4 motion with respect to this matter and would also move
5 that the court make a Court's Exhibit out of all the
6 original source information, all the original 302's as
7 well as all the original information which Your Honor
8 reviewed in determining the sufficiency of
9 Ms. Simpson's proposal for the Crime Stoppers
10 information that was turned over.

11 So to clarify --- that was a little bit messy,
12 all the original information provided by Crime
13 Stoppers to the government, as well as all the
14 original 302's in their unredacted form as provided by
15 the federal government to the state government.

16 THE COURT: All right. Okay. So go through the
17 witnesses again. Who is the first one?

18 MR. SCHNEE: Michael Schaefer. That was an
19 interview that was conducted by McCoy in April of this
20 year, and in the recording itself Michael Schaefer
21 says, "I already talked to the Feds," and that was one
22 of the recordings that we didn't get until Sunday, so
23 at this point I would ask the State to actually
24 inquire of the federal government if he has a 302.

25 MS. SIMPSON: And, Your Honor if I may address

1 Mr. Shafer, I believe he gave information on several
2 different cases and whether he talked to the federal
3 government regarding another case or unrelated to this
4 incident, I don't believe we need to go inquire about
5 that. With respect to this incident, we have this
6 statement that was given and it has been provided and
7 that's all I have with respect to ---

8 THE COURT: Has somebody asked him whether or not
9 he talked to the Feds about this case?

10 MS. CAMPBELL: We will. We haven't.

11 THE COURT: Okay. If he says --- does he we a
12 lawyer?

13 MS. GARFIELD: Mr. Hodge.

14 MS. SIMPSON: Mr. Hodge.

15 THE COURT: Who?

16 MS. SIMPSON: William Hodge.

17 THE COURT: All right. Somebody needs ask him if
18 he has talked to the Feds about this case.

19 MS. GARFIELD: Yes, sir.

20 THE COURT: If he has, then your needed to get
21 that information and turn it over. Is he a witness in
22 this case?

23 MS. GARFIELD: Yes, sir.

24 MS. CAMPBELL: Potentially.

25 THE COURT: Okay. All right. Next.

1 MR. KRZYSTON: Judge, could I just have a
2 clarification on the motion to have those documents be
3 admitted as a Court's exhibit?

4 THE COURT: If somebody has them to give to me,
5 I'll have them marked as a Court's exhibit.

6 (WHEREUPON, Court's Exhibit Number 4 was marked
7 for identification only.)

8 MR. KRZYSTON: The government would be the only
9 people in possession of that information, Judge. We
10 would ask that you compel them to turn that over to
11 you.

12 THE COURT: Ms. Simpson.

13 MS. SIMPSON: First of all, just so I'm clear, is
14 he referring to the Crime Stoppers tips or the 302? I
15 provided Your Honor with ---

16 THE COURT: I have the 302's. He is referring to
17 the Crime Stoppers tips.

18 MS. SIMPSON: I can redo the complete packet that
19 was provided for Your Honor and give it to you as a
20 Court's exhibit.

21 MR. KRZYSTON: Just to be clear, that's the
22 original information provided by Crime Stoppers to His
23 Honor?

24 MS. SIMPSON: Your Honor, we would just ask that
25 information be sealed.

1 MR. KRZYSTON: Certainly, Your Honor.

2 THE COURT: Okay. Next witness.

3 MR. SCHNEE: Thomas O'Brien Williams.

4 THE COURT: Okay. Is he a witness in this trial?

5 MS. SIMPSON: No, Your Honor.

6 MR. SCHNEE: He has provided written statements
7 and it was turned over, so he's obviously a potential
8 witness. Whether the state wants to use him or not,
9 he is a potential witness, and I know he has done a
10 federal proffer.

11 THE COURT: Okay.

12 MS. GARFIELD: I know he has given one on another
13 murder I have. I'm not familiar with anything on this
14 case.

15 MR. SCHNEE: I have no idea if he said anything
16 about this case, but he certainly has a letter that
17 involves this case and I know he has done a federal
18 proffer, so I'm inquiring if there is ---

19 THE COURT: He has what?

20 MR. SCHNEE: Mr. Williams provided letters, sent
21 letters to law enforcement, written statements and I
22 know completely unrelated he has done federal proffer
23 process.

24 THE COURT: Okay.

25 MR. SCHNEE: I have no idea if that federal

1 proffer obviously includes anything on this case, but
2 the written statements that he provides do, so I would
3 ask if there is, in fact, a Federal 302 regarding
4 Mr. Williams about this case.

5 THE COURT: Do you have the written statements?

6 MR. SCHNEE: Yes, that was turned over to us.

7 THE COURT: Okay. Why don't you ask Mr. Williams
8 if he has done it?

9 MR. SCHNEE: He is not here, Judge. He is in
10 federal prison somewhere else.

11 THE COURT: Why don't you drive and go see him?

12 MR. SCHNEE: I might have to now, but I would ---
13 yet again, that's a good reason for a continuance.
14 These documents weren't turned over until very
15 recently.

16 THE COURT: You don't even know that the document
17 exists.

18 MR. SCHNEE: I don't know if he has discussed it
19 with the federal government. I don't. That's why I'm
20 inquiring if he did.

21 THE COURT: Okay. He is not a witness in the
22 trial. Do you understand that?

23 MR. SCHNEE: Judge, his statements were turned
24 over to me as part of the discovery in this trial very
25 recently, so he is a potential witness in this trial.

1 THE COURT: Maybe a defense witness, right?

2 MS. GARFIELD: I don't know what he's talking
3 about.

4 MS. CAMPBELL: Can you show what you say you're
5 talking about?

6 MR. SCHNEE: You gave us documents from Thomas
7 O'Brien Williams. They were handwritten letters.

8 MS. GARFIELD: I'm not familiar with them.

9 MS. SIMPSON: Oh, actually, Your Honor, Your
10 Honor, I think we do know he is referring to. When
11 Mr. Young was taken into custody, he is actually
12 fugitive at that point in time. They learned that he
13 is --- will be located at his cousin's house in
14 Latimer Manor. Law enforcement goes to the location.
15 While at that home, they, of course, find Mr. Lorenzo
16 hiding in a closet in the bedroom, along with the
17 phone. Several letters were photographed. Those were
18 letters from Thomas O'Brien to some individual, I
19 guess, in the home. They just happened to be located
20 --- this is not where Mr. Young stayed and we don't
21 really have any information to my knowledge of any
22 relevance with respect to this case.

23 MR. SCHNEE: Judge, if that's what they're saying
24 these letters came from, then I'll move on to another
25 witness.

1 THE COURT: Number three.

2 MR. SCHNEE: William Gibson. Ms. Simpson
3 specifically told me there was information contained
4 in his 302 that I should be aware of. That's one of
5 the reasons why she brought it to my attention,
6 because she knew I had represented him, and we were
7 talking about this case so I can only assume he has
8 provided some information about this case.

9 THE COURT: That's one of the ones I have.

10 MS. SIMPSON: And, Your Honor, with respect to
11 Mr. William Gibson's name, I believe that defense
12 counsel --- what I was referring to and the reason I
13 brought it to his attention is because he did in fact
14 represent William Gibson, who I have a codefendant,
15 Taddrick Gibson, both with pending murder charges. In
16 that case, all these federal proffers have come to my
17 office. That is why I went to him. I did not
18 indicate that Mr. Gibson had specifically given
19 information about the Hunnewell murder. Based on the
20 form 302's that I have, all the stuff that I turned
21 over to Your Honor he has not given any information
22 with respect to this case. I only turned over
23 information and brought it to Mr. Schnee's attention
24 because he represented a possible person involved with
25 people who did have information, such as Mr. Walters

1 and Darryl Alston.

2 THE COURT: So to your knowledge, Mr. Gibson did
3 not give a statement?

4 MS. MCDUFFIE: No.

5 THE COURT: In this case?

6 MS. SIMPSON: He only gives a statement about
7 other incidents and specifically to the murder that he
8 is involved in with his brother.

9 THE COURT: Okay.

10 MR. SCHNEE: All right. Judge, I would ask just
11 as a precaution, that if any of these witnesses
12 mention anything about crimes related to any witness
13 that is involved in this case or has any information
14 in this case that is potentially impeachment evidence
15 or if there is anything that remotely resembles that,
16 I would ask that that be turned over.

17 THE COURT: That is not an accurate statement of
18 the law. If somebody says, "Yeah, I heard Lorenzo
19 pull this lick," in a Federal 302, I mean, how is that
20 exculpatory or impeachment?

21 MR. SCHNEE: I'm not so much concerned about
22 Lorenzo. I'm talking about the completely unrelated
23 crimes that the State is saying they're redacting and
24 they have redacted from what they gave us and now
25 they're saying they are not using these witnesses

1 maybe. If they have information about say, Rolanda
2 Coleman, who is a witness, or Michael Schaefer --- if
3 there is at 302 not by Michael Schaefer, but by a
4 different witness that talks about how they know
5 Michael Schaefer constantly lies or whatever it is ---
6 The problem is, I don't have the benefit of these, so
7 I just want to ---

8 THE COURT: I've seen them and nobody says
9 anything like that in any way, shape, or form.

10 MR. SCHNEE: Okay.

11 THE COURT: All right. Next.

12 MR. SCHNEE: Judge, at this time I'd move to
13 compel all ---

14 THE COURT: No, do you have any more witnesses?
15 I'm on witnesses.

16 MR. SCHNEE: Judge, I'm sorry. Those are the
17 only witnesses that I'm aware of.

18 THE COURT: Okay. Next.

19 MR. SCHNEE: Next, Your Honor, I move to compel
20 all police and investigative reports, handwritten
21 notes, notepads, scratches, everything, including
22 Cambo Streater's. That would be mainly Investigator
23 McCoy, Investigator Reese, Investigator Moorner, Cambo
24 Streater from the solicitor's office, and I think that
25 would actually cover all of the important ones.

1 THE COURT: All right. Where does the State
2 stand on that?

3 MS. GARFIELD: Your Honor, I believe I've turned
4 over everything and I invite Mr. Schnee to come and go
5 through my notebook at his convenience, as well as Mr.
6 Young's defense.

7 MR. SCHNEE: Judge ---

8 MS. GARFIELD: I am not aware of any notes for
9 the investigators that he named, but even if they did,
10 I think they would be considered work product.

11 THE COURT: That's a different ---

12 MS. GARFIELD: Or, of course, turned over for
13 impeachment purposes, which we thought we had been
14 compliant with.

15 THE COURT: All right. Investigator Reese, stand
16 up. Is there anything you know of that you are in
17 possession of this relates to this case?

18 INVESTIGATOR: I'm not in possession of anything.

19 THE COURT: That you haven't already turned over.

20 INVESTIGATOR: That's correct.

21 THE COURT: Investigator McCoy, same question to
22 you.

23 INVESTIGATOR: Your Honor, I've turned over
24 everything to the solicitor's office.

25 THE COURT: Okay. I don't want you to make a

1 judgment call in your mind that it matters, it doesn't
2 matter, it's similar, it's different. I understand
3 why you do that and I'm not faulting you for doing
4 that. In the eyes of --- you have to look at the case
5 from every single different perspective and what looks
6 similar to you could look different to somebody else.
7 So anything at all that you know about that you have
8 not turned over to the solicitor's office in regards
9 to Mr. Barnes, Mr. Young, Mr. Stevenson or any other
10 witness or potential witness in the case.

11 INVESTIGATOR: Your Honor, everything I have been
12 in possession of, I have turned over.

13 THE COURT: Very good.

14 MS. GARFIELD: Obviously both of these witnesses
15 are available if there are any follow-up questions.

16 MR. SCHNEE: I actually do have one, if I may.

17 THE COURT: Sure. Ms. Garfield just told you she
18 was fine with it.

19 MR. SCHNEE: Okay. Well, in the March 24th
20 interview with Troy Stevenson, Investigator McCoy says
21 he is writing things down, tells Troy Stevenson
22 multiple times --- I have no handwritten notes, no
23 record, I have nothing.

24 THE COURT: Okay.

25 MR. SCHNEE: I have absolutely no handwritten

1 reports from Investigate Reese.

2 THE COURT: All right. Investigator McCoy, what
3 do you know about that?

4 INVESTIGATOR: Your Honor, anything that I had, I
5 have turned over. Any notes that I made on any sheet
6 of paper were put in the case file and turned over to
7 the solicitor's office. I'm not aware of any other
8 notes that I made in regards to this case.

9 THE COURT: Okay. Thank you. All right. What
10 else?

11 MR. SCHNEE: Well, Judge, I'd ask for the notes
12 from the March 24th interview. There are at least
13 three or four times where he stops Troy Stevenson, and
14 I'm happy to play it for Your Honor, where he says,
15 "Slow down, I need to write this down." You can
16 audibly hear the pen on paper. I have no notes on
17 that.

18 THE COURT: What do you know about that,
19 Investigator McCoy?

20 INVESTIGATOR: Your Honor, during the interview
21 with Troy Stevenson, I had his original notes that I
22 made in his original interview. This would be the
23 third time I interviewed him. Typically when I'm
24 recording it, I talk to a defendant or a witness
25 multiple times. I don't typically write handwritten

1 notes at that point. I did have a notepad there I was
2 playing with. I do tend to doodle when I talk at
3 times. I don't know if that's what he's hearing on
4 the mic, but I have no handwritten notes from this
5 incident --- excuse me, from this interview on the
6 24th. If anything was written down, it was written on
7 the original notes that I had in front of me and I was
8 reading through. That's why I had to tell him to stop
9 several times to read through to make sure I was on
10 par with the original testimony or original interview
11 he had given me.

12 THE COURT: All right.

13 MR. SCHNEE: Judge, I would inquire as to what
14 changes he is claiming were made on the original
15 handwritten notes. I can't see anything that was
16 obviously changed eight or nine months after the
17 original interviews. The statement isn't just, "I'm
18 doodling." It's very clear that he is taking notes
19 what about Troy is saying. It is 100 percent certain
20 on audio that he is writing down notes, and I don't
21 have anything that indicates that those exist, but
22 clearly they must. It's on audio that he did it. I
23 don't have them. I don't know where they are. I need
24 some assistance perhaps trying figure out he is
25 talking about, whether it's a modified version of the

1 notes that I don't have or if there are other
2 notepads. I don't know.

3 INVESTIGATOR: Again, Your Honor, I don't have
4 any additional written notes from any interview that
5 we haven't turned over.

6 THE COURT: Did you have notes from an interview
7 with Mr. Barnes --- or Mr. Stevenson?

8 INVESTIGATOR: Stevenson, yes, I had the notes I
9 had originally obtained when I interviewed him
10 initially.

11 THE COURT: And have you turned those over?

12 INVESTIGATOR: That's correct. I have turned all
13 of those over. That's correct. That's the ones ---
14 typically that's what I do to keep my mind occupied
15 and while someone is talking and it also it keeps me
16 focused as I'm listening to the witness. That's just
17 something I do. I didn't write any additional
18 information down that I can recall. If I had, it
19 would have been in the case file and it would have
20 been turned over. I don't have anything that I'm
21 aware of. I don't remember writing anything. It's
22 been several months since this occurred.

23 THE COURT: All right. What else, Mr. Schnee?

24 MR. KRZYSTON: Judge, out of an abundance of
25 caution, I think we covered that situation that you

1 just heard numerous times in our renewals of Rule 5
2 and Brady, to the extent we haven't covered that, we
3 would join in Mr. Schnee's motion that he was just
4 previously heard.

5 MR. SCHNEE: Well, Judge, if the State is
6 claiming that none of these notes exist or ever
7 existed, then I would ---

8 THE COURT: That's not what they claimed.

9 MR. SCHNEE: Well, they're saying that there are
10 handwritten notes that may or may not have been taken.
11 I hear on audio the investigator's voice saying, "Hold
12 on, I am writing this down," but none of the
13 information is contained in the notes. I don't know
14 what to ask Your Honor to do.

15 THE COURT: I don't know what you want me to do.

16 MR. SCHNEE: That's why I'm asking Your Honor ---
17 that's why, among other things, I'm asking Your Honor
18 to dismiss the charges. I'm asking for a continuance.
19 I'm asking for sanctions against CPD and the
20 solicitor's office for delaying all the disclosures
21 and now apparently claiming these things don't exist
22 that on audio obviously do.

23 THE COURT: Okay.

24 MR. SCHNEE: Other than that, I have no further
25 motions at this time.

1 THE COURT: All right. Anything from the State
2 that we need to take up pretrial?

3 MS. CAMPBELL: The only thing we have are the
4 videos, which you already addressed.

5 THE COURT: All right. Let's make a list on what
6 the plan is from here so everybody is on the same
7 sheet of music. Okay. So number one, the State is
8 going to get with Ms. Ambroziak --- can you do it
9 tomorrow morning to get the pictures marked? Okay,
10 and get with Ms. Ambroziak tomorrow morning to mark
11 the pictures. The defense are welcome to be there.
12 They don't have to be there just as long as they know
13 which ones you're turning over to get those marked for
14 me to review and determine whether or not I need
15 Dr. Durso to testify as to that or not. Okay, so
16 that's one issue that needs to be resolved and then
17 let know --- hold on, let me go through my notes.

18 So the motion to severe is under advisement. The
19 motion to suppress the search warrant is under
20 advisement. The State has consented to exclude any
21 reference to gang activity unless the door is opened.
22 They also have consented to any prior bad acts unless
23 the door is opened. The only issue that's outstanding
24 with that is the issue of a gun a few days before.
25 I'm not sure can I make that decision until --- I'm

1 not sure I'm going to have to ask for some kind of
2 testimony, or ask for a summary of what those people
3 would potentially testify to.

4 So that's what I'm going to do. I would ask for
5 summaries of what Mr. Moore and Ms. Coleman would
6 potentially testify to as to the gun in Mr. Young's
7 possession a few days before and the photos that were
8 taken off the phone that coincide with that that the
9 State intends on introducing.

10 MS. CAMPBELL: Yes, sir.

11 THE COURT: The photos we're going to take up
12 once I see them all. I'm not stopping the legal
13 arguments. I'll still let everybody go on the record
14 and talk about that. I wouldn't even call that under
15 advisement. We're just in the middle of dealing with
16 that. We're not bringing up anything about Mr.
17 Young's behavior at the jail unless the door is
18 potentially opened. At this point in time, witnesses
19 are sequestered except for the two lead investigators.

20 And what's your position on Ms. --- I don't know
21 Mr. Barnes' mother's name, but what's your position on
22 her being in the courtroom, from the State?

23 MS. CAMPBELL: Your Honor, she can be sequestered
24 just until she testifies.

25 THE COURT: Okay.

1 MS. CAMPBELL: She should be in our first --- I
2 think it be would be before what happens in our case.

3 THE COURT: Okay. And what's your position on
4 Mr. Barnes' mother being in the courtroom, Mr.
5 Krzyston?

6 MR. KRZYSTON: Judge, I'll leave that in your
7 discretion. If she is going to be called early in the
8 case, I don't think that's going to be a huge issue.

9 THE COURT: Mr. Schnee?

10 MR. SCHNEE: Judge, I simply request she be
11 allowed in the courtroom.

12 THE COURT: Do you have some theory of law that
13 supports that?

14 MR. SCHNEE: I'm not sure that there is a theory
15 of law that supports sequestering her. Just because
16 she happens to be a potential witness, she has given
17 --- she has a recorded interview over the phone. She
18 has already met with the solicitor's offices multiple
19 times. If she changes anything, it's my client's
20 mother. As a juvenile, I think he would be entitled
21 to have that.

22 THE COURT: So the answer is no as to theory of
23 law that supports that?

24 MR. SCHNEE: Well, I don't think there is a
25 theory of law that requires her to be sequestered. I

1 think that's their burden to say that she should be
2 sequestered.

3 THE COURT: Okay. Ms. Barnes --- is that her
4 name? I don't even know.

5 MR. SCHNEE: Latoya, yes.

6 THE COURT: Okay. Mr. Barnes, I don't mean any
7 disrespect to your mother. I don't know her name. I
8 apologize. Mr. Barnes' mother is going to be
9 sequestered until she testifies and is cross-examined.

10 Okay. And you turned over the criminal history
11 of the witnesses that you know about so far?

12 MS. GARFIELD: Yes, sir. One witness has a
13 juvenile record. I'm not sure how to handle that. I
14 just wanted to ---

15 THE COURT: Yeah. It's got to be turned over
16 under 609.

17 MS. GARFIELD: It does.

18 THE COURT: I do not think it will count if it
19 falls within the rules of 609, so I do need you to
20 turn that over, however I don't want that disseminated
21 or distributed out. Do you understand, Mr. Krzyston?

22 MR. KRZYSTON: Certainly, Your Honor.

23 THE COURT: Do you understand, Mr. Schnee?

24 MR. SCHNEE: Yes, Your Honor.

25 THE COURT: Under 609 juvenile convictions can

1 count. I don't know what that is, but I mean, if it's
2 something that could potentially fall, then it needs
3 to be turned over.

4 MS. GARFIELD: And just to clarify, that's for
5 witnesses, not just codefendants.

6 THE COURT: Right.

7 MS. GARFIELD: Is that right?

8 THE COURT: Yes, ma'am. I learned that on my
9 judicial exam, but don't tell anybody.

10 Okay. At this point in time, the motion to
11 reveal --- no offers have been made except to
12 Mr. Young, to any potential witnesses or codefendants.
13 The jail calls from the mom is going to be limited to
14 the issues relevant to the letter.

15 The conspiracy charge is being remanded to
16 federal court. The photographs we're taking up later.
17 Their criminal history have been or are going to be
18 provided, turned over prior to the witness testifying.
19 Gang activity is out unless the door is opened
20 potentially. I'm going to consider your motion to ---
21 both of your motions to prevent shackling and on the
22 Belcher motion, the State has agreed not mention that
23 malice can be implied from the use of a deadly weapon
24 in the opening statement.

25 Okay, so tell me what the State's theory is on

1 how to deal with this Investigator Streater versus
2 Anna Good situation? Here is what I have. For the
3 record, I have an affidavit from an attorney who
4 enjoys a good reputation amongst this bar, who says
5 that her client, who is a witness in the trial,
6 admitted to an investigator in the solicitor's office
7 that he lied.

8 Now, the affidavit expressly says, "He told one
9 lie," okay, after he had been asked if everything in
10 his prior interview was true. According to this
11 affidavit, no follow-up questions were asked regarding
12 the information and the interview ended.

13 The attorney, of course, refuses to disclose what
14 the lie was based upon the attorney/client privilege,
15 and that's it.

16 Now, I mean, I don't know what to do besides take
17 Ms. Good's testimony and Investigator Streater's
18 testimony in regards to the issue.

19 MS. GARFIELD: We agree, Judge.

20 THE COURT: Okay. When do you all want to do
21 that?

22 MR. SCHNEE: I think we should get in touch with
23 Ms. Good and find out when she is available and not in
24 another courtroom. I don't know what her schedule is.
25 I haven't consulted her.

1 THE COURT: Okay. Why don't you consult with her
2 via email as far as her availability. Now let's talk
3 about my availability just so we understand that.

4 Okay. So tomorrow morning --- all right. So
5 tomorrow morning ---

6 (WHEREUPON, there was an off-the-record
7 discussion.)

8 So we could do --- if Ms. Good is available and
9 you all are available tomorrow morning at 10:30, we
10 can do it anytime up until the lunch hour certainly
11 one o'clock tomorrow. It Doesn't matter to me.

12 Monday I start a castle hearing, and I have a DSS
13 hearing. What is that? Oh, that's records, right,
14 and I also have a Blair hearing, but that won't take
15 that long and then we start the castle. We could do
16 it Monday morning before the castle hearing if she is
17 available or we can squeeze her in. Since we won't be
18 in a jury trial, and we'll be in a bench trial, we can
19 squeeze her in Monday, Tuesday or Wednesday. Whatever
20 works. Just don't make it real late in the day on the
21 Tuesday. Okay. Everybody got that? Somebody reach
22 out to her and check what her availability is and let
23 everybody else know.

24 MR. SCHNEE: Yes, Your Honor.

25 THE COURT: Okay. What else? Whoever is talking

1 over there?

2 MS. CAMPBELL: We don't have anything.

3 MS. MCDUFFIE: Nothing from the state.

4 MR. KRZYSTON: Judge, we just ask that the
5 summaries that you asked the State to provide to you
6 on photos and gun testimony from various witnesses be
7 made a Court's Exhibit.

8 THE COURT: What?

9 MR. KRZYSTON: You asked that they turn over
10 summaries on photographs and guns and gang testimony.
11 Just make that a Court's exhibit, Your Honor.

12 THE COURT: That's fine.

13 MR. KRZYSTON: Thank you, Your Honor.

14 THE COURT: Mr. Schnee, anything else?

15 MR. SCHNEE: I don't believe so, Your Honor.

16 THE COURT: Okay. All right. I think --- I know
17 it was a long afternoon. I think we got through a lot
18 of different issues that could get this thing sped up.
19 I appreciate everybody's hard work in getting ready
20 for today.

21 (WHEREUPON, the proceedings were concluded.)
22
23
24
25

CERTIFICATE OF REPORTER:

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

I, Vicki Everhart, Transcriptionist for Karen Ambroziak, Official Court Reporter for the 5th Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the pretrial hearing of the captioned case, relative to appeal, in the Court of General Sessions for Richland County, South Carolina, on the 30th day of October, 2014.

January 9, 2015

/s/ Vicki Everhart

Vicki Everhart,
Transcriptionist for

Karen Ambroziak,
Circuit Court Reporter

STATE OF SOUTH CAROLINA	)	GENERAL SESSIONS
	)	
County of Richland	)	2014-GS-40-745
		2014-GS-40-746
		2014-GS-40-747
		2014-GS-40-749

STATE OF SOUTH CAROLINA,	)	
	)	
	)	
vs.	)	TRANSCRIPT OF RECORD
	)	
LORENZO YOUNG AND TRENTON	)	
BARNES,	)	
	)	
DEFENDANTS,	)	

November 3, 2014
Columbia, South Carolina

BEFORE:

THE HONORABLE ROBERT E. HOOD, JUDGE.

APPEARANCES:

KATHRYN LUCK CAMPBELL, ASSISTANT SOLICITOR
NICOLE SIMPSON, ASSISTANT SOLICITOR
DOLLY GARFIELD, ASSISTANT SOLICITOR
Attorneys for the State

JAQUELYN BAMBACH, ASSISTANT PUBLIC DEFENDER
STEPHEN KRYZSTON, ASSISTANT PUBLIC DEFENDER
TRACY PINNOCK, ASSISTANT PUBLIC DEFENDER
MARK SCHNEE, ESQUIRE
Attorneys for the Defendants

KAREN AMBROZIAK
Official Court Reporter

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<u>NO</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>
3	affidavit	9	

1 THE COURT: All right. We're back on the record in
2 the State of South Carolina vs. Lorenzo Young and Trenton
3 Barnes. Both defendants are present along with their
4 counsel, and this is a continuation from the motions
5 hearing that we did last Thursday; is that right?

6 MR. KRYZSTON: Yes, sir.

7 THE COURT: Okay. So what's the plan for this
8 morning?

9 MR. SCHNEE: Judge, Your Honor, at this time, Your
10 Honor asked to hear from Anna Good.

11 THE COURT: Okay.

12 MR. SCHNEE: Along with Cambo Streater.

13 THE COURT: All right.

14 MR. SCHNEE: Also as far as I understand, Ms. Good's
15 client, Donald Moore, is also in the courthouse and
16 available to testify.

17 THE COURT: Okay.

18 MR. SCHNEE: At this time, I would call Anna Good to
19 the stand.

20 THE COURT: All right. Please come forward.

21 MR. SCHNEE: Judge, I believe I gave you the original
22 affidavit. I don't know if we want to have her
23 authenticate that one or a just a photocopy for the
24 record.

25 THE COURT: A photocopy is fine.

1 ANNA GOOD, after being duly sworn,
2 testified as follows:

3 THE CLERK: Thank you. Have a seat in the witness
4 stand, please.

5 THE BAILIFF: Watch your step, please, and speak into
6 the microphone.

7 THE CLERK: State your full name for the record.

8 THE WITNESS: Anna Good.

9 DIRECT EXAMINATION:

10 BY MR. SCHNEE:

11 Q Good morning.

12 A Good morning.

13 Q Please state your name and occupation for the record.

14 A My name is Anna. I'm an attorney in Columbia, South
15 Carolina.

16 Q Okay. Explain to the court your involvement with the
17 instant case.

18 A I represent a client by the name of Donald Moore who
19 is a witness in this case, and I represent him on
20 unrelated charges.

21 Q Okay. And the unrelated charges, who is prosecuting
22 that?

23 A I'm not sure. I think Saquisha Tobin maybe.

24 Q It's the Solicitor's Office?

25 A Yes, yes.

1 Q Okay. Were you at any time contacted a couple weeks
2 ago to have your client be interviewed?

3 A Yes. We went to the Solicitor's Office October 20th
4 to be interviewed regarding the upcoming trial.

5 Q Okay. And who was present for this?

6 THE COURT: Of what year?

7 THE WITNESS: Sorry what?

8 THE COURT: October 20th?

9 THE WITNESS: Twentieth, yes.

10 BY MR. SCHNEE:

11 Q Which would have been the Monday before trial?

12 A Correct.

13 Q Who did you meet with?

14 A We met with Cambo Streater.

15 Q Okay. What happened during that interview?

16 A During that interview, it was understood at the time
17 my client -- I had just met him that morning because I had
18 been appointed the Friday before that he wasn't sure
19 whether he wanted to testify or not.

20 He wanted some more time to speak with me, but at the
21 time there was an audio recording of a prior interview he
22 gave law enforcement, and Investigator Streater asked if
23 he would like to go ahead and at least listen to that
24 since we were there. He agreed to listen to the audio.

25 After the audio was finished -- well, we had problems

1 setting it up. So eventually, it got set up. It cut off
2 about 45 minutes into the interview. At that point, our
3 interview with Investigator Streater was kind of winding
4 down, and when the audio went off, Investigate Streater
5 asked -- I'm paraphrasing here.

6 I don't know the exact wording, but pretty much, "Is
7 everything in that true?"

8 My client said, "Yes, except I did tell one lie." At
9 that point, the interview just kind of ended because we
10 knew that he wasn't really going to cooperate at this
11 point. He didn't want to talk about his testimony because
12 he didn't know if he was going to testify or not. That
13 was the end of the interview.

14 Q Okay. So no -- so Mr. -- so Investigator Streater
15 never asked what the lie was?

16 A No.

17 Q Okay. Were you given any of the recordings before
18 this interview?

19 A No. Like I said, this -- I had just been appointed
20 the Friday before, and this was the first time I met my
21 client. I was told I would eventually get a copy of the
22 recording.

23 Q Okay. So you had no idea, really, what he was going
24 to be testifying about, potentially or not, by that time,
25 right?

1 A No. I met with Nicole Simpson prior to meeting my
2 client Monday morning just to kind of get a background of
3 what the case was about. I mean, I knew it was the bakery
4 murder case. That's all I knew about it. I didn't know
5 my client's involvement or anything that had occurred.

6 Q Okay. Some time after your meeting, did you ever
7 call me personally about this?

8 A Yes. We had gone to lunch, I guess it was last
9 Tuesday with several other people, and the topic had come
10 up about the investigators meeting with witnesses and did
11 they take notes, you know, kind of what happens during
12 those things.

13 At that point, I didn't feel comfortable with
14 everybody around discussing it, so we spoke about it
15 later.

16 Q Okay. As a result of that, did you create an
17 affidavit?

18 A Yes.

19 Q Okay.

20 May I approach, Your Honor?

21 THE COURT: Yes.

22 MR. SCHNEE: Do you recognize that document?

23 THE WITNESS: Yes. This is the affidavit that I
24 signed last Wednesday.

25

1 BY MR. SCHNEE:

2 Q Okay. Is that a fair and accurate copy of that
3 affidavit?

4 A Yes.

5 Q Okay. Judge, at this time I'd have this admitted
6 into evidence as Defense Exhibit whatever number we're up
7 to.

8 THE COURT: We'll make it a Court Exhibit.

9 MR. SCHNEE: A Court's Exhibit, okay.

10 THE COURT: Is that okay?

11 MR. SCHNEE: Absolutely, sir.

12 COURT REPORTER: Do I add this to what we did last
13 time?

14 THE COURT: Yes.

15 (WHEREUPON, Court's Exhibit No. 3 was marked for
16 identification only.)

17 BY MR. SCHNEE:

18 Q Just couple of question. Do you remember if he was
19 writing down notes?

20 A He had a notepad. He have definitely had a notepad
21 and pen, but I wasn't paying attention.

22 Q Any ideas if it was blank when he walked in or if it
23 had stuff on it?

24 A I have no idea.

25 MR. SCHNEE: Okay.

1 Judge, that's all I have for this witness. Thank
2 you.

3 THE COURT: Cross?

4 MS. GARFIELD: Good morning, Ms. Good.

5 THE WITNESS: Good morning.

6 CROSS-EXAMINATION:

7 BY MS. GARFIELD:

8 Q Ms. Good, when you were in that interview with
9 Investigator Streater and your client, Investigator Nicole
10 Bryan was present, as well, wasn't she?

11 A I believe her name is Nicole. I had just met her.
12 She was helping set up the audio. I don't remember if she
13 was in there for the whole thing or not, but she was in
14 there, yes.

15 Q And that was the first time you met with her?

16 A Yes.

17 Q And isn't it true that you and your client actually
18 took some breaks throughout that interview?

19 A Yes.

20 Q Because he wanted to speak with his attorney?

21 A Correct.

22 Q And, obviously, when he wanted to do that, our
23 investigators allowed that to occur?

24 A Correct.

25 Q And you indicate that your client said this -- the

1 testimony was something to the effect of everything was
2 true except they did tell one lie?

3 A Yes.

4 Q Can you testify that Investigator Streater heard him
5 say that?

6 A I don't know if he heard it or not. I know I heard
7 it because I made a note in my head that I need to
8 remember to ask him what that lie was later, but I mean, I
9 can't testify to what he heard or didn't hear.

10 Q And you were sitting right beside your client; is
11 that correct?

12 A I was sitting across from my client, and -- like my
13 client was sitting here. I was across the table, and
14 Investigator Streater was one over from me.

15 Q So was it fair to say that you are closest to your
16 client?

17 A I was probably closer, yes.

18 Q Was Investigator Bryan in there, as well?

19 A I don't remember if she was there at that point.
20 That was towards the end, so I'm not sure.

21 Q Okay. Did you find it unusual that Investigator
22 Streater did not follow up with such an accusation from
23 your client?

24 A I did. Just because like I said, I made a note in my
25 head. I need to ask. I can't -- I wonder why he didn't

1 ask about it, but you know, I did find it odd.

2 Q And at the conclusion of this interview, did you
3 contact me on that day about this information?

4 A No.

5 Q Did you contact Mr. -- I'm sorry, Ms. Nicole Simpson?

6 A No.

7 Q Did you contact Luck Campbell?

8 A No.

9 Q Did you contact anyone in our office?

10 A No.

11 Q And did you meet with me last Monday before we went
12 to jury qualifications October 27th of this year?

13 A Yes.

14 Q And at that time, did you and I have a discussion
15 what about we thought was going to be admissible with
16 Donald Moore's testimony?

17 A Yes.

18 Q And did we also discuss scheduling between your
19 schedule and the court schedule?

20 A Yes.

21 Q And we -- that was pretty much the extent of our
22 conversations?

23 A Yes.

24 Q At no time, did you inform me at that time of this
25 lie --

1 A Yes.

2 Q -- not this lie but what your client allegedly had
3 said to Investigator Streater?

4 A Correct. No, I did not.

5 Q And, in fact, this information wasn't brought to our
6 attention until you were on your way to Mr. Schnee's
7 office; is that correct?

8 A Correct. I wanted to make sure everybody was aware
9 of what was happening so nobody was surprised.

10 MS. GARFIELD: Thank you, Ms. Good.

11 THE COURT: Follow up?

12 MR. SCHNEE: Just very briefly.

13 THE COURT: Okay.

14 MR. SCHNEE: If it's necessary. I don't know what
15 Your Honor...

16 THE COURT: I don't know what you're going to ask, so
17 I don't know, Mr. Schnee.

18 MR. SCHNEE: I'll be very quick.

19 REDIRECT EXAMINATION:

20 BY MR. SCHNEE:

21 Q Knowing that Investigator Streater works for the
22 Solicitor's Office, did you feel it in any way necessary
23 to talk to them about what happened during the interview?

24 A No. At that point, the topic had never come up. It
25 wasn't my place to say anything. It wasn't until the

1 topic came up that day at lunch that I felt that something
2 needed to be said.

3 Q Okay. Is it fair to say that your client wasn't
4 necessarily very cooperative --

5 A That's correct.

6 Q -- with Investigator Streater?

7 A Yeah; that's correct.

8 Q So could it also be reasonable that Investigator
9 Streater realized your client wouldn't actually have
10 answered the question if he asked?

11 A I mean, I don't know. He was talking to them, but I
12 mean, he wasn't sure whether he was going to testify or
13 not. He didn't want to talk what about his testimony
14 would be.

15 Q Okay. After your client said this statement of at
16 least -- you know, there was one thing that was a lie, was
17 there any more conversation about anything after that?

18 A No. That was pretty much the end of the interview.

19 Q Okay. Cambo wasn't walking out of the room when your
20 client said -- everyone was still sitting at the table?

21 A Yeah. We were all at the table.

22 Q And was your client using the same tone of voice that
23 everything else had been going on in the conversation?

24 A Yeah.

25 Q So if Cambo Streater heard everything else, there is

1 no reason he wouldn't have heard that?

2 A No. I don't know.

3 Q You don't know that.

4 A I can't testify to what he heard or didn't hear. I
5 can just -- I heard it, made a note about it in my head,
6 but I don't know whether he heard it or not.

7 MR. SCHNEE: All right. That's all, Judge. Thank
8 you.

9 THE COURT: Follow up?

10 RE CROSS-EXAMINATION:

11 BY MS. GARFIELD:

12 Q Ms. Good, this was never brought to anyone's
13 attention until you and Mr. Schnee were having lunch among
14 other defense counsel?

15 A Correct.

16 MS. GARFIELD: Thank you.

17 THE COURT: All right. Have a good day.

18 All right. Call your next witness.

19 MR. SCHNEE: Judge, at this time I would call Donald
20 Moore.

21 MS. GOOD: I'll go get him, Your Honor.

22 (Pause).

23 (The oath was administered).

24 THE WITNESS: Uh-huh.

25 THE COURT: What did you say?

1 THE WITNESS: Yes, sir.

2 DONALD MOORE, after being duly sworn,
3 testified as follows:

4 THE BAILIFF: Watch your step for me please and speak
5 into this microphone.

6 THE COURT: All right. For the record, Mr. Moore's
7 attorney is present in the courtroom seated on the second
8 row.

9 DIRECT EXAMINATION:

10 BY MR. SCHNEE:

11 Q Mr. Moore, good morning. My name is Mark Schnee. I
12 know we have never met. I represent Trenton Barnes. I
13 just want to ask you a couple of questions about a meeting
14 that you had back on November 20th at the Solicitor's
15 Office. Do you remember that?

16 A Yes, sir.

17 Q Okay. Now, your -- your attorney just testified that
18 you weren't necessarily interested in potentially
19 cooperating with the State. Is that fair to say?

20 A Yes, sir.

21 Q At some point, you had a meeting. Do you remember
22 who was there?

23 A My lawyer, me, and Investigator Streater.

24 Q Okay. Did -- had you ever met him before?

25 A No, sir.

1 Q Okay. And you've never talked to him since?

2 A No, sir.

3 Q Okay. At some point, he was playing an audio
4 recorded conversation that you had with some investigators
5 from the Columbia Police Department. I believe it's
6 Investigator McCoy was on the audio.

7 A Yes, sir.

8 Q Okay. After they played through that, what -- what
9 did Investigator Streater ask you, if anything, that you
10 recall?

11 A I don't recall.

12 Q Did -- did he ever ask you if everything that you
13 said on the audio was the truth?

14 A Oh, yeah, yeah, yeah.

15 Q Okay. What did you tell him?

16 A I told him I lied.

17 Q Okay. Did you tell him what the lie was?

18 A No, sir.

19 Q Did he ever ask?

20 A No, sir.

21 Q Did he appear that he heard the answer?

22 MS. GARFIELD: Objection, Judge. That's speculation.

23 THE WITNESS: Yes, sir.

24 THE COURT: Sustained.

25

1 BY MR. SCHNEE:

2 Q If he had asked, would you have even told him what
3 the lie was?

4 A Yeah.

5 Q Okay. I guess I should probably ask you right now.
6 What was the lie?

7 A Everything, everything on the tape.

8 Q Everything on the tape?

9 A Except about two parts.

10 THE COURT: What?

11 THE WITNESS: I said except for two parts.

12 THE COURT: Except for two parts?

13 THE WITNESS: Yes, sir.

14 MR. SCHNEE: All right. Well, I don't want to spend
15 too much time on this. I'll figure it out later.

16 Judge, I have no further questions of this witness.

17 Thank you, Donald. I appreciate you coming in.

18 THE WITNESS: You're welcome.

19 THE COURT: Anybody want to ask him any questions?

20 MS. GARFIELD: Just a couple, Judge.

21 CROSS-EXAMINATION:

22 BY MS. GARFIELD:

23 Q Good morning, Mr. Moore. You indicate your attorney
24 was there for this interview?

25 A Yes, ma'am.

1 Q As well as Investigator Streater.

2 A Yes, ma'am.

3 Q Is that all that was there?

4 A And another lady.

5 Q Do you know her, who she is?

6 A No. I don't know.

7 Q You never met her before?

8 A No.

9 Q You never talked to her since?

10 A No, ma'am.

11 MS. GARFIELD: Okay. Thank you, Mr. Moore.

12 THE COURT: Follow up?

13 MR. SCHNEE: No further questions.

14 THE COURT: Have a good day. Thank you very much.

15 THE BAILIFF: Watch your step for me.

16 MR. SCHNEE: Judge, I don't think I have any more
17 witnesses on my part of this.

18 THE COURT: Okay. Ms. Garfield?

19 MS. GARFIELD: The Court's indulgence.

20 MS. McDUFFIE: The State would call Investigator
21 Cambo Streater.

22 THE COURT: Okay.

23 MS. McDUFFIE: Judge, before he takes the stand,
24 Investigator Streater did take some notes that are not
25 discoverable, but there is a copy for the Court. That's

1 all.

2 MR. SCHNEE: Judge, I would like to argue that
3 perhaps they are discoverable.

4 THE COURT: Under what theory of law?

5 MR. SCHNEE: He is an investigator with their office.
6 Pursuant to Brady and Riddle, I believe it is admissible.
7 I understand that the State is claiming work product.

8 I don't believe an internal investigator has a right
9 to work product. I understand solicitor's own notes and
10 thoughts would qualify. However, the rules of
11 professional conduct do not permit them to have work
12 product with employees in that sense as they have no
13 clients. They represent the government. They have
14 obligations. Under the rules of discovery, I believe any
15 notes that were taken would be discoverable.

16 THE COURT: And, again, I need you to state a point
17 of law on that.

18 MR. SCHNEE: Judge, investigator's notes as a blanket
19 policy of whether police officers or investigators, those
20 are all normally discoverable materials. I don't
21 understand how their internal hired investigator would be
22 any different.

23 THE COURT: He is an employee. If you had an
24 investigator, his notes would be protected.

25 MR. SCHNEE: Subject to attorney/client privilege,

1 absolutely.

2 THE COURT: And work product.

3 MR. SCHNEE: If I retain someone specifically to
4 investigate for one type of case, yes. Not just a blanket
5 policy.

6 THE COURT: I don't know if that's the law.

7 MR. SCHNEE: I'm happy to do some more research on
8 it. I've honestly found nothing either way for
9 solicitor's investigators.

10 THE COURT: All right. These notes are work product.
11 Go ahead.

12 MS. McDUFFIE: Cambo Streater, Your Honor.

13 CAMBO STREATER, after being duly
14 sworn, testified as follows:

15 THE CLERK: Thank you. Have a seat in the witness
16 stand, please.

17 THE BAILIFF: Watch your step for me, please, and
18 speak into the microphone.

19 THE CLERK: State your name for the record.

20 THE WITNESS: Cambo Streater.

21 DIRECT EXAMINATION:

22 BY MS. McDUFFIE:

23 Q Investigator Streater, where are you employed?

24 A Fifth Circuit Solicitor's Office.

25 Q And what are your duties with the Fifth Circuit

1 Solicitor's Office?

2 A I'm an investigator.

3 Q And as an investigator with the Fifth Circuit
4 Solicitor's Office, what do you typically do in
5 preparation for a case?

6 A A lot of times, we serve subpoenas, go out and try to
7 find witnesses, interview witnesses, interview
8 codefendants who -- as required.

9 Q And on October 20th of this year, did you have the
10 occasion to interview Donald Moore with his attorney, Anna
11 Good?

12 A I did.

13 Q And what information did you know about Donald
14 Moore's potential testimony prior to you interviewing him?

15 A I had read the investigator's case notes.

16 Q And were you also given an audio interview with
17 Mr. Moore?

18 A I was.

19 Q Did you have the chance to listen to that prior to
20 you speaking with him?

21 A I did.

22 Q And please tell the court when Mr. Moore came what
23 happened, or how was he interviewed?

24 A He came in the morning of the 20th around 11:00
25 o'clock, maybe a little bit before, with his attorney

1 Ms. Good.

2 We went upstairs to the fourth floor. We have up
3 there a conference room. We talked briefly, just kind of
4 introduction-type stuff. I tried to cue the disc to play
5 it, to play the audio, and the computer had not been
6 turned off properly prior to me going up there.

7 My technical skills, I needed some help to make it
8 work. So I called Investigate Nicole Bryan down to help
9 me with it. Prior to her getting there, I took the
10 opportunity to serve Mr. Moore with a subpoena.

11 Q And once Ms. Bryan got there, did she get the audio
12 started?

13 A She did get the audio started.

14 Q And once she got that started, did she remain in the
15 room with you, Anna Good, and Mr. Moore?

16 A She did.

17 Q For the duration of the interview?

18 A She did.

19 Q She is also employed as an investigator with our
20 office?

21 A She is and the best one for an investigator.

22 Q And during -- while Mr. Moore was listening to the
23 audio, were you in the room the entire time?

24 A I think I maybe stepped out, took two phone calls
25 very briefly, like 30-second phone calls. I wasn't that

1 long.

2 Q And in addition to that, did Ms. Good also ask
3 several times to speak with her client alone?

4 A She did.

5 Q And did you and Investigator Bryan honor those
6 requests?

7 A Absolutely.

8 Q What did you do when she asked for that time?

9 A We walked out of the room, walked down the hall and
10 waited until she got to the door and invited us back in.

11 Q And then you proceeded with resuming the audio?

12 A We did.

13 Q And at some point, did -- was the audio stopped, or
14 did it stop?

15 A We didn't listen to the entire audio. Mr. Moore
16 was -- he was anxious to leave. He was ready to leave,
17 and we did not play the entire audio.

18 Q And when the audio was stopped, please describe for
19 the court what transpired after that.

20 A He was ready to go, and with Ms. Good's consent, we
21 did not listen to the remainder of the audio. I asked
22 Mr. Moore, I said, "If we were to go to trial today and
23 you were on the witness stand, would you testify that this
24 is your -- actually you on the audio, what you said on the
25 audio, true and accurate?"

1 Q And what, if anything, did he do?

2 A He said yes.

3 Q And did you have any further conversation with
4 Mr. Moore?

5 A I did not.

6 Q And did he leave after that?

7 A Not immediately. I think Investigator Bryan and I
8 stepped out again, and he and Ms. Good stayed in the room
9 for maybe a minute, if that, and they walked out. We were
10 done.

11 Q At any point in time, did you hear Mr. Moore say that
12 some of it was a lie or that everything was true except
13 for one lie?

14 A I did not.

15 Q And if you would have heard him say that, what would
16 you have done, if anything?

17 A I would have asked him what part he was talking
18 about. That's the kind -- that's exactly why I talked to
19 him.

20 Q And so based on your conversations with him, were you
21 aware that he was alleging that anything was a lie at all?

22 A No, ma'am. I was not aware of that.

23 Q And if you were aware of that, you would have
24 followed up like you just said?

25 A I would have. I would have reported back to our

1 attorneys on the case.

2 MS. McDUFFIE: Thank you. No further questions.

3 MR. SCHNEE: May it please the Court.

4 Good morning.

5 THE WITNESS: Good morning.

6 CROSS-EXAMINATION:

7 BY MR. SCHNEE:

8 Q I believe you were given a copy of the audio
9 recording of the interview, the prior interview, by the
10 Columbia Police Department?

11 A I was not given -- it was not given to me by the
12 Columbia Police Department, but I was given a copy of it,
13 yes, sir.

14 Q Okay. Audio that was made at the Columbia Police
15 Department.

16 A That's correct.

17 Q Okay. Who gave it to you?

18 A Nicole Simpson.

19 Q And what was -- was -- did Nicole give you
20 information for each different witness separately, or did
21 she come to you for all the witnesses you're going to be
22 interviewing throughout the week and say, "Here's the
23 materials." How does this work exactly?

24 A She gave me a copy of the recording of Donald Moore
25 because that's who I was going to interview the next day.

1 Q Okay. So that's the only audio she gave you at that
2 time?

3 A At that time; that's correct.

4 Q Okay. And you said you had a copy of the case notes
5 from the lead investigator?

6 A No, sir. I read the cases notes from the
7 investigator. I don't have a copy.

8 Q Okay. So you read the cases notes, and you listened
9 to that one audio recording?

10 A That's correct.

11 Q Okay. That's all that you did to prepare for Donald
12 Moore's interview?

13 A Well, I had talked with Investigator McCoy and
14 Investigator Reese prior to but yes. I was going to talk
15 to him about the recording that was given to me, so that
16 was primarily what I -- the information I had.

17 Q Okay. So I am understanding -- I just want to make
18 sure I understand correctly. You directly asked him if he
19 were to testify at trial, quote today, is what's on the
20 audio what you would testify to, and is it the truth?
21 That's what you asked him?

22 A That's correct.

23 Q Okay. And his response was just a blanket yes?

24 A Yes.

25 Q That's your recollection?

1 A That's what happened.

2 Q Okay. Did you ask him any other questions following
3 up on anything else, ask about any details that were on
4 the audio?

5 A No, sir, I did not.

6 Q No other details or questions about the case?

7 A No, sir.

8 MR. SCHNEE: All right. That's all I have.

9 MS. McDUFFIE: No, Your Honor.

10 THE COURT: Do you want to ask him questions?

11 MR. KRYZSTON: Judge, we have no questions. At the
12 appropriate time, we would address the Court regarding
13 some of this.

14 THE COURT: Thank you very much.

15 THE BAILIFF: Watch your step for me, please.

16 THE WITNESS: I appreciate it.

17 THE BAILIFF: You're welcome.

18 Anything else?

19 MS. McDUFFIE: No, Your Honor.

20 THE COURT: Okay. All right. Anybody want to say --
21 call anybody else on this issue?

22 (There was no response).

23 Mr. Schnee?

24 MR. SCHNEE: Judge, on this specific issue, I would
25 say no. I think it's pretty obvious that we're in a bit

1 of a problem here. I think this honestly kind of lends
2 credence to my request to be able to interview -- to be
3 able to question Investigator McCoy and Investigator
4 Streater on an expanded topic dealing with all of the
5 discovery issues and other witness interviews based on the
6 information from Aimee Zmroczek regarding that interview,
7 as well.

8 It's rather difficult for me to even request a
9 particular remedy for discovery violations and Riddle
10 violations when we have completely divergent opinions as
11 to what happened in one case and no testimony on -- at
12 least for the second one.

13 I would ask Your Honor to allow extended witness
14 questioning on the record.

15 THE COURT: Just stick on this issue, Mr. Schnee.

16 MR. SCHNEE: On than this particular issue, we have
17 got a lawyer and a client coming in, and a client who is
18 somewhat reluctant, both saying identical things.

19 We have an investigator with the Solicitor's Office
20 saying something very, very different. I guess that's why
21 you're a judge. I don't know how to reconcile that, Your
22 Honor. I'm not even sure what the appropriate remedy
23 would be if you can reconcile it.

24 I think this should lead to further investigation. I
25 think it would be fundamentally unfair to go to trial

1 before this entire issue is hashed out. I don't think my
2 client can get a fair trial when these types of issues are
3 still unknown.

4 THE COURT: All right. Mr. Kryzston?

5 MR. KRYZSTON: Thank you, Judge. Our office would
6 just like some time to -- before this issue is finally
7 decided perhaps to make some motions in response to what
8 we have learned today.

9 Obviously, I still need to do some research and
10 evaluation of any issues that may come up on our end,
11 certainly from a PCR standpoint but also going forward.

12 Judge, while I have the floor, I would ask -- I would
13 join in Mr. Schnee's motion to compel disclosure of
14 Mr. Streater's notes out of an abundance of caution.

15 I understand Your Honor's ruling, but I would just
16 ask, you know, again, for that information, and if Your
17 Honor is still inclined to stick to his ruling, which I'm
18 sure you are, I'd ask that those notes be made a Court's
19 Exhibit.

20 THE COURT: All right. Who wants to talk over here?

21 MS. McDUFFIE: Judge, I don't know what possible
22 Brady or Riddle violation that they have alleged.
23 Mr. Streater testified that he did not hear Mr. Moore say
24 anything about a lie. Had he heard it, he would have
25 followed up.

1 Ms. Good also testified that she doesn't know if
2 Investigator Streater heard it, and she thought it was odd
3 that if he had heard it, that he would not have followed
4 up. She -- Ms. Good testified that Donald Moore told her
5 that it was all true except for one lie.

6 When he got on the stand, he said something
7 completely different than that, Your Honor. So I don't
8 know how we are, you know, weighing and assessing
9 credibility in terms of that.

10 Your Honor, furthermore in terms of the case notes,
11 we have no objection to them being a sealed Court's
12 Exhibit -- or that -- I'm sorry, Investigator Streater's
13 notes being a sealed Court's Exhibit, but again, they are
14 work product. That's nothing that is discoverable in
15 those. That's why we did not turn those notes over to
16 either side, Your Honor.

17 THE COURT: Well, at -- I mean here is my issue: At
18 this point, as we sit here right now -- not last Thursday
19 but as we sit here right now, Donald Moore has come into
20 court, admitted to a new crime which would be lying to the
21 police.

22 So the defense is on notice that Donald Moore says
23 that there is a different story. The State is on notice
24 that says there's a different story, and so how is anybody
25 prejudiced by anything? That's what I don't understand.

1 I mean, one of the State's witnesses -- I don't know
2 if they're going to still use him or not, but he just sat
3 here under oath and said -- I don't remember exactly what
4 he said, but something along the lines of -- he said --
5 first, he said it was all a lie, and then he said two --
6 except for two parts.

7 So apparently, his story continues to change, so if
8 the State wants to use him or not use him, that's their
9 prerogative. I mean, if the State is going to use him,
10 then I think they have an obligation to go ask him, "What
11 are you lying about" and to figure that out and to turn
12 that over to defense counsel, but other -- I don't
13 understand what the issue is.

14 I understand what the issue was when we believe that
15 he had said he lied and nobody had done anything about it.
16 That's a different issue. At this point, we all know that
17 he is saying his statement to the Columbia Police
18 Department is not true.

19 Everybody is on complete and total notice of it, and
20 if the State wants to use him, then they would have an
21 obligation under the discovery rules and case law to go
22 figure out what he is lying about, if that's even possible
23 at this point in time based upon the number of different
24 stories that he has told and turn that over to defense
25 counsel.

1 But outside of that, I mean, what do you want me to
2 do about it? Witnesses lie. Witnesses change their
3 story. The issue is that the defense is put on notice
4 about that, and at this point, you're a week away from
5 trial, and you're on notice about it.

6 MR. SCHNEE: Well, Judge, the issue I'm having is
7 that there are more witnesses that were interviewed, and
8 I'm -- I am thoroughly confident that Anna Good is not
9 going to be come in here and be mistaken about what she
10 heard.

11 THE COURT: I don't think Anna Good is mistaken about
12 what she has heard. I -- my issue is not with Anna Good
13 versus Cambo Streater versus Donald Moore.

14 I mean, I have known Ms. Good since she was a law
15 clerk in Greg Harris' office. There is no doubt in my
16 mind that if Anna Good says she heard that that day, then
17 she heard that that day.

18 I mean, I don't dispute her testimony or discredit
19 her testimony, and this isn't an issue of me saying Anna
20 Good is telling the truth and Cambo Streater is lying or
21 Donald Moore.

22 It's -- I don't -- you don't even have to get into
23 the vice versa situation because at this point, everybody
24 is on notice. Everybody knows about it, and everybody can
25 do with it whatever they will.

1 MR. SCHNEE: Yes, sir, I understand that for this
2 particular issue. The problem is I think this is clear
3 evidence that would allow me to then explore what other
4 things were told during interviews that have not been
5 disclosed.

6 My biggest problem still to this day is the interview
7 of Troy Stevenson where all of the information from a
8 March interview was discussed, all of it -- almost all of
9 it being new additional information.

10 None of it was disclosed to us until we actually got
11 that audio recording, but based on everything that I have
12 talked to with Ms. Zmroczek, Cambo Streater heard all of
13 that information the week before.

14 So the problem I'm having is when did the State have
15 all this information, and what else do they have and what
16 else was said in of these meetings that I'm not privy to?
17 I think this is pretty clear that there should be enough
18 to allow me to explore that.

19 THE COURT: So you want to call Ms. Zmroczek next?

20 MR. SCHNEE: I would like to, along with a more
21 in-depth questioning of Mr. Cambo Streater dealing with
22 the Troy Stevenson interview and how he had all of that
23 information for the March interview even though the
24 Solicitors claim that they didn't have any of it until
25 they got it recorded on the 26th.

1 THE COURT: Okay. So let's play all of that out.
2 Okay. So run that dog to the end of the street, and the
3 issue is you now know about all of it. So what's the
4 issue?

5 MR. SCHNEE: The issue is what else I don't know
6 about, Your Honor.

7 THE COURT: I mean that's pure speculation. If you
8 know about everything now, what does it matter?

9 MR. SCHNEE: Well, Judge, I'm not convinced I know
10 everything now.

11 THE COURT: Well, we don't. None of us know
12 everything, Mr. Schnee. I mean, but you've now been given
13 all the different versions. I don't even know if they are
14 different because I haven't heard them of Troy Stevenson's
15 recitation of the events. What does it matter?

16 MR. SCHNEE: Judge, it matters because they
17 interviewed a lot of witnesses, and their Riddle
18 responses, frankly I have a hard time believing that none
19 of these other witnesses added anything else or changed
20 anything else considering the fact that Troy Stevenson
21 added 90 percent of his conduct -- the actual content in
22 that interview that we were even told about that was
23 added. I have serious concerns as to what happened during
24 those interviews.

25 THE COURT: What is he talking about?

1 MS. McDUFFIE: I don't know.

2 THE COURT: What are you talking about?

3 MR. SCHNEE: Cambo Streater met with Troy Stevenson.

4 THE COURT: I understand that issue.

5 MR. SCHNEE: Right. All of the information that was
6 discussed in that interview was before the solicitors
7 claim they even had a copy of --

8 THE COURT: According to who?

9 MR. SCHNEE: According to Ms. Garfield and Ms.
10 Campbell and Ms. Simpson. The same --

11 THE COURT: I mean, you said all of the information
12 that was discussed in that meeting was information that
13 the Solicitor's Office claimed, "this is the whole audio
14 recording."

15 MR. SCHNEE: Right.

16 THE COURT: I remember this very well. So your
17 argument was -- I don't remember the dates. "We learned
18 two weekends ago about this audio recording -- or we got a
19 copy of the audio recording." Because he already knew
20 about the audio recording. They just didn't have the
21 audio.

22 You knew there was an interview, didn't know there
23 was an audio recording; is that right, Ms. Garfield?

24 MS. GARFIELD: When Investigator Streater met with
25 him --

1 THE COURT: I don't know. Don't --

2 MS. GARFIELD: -- I don't know the times. Okay. We
3 need to -- after going back through my emails, I knew that
4 they had met with law enforcement.

5 THE COURT: Okay. All right. So then when the
6 Solicitor's Office gets this audio the weekend before the
7 27th, and they turn it over and they say, "This is the
8 first we've ever heard of this audio."

9 A few days prior to that, Investigator Streater with
10 the Solicitor's Office is interviewing Troy Stevenson, who
11 is a codefendant, with his lawyer present, Ms. Zmroczek.

12 What you were saying is that -- Mr. Schnee, is that
13 the information that was discussed by Investigator
14 Streater with Troy Stevenson on that day, the only way he
15 could have known that was if he had listened to the audio.

16 MR. SCHNEE: Or talked to Investigator Boyd or
17 someone else but had that information, but obviously not
18 the audio itself.

19 THE COURT: Okay.

20 MR. SCHNEE: That is what I'm saying yes, Your Honor.
21 That is a problem because none of that was disclosed to
22 us.

23 THE COURT: Okay. It has all been disclosed to you
24 now which is why I continued the case. That's why I don't
25 understand why it's continuing to be an issue.

1 MR. SCHNEE: Well, to me, Your Honor, that is a very,
2 very serious Brady violation.

3 THE COURT: That's why I continued the case.

4 MR. SCHNEE: I understand that, and I'm not sure that
5 remedy is encompassing of the -- of the conduct. I don't
6 think it -- I don't think that's --

7 THE COURT: Well, Mr. Schnee, your opinion as to my
8 ruling is irrelevant. I continued the case so that the
9 defense would have the appropriate time to analyze the new
10 recording and take it into consideration with every single
11 thing else the witness has said.

12 You have to prove some kind of prejudice. You can't
13 just say they committed any -- they had committed a
14 discovery violation, and we were sitting in the middle of
15 trial and it was something that caused your client
16 prejudice, that would be one thing. That's why I
17 continued the case, so that your client would have the
18 opportunity to fully understand the evidence against him
19 before making a decision on whether to go to trial or not.

20 Now, if you don't like that ruling, that's fine, but
21 your opinion as to my ruling is irrelevant. You asked me
22 to continue the case, for the record.

23 MR. SCHNEE: Yes, Your Honor, I did.

24 THE COURT: So I actually granted your continuance
25 request and Mr. Kryzston's continuance request over the

1 objection of the State because I believe in a fair amount
2 of abundance of caution for these two young gentlemen who
3 are facing very significant charges that their attorney
4 should have an opportunity to review that audiotape.

5 So now, what I need to understand is if you are now
6 on notice of all of the information that Troy Stevenson
7 gave -- given to the Solicitor's Office, what is the
8 issue?

9 MR. SCHNEE: Judge, the issue is what other
10 information I am still missing, and I would like to
11 explore to see exactly -- to find out if there is
12 information I'm still missing.

13 THE COURT: Okay. And how do you propose we deal
14 with that?

15 MR. SCHNEE: Judge, I would like to question
16 Investigator Streater and Investigator McCoy to find out
17 what other information that they -- that is out there that
18 has not been turned over.

19 THE COURT: Okay. And I have four lawyers who are
20 all looking at me saying they have turned over everything,
21 and I have already questioned Investigator McCoy and
22 Investigator Reese on the record about stuff that they
23 possess or they have not turned over.

24 MR. SCHNEE: Yes. I understand that and Investigator
25 McCoy claims that he has absolutely no handwritten notes

1 for some of these interviews, but I hear him saying, "Hold
2 on. Let me write this down," and I can hear him taking
3 notes. I still don't have them.

4 THE COURT: All right. And he has testified to this
5 court that he has no notes, so what do you want me to do?
6 Do you want me to make them magically appear? He is
7 saying they don't exist. You're stuck with that answer.

8 MR. SCHNEE: I understand, Your Honor.

9 THE COURT: I mean, you want -- you want me to
10 authorize a search warrant for the City of Columbia Police
11 Department so they can go down there and search it for his
12 notes?

13 MR. SCHNEE: I don't -- I don't know that I could ask
14 you that.

15 THE COURT: I mean, he is saying he doesn't have it.
16 You can cross-examine him until the late hours of the
17 night about why he says that in a tape and why there are
18 no notes that exist, but I don't know what else I'm
19 supposed to do about it when the witness says that. How
20 am I supposed to make him produce something that he says
21 doesn't exist?

22 MR. SCHNEE: Judge, I don't know.

23 THE COURT: I don't know either. I mean, that's like
24 you looking at me saying, "I've never taken any notes any
25 time I met with my client."

1 I say, "Well, you have got -- you have to have taken
2 notes. Your client is on trial for murder. You don't
3 have one single note?"

4 You say, "No, sir. As an officer of the court, I'm
5 telling you I don't have it."

6 I say, "That's impossible, Mr. Schnee. I've
7 represented hundreds of clients charged with murder.
8 Every single one of them I have notes from the meetings I
9 had with them. It's impossible that you don't have
10 notes."

11 You say, "I don't have notes."

12 What am I supposed do? When somebody comes to court,
13 puts themselves under the penalties of perjury and risks
14 contempt of court, risks going to prison for six months or
15 more and says they don't have it, what else am I supposed
16 to do?

17 MR. SCHNEE: Judge, I --

18 THE COURT: Besides let you cross-examine them about
19 it, and -- during the trial sit there and say -- I mean,
20 I'll let you play the portion of the audio where he says,
21 "I'm writing it down," and you can sit there and
22 cross-examine him, but I don't know what else I'm supposed
23 to do.

24 I'm certainly not going to dismiss a case because
25 somebody has given a statement to the court that is

1 different from what is said in an audio recording when
2 there is no other extrinsic evidence or proof of it, nor
3 do I know what good would a continuance come from any of
4 that. So tell me what I'm supposed to do, Mr. Schnee?

5 MR. SCHNEE: Judge, at this point I don't know, Your
6 Honor. I really don't. I'm being told -- I hear things
7 and I see things in writing, and they don't match up. I
8 don't understand how that happens.

9 THE COURT: That's why they created
10 cross-examination.

11 MR. SCHNEE: Yes, Your Honor, I understand.

12 THE COURT: All right. What else?

13 MR. KRYZSTON: Judge, I feel it incumbent upon me. I
14 mean, I know -- I mean, hopefully we'll have until
15 Wednesday to present some of the issues that we have
16 learned about today and some of our objections and
17 responses to that, but you know, I can go ahead and bring
18 to the Court's attention the issue of Donald Moore's
19 developing testimony.

20 Your Honor said if the State intends to use him as a
21 witness -- and as late as I think Wednesday or Thursday of
22 last week, it was my understanding that Donald Moore was
23 to be called as a hostile witness.

24 I believe that's made on representations that the
25 State has made that they have a duty to further

1 investigate what Mr. Moore just told us. Really, what
2 that's doing is going to be -- we're marching towards a
3 trial date seven days from now, and tomorrow is a state
4 holiday. I'm not sure if the Solicitor --

5 THE COURT: Tomorrow is not a holiday. Move on.

6 MR. KRYZSTON: What's that? Regardless, we're moving
7 towards a trial date seven days from now. We still have
8 developing testimony from Mr. Moore, and depending on what
9 the Solicitor's Office learns or doesn't learn within the
10 next few days, I think that could bear upon our ability
11 and our right to kind of investigate what Mr. Moore has to
12 say so...

13 THE COURT: Nobody is in -- stepping on your right to
14 investigate anything. If they want to use Donald Moore,
15 then they need to go to Donald Moore with his attorney
16 present and say, "What are you lying about?"

17 He can look at them and say, "I'm not telling you."
18 He can say whatever he wants to say, and they have an
19 obligation to turn that over to you.

20 You can also go to Donald Moore and interview him, if
21 Ms. Good will let you, until you're blue in the face. I
22 don't have an issue with any of that. I don't have a
23 problem with any of that.

24 What I'm trying to prevent is a situation where
25 somebody says something that is materially different in an

1 interview that is either exculpatory or mitigating, and
2 it's not being turned over. That's what I'm trying to
3 prevent. That's what the rules allow in place.

4 If there is information that is exculpatory towards
5 your client or impeachment material or mitigating towards
6 your client, then that has to be turned over. So --

7 MR. KRYZSTON: It --

8 THE COURT: No one trying to hinder you --

9 MR. KRYZSTON: Well --

10 THE COURT: -- from investigating anybody.

11 MR. KRYZSTON: I totally understand that. I was
12 just -- I guess I was just hoping to develop some type of
13 timeframe for us to get -- you know, to determine once and
14 for all is Donald Moore going to testify and if so, is
15 there any additional exculpatory information that was
16 learned from the State's further interviews of Mr. Moore.

17 THE COURT: I'm not creating time lines.

18 MR. KRYZSTON: All right. Thank you, Judge.

19 THE COURT: I mean, Donald Moore could get on the
20 witness stand and give another version of events. That's
21 just the way trials work.

22 What else?

23 (There was no response).

24 Anything else from the State?

25 MS. McDUFFIE: No, Your Honor.

1 THE COURT: Okay. Mr. Kryzston?

2 MR. KRYZSTON: Again, Judge, we just want to
3 Wednesday, the close of business Wednesday, to address any
4 issues that, you know --

5 THE COURT: You have until the close of business
6 today.

7 MR. KRYZSTON: Okay.

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

9 MS. PINNOCK: Your Honor.

10 THE COURT: Where is Mr. Goldberg?

11 Yes, ma'am?

12 MS. PINNOCK: I'm sorry. Very briefly. On Friday
13 morning, Ms. Bambach and I met with Ms. Simpson and marked
14 pictures, and just for the record, so Your Honor is aware,
15 our objections will be to number 21, 22, 23, 27 --

16 THE COURT: Hold on. Hold on. Nobody can write that
17 fast.

18 MS. PINNOCK: Sorry.

19 THE COURT: Say them slow.

20 MS. PINNOCK: Twenty-one, 22, 23, 27, 49, 125, 124,
21 122, 126 and 123.

22 THE COURT: And one twenty what?

23 MS. PINNOCK: 123.

24 THE COURT: 123?

25 MS. PINNOCK: Yes, sir.

1 THE COURT: Okay.

2 MS. PINNOCK: Thank you.

3 THE COURT: All right.

4 (Whereupon, the proceedings were concluded.)

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CERTIFICATE OF REPORTER:

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

I, Karen Ambroziak, Official Court Reporter for the
5th Judicial Circuit of the State of South Carolina, do
hereby certify that the foregoing is a true, accurate and
complete Transcript of Record of the proceedings had and
evidence introduced in the trial of the captioned case,
relative to appeal, in the Court of General Sessions for
Richland County, South Carolina, on the 3rd day of
November, 2014.

February 3, 2015

s/Karen Ambroziak

Karen Ambroziak, RPR
Circuit Court Reporter

STATE OF SOUTH CAROLINA)	
)	COURT OF GENERAL SESSIONS
County of Richland)	2014-GS-40-0745
)	2014-GS-40-0746
)	2014-GS-40-0747
)	2014-GS-40-0749
)	
)	2014-GS-40-0752
)	2014-GS-40-0754
)	2014-GS-40-0755
)	2014-GS-40-0756
The State)	
)	
vs.)	TRANSCRIPT OF RECORD
)	
Lorenzo Young)	
and)	
Trenton Barnes,)	
)	
Defendants)	

November 10 - 19, 2014
Columbia, South Carolina

BEFORE:

The Honorable Robert Hood, Judge

APPEARANCES:

Dolly Garfield, Asst. Solicitor
Kathryn Luck Campbell, Asst. Solicitor
Nicole Simpson, Asst. Solicitor
Attorneys for the State

Mark Schnee, Esq.
Tracy Pinnock, Esq.
Stephen Krzyston, Esq.
Jacqueline Bambach, Esq.
Attorneys for the Defendants

KAREN AMBROZIAK
Official Court Reporter

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<u>No.</u>	<u>Description</u>	<u>ID</u>	<u>EV</u>
1	Search Warrant	(withdrawn)	Marked at pretrial
2	Search Warrant	(withdrawn)	Marked at pretrial
3	Photo		Marked at pretrial
4	Photo		Marked at pretrial
5	Photo	(withdrawn)	Marked at pretrial
6	Photo		Marked at pretrial
7	Photo		Marked at pretrial
8	Photo	39	336
9	Photo	39	338
10	Photo	39	338
11	Photo	39	338
12	Photo	39	338
13	Photo	39	338
14	Photo	39	338
15	Photo	39	338
16	Photo	39	338
17	Photo	39	338
18	Photo	39	338

EXHIBITS:STATE'S EXHIBITS: (continued)

<u>No.</u>	<u>Description</u>	<u>ID</u>	<u>EV</u>
19	Photo	39	338
20	Photo	39	338
21	Photo (withdrawn)	39	
22	Photo (withdrawn)	39	
23	Photo (withdrawn)	39	
24	Photo	39	338
25	Photo	39	338
26	Photo	39	338
27	Photo	39	338
28	Photo	39	338
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31	Photo	39	338
32	Photo	39	338
33	Photo	39	338
34	Photo	39	338
35	Photo	39	338

EXHIBITS:STATE'S EXHIBITS: (continued)

<u>No.</u>	<u>Description</u>	<u>ID</u>	<u>EV</u>
36	Photo	39	338
37	Photo	39	338
38	Photo	39	338
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41	Photo	39	338
42	Photo	39	338
43	Photo	39	338
44	Photo	39	338
45	Photo	39	338
46	Photo	39	338
47	Photo	39	338
48	Photo	39	338
49	Photo (withdrawn)	39	
50	Photo	39	338
51	Photo	39	338
52	Photo	39	338

EXHIBITS:STATE'S EXHIBITS: (continued)

<u>No.</u>	<u>Description</u>	<u>ID</u>	<u>EV</u>
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EXHIBITS:STATE'S EXHIBITS: (continued)

<u>No.</u>	<u>Description</u>	<u>ID</u>	<u>EV</u>
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<u>No.</u>	<u>Description</u>	<u>ID</u>	<u>EV</u>
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102	Photo	39	338
103	Photo	39	338
104	Photo	39	338
105	Photo	39	338

EXHIBITS:STATE'S EXHIBITS: (continued)

<u>No.</u>	<u>Description</u>	<u>ID</u>	<u>EV</u>
106	Photo	39	338
107	Photo	39	338
108	Photo	39	338
109	Photo	39	338
110	Photo	39	338
111	Photo	39	338
112	Photo	39	338
113	Photo	39	338
114	Photo	39	338
115	Photo	39	338
116	Photo	39	338
117	Photo	39	338
118	Photo	39	338
119	Photo	39	338
120	Photo	39	338
121	Photo	39	338
122	Photo (withdrawn)	39	
123	Photo	39	338

EXHIBITS:STATE'S EXHIBITS: (continued)

<u>No.</u>	<u>Description</u>	<u>ID</u>	<u>EV</u>
124	Photo (withdrawn)	39	
125	Photo	39	338
126	Photo	39	338
127	Photo	39	338
128	Photo	39	338
129	Photo	39	338
130	Photo	39	338
131	Photo	39	338
132	Photo	39	338
133	Photo	39	338
134	Photo	39	338
135	Photo	39	338
136	Photo	39	338
137	Photo	39	338
138	Photo	39	338
139	Photo	39	338
140	Photo	39	338
141	Photo	39	768

EXHIBITS:STATE'S EXHIBITS: (continued)

<u>No.</u>	<u>Description</u>	<u>ID</u>	<u>EV</u>
142	Photo	39	768
143	Photo	39	768
144	Photo	39	768
145	Photo	39	768
146	Photo	39	768
147	Photo	39	768
148	Photo	39	768
149	Photo	39	768
150	Photo	39	768
151	Photo	39	768
152	Photo	39	768
153	Photo	39	768
154	Photo	39	768
155	Photo	39	768
156	Photo	39	768
157	Photo	39	768
158	Photo	39	768
159	Photo	39	768

EXHIBITS:STATE'S EXHIBITS: (continued)

<u>No.</u>	<u>Description</u>	<u>ID</u>	<u>EV</u>
160	Photo	39	768
161	Photo	39	768
162	Photo	39	768
163	Photo	39	770
164	Photo	39	770
165	Photo	39	770
166	Photo	39	770
167	Photo	39	770
168	Photo	39	770
169	Photo	39	770
170	Photo	39	770
171	Photo	39	770
172	Photo	39	769
173	Photo	39	769
174	Photo	39	771
175	Photo	39	771
176	Photo	39	771
177	Photo	39	771

EXHIBITS:STATE'S EXHIBITS: (continued)

<u>No.</u>	<u>Description</u>	<u>ID</u>	<u>EV</u>
178	Photo	39	771
179	Photo	39	771
180	Photo	39	771
181	Photo	39	771
182	Photo	39	771
183	Photo	39	771
184	Photo	39	771
185	Photo	39	771
186	Photo	39	772
187	Photo	39	772
188	Photo	39	772
189	Photo	39	772
190	Photo	39	772
191	Photo	39	772
192	Photo	39	772
193	Photo	39	772
194	Photo	39	772
195	Photo	39	772

EXHIBITS:STATE'S EXHIBITS: (continued)

<u>No.</u>	<u>Description</u>	<u>ID</u>	<u>EV</u>
196	Photo	39	772
197	Photo	39	772
198	Photo	39	772
199	Photo	39	772
200	Photo	39	772
201	Photo (withdrawn)	39	
202	Photo (withdrawn)	39	
203	Photo (withdrawn)	39	
204	Photo	39	773
205	Photo	39	773
206	Photo (withdrawn)	39	
207	Photo (withdrawn)	39	
208	Photo	39	774
209	Photo	39	774
210	Photo	39	774
211	Photo	39	774
212	Photo	39	774
213	Photo (withdrawn)	39	

EXHIBITS:STATE'S EXHIBITS: (continued)

<u>No.</u>	<u>Description</u>	<u>ID</u>	<u>EV</u>
214	Photo (withdrawn)	39	
215	Photo	39	774
216	Photo	39	775
217	Photo	39	775
218	Photo	39	775
219	Photo	39	775
220	Photo	39	775
221	Photo	39	775
222	Photo	39	904
223	Photo (withdrawn)	39	
224	Photo (withdrawn)	39	
225	Photo (withdrawn)	39	449
226	Photo (withdrawn)	39	
227	Photo (withdrawn)	39	
228	Photo (withdrawn)	39	
229	Photo (withdrawn)	39	
230	Photo (withdrawn)	39	

EXHIBITS:STATE'S EXHIBITS: (continued)

<u>No.</u>	<u>Description</u>	<u>ID</u>	<u>EV</u>
231	Photo (withdrawn)	39	
232	Photo (withdrawn)	39	
233	Photo (withdrawn)	39	
234	Photo (withdrawn)	39	
235	Photo (withdrawn)	39	
236	Photo (withdrawn)	39	
237	Photo (withdrawn)	39	
238	Photo (withdrawn)	39	
239	Photo (withdrawn)	39	
240	Photo (withdrawn)	39	
241	Photo (withdrawn)	39	
242	Photo (withdrawn)	39	
243	Photo (withdrawn)	39	
244	Photo (withdrawn)	39	
245	Photo (withdrawn)	39	
246	Photo (withdrawn)	39	
247	Photo (withdrawn)	39	
248	Photo (withdrawn)	39	

EXHIBITS:STATE'S EXHIBITS: (continued)

<u>No.</u>	<u>Description</u>	<u>ID</u>	<u>EV</u>
249	Photo (withdrawn)	39	
250	Photo (withdrawn)	39	
251	Photo (withdrawn)	39	
252	Photo (withdrawn)	39	
253	Photo (withdrawn)	39	
254	Photo (withdrawn)	39	
255	Photo (withdrawn)	39	
256	Photo (withdrawn)	39	
257	Photo (withdrawn)	39	
258	Photo (withdrawn)	39	
259	Photo (withdrawn)	39	
260	Photo (withdrawn)	39	
261	Photo	39	904
262	Photo (withdrawn)	39	
263	Photo (withdrawn)	39	
264	Photo	39	904
265	Photo	39	904

EXHIBITS:STATE'S EXHIBITS: (continued)

<u>No.</u>	<u>Description</u>	<u>ID</u>	<u>EV</u>
266	Photo (withdrawn)	39	858
267	Photo	39	904
268	Photo	39	904
269	Photo	39	904
270	Photo	39	904
271	Photo	39	904
272	Photo	39	904
273	Photo	39	904
274	Photo	39	904
275	Photo	39	904
276	Photo	39	904
277	Photo	39	904
278	Photo	39	904
279	Photo	39	904
280	Photo	39	904
281	Photo (withdrawn)	39	904
282	Photo (withdrawn)	39	904
283	Photo	39	904

EXHIBITS:STATE'S EXHIBITS: (continued)

<u>No.</u>	<u>Description</u>	<u>ID</u>	<u>EV</u>
284	Photo	39	904
285	Photo	39	904
286	Photo	39	904
287	Photo	39	904
288	Photo	39	904
289	Photo	39	904
290	Photo	39	904
291	Photo	39	904
292	Photo	39	904
293	Photo	39	904
294	Photo	39	904
295	Photo	39	904
296	Photo	39	904
297	Photo	39	904
298	Photo	39	904
299	Photo	39	904
300	Photo	39	904
301	Photo	39	904

EXHIBITS:STATE'S EXHIBITS: (continued)

<u>No.</u>	<u>Description</u>	<u>ID</u>	<u>EV</u>
302	Photo	39	904
303	Photo	39	904
304	Photo	39	904
305	Photo	39	904
306	Photo	39	904
307	Photo	39	904
308	Photo	39	904
309	Photo	39	904
310	Photo	39	904
311	Photo	39	904
312	Photo	39	904
313	Photo	39	904
314	Photo	39	904
315	Photo	39	904
316	Photo	39	904
317	Photo	39	904
318	Photo	39	904
319	Photo	39	904

EXHIBITS:STATE'S EXHIBITS: (continued)

<u>No.</u>	<u>Description</u>	<u>ID</u>	<u>EV</u>
320	Photo	39	904
321	Photo	39	904
322	Photo	39	904
323	Video - Bakery	227	435
324	Video	227	444
325	Video - Ale House	227	
326	Spoon	277	382
327	Timecard	277	368
328	Keys	277	368
329	Cell phone	277	368
330	Keys	277	368
331	Shell casing	277	369
332	Shell casing	277	369
333	Shell casing	277	369
334	Shell casing	277	369
335	Shell casing	277	369
336	Shell casing	277	369
337	Projectile	277	370

EXHIBITS:STATE'S EXHIBITS: (continued)

<u>No.</u>	<u>Description</u>	<u>ID</u>	<u>EV</u>
338	Projectile	277	370
339	Projectile	277	370
340	Projectile Fragment	277	370
341	Projectile	277	370
342	Projectile	277	370
343	Purple Top	277	382
344	Swabs	277	382
345	Swabs	277	378
346	Projectile	277	378
347	Shoes/clothes	277	375
348	Sweatshirt	277	375
349	Swabs	277	384
350	Swabs	277	384
351	Swabs	277	384
352	Swabs	277	384
353	Swabs	277	386
354	Swabs	277	386
355	ID (withdrawn)	277	
356	Cell phone (withdrawn)	277	

EXHIBITS:STATE'S EXHIBITS: (continued)

<u>No.</u>	<u>Description</u>	<u>ID</u>	<u>EV</u>
357	(withdrawn)	277	
358	(withdrawn)	277	
359	(withdrawn)	277	
360	(withdrawn)	277	
361	Cell phone	(withdrawn) 277	
362	Cell phone	(withdrawn) 277	806
363	Shoes	277	910
364	Shoes	277	910
365	Hoodie	277	909
366	Hoodie	277	909
367	Hoodie	277	909
368	Gloves	277	
369	Shoes	277	793
370	.45	277	801
371	.40	277	797
372	Ammo box	277	402
373	Phone / Ammo	277	794
374	Nike Shoes	277	792
375	Clip Ammo Box	277	794/801

EXHIBITS:STATE'S EXHIBITS: (continued)

<u>No.</u>	<u>Description</u>	<u>ID</u>	<u>EV</u>
376	Glock Magazine	277	800
377	Cell	277	1,057
378	Map	277	300
379	(withdrawn)	277	
380	Cell phone	277	1,086
381	Latent Prints	277	404
382	Cell phone	277	1,192
383	Cell phone	277	1,192
384	(withdrawn)	277	
385	Swab	277	946
386	Swab	277	946
387	Swab	277	946
388	Swab	277	946
389	GSR Lifts	277	818
390	Photo (withdrawn)	277	
391	Photo (withdrawn)	277	
392	Photo	277	
393	Photo (withdrawn)	277	
394	Photo (withdrawn)	277	

EXHIBITS:STATE'S EXHIBITS: (continued)

<u>No.</u>	<u>Description</u>	<u>ID</u>	<u>EV</u>
395	AT&T Phone Records	318	322
396	Blow Up (withdrawn)	360	
397	Diagram	354	360
398	Blow Up	36	1,092
399	Verizon Phone Records	360	394
400	Diagram	469	767
401	40 Caliber	556	797
402	T-Mobile Phone Records	508	510
403	Envelope - T. Barnes	556	685
404	Letter - T. Barnes	556	685
405	Blow Up	608	711
406	Blow Up	608	711
407	Blow Up	608	711
408	Blow Up	608	711
409	Blow Up	608	711
410	Handwriting Samples	608	711
411	Handwriting Samples	608	711
412	Handwriting Samples	608	711
413	Handwriting Samples	608	711

EXHIBITS:STATE'S EXHIBITS: (continued)

No.	Description	ID	EV
414	Handwriting Samples	608	711
415	Handwriting Samples	608	711
416	Handwriting Samples	608	711
417	Handwriting Samples	608	711
418	Handwriting Samples	608	711
419	Handwriting Samples	608	711
420	Folder of Photos	625	627
421	Diagram	868	1,057
422	DNA	911	962
423	Buccal Swab	911	912
424	Diagram		962
425	Photo	1,026	
426	Photo	1,026	
427	Photo (withdrawn)	1,026	
428	Photo (withdrawn)	1,026	
429	Photo (withdrawn)	1,026	
430	Photo (withdrawn)	1,026	
431	Photo (withdrawn)	1,026	

EXHIBITS:STATE'S EXHIBITS: (continued)

<u>No.</u>	<u>Description</u>	<u>ID</u>	<u>EV</u>
432	Photo	1,026	
433	Photo (withdrawn)	1,026	
434	Photo (withdrawn)	1,026	
435	Photo		
436	Blow Ups	1,162	
437	Photo (withdrawn)	1,162	
438	Photo	1,162	1,147
439	Video		1,168
440	CD		
441	CD	1,279	1,285
442	CD		1,289
443	Blow Up		1,193
444	Blow Up	1,279	1,324
445	Blow Up	1,279	1,325
446	Blow Up	1,279	1,325
447	Blow Up	1,279	1,325
448	Blow Up	1,279	1,325
449	Blow Up	1,279	1,325

EXHIBITS:STATE'S EXHIBITS: (continued)

<u>No.</u>	<u>Description</u>	<u>ID</u>	<u>EV</u>
450	Blow Up	1, 279	
451	Photo		1, 445
452	Photo		1, 445
453	Photo		1, 445
454	Photo		1, 445
455	Photo		1, 445
456	Photo		1, 445
457	Photo		1, 445
458	Photo		1, 445
459	Photo		1, 445
460	Photo		1, 445
461	Photo		1, 445
462	Photo		1, 445
463	Photo		1, 445
464	Rights	(withdrawn)	

DEFENDANT'S EXHIBITS:

(There were no Defendant's Exhibits introduced.)

EXHIBITS:COURT'S EXHIBITS: (continued)

<u>No.</u>	<u>Description</u>	<u>ID</u>	<u>EV</u>
1	Email	Marked at pretrial	
2	Pretrial Motions	Marked at pretrial	
3	Affidavit	Marked at pretrial	
4	Sealed Notes	Marked at pretrial	
5	Requested Voir Dire	39	
6	Crimestopper tips - Sealed	40	
7	Packet - Sealed	42	
8	Note	163	
9	Question	230	
10	Juror Note	421	
11	Juror Note	421	
12	Juror Note	421	
13	Juror Note	724	
14	Juror Note	1,025	
15	Cut Photo	1,050	
16	State's 437	1,183	
17	Note	1,601	

EXHIBITS:COURT'S EXHIBITS: (continued)

<u>No.</u>	<u>Description</u>	<u>ID</u>	<u>EV</u>
18	Note	1,691	
19	Note	1,636	
20	Limiting Instruction	1,659	

STATEMENTS:

Pretrial Charge	245
Opening Statement by Ms. Garfield	258
Opening Statement by Mr. Schnee	269
Opening Statement by Mr. Schnee (continued)	285
Opening Statement by Ms. Bambach	290
Closing Statement by Ms. Campbell	1,501
Closing Statement by Ms. Simpson	1,527
Closing Statement by Mr. Krzyston	1,576
Closing Statement by Mr. Schnee	1,584
Jury Charge	1,604
VERDICT	1,652
SENTENCING	1,637
CERTIFICATE OF REPORTER	1,660

1 (WHEREUPON, State's Exhibits Numbers 8-322 were
2 previously marked for identification only.)

3 (WHEREUPON, Court's Exhibit Number 5 was marked
4 for identification only.)

5 THE COURT: Okay. So we're on the record in the
6 State of South Carolina versus Trenton Barnes and
7 Lorenzo Young. Both Mr. Barnes and Mr. Young are
8 present along with their counsel, and the State is
9 present. The first thing that I'm going to do is mark
10 as a sealed Court's Exhibit from our hearing a couple
11 of weeks ago the Crimestoppers tips so I have reviewed
12 the Crimestoppers tips in their original format as
13 they came in. I've also reviewed that in comparison
14 to the discovery materials provided. There actually
15 was some information that was in the Crimestoppers
16 tips that was not in the discovery, and that was
17 turned over to the defense, so I've turned --- I am
18 sealing the original tips and the form in which the
19 tips were turned over as a Court's Exhibit. So any
20 motion to see the original tips is denied based upon
21 the prevailing law as to --- I think there is a
22 statute actually. I don't know it off the top of my
23 head, but there is a statute dealing with that. I
24 have made sure from the Crimestoppers tips that there
25 is no evidence that is --- that needs to be turned

1 over pursuant to the rules to the defense and that the
2 summary is adequate providing for any exculpatory
3 information. So you can mark that.

4 (WHEREUPON, Court's Exhibit Number 6 was marked
5 for identification only.)

6 THE COURT: Okay. Yes, ma'am.

7 MS. PINNOCK: Your Honor, may it please the
8 Court. Just for our understanding, when you reviewed
9 the records as provided by the solicitor's office, if
10 there was a --- if you came to the conclusion that
11 there was still information that was contained in the
12 tips that was not contained in the original summaries
13 that we were provided, we have not received anything
14 else from the Crimestoppers tips.

15 THE COURT: I think she turned them over to you
16 about three or four weeks ago.

17 MS. SIMPSON: Yes, Your Honor. What we did was
18 take the actual substantive information as it was
19 written in the tips and that information was provided
20 in the summary format to both defense counsel. It is
21 complete. It is --- it contained all the tips that we
22 had.

23 MS. PINNOCK: And I was just being on the record
24 --- for clarity purposes, I thought you said there was
25 an additional part of the case that should have been

1 turned over, but if there was not...

2 THE COURT: And I informed them --- I made that
3 decision about three or four weeks ago. I'm putting
4 that on the record. I told them to turn that over to
5 you then.

6 MS. PINNOCK: Yes, sir.

7 THE COURT: The next thing I have that I was
8 reviewing in camera was what we commonly know as 302s,
9 which are Federal Bureau of Investigation debriefings
10 and such that could potentially be relevant to the
11 case. There were two in submissions that I went
12 through with the State. One was the 302 of a Darrell
13 Alston, which contained about a paragraph of
14 information concerning this case, and that's been
15 turned over, correct, Ms. Simpson?

16 MS. SIMPSON: Yes, Your Honor, that's correct.

17 THE COURT: And the other one that I found to be
18 relevant, it was actually --- it's not a 302. It's an
19 ATF interview form on a Rayski and that is R-A-Y-S-K-I
20 Walters and I deemed that to be relevant to the case
21 at hand for whatever value that it's worth. Mr.
22 Walter's debriefing has been turned over; is that
23 correct?

24 MS. SIMPSON: Yes, Your Honor, that's correct.

25 THE COURT: So Walters' debriefing and Alston's

1 debriefing has been turned over. The rest of the
2 information provided to me in this packet that I'm
3 about to seal has nothing to do with this case. So
4 we're going to seal that as a Court's exhibit.

5 (WHEREUPON, Court's Exhibit Number 7 was marked
6 for identification only.)

7 THE COURT: So, Mr. Young, I have an indictment
8 for murder, kidnapping, burglary second degree violent
9 and attempted armed robbery; is that correct?

10 MS. GARFIELD: Yes, sir.

11 THE COURT: On Mr. Barnes, I have an indictment
12 for murder, kidnapping, burglary second degree violent
13 and attempted armed robbery; is that correct?

14 MS. GARFIELD: Yes, sir.

15 THE COURT: Okay. We're going to do a couple of
16 the defendants' pretrial motions right now, and then
17 we're going to move into jury selection, and then
18 we'll reconvene this afternoon to finish up pretrial
19 by the defense.

20 Okay. The first motion I have is a defense
21 motion to prevent shackling in the courtroom. That
22 motion is denied. We have changed the tables around
23 in the courtroom to where Mr. Barnes and Mr. Young are
24 both sitting at a table to where the underneath side
25 of the table is actually blocked by the view. It's

1 actually wood underneath the table. I don't know how
2 to describe it other than that. It's not a hollow
3 table underneath that you could see through, it's
4 actually covered by wood. That's the clerk of court's
5 table which we switched into that. So the motion to
6 prevent shackling is denied. If we reach the point
7 where somebody is testifying, of course, you don't
8 have to testify. You have a constitutional right to
9 remain silent. If we reach that point, we'll take the
10 appropriate break before that. I don't want the jury
11 --- the court security officers who are always with me
12 during trials and have been up here before I even ever
13 started working here, they know. I don't want the
14 jurors to see either Mr. Barnes or Mr. Young in any
15 kind of shackling. I know you gentlemen know that and
16 will advise your people of that. Anything else on
17 that, Mr. Schnee?

18 MR. SCHNEE: My concern isn't for during the
19 during the course of the trial. These tables are more
20 than adequate to hide that. My main concern at this
21 point is for when the jury is walking in. They will
22 be able to see under the table from here. When Your
23 Honor introduces my client and has him stand up,
24 they're also going to hear the shackles when he stands
25 up and turns around.

1 THE COURT: All right.

2 MR. SCHNEE: For the limited purposes of jury
3 selection, I ask they be removed.

4 THE COURT: All right. Sergeant Doudoukjian,
5 walk out there and walk back in. See if you can see
6 anybody's chains.

7 (complies.)

8 THE DEPUTY: If I step out and look for them,
9 yes, I can see them.

10 THE COURT: As long as you stay behind the bar,
11 you can't see them?

12 THE DEPUTY: (Indicating in the negative.)

13 THE COURT: Okay. Does he have a waist chain on?

14 THE DEPUTY: No, sir.

15 THE COURT: So his hands are free?

16 THE DEPUTY: That's correct.

17 THE COURT: Okay. The defense motion is denied.
18 He will stay in the shackling unless we reach a point
19 in time where he has to walk in front of the jury, at
20 which point we'll deal with that if it comes up and
21 how we would handle that. Okay.

22 Okay. Now, the motion to sequester is in effect,
23 so we have McCoy and Reese staying in with the city
24 and then everybody else is under a motion to sequester
25 including lay witnesses. Does everybody understand

1 that, Mr. Schnee?

2 MR. SCHNEE: Yes, Your Honor.

3 THE COURT: Mr. Krzyston?

4 MR. KRZYSTON: Yes, sir.

5 THE COURT: Ms. Garfield?

6 MS. GARFIELD: Yes, sir.

7 THE COURT: Okay. Now I say this in every trial.

8 I don't know who these people are. I mean, literally

9 I don't know who they are. I don't know what they

10 look like or anything else, so I need you all and your

11 staff to help with, "Hey, Judge, somebody just walked

12 in the back of the room that is a potential witness."

13 I don't know who they are. I know that's weird

14 because I have the best vantage point to see who is in

15 the courtroom and who is not, but I need everybody to

16 pay close attention to that so we don't run into that

17 situation, if possible. Does everybody understand

18 that?

19 MR. KRZYSTON: Yes, Your Honor.

20 THE COURT: All right. Ms. Garfield, do you

21 understand that?

22 MS. GARFIELD: Yes, sir.

23 THE COURT: Okay. And Mr. Schnee?

24 MR. SCHNEE: Yes, Your Honor.

25 THE COURT: Okay. All right. Now, I have

1 received State's potential --- do I have a State's
2 witness list?

3 MS. SIMPSON: Yes, Your Honor. I'll bring you an
4 updated witness list.

5 THE COURT: Do I have Mr. Young's potential
6 witness list?

7 MR. KRYZTON: We don't have anyone at this
8 particular time, Your Honor.

9 THE COURT: And I have Mr. Barnes' potential
10 witness list that was provided.

11 MS. SIMPSON: Your Honor, this was provided last
12 week via email to the defense and here is the State's
13 proposed voir dire.

14 THE COURT: Okay. So does everybody have a copy
15 of the State's potential witness list?

16 MR. KRZYSTON: Yes, Your Honor.

17 THE COURT: Mr. Schnee?

18 MR. SCHNEE: Yes, Your Honor.

19 THE COURT: Mr. Barnes has submitted one. Does
20 the State have a copy of that?

21 MR. SCHNEE: Yes, I provided them a copy of that.

22 THE COURT: Okay. Thank you very much. Let's go
23 over voir dire real quickly. Let's start with the
24 State's and we'll go in that order just so I can keep
25 up on where I am. Okay. So the defense reviewed the

1 State's requested voir dire. All right. Number two I
2 already ask. Number three is going to be asked.
3 Number four is going to be asked. Number five is
4 going to be asked on the State's requested voir dire.
5 Any objection to number one, Mr. Krzyston?

6 MR. KRZYSYON: No, Your Honor.

7 THE COURT: And Mr. Schnee?

8 MR. SCHNEE: No, Your Honor. I'm pretty sure I
9 asked the same question.

10 THE COURT: Okay. Good. I'm on Mr. Young's
11 requested voir dire now. Number one will be asked.
12 Number five will be asked. Number eight will be
13 asked. Number nine will be asked. Number ten will be
14 asked.

15 Okay. Any objections from the State as to Young's
16 voir dire?

17 MS. CAMPBELL: Yes, Your Honor. Taking them as
18 number two, I think that's just the reciprocal of what
19 we asked. I think that would be appropriate.

20 THE COURT: Okay.

21 MS. CAMPBELL: Number three we don't have any
22 problem with, number four we have no problem with.
23 Your Honor, as far as number five, we don't have any
24 probably with it other than I don't believe the
25 Assessment Resource Center is --- the primary purpose

1 of them is as it related to law enforcement. I don't
2 know how that's related to this case.

3 MS. PINNOCK: Your Honor, that's my fault.

4 THE COURT: So you're okay with the Assessment
5 Resource Center coming out?

6 MS. PINNOCK: Yes. That was my fault.

7 THE COURT: All right.

8 MS. CAMPBELL: Number six, Your Honor, as far as
9 Facebook, MySpace or Twitter. I'm just somewhat
10 concerned, I mean, I don't ---

11 THE COURT: I don't know what the relevance of
12 the question is.

13 MS. PINNOCK: Your Honor, we were made aware of
14 some logs. You know, log forums that discuss this
15 case on some very disturbing topics, so we were
16 wanting to know if anybody was a member of blogs, any
17 social forums, other than Facebook, MySpace, Twitter
18 to see what the nature of those forums were. It's
19 just because we had been made aware of information, of
20 some very disturbing, very disturbing racially charged
21 social networks, so we were wanting to inquire of the
22 potential jurors about that.

23 MS. CAMPBELL: Your Honor, the only thing I'm
24 going to say is I believe you're going to ask them if
25 they have any knowledge and what the source of

1 knowledge is.

2 THE COURT: I'm going to go into that. I'm not
3 going to ask this question specifically, but I'm going
4 to say, you know, if you're a member of a blog or any
5 connection to this case in any way, shape, or form. I
6 will cover it. I may not ask it directly that way
7 because somebody is --- does a blog about cooking, I
8 don't really care. I am going to stress anything
9 about this case.

10 MS. PINNOCK: Yes, sir.

11 THE COURT: Okay. Keep going, Ms. Campbell.

12 MS. CAMPBELL: Your Honor, number seven, if
13 they've been a witness. I don't know how that would
14 be relevant unless --- I don't know how it's relevant.

15 THE COURT: Ms. Pinnock.

16 MS. CAMPBELL: We just ask that you make it
17 reciprocal if you're going to ask it.

18 MS. PINNOCK: We would ask that you do ask that
19 question, but ask it in the reciprocal.

20 THE COURT: Okay.

21 MS. CAMPBELL: Moving on to number 11, I believe
22 is the next one.

23 THE COURT: Yes, ma'am.

24 MS. CAMPBELL: The victim in this case was
25 working at a bakery owned by the Carolina Cafe and

1 Catering Company. If you want to ask if that would be
2 relevant.

3 THE COURT: The one potential juror that worked
4 there is gone, right?

5 MS. PINNOCK: Yes, sir.

6 THE COURT: Did you pick up on that?

7 MS. CAMPBELL: That was my understanding.

8 THE COURT: I was going to strike --- I wouldn't
9 have even allowed him to be put in the panel out of an
10 abundance of caution, but there was another reason to
11 remove him anyway. We don't even have to cross that
12 bridge. Number 12.

13 MS. CAMPBELL: Number 12, Your Honor, if you
14 asked between 12 and 13 basically is this case
15 involves the use of a weapon. If that concerns
16 anybody, if we could make a little more general or
17 that a gun was involved in this case.

18 THE COURT: What about that, Ms. Pinnock?

19 MS. PINNOCK: Well, Your Honor, I believe because
20 of the facts that are alleged in this case I do think
21 it's relevant to ask a juror, if any, of them
22 personally or anybody they're close to has been in a
23 situation involving a weapon or a gun of any kind.
24 It's directly related to this case. People have very
25 strong opinions about gun use and gun possession,

1 which is why we included it in number 12 and 13
2 because it is a very --- it's a very hot topic in
3 politics and every aspect of life. It is relevant to
4 this case to know whether people have any sort of
5 involvement with guns.

6 THE COURT: I think what I'll probably do is add
7 victim of a gun related incident into violent crime
8 category.

9 MS. CAMPBELL: To number two?

10 THE COURT: I'll ask the group question just for
11 informational purposes more than anything.

12 MS. CAMPBELL: Number 14, Your Honor. I don't
13 know that they can get into what the verdict was or
14 what happened in the jury room or things of the
15 nature. I think that should be limited.

16 THE COURT: Ms. Pinnock.

17 MS. PINNOCK: Sir?

18 THE COURT: Do you want to respond to that?

19 MS. PINNOCK: Your Honor, 14 and 15 are kind of
20 intertwined, as well. It is asking the jurors,
21 potential jurors, questions about if they would uphold
22 the standards that are required in this courtroom
23 because somebody is innocent until proven guilty. I
24 do believe if they have served on a jury before, first
25 they should have mentioned it in the qualification

1 round, but if they didn't ---

2 THE COURT: That's not true, Ms. Pinnock.

3 MS. PINNOCK: They didn't.

4 THE COURT: That's not a question.

5 MS. PINNOCK: I do apologize, Judge.

6 THE COURT: I'll ask them if they served on a
7 criminal jury before, but that's it just for
8 informational purposes. Number 15 is part of the
9 standard charge.

10 MS. CAMPBELL: Thank you, Judge.

11 THE COURT: All right. Mr. Barnes' voir dire, so
12 number one is going to be asked

13 THE COURT: Number two is going to be asked.

14 MS. CAMPBELL: Number three, Your Honor, I do not
15 know the relevance of that. I'm at a loss.

16 MR. SCHNEE: Well, Judge, there are respectfully,
17 there are a lot of allegations at least part of the
18 story that the State is obviously going to be talking
19 about is the fact that Ms. Hunnewell has a bunch of
20 children. There is obviously going to be some sort of
21 emotional response. The ages the children
22 particularly, the age of my client being a juvenile at
23 the time. This information is relevant. I don't know
24 if they have a bias one way or the other.

25 THE COURT: Well, just because they have a child

1 doesn't mean they have a bias.

2 MR. SCHNEE: That's correct, but I'm requesting
3 that Your Honor ask that question.

4 THE COURT: All right. That's denied.

5 MR. SCHNEE: Yes, sir.

6 THE COURT: Number four, that's already in.

7 MS. CAMPBELL: Already in.

8 THE COURT: Number five.

9 MS. CAMPBELL: Already addressed.

10 THE COURT: We're dealing with that.

11 MS. CAMPBELL: Number six addressed.

12 THE COURT: Six we're asking.

13 MS. CAMPBELL: And number seven is part of your
14 general charge.

15 THE COURT: All right. Let's talk about how
16 we're going to do these strikes so everybody
17 understands it. The State is going to have ten
18 strikes, okay. The defense is going to have --- you
19 can do it one of two ways. It doesn't matter to me
20 which way you do it, okay. Way number one is you take
21 ten each. Way number two is you take 20 and do it
22 together, but whichever way you decide, just let me
23 know. It doesn't matter to me.

24 MR. SCHNEE: Can we just have a minute?

25 THE COURT: Yes. Sure.

1 MR. SCHNEE: Judge, we're going to have ten and
2 ten.

3 THE COURT: All right. So the way it will work
4 from a procedural standpoint is we'll just go ---
5 let's just go in alphabetical order. Okay.
6 Mr. Barnes, the first one that comes up, Barnes will
7 go first, then Young. Then we'll alternate back and
8 forth. All right. Jackie, you have that?

9 THE CLERK: Yes, Your Honor.

10 THE COURT: Mr. Schnee has Mr. Barnes, so when
11 the jurors come up, we'll ask you first, Mr. Schnee,
12 Mr. Krzyston and the next one that comes up will
13 switch.

14 MR. SCHNEE: Yes, sir.

15 THE COURT: I can't remember how we did
16 alternates in the last trial. Does anybody remember?
17 Did I do two, two and two?

18 THE CLERK: Two and two, total of four, Your
19 Honor.

20 THE COURT: Okay, so for each of the alternates,
21 and each table will get two. Okay. Two, two, and two
22 for the alternates as we go down. So you have
23 potentially six strikes total on each alternate.
24 Okay. Do you understand that, Mr. Krzyston?

25 MR. KRZYSTON: Yes, sir, Your Honor.

1 THE COURT: Mr. Schnee?

2 MR. SCHNEE: Yes, Your Honor.

3 THE COURT: Jackie, just keep alternating. When
4 we get to the alternates, just keep going through the
5 alternates first.

6 THE CLERK: Yes, Your Honor.

7 THE COURT: Do you have that?

8 THE CLERK: Yes, Your Honor.

9 THE COURT: All right. Does anybody have any
10 major scheduling issues this week other than the
11 holiday tomorrow?

12 MR. KRZYSTON: No, Your Honor.

13 MR. SCHNEE: No, Your Honor.

14 MS. GARFIELD: No, sir.

15 THE COURT: All right. Let's plan on starting at
16 nine every day. Do you want to push this? I mean,
17 I'm not going to go crazy and we're not going to be
18 here till six or seven clock at night. I think
19 starting at nine every day will give us at a 30 minute
20 jump on the day. We'll start at nine each day unless
21 I get significant push back from the jurors about that
22 time. We'll take the breaks that I normally do during
23 that time, but I want to start at nine to try get
24 things in the right direction. That means whoever is
25 transporting them, barefoot, they need to get here

1 early enough to get dressed out, meet with their
2 attorney, talk to them, all that stuff before we
3 start.

4 Okay. Now, let's move on to a couple of
5 substantive things. All right. Have all the pictures
6 been printed off? And marked?

7 MS. SIMPSON: Your Honor, I believe all the
8 photographs have been printed. Mr. Schnee still needs
9 to review, I believe, the photographs from the search
10 warrant conducted at Bronx Street, as well as Lucille
11 Drive. He was not present for the meeting that we had
12 on discovery to go over those photographs, however,
13 Mr. Young's attorneys were present and did note their
14 objections at the last hearing we had. Mr. Schnee
15 said he could look over them this morning and figure
16 out ---

17 THE COURT: All right. So give me every picture
18 that has an objection in one stack so I can look at
19 it, outside of the autopsy photos which I've already
20 seen and the stills from the video which I've already
21 seen. Okay. Not right now. When we break. Okay.
22 All right. As to the defendant's motion to sever the
23 trial, that motion is going to be denied. The law is
24 clear that criminal defendants who are jointly tried
25 for murder and other charges are not entitled to

1 separate trials as a matter of right.

2 The motion for severance is addressed to the
3 discretion of the trial court and a severance should
4 only be granted where there is a serious risk that a
5 joint trial will compromise a specific right of a
6 codefendant or prevent the jury from making a reliable
7 judgment about the codefendant's guilt. The State has
8 informed me that they do not intend on using the audio
9 recorded statement of Mr. Barnes, which would include
10 Bruton material against Mr. Young. The statement ---
11 I don't know if this is a statement, but in the
12 evidence they intend on using against Mr. Barnes
13 includes a letter allegedly written to his mother
14 which does not reference Mr. Young; is that correct?

15 MR. SCHNEE: Judge, that letter does reference
16 Mr. Young quite a bit.

17 THE COURT: In a criminal capacity?

18 MR. SCHNEE: Yes.

19 THE COURT: So what are we doing about that?

20 MS. CAMPBELL: Your Honor, I believe that
21 wouldn't fall under Bruton, since it was not made to
22 law enforcement. That's an intimate writing. We do
23 have the case law on that issue.

24 THE COURT: Well --- okay, give me the case law,
25 but at this point in time the motion for a severance

1 is denied. I do not have a specific writing at this
2 point in time which is going to be hampered and at
3 this point in time the argument of the defense is
4 based on speculation that something could potentially
5 happen as opposed to something actually will happen or
6 may happen. Okay. All right. So you all give me
7 that case or whatever case it is that you have and
8 let's bring up the panel.

9 All right. For our news reporter friends, we're
10 about to bring in the entire jury panel.

11 MS. CAMPBELL: Judge, do you have a position of
12 the copy of the list?

13 THE COURT: I'm going to allow them to have a
14 copy of the list because there are so many strikes. I
15 normally don't give out a copy of the list, but will
16 allow it due to the excessive number of strikes.

17 (WHEREUPON, the jury panel entered the
18 courtroom.)

19 THE BAILIFF: The jury is seated, Your Honor.

20 THE COURT: Thank you very much. Good afternoon,
21 ladies and gentlemen. All right. Thank you for being
22 back with us. Let me give you just couple of things
23 before we get started here. Number one, at no point,
24 and I know there are three video cameras in the
25 courtroom, but at no point during this week in any

1 way, shape or form will any of you ever be on video at
2 all, okay.

3 So as you sit here right now, those cameras are
4 off. I read all of the news agencies the riot act
5 that if they even think of putting one of my jurors,
6 even a potential juror on camera, they're going to be
7 held in contempt of court and held in jail for six
8 months. Okay. You don't have to be in fear for that
9 or concerned about that in any way, shape, or form.

10 Now, I do believe in a society where news media should
11 be able to report on and see what's going on, and I
12 think that's important for an informed community.

13 However, I think that citizens who are willing to give
14 up their time and energy and other things to come into
15 court should do so without having their faces
16 plastered on the media or anything else. You do not
17 need to be concerned about that in any way, shape, or
18 form.

19 Now, before we begin this trial, I need to tell
20 you that this trial will probably be different from
21 what you might expect. Many of you do not have the
22 opportunity to attend actual court sessions as you are
23 doing now. You may think from watching television or
24 movies or from reading books that criminal trials are
25 always full of high drama, intense action, and

1 riveting circumstances. While all of these things may
2 be true at times, this trial which you are potentially
3 going to be selected for is not for entertainment.

4 This is a fundamental part of our democracy. It
5 is a search for the truth in an effort to make sure
6 that justice is done between the parties before the
7 court. Searching for the truth and making sure that
8 justice is done is often slow, deliberate and
9 repetitive, the opposite of what you may have seen on
10 television or in movies or read in books. This
11 courtroom is a place of honor. It is dedicated to the
12 protection and the preservation of citizen's rights
13 through what many have called the greatest justice
14 system than has ever been created.

15 The attorneys that will appear before you this
16 week are advocates for the parties they represent, but
17 first and foremost, they are officers of this court.
18 They are sworn to uphold the integrity and the
19 fairness of our judicial system and to help you in the
20 search for the truth. You should expect the attorneys
21 to be professional, competent and ethical in the
22 representation of their client's interest. If you
23 actually get selected on this jury, you will take an
24 oath to try the case and reach a fair and just
25 verdict. You are also expected to be professional,

1 reasonable and ethical. Thank you for accepting this
2 important responsibility of jury service and for your
3 contribution today and this week to our justice
4 system.

5 Our founding fathers believed that jury service
6 is a key democratic check on our judicial system.
7 This is your control, the citizens' control, of our
8 judicial branch of government. This is your service
9 and participatory democracy, just like last week when
10 you may have voted. That is your opportunity to
11 participate in our democracy. I ask that you look at
12 jury service this week not as a burden, but as another
13 opportunity to participate in the democracy of this
14 great country that we live. We are now ready to
15 select the jury in this case. The State may call
16 their case.

17 MS. GARFIELD: May it please the Court.

18 THE COURT: Yes, ma'am.

19 MS. GARFIELD: At this time, the State calls
20 Lorenzo Young and Trenton Barnes. Lorenzo Young for
21 the charge of murder, indictment number 2014-GS-40-
22 745; kidnapping, 2014-GS-40-746; burglary second
23 degree violent, 2014-GS-40-747 and attempted armed
24 robbery 2014-GS-40-749. In relation to Trenton
25 Barnes, the charge of murder, indictment number

1 2014-GS-40-752; kidnapping, 2014-GS-40-754; burglary
2 second degree, 2014-GS-40-755, and attempted armed
3 robbery 2014-GS-40-756.

4 THE COURT: Thank you, Ms. Garfield.

5 Ladies and gentlemen, the State has called its
6 case. At this point in time, they have told you the
7 charges that these two defendants are charged with.

8 In my hand I hold the indictments that the
9 prosecutor just referenced. Now, these indictments
10 first and foremost are not proof of anything at all.
11 They are not evidence of anything at all. They are
12 merely the documents that allow this court to hear
13 these cases and nothing more.

14 They are simply the vehicle that gets this court
15 authority to hear these cases. The first indictment
16 against Mr. Barnes is for murder. That indictment
17 alleges, and again these are allegations only, that
18 Mr. Trenton Malik Barnes did in Richland County on or
19 about July 1st of 2013 kill the victim, Kelly
20 Hunnewell with malice aforethought either express or
21 implied by means of a gunshot and the victim did die
22 as a proximate result thereof.

23 The second indictment against Mr. Barnes is for
24 kidnapping. Again, each and every one of these
25 indictments are mere allegations by the State. This

1 indictment states that Mr. Barnes did in Richland
2 County on or about July 1st of 2013 unlawfully seize,
3 confine, inveigle, decoy, kidnap, abduct or carry away
4 one Kelly Hunnewell without authority of law in
5 violation of the South Carolina Code of Laws.

6 The third indictment against Mr. Barnes --- again
7 this indictment is an allegation, states that
8 Mr. Barnes did in Richland County on or about July 1,
9 2013, enter without consent and with the intent to
10 commit a crime therein a building of Carolina Cafe
11 located at 93 Tommy Circle and that the defendant
12 Trenton Malik Barnes did enter the building in the
13 nighttime and/or did cause physical injury to a person
14 who is not a participant and/or is armed with a deadly
15 weapon in a crime or uses or threatens the use of a
16 dangerous instrument and/or displays what is or
17 appears to be a pistol or other firearm in violation
18 of the South Carolina Code of Laws. That is an
19 indictment for burglary second degree violent. The
20 last indictment against Mr. Barnes is an allegation of
21 attempted armed robbery. This indictment states that
22 Mr. Barnes did along with codefendants in Richland
23 County on or about July 1st of 2013, while armed with
24 a deadly weapon attempt to take and carry away the
25 personal property from or in the immediate presence of

1 Kelly Hunnewell with the intent to deprive her of
2 possession by use of force, threats or intimidation
3 and/or while alleging either by actions or words
4 Trenton Malik Barnes was armed while using a
5 representative of a deadly weapon or any object which
6 a person present during the commission of a robbery
7 reasonably believed to be a deadly weapon in violation
8 of the South Carolina Code of Laws.

9 The first indictment against Mr. Young, that is
10 Lorenzo Bernard Young is for murder. This is an
11 allegation that Mr. Young did in Richland County on or
12 about July 1st of 2013, kill the victim Kelly
13 Hunnewell with malice aforethought either express or
14 implied by means of a gunshot and the victim did die
15 as a proximate result thereof in violation of the
16 South Carolina Code of Laws.

17 The second indictment against Mr. Young is an
18 allegation of kidnapping, which states that Mr. Young
19 did in Richland County on or about July 1, 2013,
20 unlawfully seize, confine, inveigle, decoy, kidnap,
21 abduct or carry away one Kelly Hunnewell without
22 authority of law in violation of the South Carolina
23 Code of Laws.

24 The third indictment against Mr. Young states
25 that Mr. Young did in Richland County on or about

1 July 1st of 2013, enter without consent and with the
2 intent to commit a crime therein a building of
3 Carolina Cafe located at 93 Tommy Circle and the
4 defendant Lorenzo Bernard Young did enter this
5 building in the nighttime and/or did cause physical
6 injury to any person who is not a participant and/or
7 is armed with a deadly weapon in the crime and/or uses
8 or threatens the use of a dangerous instrument and/or
9 displays what is or what appears to be a pistol or
10 other firearm in violation of the South Carolina Code
11 of Laws.

12 The last indictment against Mr. Young is an
13 allegation of attempted armed robbery.

14 It states that Mr. Young did along with
15 codefendants in Richland County on or about July 1,
16 2013, while armed with a deadly weapon attempt to take
17 and carry away the personal property from or in the
18 immediate presence of Kelly Hunnewell with the intent
19 to deprive her of possession by use of force, threats
20 or intimidation and/or while alleging, either by
21 actions or words, Mr. Young was armed while using a
22 representative of a deadly weapon or any object which
23 a person present during the commission of the robbery
24 reasonably believed to be a deadly weapon in violation
25 of the South Carolina Code of Laws as amended.

1 Now, as I have told you before and throughout the
2 reading of these indictments, these indictments which
3 I hold in my hand are not evidence. They are not
4 proof. They are not to be considered by you as proof
5 or evidence of anything. They are simply the
6 documents that allows this court to hear this case.
7 To these indictments both defendants have pled not
8 guilty and have requested a trial by jury.

9 All right. At this point I will ask each of our
10 potential jurors to stand. Stand where you are.
11 Ms. Pendergrass, if you will swear them in.

12 THE CLERK: Ladies and Gentlemen of the jury,
13 please stand and raise your right hand to be sworn.

14 (WHEREUPON, the jury panel was sworn.)

15 THE CLERK: If you responded by saying I do, you
16 may be seated.

17 (The jury panel was seated.)

18 THE COURT: Thank you very much, ladies and
19 gentlemen. Now, just as I told you this morning,
20 selecting a jury in a case is a key and critical time
21 in a case. It is also critical to the selection of
22 all parties involved to have the most accurate
23 information they can about potential jurors. As I go
24 through these questions if one applies to you or you
25 need to respond to me, you will just need to stand up

1 and give us your juror number so we can collect the
2 information from you.

3 Now, I'm going to give you an example to show you
4 what I mean by this. I don't know when it was, but I
5 was picking a jury in this courtroom on a case and a
6 gentleman was in the front row that was a lawyer.

7 In a few minutes I'm going to ask you do you know
8 any of these lawyers, right. I will have them all
9 stand up and look at you and introduce themselves to
10 you. They had all done that in this case.

11 The lawyer in the front row worked at a very
12 large firm, but he didn't stand up or respond to
13 knowing anybody. At the end of all the questions, the
14 lawyers trying the case own came up to me and said,
15 you know, that lawyer on the front row, Judge. I said
16 yeah. They all said we all went to law school with
17 him.

18 When I pulled him up and said do you know these
19 lawyers. He said, well, I went to law school with
20 them. Well, he should have answered the question.
21 There is nothing wrong with the fact that he went to
22 law school with them, but he should have made
23 everybody aware of that. Knowing somebody doesn't
24 necessarily mean you had dinner of them. You err on
25 the side of giving us too much information as opposed

1 to too little information. That's just an example. I
2 think that's a good one because I would think that was
3 somebody who I would consider to completely understand
4 my questions and still didn't respond, so when in
5 doubt, answer and we'll sort through the information
6 that you provide.

7 All right. Let's start with the State. You all
8 stand up and introduce who you are and who you work
9 with and all that kind of information.

10 MS. SIMPSON: I'm Nicole Simpson. I work for the
11 Fifth Circuit solicitor's office here and in Kershaw
12 County.

13 MS. GARFIELD: Good afternoon. I'm Dolly
14 Garfield. I work for the Fifth Circuit solicitor's
15 office.

16 MS. CAMPBELL: I'm Luck Campbell and I work for
17 the solicitor's office.

18 THE COURT: Number one, are you related by blood
19 or marriage, close personal friends with or connected
20 to one of these ladies in any way, shape or form?
21 That next question will extend to are you connected to
22 anyone that works at the Fifth Circuit solicitor's
23 office that covers Richland and Kershaw County in
24 anyway? If so, please stand.

25 Okay. All right. Let's start with the lady in

1 the back. What's your number, ma'am?

2 PROSPECTIVE JUROR: 251.

3 THE COURT: 251. Is that Ms. Southworth?

4 PROSPECTIVE JUROR: Yes, sir.

5 THE COURT: Okay. What's your connection, ma'am?

6 PROSPECTIVE JUROR: I work with a private
7 practice and our primary focus is victims of crime.
8 I've worked over the years with different people
9 through the solicitor's office.

10 THE COURT: Is that a --- were you the counselor
11 from this morning?

12 PROSPECTIVE JUROR: Yes.

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

15 PROSPECTIVE JUROR: No.

16 THE COURT: Are you willing to base your decision
17 solely off the evidence and the law as it comes in
18 this courtroom?

19 PROSPECTIVE JUROR: Yes.

20 THE COURT: Will you do that?

21 PROSPECTIVE JUROR: Yes.

22 THE COURT: Thank you, ma'am.

23 Yes, sir, in the striped tie. What's your
24 number?

25 PROSPECTIVE JUROR: 297.

1 THE COURT: Juror number 297. All right. Tell
2 me what your connection is, Mr. Wukela.

3 PROSPECTIVE JUROR: I've met Ms. Simpson. I
4 believe I've met Ms. Garfield. I live across the
5 street from one of the other solicitors, and I've had
6 a lot of contact with the solicitor's office.

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

9 PROSPECTIVE JUROR: I believe that the mayor's
10 office --- I worked on some things with the mayor's
11 office in this case specifically.

12 THE COURT: Is there any objection to me excusing
13 him from this trial?

14 MR. KRZYSTON: No, Your Honor.

15 THE COURT: Mr. Schnee?

16 MR. SCHNEE: No objection.

17 THE COURT: Ms. Campbell.

18 MS. CAMPBELL: None.

19 THE COURT: You're going to be excused from
20 service in this trial. You're not allowed to leave.
21 You could be selected in a civil case, but you will
22 not be selected in this trial.

23 Yes, sir, what's your number?

24 PROSPECTIVE JUROR: 164.

25 THE COURT: 164. Mr. Lacey?

1 PROSPECTIVE JUROR: Yes.

2 THE COURT: Okay. What's your connection?

3 PROSPECTIVE JUROR: I'll err on the side of
4 caution. I have to share. I saw a gentleman who
5 works in this building who I know socially, but he is
6 not in this room at this time.

7 THE COURT: What's his name?

8 PROSPECTIVE JUROR: Joe Shenkar.

9 THE COURT: Okay, and knowing Mr. Shenkar, would
10 that affect your ability to be fair and impartial in
11 this case?

12 PROSPECTIVE JUROR: No, sir.

13 THE COURT: Are you willing to base your decision
14 solely off the evidence and the law as it comes into
15 this trial?

16 PROSPECTIVE JUROR: Yes, sir.

17 THE COURT: Will you do that?

18 PROSPECTIVE JUROR: Yes, sir.

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

21 Mr. Krzyston, you can start next, introduce your
22 team and go ahead and introduce Mr. Young, too.

23 MR. KRZYSTON: Thank you, Your Honor. I'm
24 Stephen Krzyston. I'm 5th circuit or Richland County
25 public defender. This is Lorenzo Bernard Young.

1 MS. BAMBACH: Jacqueline Bambach. I'm an attorney
2 with the Richland County Public Defender.

3 MS. PINNOCK: Tracy Pinnock. I'm also an
4 attorney with the Richland County Public Defender's
5 office.

6 THE COURT: All right. Is anybody related by
7 blood, personal friends with, close relationship with,
8 any type of relationship with any one of these
9 individuals? These attorneys, have you ever been
10 represented by them or on the other side of the case
11 from them? Do you know Mr. Young, are you connected
12 with him in any way, shape or form or any connection
13 to any one of these lawyers, Mr. Young, or anyone at
14 the Fifth Circuit Public Defender's office, which
15 encompasses Richland and Kershaw Counties? If so,
16 please stand.

17 Okay. Yes, ma'am. You're my Alvin S. Glenn
18 Detention Center employee?

19 PROSPECTIVE JUROR: Yes, sir.

20 THE COURT: What's your number?

21 PROSPECTIVE JUROR: Ninety-one.

22 THE COURT: Out of an abundance of caution, I'm
23 going to excuse you from the criminal trial this week.
24 You will not be excused from civil trials this week.

25 PROSPECTIVE JUROR: Thank you. Anybody else?

1 (There was no response.)

2 THE COURT: All right. The next thing I'm going
3 to do, ladies and gentlemen, is I'm going to read a
4 list of potential witnesses. This is going to take a
5 couple of minutes.

6 MS. GARFIELD: Judge.

7 MR. SCHNEE: Should I introduce myself?

8 THE COURT: Oh, yeah.

9 MR. SCHNEE: I'll leave if you want.

10 THE COURT: We all make mistakes. Mr. Schnee,
11 yes, sir.

12 MR. SCHNEE: I'm sorry. My name is Mark Schnee.
13 I used to be a public defender back in 2006 to 2009,
14 but now, I have my own law firm. This is Trenton
15 Barnes.

16 THE COURT: Thank you very much. I apologize.
17 My mind was moving faster than my mouth was. Is
18 anybody related by blood or marriage, close personal
19 with or have any relationship with Mr. Schnee, his law
20 firm, ever been represented by him or been on the
21 other side of a case from him or have any connection
22 in any way, shape, or form to Mr. Barnes? If so,
23 please stand.

24 (There was no response.)

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

1 Thank you for reminding me of that, Mr. Schnee.

2 The next thing I'm going to do is read a list of
3 potential witnesses. Now, I require the attorneys to
4 tell me every potential witness that could be called.
5 This list is going to be probably more witnesses than
6 will be called. If you hear a name that you recognize
7 or you think you recognize, just make a mental note of
8 that, I will ask that you stand at the end.

9 If it is a common name and you think you may know
10 somebody named that, we can get more identifying
11 information and find out if it's somebody you know or
12 don't know.

13 Officer Jonathan Brayboy with the Columbia Police
14 Department, Officer Christopher Bolling with the
15 Columbia Police Department, Officer Kellie Bunton with
16 the Columbia Police Department, Sergeant Walter Rose
17 with the Columbia Police Department, Investigator
18 George Wise with the Columbia Police Department,
19 Investigator Johnny Gaston with the Columbia Police
20 Department, Rolanda Coleman, Theresa Baskin,
21 Investigator Nicholas Scott with the Columbia Police
22 Department, Marcus Brown, Investigator Andrew
23 Richbourg with the Columbia Police Department,
24 Investigator Shannon McKellar with the Columbia Police
25 Department, Sergeant Torrey Smalls with the Columbia

1 Police Department, Officer William Bracket with the
2 Columbia Police Department, Captain Earle Marsh with
3 the Columbia Police Department, Investigator Matthew
4 McCoy with the Columbia Police Department.

5 Thank you, Investigator McCoy.

6 Sergeant Kevin Reese with the Columbia Police
7 Department. Thank you, Sergeant Reese. Captain Alton
8 Eargle with the Columbia Police Department. Donald
9 Moore, Troy Stevenson, Phillip Bradley, Tony Spain,
10 Mary Ellen Swain with EMS, Jennifer Taylor with EMS,
11 Bryan Richardson. Is that the Columbia Fire
12 Department?

13 MS. SIMPSON: Yes, sir.

14 THE COURT: With the fire department. Adam
15 Lostettler with the fire department, David Burns with
16 the coroner's office, Investigator William Hilton,
17 Cathy Rawls with the coroner's office, Lieutenant J.P.
18 Smith with the Columbia Police Department,
19 Investigator Valerie Moorner with the Columbia Police
20 Department, John Dugger, Edwin Schlueter?

21 MS. GARFIELD: Schlueter.

22 THE COURT: Edwin Schlueter, Lauren Schleuter,
23 Assistant Chief Leslie Wiser, Dr. Amy Durso, Brian
24 Carroll with the police department, Amy Stephens with
25 SLED, Sergeant Kenneth Adams with the Columbia Police

1 Department, Investigator Paul Nelson with the police
2 department, Officer Reinold Adams with the police
3 department, Geraldine Steedley with the police
4 department, Coroner Gary Watts, Andrew Park Floyd,
5 Latoya Barnes, Mary Brown, Angela Moore, Mike Phipps
6 with the Lexington Sheriff's Department, Officer
7 Christopher Eunice with the Columbia Police
8 Department, Investigator Emmit Gilliam with the police
9 department, Miranda Eilverts, Carey Shealey,
10 Sergeant Douglas Shuler with the police department,
11 Sergeant Amanda Brown with the police department,
12 Donna Martin with the police department, Henry Ford
13 with the police department, Audra Linfert with the
14 sheriff's department, Michael Schaefer, Gerard Walls,
15 Jr., Sergeant Gerard Walls, Investigator Brian
16 VanHouten, Officer Daniel Labonte with the police
17 department, Investigator Lance Reeves with the police
18 department, Deputy Chief Melron Kelly with the police
19 department.

20 Anybody from T-Mobile phone service that is a
21 custodian of records, Alfred Dominique Wright, anyone
22 from AT&T which is a custodian of records, Jennifer A.
23 Dalmida who is a Verizon custodian of records,
24 Courtney Webster with SLED, Kimberly Mears with SLED,
25 Betty Butler with SLED, Ila Simmons with SLED, Officer

1 Chad Newman with the police department, Suzann Cromer
2 with SLED, Adam Siler, Jennifer Clayton with SLED,
3 Carlos Smith, Captain Washava Moya at the detention
4 center, Sergeant Robert Waters at the detention
5 center, Julian Lanier, Investigator Nole Dow with the
6 police department, Officer Kai Tull with the police
7 department, Courtney Smith, Tony Spain, Marveta Rowe,
8 Melton with Knight Services, George White with the
9 police department, Tammy Moore with the police
10 department, Amanda Beckham with the police department,
11 Shayne Phillips with the police department, Charles
12 Benton with the coroner's office, Investigator Larry
13 Gainey with the sheriff's department, Amy Stevens with
14 SLED, Doris Yarborough with SLED, Patricia Crooks with
15 SLED, Whitney Berry with SLED, Courtney Webster,
16 Christopher Watkins, Lynnette Grilo with AT&T, Dana
17 Washington with the detention center, Sergeant
18 Nathaniel Smith with the detention center, Officer
19 Booker-Thomas with the detention center, Shayne
20 Phillips, Columbia Police Department.

21 All right. Robert Erwin, Mary Howks, Timothy
22 Malone.

23 All right. That is a list of potential witnesses
24 in this case. If you are related by blood or
25 marriage, close personal friends with or have any type

1 of social personal or business relationship with any
2 of these people, please stand.

3 All right. Yes, ma'am, what is your number?

4 PROSPECTIVE JUROR: 251.

5 THE COURT: Ninety-nine?

6 PROSPECTIVE JUROR: I'm sorry, 251.

7 THE COURT: I'm sorry. You all went to the back.

8 That's okay. Who all you do you know, ma'am?

9 PROSPECTIVE JUROR: Timothy Malone.

10 THE COURT: Anybody else?

11 PROSPECTIVE JUROR: No.

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

14 PROSPECTIVE JUROR: No.

15 THE COURT: Are you willing to base your decision
16 solely off the evidence and the law?

17 PROSPECTIVE JUROR: Yes.

18 THE COURT: Will you do that?

19 PROSPECTIVE JUROR: Yes.

20 THE COURT: Yes, ma'am, right here.

21 PROSPECTIVE JUROR: I'm number 60.

22 THE COURT: Sixty.

23 PROSPECTIVE JUROR: Uh-huh.

24 THE COURT: All right. Ms. Claytor?

25 PROSPECTIVE JUROR: Yes.

1 THE COURT: Who do you know, ma'am?

2 PROSPECTIVE JUROR: Timothy Malone.

3 THE COURT: Okay. Anybody else?

4 PROSPECTIVE JUROR: I don't think so.

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

7 PROSPECTIVE JUROR: No.

8 THE COURT: Are you willing to base your decision
9 solely off the evidence and the law?

10 PROSPECTIVE JUROR: Yes.

11 THE COURT: Will do you that?

12 PROSPECTIVE JUROR: Yes.

13 THE COURT: Thank you, ma'am.

14 THE COURT: All right. Let's come across right
15 here in the black. What's your number, ma'am?

16 PROSPECTIVE JUROR: Forty?

17 THE COURT: Forty. All right. Ms. Brown.

18 PROSPECTIVE JUROR: Yes.

19 THE COURT: Who do you know, ma'am?

20 PROSPECTIVE JUROR: Timothy Malone, as well.

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

23 PROSPECTIVE JUROR: No.

24 THE COURT: Are you willing to base your decision
25 solely off the evidence and the law?

1 PROSPECTIVE JUROR: Yes.

2 THE COURT: Will you do that?

3 PROSPECTIVE JUROR: Yes.

4 THE COURT: Thank you, ma'am. All right. Come
5 across to the blue. What's your number?

6 PROSPECTIVE JUROR: 250.

7 THE COURT: Ms. Soule?

8 PROSPECTIVE JUROR: Yes.

9 THE COURT: Okay. Who do you know, ma'am?

10 PROSPECTIVE JUROR: Gary Watts. We just had a
11 brief working relationship at my job at Fort Jackson.

12 THE COURT: Would that affect your ability to be
13 fair and impartial?

14 PROSPECTIVE JUROR: No, sir.

15 THE COURT: Are you willing to base your
16 decision solely off the evidence and the law?

17 PROSPECTIVE JUROR: Yes.

18 THE COURT: Will you do that?

19 PROSPECTIVE JUROR: Yes.

20 THE COURT: Yes, sir, in the blue shirt, what's
21 your number?

22 PROSPECTIVE JUROR: 126.

23 THE COURT: Who do you know?

24 PROSPECTIVE JUROR: Mary Ellen Swain, Gary Watts,
25 and I'm familiar with several of the officer's names.

1 THE COURT: Would any of those relationships
2 affect your ability to be fair and impartial?

3 PROSPECTIVE JUROR: No, sir.

4 THE COURT: Are you willing to base your
5 decision solely off the evidence and the law?

6 PROSPECTIVE JUROR: Yes, sir.

7 THE COURT: And will you do that?

8 PROSPECTIVE JUROR: Yes, sir.

9 THE COURT: In the stripes, what's your number,
10 ma'am?

11 PROSPECTIVE JUROR: It's 99.

12 THE COURT: Who do you know?

13 PROSPECTIVE JUROR: I believe that I know Leslie
14 Wiser if it's the same individual that I'm thinking
15 of.

16 THE COURT: Okay.

17 PROSPECTIVE JUROR: A professor at USC.

18 THE COURT: Is that right?

19 MS. GARFIELD: He teaches.

20 THE COURT: Okay, yeah that's right.

21 PROSPECTIVE JUROR: We sat on a meeting together.
22 I've never formally been introduced.

23 THE COURT: Will that affect your ability to be
24 fair and impartial?

25 PROSPECTIVE JUROR: No.

1 THE COURT: Are you willing to base your
2 decision solely off the evidence and the law?

3 PROSPECTIVE JUROR: Yes.

4 THE COURT: Will you do that?

5 PROSPECTIVE JUROR: Yes.

6 THE COURT: In the pink, yes, ma'am, what's your
7 number?

8 PROSPECTIVE JUROR: Seventy-two.

9 THE COURT: Ms. Crump?

10 PROSPECTIVE JUROR: Yes.

11 THE COURT: All right. Who do you know, ma'am?

12 PROSPECTIVE JUROR: Mr. Gerard Walls and Mr.
13 Walls, Jr.

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

16 PROSPECTIVE JUROR: No.

17 THE COURT: Are you willing to base your decision
18 solely off the evidence and the law?

19 PROSPECTIVE JUROR: Yes.

20 THE COURT: Will you do that?

21 PROSPECTIVE JUROR: Yes.

22 THE COURT: Yes, ma'am.

23 PROSPECTIVE JUROR: I hesitated to stand.

24 THE COURT: What's your number?

25 PROSPECTIVE JUROR: 128.

1 THE COURT: Just one second. Let everybody find
2 you. Okay, Ms. Harris. What do you need to tell me,
3 ma'am?

4 PROSPECTIVE JUROR: I think you called
5 Investigator Wise or Wells.

6 THE COURT: Okay.

7 PROSPECTIVE JUROR: I don't know him, but if
8 that's the person, he investigated an accident I was
9 involved in.

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

12 PROSPECTIVE JUROR: No.

13 THE COURT: Are you willing to base your decision
14 solely off the evidence and the law?

15 PROSPECTIVE JUROR: Yes.

16 THE COURT: Will you do that?

17 PROSPECTIVE JUROR: Yes.

18 THE COURT: Thank you, ma'am. All right. Yes,
19 sir, what's your number?

20 PROSPECTIVE JUROR: 190.

21 THE COURT: Mr. Moody.

22 PROSPECTIVE JUROR: Uh-huh.

23 THE COURT: Who do you know, sir?

24 PROSPECTIVE JUROR: A lot of the officers,
25 especially Floyd and Smalls. I work for the City of

1 Columbia.

2 THE COURT: Would that affect your ability to be
3 fair and impartial?

4 PROSPECTIVE JUROR: Yes.

5 THE COURT: Are you willing to base your decision
6 solely off the evidence and the law?

7 PROSPECTIVE JUROR: Yes.

8 THE COURT: Will you do that?

9 PROSPECTIVE JUROR: Yes, sir.

10 THE COURT: Yes, ma'am, what's your number?

11 PROSPECTIVE JUROR: 259.

12 THE COURT: 259?

13 PROSPECTIVE JUROR: Uh-huh.

14 THE COURT: All right. Ms. Stokes.

15 PROSPECTIVE JUROR: Tammy Moore and also several
16 of the officers, and I used to work at the Columbia
17 Police Department.

18 THE COURT: Would that affect your ability to be
19 fair and impartial?

20 PROSPECTIVE JUROR: I don't think so.

21 THE COURT: Are you willing to base your decision
22 solely off the evidence and the law?

23 PROSPECTIVE JUROR: Yes.

24 THE COURT: Will you do that?

25 PROSPECTIVE JUROR: Yes.

1 THE COURT: Thank you very much. Anybody else?

2 (There was no response.)

3 THE COURT: All right. This is an incident that
4 allegedly occurred on or about July 1, 2013, at 93
5 Tommy Circle. Is that the correct address? Which is
6 owned by a company called Carolina Cafe. Is there any
7 member of the jury panel that has formed or expressed
8 an opinion about any issue or matter involved in this
9 case?

10 (There was no response.)

11 THE COURT: Is there any member of the jury panel
12 who is aware of any bias or prejudice towards either
13 the State or either defendant in this case?

14 (There was no response.)

15 THE COURT: There any member of the jury panel
16 who is a member of or contributor to any group which
17 has as its primary concern the promotion of law
18 enforcement or victim's rights. This could be MADD,
19 SADD, CAVE or defendants or prisoner's rights like the
20 Innocence Project?

21 PROSPECTIVE JUROR: May I ask a question?

22 THE COURT: Do you want me to ask it again?

23 PROSPECTIVE JUROR: No, I just to ask a question.

24 THE COURT: Stand up, ma'am.

25 PROSPECTIVE JUROR: I have an officer that died.

1 THE COURT: Okay. Just come see me when we form
2 a line at the end, okay.

3 Is anybody related by blood or marriage, close
4 personal friends with or have any connection to Kelly
5 Hunnewell?

6 THE COURT: Yes, sir, your number, sir?

7 PROSPECTIVE JUROR: Fifty-nine, and I know who
8 she is, who she was.

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

11 PROSPECTIVE JUROR: No.

12 THE COURT: Are you willing to base your
13 decision solely off the evidence and the law?

14 PROSPECTIVE JUROR: Yes.

15 THE COURT: Thank you very much.

16 Anybody else?

17 (There was no response.)

18 THE COURT: I'm now going to ask you some
19 additional questions. Sometimes these questions get
20 repetitive. If they do, I'm sorry. I'm just trying
21 to make sure that I answer all of them completely ---
22 or I ask all of them completely.

23 All right. Is there any member of the jury panel
24 or any member of your family that has ever been
25 employed by a local state or federal prosecutor's

1 office? This would be like the Fifth Circuit
2 solicitor's office, the Attorney General or the US
3 attorneys' office. What's your number, ma'am?

4 PROSPECTIVE JUROR: 181. I used to work for the
5 public defender's office.

6 THE COURT: Okay.

7 PROSPECTIVE JUROR: I don't know what year it
8 was. It was a while back.

9 THE COURT: All right. Hold on. Let everybody
10 find you. Number 181?

11 PROSPECTIVE JUROR: Yes, sir.

12 THE COURT: Ms. McLeod?

13 PROSPECTIVE JUROR: Yes, sir.

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

16 PROSPECTIVE JUROR: No, sir.

17 THE COURT: Are you willing to base your decision
18 solely off the evidence and the law?

19 PROSPECTIVE JUROR: Yes, sir.

20 THE COURT: Will you do that?

21 PROSPECTIVE JUROR: Yes, sir.

22 THE COURT: What's your number, sir?

23 PROSPECTIVE JUROR: Four.

24 THE COURT: Mr. Andrews.

25 PROSPECTIVE JUROR: Correct.

1 THE COURT: Tell me any connection you have?

2 PROSPECTIVE JUROR: My brother worked for the
3 solicitor's office under Donnie Myers about 12, 13
4 years ago.

5 THE COURT: Would that affect your ability --- is
6 that Demetri, Demetri?

7 PROSPECTIVE JUROR: No, Jones.

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

10 PROSPECTIVE JUROR: No.

11 THE COURT: Are you willing to base your decision
12 solely off the evidence and the law?

13 PROSPECTIVE JUROR: Yes.

14 THE COURT: Will you do that?

15 PROSPECTIVE JUROR: Yes.

16 THE COURT: Thank you very much.

17 All right. Yes, sir, what's your number?

18 PROSPECTIVE JUROR: 113.

19 THE COURT: 115?

20 PROSPECTIVE JUROR: 113, sir.

21 THE COURT: 113.

22 PROSPECTIVE JUROR: Yes, sir.

23 THE COURT: Mr. Gaylord.

24 PROSPECTIVE JUROR: Yes, sir.

25 THE COURT: What is your connection, sir?

1 PROSPECTIVE JUROR: I was at the US Attorneys'
2 office, sir. I'm erring on the side of caution.

3 THE COURT: Are you willing to be fair and
4 impartial?

5 PROSPECTIVE JUROR: Yes, sir.

6 THE COURT: Can you base your decision off the
7 evidence and the law?

8 THE COURT: Will you do that?

9 PROSPECTIVE JUROR: Yes, sir.

10 THE COURT: Thank you very much. Anybody else?

11 (There was no response.)

12 THE COURT: All right. Is there any member of the
13 jury panel who has a member or --- themselves or a
14 member of your family ever been employed by a local,
15 state, or federal law enforcement agency including but
16 not limited to the City of Columbia, Richland County
17 Sheriff's Department, SLED, FBI, any type of law
18 enforcement in your family.

19 All right. We'll start in the front and go back.
20 What's your number?

21 PROSPECTIVE JUROR: Sixty-nine, Jill Cox.

22 THE COURT: And who is you're family member or
23 where do they work?

24 PROSPECTIVE JUROR: I used to work at DNR as a
25 dispatcher in 2002 and 2004.

1 THE COURT: Would that affect your ability to be
2 fair and impartial?

3 PROSPECTIVE JUROR: No, sir.

4 THE COURT: Are you willing to base your decision
5 solely off the evidence and the law?

6 PROSPECTIVE JUROR: Yes, sir.

7 THE COURT: And are you willing to do that?

8 PROSPECTIVE JUROR: Yes, ma'am.

9 THE COURT: Yes, ma'am, in the stripes. What is
10 your number?

11 PROSPECTIVE JUROR: 256.

12 THE COURT: Ms. Stembridge, who are you connected
13 to?

14 PROSPECTIVE JUROR: My daughter used to work for
15 Probation Pardon and Parole under Steve Benjamin some
16 years back.

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

19 PROSPECTIVE JUROR: No.

20 THE COURT: Are you willing to base your decision
21 solely off the evidence and the law?

22 PROSPECTIVE JUROR: Yes.

23 THE COURT: And will you do that?

24 PROSPECTIVE JUROR: Yes.

25 THE COURT: All right. In the stripes.

1 PROSPECTIVE JUROR: 273.

2 THE COURT: 273.

3 THE COURT: Mr. Tillman, what's your connection?

4 PROSPECTIVE JUROR: My stepdad is a retired
5 policeman.

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

8 PROSPECTIVE JUROR: No, sir.

9 THE COURT: Are you willing to base your decision
10 solely off the evidence and the law?

11 PROSPECTIVE JUROR: Yes, sir.

12 THE COURT: Will you do that?

13 PROSPECTIVE JUROR: Yes, sir.

14 THE COURT: All right. Ms. Harris.

15 PROSPECTIVE JUROR: 128.

16 THE COURT: What is your connection, Ms. Harris?

17 PROSPECTIVE JUROR: My sister was the first
18 female police officer in Columbia.

19 THE COURT: Would that affect your ability to be
20 fair and impartial?

21 PROSPECTIVE JUROR: No.

22 THE COURT: Are you willing to base your decision
23 solely off the evidence and the law?

24 PROSPECTIVE JUROR: Yes, sir.

25 THE COURT: Will you do that?

1 PROSPECTIVE JUROR: Yes.

2 THE COURT: Yes, ma'am to the left. What is your
3 number?

4 PROSPECTIVE JUROR: 269, 269.

5 THE COURT: All right. Yes, ma'am.

6 PROSPECTIVE JUROR: My brother Darren used to be
7 an officer at the City of Columbia police department.

8 THE COURT: Would that affect your ability to be
9 fair and impartial?

10 PROSPECTIVE JUROR: No.

11 THE COURT: Are you willing to base your decision
12 solely off the evidence and the law?

13 PROSPECTIVE JUROR: Yes.

14 THE COURT: Will you do that?

15 PROSPECTIVE JUROR: Yes.

16 THE COURT: All right. Yes, ma'am right behind
17 her. What is your number?

18 PROSPECTIVE JUROR: Number 88.

19 THE COURT: Ms. Dreher?

20 PROSPECTIVE JUROR: Yes, sir.

21 THE COURT: What is your connection?

22 PROSPECTIVE JUROR: My husband is a city police
23 officer.

24 THE COURT: Would that affect your ability to be
25 fair and impartial?

1 PROSPECTIVE JUROR: No, sir.

2 THE COURT: Are you willing to base your decision
3 solely off the evidence and the law?

4 PROSPECTIVE JUROR: Yes, sir.

5 THE COURT: Will you do that?

6 PROSPECTIVE JUROR: Yes, sir.

7 THE COURT: All right. Yes, ma'am to the middle,
8 what is your number?

9 PROSPECTIVE JUROR: 181. My aunt is a retired
10 Newberry police officer.

11 THE COURT: Aunt?

12 PROSPECTIVE JUROR: Yes.

13 THE COURT: Would that affect your ability to be
14 fair and impartial?

15 PROSPECTIVE JUROR: No, sir.

16 THE COURT: Are you willing to base your decision
17 solely off the evidence and the law?

18 PROSPECTIVE JUROR: Yes, sir.

19 THE COURT: Will you do that?

20 PROSPECTIVE JUROR: Yes, ma'am.

21 THE COURT: Okay. Across to the ---

22 PROSPECTIVE JUROR: 293.

23 THE COURT: 293. Okay, Ms. Wood?

24 PROSPECTIVE JUROR: Yes, sir.

25 THE COURT: What is your connection?

1 PROSPECTIVE JUROR: I have a brother-in-law that
2 is former City of Columbia police officer and
3 currently D.P.S.

4 THE COURT: Would that affect your ability to be
5 fair and impartial?

6 PROSPECTIVE JUROR: No, sir.

7 THE COURT: Are your willing to base your
8 decisions solely off the evidence and the law?

9 PROSPECTIVE JUROR: Yes, sir.

10 THE COURT: Will you do that?

11 PROSPECTIVE JUROR: Yes, sir.

12 THE COURT: Okay. Yes, ma'am what is your
13 number?

14 PROSPECTIVE JUROR: 303, Ellison. I don't know
15 if it applies or not, but I have a family member who
16 is FBI in another state.

17 THE COURT: You have a what?

18 PROSPECTIVE JUROR: A family member that's FBI in
19 another state.

20 THE COURT: Would that affect your ability to be
21 fair and impartial?

22 PROSPECTIVE JUROR: No, sir.

23 THE COURT: Are your willing to base your
24 decision solely off the evidence and the law?

25 PROSPECTIVE JUROR: Yes.

1 THE COURT: Will you do that?

2 PROSPECTIVE JUROR: Yes.

3 THE COURT: To the middle yes, ma'am, what is
4 your number?

5 PROSPECTIVE JUROR: Number 154.

6 THE COURT: 154, okay. Am I just blind? Did you
7 find her?

8 Okay. All right. Ms. Jarvis, what is your
9 connection?

10 PROSPECTIVE JUROR: My husband was a state
11 trooper for ten years and my father has been employed
12 by the Highway Patrol for five years.

13 THE COURT: Would that affect your ability to be
14 fair and impartial?

15 PROSPECTIVE JUROR: No.

16 THE COURT: Are you willing to base your decision
17 solely off the evidence and the law?

18 PROSPECTIVE JUROR: Yes, sir.

19 THE COURT: Will you do that?

20 PROSPECTIVE JUROR: Yes, sir.

21 THE COURT: Okay. Yes, ma'am, give me your
22 number again.

23 PROSPECTIVE JUROR: 251.

24 THE COURT: 251.

25 THE COURT: Okay. Your connection to law

1 enforcement?

2 PROSPECTIVE JUROR: My husband used to work for
3 the Criminal Justice Academy with SLED and with the
4 town of Springdale.

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

7 PROSPECTIVE JUROR: No, no, sir.

8 THE COURT: Are you willing to base your
9 decision solely off the evidence and the law?

10 PROSPECTIVE JUROR: Yes.

11 THE COURT: Will you do that?

12 PROSPECTIVE JUROR: Yes.

13 THE COURT: Thank you.

14 PROSPECTIVE JUROR: Yes.

15 THE COURT: Yes, ma'am, what is your number?

16 PROSPECTIVE JUROR: 259.

17 THE COURT: Yes, ma'am, what do you need to tell
18 me?.

19 PROSPECTIVE JUROR: I used to work for the police
20 department.

21 THE COURT: Okay. And I have already asked you
22 questions about that, thank you, ma'am.

23 What is your number?

24 PROSPECTIVE JUROR: Ninety-two.

25 THE COURT: Okay, and Ms. Dunkin?

1 PROSPECTIVE JUROR: Yes.

2 THE COURT: What is your connection, ma'am?

3 PROSPECTIVE JUROR: My son-in-law was with the
4 Columbia and he is now with Richland County.

5 THE COURT: Does that affect your ability to be
6 fair and impartial?

7 PROSPECTIVE JUROR: No.

8 THE COURT: Are you willing to base your decision
9 solely off the evidence and the law?

10 PROSPECTIVE JUROR: Yes.

11 THE COURT: Will you do that?

12 PROSPECTIVE JUROR: Yes.

13 THE COURT: Thank you. All right. Anybody else?
14 Oh, yes, ma'am, what is your number?

15 PROSPECTIVE JUROR: Forty-one.

16 THE COURT: What is your connection, Ms. Brown?

17 PROSPECTIVE JUROR: I don't know if this matters,
18 but my brother and sister is at the Department of
19 Corrections.

20 THE COURT: Thank you very much. Yes, ma'am, on
21 the left, what is your number?

22 PROSPECTIVE JUROR: 114.

23 THE COURT: All right. What do you need to tell
24 me, ma'am?

25 PROSPECTIVE JUROR: I have a sister that is a

1 state police officer.

2 THE COURT: Would that affect your ability to be
3 fair and impartial?

4 PROSPECTIVE JUROR: No.

5 THE COURT: Are you've willing to base your
6 decision solely on the evidence and the law?

7 PROSPECTIVE JUROR: Yes.

8 THE COURT: Are your willing to do that?

9 PROSPECTIVE JUROR: Yes.

10 THE COURT: Yes, ma'am, right next her. What is
11 your number?

12 PROSPECTIVE JUROR: Thirty-three.

13 THE COURT: All right.

14 PROSPECTIVE JUROR: My nephew's ex-wife is part
15 of the Richland County sheriff's department.

16 THE COURT: Would that affect your ability to be
17 fair and impartial?

18 PROSPECTIVE JUROR: No.

19 THE COURT: Are you willing to base your decision
20 solely off the evidence and the law?

21 PROSPECTIVE JUROR: Yes.

22 THE COURT: Will you do that?

23 PROSPECTIVE JUROR: Yes.

24 THE COURT: Okay. Anybody else?

25 PROSPECTIVE JUROR: I forget about my --- I have

1 a nephew who is a police officer.

2 THE COURT: Okay. That's Ms. Harris?

3 PROSPECTIVE JUROR: Yes.

4 THE COURT: 128.

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

7 PROSPECTIVE JUROR: No.

8 THE COURT: All right. Thank you, ma'am.

9 Has any member of the jury panel ever testified
10 as a witness for the State or the defense in a
11 criminal case? If so, please stand.

12 All right. So juror number ---

13 PROSPECTIVE JUROR: 251.

14 THE COURT: 251. Did you testify for the State
15 or the defense?

16 PROSPECTIVE JUROR: For the State as their expert
17 witness.

18 THE COURT: Were you in your professional
19 capacity at that point?

20 PROSPECTIVE JUROR: Yes.

21 THE COURT: Would that affect your ability to be
22 fair and impartial?

23 PROSPECTIVE JUROR: No, sir.

24 THE COURT: Are you willing to base your decision
25 solely off the evidence and the law?

1 PROSPECTIVE JUROR: Yes, sir.

2 THE COURT: Will you do that?

3 PROSPECTIVE JUROR: Yes.

4 THE COURT: Anybody else?

5 (There was no response.)

6 THE COURT: Has any member of the jury panel
7 belonged to an organization or contributed to an
8 organization which has as its primary purpose gun
9 control?

10 (There was no response.)

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

12 Okay. The next questions that I'm going to ask
13 you are a little bit more of a personal nature. If
14 you need to answer these questions, I'm going to have
15 you form a line and let you answer them up front it
16 will still be on the record and the attorneys will be
17 able to hear, but this is something that we need to
18 collect in a semiprivate situation.

19 All right. So the question is: has any member
20 of the jury panel or a member of your immediate family
21 ever been a victim, witness, or accused of a crime of
22 violence. A crime of violence is a pretty broad term,
23 okay, so the list I'm going to give you is not
24 exclusive. Your version of a crime of violence may be
25 different than my version of crime of violence. If

1 you think it may apply, err on the side of telling us.
2 This would include but is not limited to homicide,
3 assault and battery, burglary, robbery, rape, any type
4 of crime involving a gun, anything of that nature, and
5 that would be you, or a family member ever being a
6 victim, a witness, or accused of a crime of that
7 nature. If you will form a line right down this aisle
8 right here.

9 THE BAILIFF: Quiet please. Quiet.

10 THE COURT: Okay. Anybody that needs to go to
11 the restroom, my two that I excused, you can go back
12 downstairs, Mr. Wukela and my detention center
13 employee. Anybody that needs to go to the restroom,
14 now would be the time to go do that while I take these
15 up. Come right back in here. You're almost at the
16 point of being dismissed for lunch.

17 Okay. I have to have quiet. I need people to be
18 able to whisper.

19 All right.

20 THE BAILIFF: Number 279.

21 THE COURT: Okay. Come on up. Okay, is this you
22 or a family member?

23 PROSPECTIVE JUROR: Actually me.

24 THE COURT: Were you the victim, witness or
25 accused?

1 PROSPECTIVE JUROR: I was a witness.

2 THE COURT: Okay. What kind of charge?

3 PROSPECTIVE JUROR: Criminal negligence.

4 THE COURT: Okay. So what was the outcome?

5 PROSPECTIVE JUROR: I was in a car accident. My
6 best friend was killed.

7 THE COURT: Okay.

8 PROSPECTIVE JUROR: A drunk driver.

9 THE COURT: I understand. What State was that
10 in?

11 PROSPECTIVE JUROR: New York.

12 THE COURT: You're 279?

13 PROSPECTIVE JUROR: Yes.

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

16 PROSPECTIVE JUROR: I don't know for sure. It
17 may.

18 THE COURT: Okay. All right. I'm going to
19 excuse you from service. Do not discuss your answer
20 with anybody. Okay.

21 PROSPECTIVE JUROR: Should I leave?

22 THE COURT: No, just sit in the back of the
23 courtroom.

24 This will go quicker when you just let me ask the
25 questions when you come up. I'll start asking the

1 questions to what we specifically need. Go ahead.

2 THE BAILIFF: 292.

3 THE COURT: All right. Is this you or a family
4 member?

5 PROSPECTIVE JUROR: My son.

6 THE COURT: Your son.

7 PROSPECTIVE JUROR: Uh-huh.

8 THE COURT: Was he the accused or the victim or a
9 witness?

10 PROSPECTIVE JUROR: He was accused.

11 THE COURT: He was accused.

12 PROSPECTIVE JUROR: Of burglary.

13 THE COURT: Was that case here in Richland
14 County?

15 PROSPECTIVE JUROR: That was in Florence County.

16 THE COURT: Okay. Was he prosecuted?

17 PROSPECTIVE JUROR: Yes.

18 THE COURT: Did he plead guilty, go to trial?

19 PROSPECTIVE JUROR: Uh-huh.

20 THE COURT: Which one?

21 PROSPECTIVE JUROR: He pled guilty.

22 THE COURT: Okay.

23 PROSPECTIVE JUROR: Paid a fine.

24 THE COURT: He paid a fine. Would that affect
25 your ability to be fair and impartial in this case?

1 PROSPECTIVE JUROR: No.

2 THE COURT: Are you willing to base your
3 decision on the evidence and the law?

4 PROSPECTIVE JUROR: I think so.

5 THE COURT: Okay. All right.

6 THE BAILIFF: Number 72.

7 MS. GARFIELD: Judge, where was it?

8 THE COURT: Florence.

9 Seventy-two?

10 PROSPECTIVE JUROR: Yes. Ms. Crump.

11 PROSPECTIVE JUROR: Yes.

12 THE COURT: Is this you or a family member?

13 PROSPECTIVE JUROR: My husband.

14 THE COURT: Was he the victim or the defendant?

15 PROSPECTIVE JUROR: A defendant.

16 THE COURT: Okay. What was he the defendant of?

17 PROSPECTIVE JUROR: Assault.

18 THE COURT: Do you know what happened in the
19 case.

20 PROSPECTIVE JUROR: No, I don't, it was before we
21 met.

22 THE COURT: Would that affect your ability to be
23 fair and impartial?

24 PROSPECTIVE JUROR: No.

25 THE COURT: Are you willing to base your decision

1 on the evidence and the law?

2 PROSPECTIVE JUROR: Yes.

3 THE COURT: Will you do that?

4 PROSPECTIVE JUROR: Yes.

5 THE BAILIFF: 169.

6 THE COURT: Hello.

7 PROSPECTIVE JUROR: Hi.

8 THE COURT: How are you? Hold on. Let me find
9 you. Okay, 169?

10 PROSPECTIVE JUROR: Uh-huh.

11 THE COURT: Why can't I find her? Has anybody
12 else found her?

13 MS. SIMPSON: I don't have it. Ms. Lindemann?

14 PROSPECTIVE JUROR: Uh-huh.

15 THE COURT: Where is she, Jackie?

16 THE CLERK: On the short list.

17 THE COURT: Why is she in here?

18 THE CLERK: That I can't answer. I counted 76.

19 THE COURT: Okay. All right. You're not on our
20 list so have a nice day. Just go to the back of the
21 room.

22 PROSPECTIVE JUROR: Okay.

23 THE BAILIFF: Sixty-nine.

24 THE COURT: Ms. Cox.

25 PROSPECTIVE JUROR: Hey.

1 THE COURT: Is this you or a family member?

2 PROSPECTIVE JUROR: My mother.

3 THE COURT: Is she the victim?

4 PROSPECTIVE JUROR: Victim.

5 THE COURT: What kind of case was it?

6 PROSPECTIVE JUROR: She was murdered, shot in the
7 head by her boyfriend.

8 THE COURT: When was that?

9 PROSPECTIVE JUROR: October 1st of 2012.

10 THE COURT: Where was that?

11 PROSPECTIVE JUROR: At her home in Columbia.

12 THE COURT: In Columbia.

13 PROSPECTIVE JUROR: She lived down the street
14 from where I lived.

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

17 PROSPECTIVE JUROR: No.

18 THE COURT: Are you willing to base your decision
19 solely off the evidence and the law?

20 PROSPECTIVE JUROR: Yes.

21 THE COURT: Are you willing to do that?

22 PROSPECTIVE JUROR: Yes, sir.

23 THE COURT: All right.

24 THE BAILIFF: 190. This way, ma'am.

25 THE COURT: Yes, sir, Mr. Moody. Are you --- is

1 it you or a family member?

2 PROSPECTIVE JUROR: Myself.

3 THE COURT: Okay. The victim or defendant?

4 PROSPECTIVE JUROR: Two guys tried to rob me when
5 I was delivering pizza years ago in an apartment
6 complex.

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

9 PROSPECTIVE JUROR: No.

10 THE COURT: Are you willing to base your decision
11 solely off the evidence and the law?

12 PROSPECTIVE JUROR: Yes.

13 THE COURT: And will you do that?

14 PROSPECTIVE JUROR: Yes, sir.

15 THE COURT: Thank you.

16 THE BAILIFF: 303.

17 THE COURT: Hey, Ms. Ellison, is this you or a
18 family member?

19 PROSPECTIVE JUROR: Me and a family member.

20 THE COURT: Victim or defendant?

21 PROSPECTIVE JUROR: The victim.

22 THE COURT: What kind of case?

23 PROSPECTIVE JUROR: Criminal domestic violence.

24 THE COURT: How long a was that?

25 PROSPECTIVE JUROR: Three years.

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

3 PROSPECTIVE JUROR: No, sir.

4 THE COURT: Are you willing to base your decision
5 on the evidence and the law?

6 PROSPECTIVE JUROR: Yes.

7 THE COURT: And your family member, were they the
8 victim or a defendant?

9 PROSPECTIVE JUROR: Victim.

10 THE COURT: Victim of what kind of case?

11 PROSPECTIVE JUROR: Assault with a gun.

12 THE COURT: How long ago was that?

13 PROSPECTIVE JUROR: Three years.

14 THE COURT: Okay. Is that the same incident?

15 PROSPECTIVE JUROR: Same.

16 THE COURT: Would that affect your ability to be
17 fair and impartial?

18 PROSPECTIVE JUROR: No.

19 THE COURT: Are you willing to base your decision
20 solely off the evidence and the law?.

21 PROSPECTIVE JUROR: Yes.

22 THE COURT: Okay. Thank you.

23 THE BAILIFF: 181.

24 THE COURT: Hey.

25 PROSPECTIVE JUROR: Hey.

1 THE COURT: Is this you or somebody else?

2 PROSPECTIVE JUROR: My son actually was --- it
3 was assault and battery charges.

4 THE COURT: Defendant or victim?

5 PROSPECTIVE JUROR: Victim of that.

6 THE COURT: Okay.

7 PROSPECTIVE JUROR: And then the victim, I was
8 hit by a drunk driver who did --- he did serve time
9 and also my aunt's was, as well.

10 THE COURT: Okay. That's a Newberry case.

11 PROSPECTIVE JUROR: Uh-huh.

12 THE COURT: Would that affect your ability to be
13 fair and impartial?

14 PROSPECTIVE JUROR: No, sir.

15 THE COURT: Are you willing to base your decision
16 solely off the evidence and the law?

17 PROSPECTIVE JUROR: Yes, sir.

18 THE COURT: Will you do that?

19 PROSPECTIVE JUROR: Yes, sir.

20 THE COURT: Thank you.

21 THE BAILIFF: 245.

22 THE COURT: Okay. Ms. Simmons, is this you or a
23 family member?

24 PROSPECTIVE JUROR: Family member.

25 THE COURT: What is the relation?

1 PROSPECTIVE JUROR: My father.

2 THE COURT: Was he the victim or the defendant?

3 PROSPECTIVE JUROR: Defendant.

4 THE COURT: In what kind of charge?

5 PROSPECTIVE JUROR: I think it was domestic
6 violence.

7 THE COURT: And would that --- are you the victim
8 of that?

9 PROSPECTIVE JUROR: No, I witnessed it.

10 THE COURT: You witnessed it?

11 PROSPECTIVE JUROR: Uh-huh.

12 THE COURT: How long ago was that?

13 PROSPECTIVE JUROR: Like two years ago.

14 THE COURT: Would that affect your ability to be
15 fair and impartial?

16 PROSPECTIVE JUROR: No.

17 THE COURT: Are you willing to base your decision
18 solely off the evidence and the law?

19 PROSPECTIVE JUROR: Yes.

20 THE COURT: And will you do that?

21 PROSPECTIVE JUROR: Yes.

22 THE COURT: Okay.

23 THE BAILIFF: 151.

24 THE COURT: Hey, Ms. Jackson.

25 PROSPECTIVE JUROR: Hello.

1 THE COURT: Is this you or a family member?

2 PROSPECTIVE JUROR: Family member.

3 THE COURT: What's the relation?

4 PROSPECTIVE JUROR: Cousin.

5 THE COURT: Were they the victim or the
6 defendant?

7 PROSPECTIVE JUROR: Defendant.

8 THE COURT: What kind of charge?

9 PROSPECTIVE JUROR: She was shot by my cousin.

10 THE COURT: And would this affect your ability to
11 be fair and impartial?

12 PROSPECTIVE JUROR: No.

13 THE COURT: Will you base your decision solely
14 off the evidence and the law?

15 PROSPECTIVE JUROR: Yes.

16 THE COURT: How long ago was it?

17 PROSPECTIVE JUROR: About five years ago.

18 THE COURT: Thank you.

19 PROSPECTIVE JUROR: Thank you.

20 THE BAILIFF: 103.

21 THE COURT: Ms. Foster.

22 PROSPECTIVE JUROR: Uh-huh.

23 THE COURT: How are you?

24 PROSPECTIVE JUROR: Fine.

25 THE COURT: Is this you or a family member?

1 PROSPECTIVE JUROR: Both.

2 THE COURT: Let's start with you. Were the
3 victim or the defendant?

4 PROSPECTIVE JUROR: Victim.

5 THE COURT: Just give me the nature of it.

6 PROSPECTIVE JUROR: Car stolen in my driveway,
7 four years ago. My son was eight years old, went to
8 our house and it had been burglarized, TV, Christmas
9 presents and mail stolen out of my mailbox four months
10 ago and they passed a check.

11 THE COURT: Okay. Family member.

12 PROSPECTIVE JUROR: Well, my son on for the
13 burglary.

14 THE COURT: Would this affect your ability to be
15 fair and impartial?

16 PROSPECTIVE JUROR: Maybe since nobody has ever
17 been caught for any of them.

18 THE COURT: All right. Have a seat in the back
19 of the room.

20 THE BAILIFF: 154.

21 THE COURT: I'm trying to find you. Hold on.
22 154?

23 PROSPECTIVE JUROR: Yes, sir.

24 Jarvis is the last name if that helps.

25 THE COURT: They're all completely out of order.

1 Ms. Jarvis. Was this you or a family?

2 PROSPECTIVE JUROR: My family member.

3 THE COURT: Okay. And were they the victim or
4 the defendant?

5 PROSPECTIVE JUROR: Defendant.

6 THE COURT: And a what kind of charge?

7 PROSPECTIVE JUROR: My 16 year old with a charge
8 of entering schools burglary two. We haven't been to
9 court yet.

10 THE COURT: What county is that in?

11 PROSPECTIVE JUROR: Richland.

12 THE COURT: Would that affect your ability to be
13 fair and impartial?

14 PROSPECTIVE JUROR: No.

15 THE COURT: And are you willing to base your
16 decision solely off the evidence and the law?

17 PROSPECTIVE JUROR: Yes.

18 THE COURT: And will you do that?

19 PROSPECTIVE JUROR: Thanks.

20 THE COURT: All right.

21 THE BAILIFF: Forty.

22 THE COURT: Hold on, let me find you. Ms. Brown,
23 is this you or a family member?

24 PROSPECTIVE JUROR: Family member.

25 THE COURT: Were they the victim or the

1 defendant?

2 PROSPECTIVE JUROR: Victim.

3 THE COURT: What's the relation?

4 PROSPECTIVE JUROR: My sister.

5 THE COURT: What kind of charge was it?

6 PROSPECTIVE JUROR: Rape.

7 THE COURT: How long ago was that?

8 PROSPECTIVE JUROR: Ten years ago.

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

11 PROSPECTIVE JUROR: No.

12 THE COURT: Are your willing to base your
13 decision on the evidence and the law?

14 PROSPECTIVE JUROR: Yes.

15 THE COURT: Okay.

16 PROSPECTIVE JUROR: Thank you.

17 THE BAILIFF: 113.

18 THE COURT: All right. Mr. Gaylord, is this you
19 or a family member?

20 PROSPECTIVE JUROR: Family member.

21 THE COURT: What's the relation?

22 PROSPECTIVE JUROR: It was my wife's brother's
23 son.

24 THE COURT: Nephew.

25 PROSPECTIVE JUROR: Nephew.

1 THE COURT: And victim or defendant?

2 PROSPECTIVE JUROR: He was a defendant.

3 THE COURT: What's the charge?

4 PROSPECTIVE JUROR: He was convicted of
5 carjacking, aggravated assault and robbery, 15 years
6 ago.

7 THE COURT: Okay. Would that affect your ability
8 to be fair and impartial?

9 PROSPECTIVE JUROR: No, sir.

10 THE COURT: Okay. Would you be willing to base
11 your decision solely off the evidence and the law?

12 PROSPECTIVE JUROR: Yes, sir.

13 THE COURT: Okay. Thank you.

14 THE BAILIFF: Fifty.

15 THE COURT: Ms. Carraway?

16 PROSPECTIVE JUROR: Yes.

17 THE COURT: How are you?

18 PROSPECTIVE JUROR: Good.

19 THE COURT: Is this you or a family member?

20 PROSPECTIVE JUROR: Family member.

21 THE COURT: Relation?

22 PROSPECTIVE JUROR: Well, I have two different
23 situations.

24 THE COURT: Let's do them one at a time.

25 PROSPECTIVE JUROR: First cousin served 20 plus

1 years for robbery and burglary and that was the
2 Lancaster County, and then I had another first cousin
3 who was killed in a bar fight. He was shot.

4 THE COURT: How long ago was that?

5 PROSPECTIVE JUROR: Oh that's probably been 20
6 years or so.

7 THE COURT: Would either one of those affect your
8 ability to be fair and impartial?

9 PROSPECTIVE JUROR: No.

10 THE COURT: Are you willing to base your decision
11 off the evidence and the law?

12 PROSPECTIVE JUROR: Yes.

13 THE COURT: Will you do that?

14 PROSPECTIVE JUROR: Yes.

15 THE COURT: Thank you, ma'am.

16 THE BAILIFF: 256.

17 THE COURT: Okay. Yes, ma'am is this you or a
18 family member?

19 PROSPECTIVE JUROR: Both.

20 THE COURT: Both. Okay. What's the relation to
21 the family member?

22 PROSPECTIVE JUROR: My dad.

23 THE COURT: Was he the victim or a defendant?

24 PROSPECTIVE JUROR: Victim.

25 THE COURT: What kind of case?

1 PROSPECTIVE JUROR: Actually it's been robberies
2 and he has some still.

3 THE COURT: Okay.

4 PROSPECTIVE JUROR: He has been robbed several
5 times.

6 THE COURT: What about you?

7 PROSPECTIVE JUROR: As far as me, our family got
8 into a dispute before. It wasn't anything to go to
9 trial. It was in New York.

10 THE COURT: Okay. Would any of that affect your
11 ability to be fair and impartial?

12 PROSPECTIVE JUROR: No.

13 THE COURT: Are you willing to base your
14 decision solely off the evidence and the law?

15 PROSPECTIVE JUROR: Yes.

16 THE COURT: Okay.

17 PROSPECTIVE JUROR: I have one other.

18 THE COURT: Okay.

19 PROSPECTIVE JUROR: My daughter is a prosecutor,
20 but in the State of New York.

21 THE COURT: Okay. Would that affect your ability
22 to be fair and impartial?

23 PROSPECTIVE JUROR: No.

24 THE COURT: Are you willing to base your decision
25 on the evidence and the law?

1 PROSPECTIVE JUROR: Yes.

2 THE COURT: Will you do that?

3 PROSPECTIVE JUROR: Yes.

4 THE COURT: Okay.

5 THE BAILIFF: 265.

6 THE COURT: All right. Ms. Sullins?

7 PROSPECTIVE JUROR: Yes.

8 THE COURT: Was this you or a family member?

9 PROSPECTIVE JUROR: Family member.

10 THE COURT: What's the relation?

11 PROSPECTIVE JUROR: Uncle.

12 THE COURT: Victim or defendant?

13 PROSPECTIVE JUROR: Victim.

14 THE COURT: What was the charge?

15 PROSPECTIVE JUROR: Murder.

16 THE COURT: Okay. And ---

17 PROSPECTIVE JUROR: A long time ago.

18 THE COURT: How long ago?

19 PROSPECTIVE JUROR: About 45 years ago.

20 THE COURT: Would that affect your ability to be
21 fair and impartial?

22 PROSPECTIVE JUROR: No, sir.

23 THE COURT: Will you base your decision solely
24 off the evidence and the law?

25 PROSPECTIVE JUROR: Yes, sir, yes, sir.

1 THE BAILIFF: 305.

2 THE COURT: Okay. Ms. White.

3 PROSPECTIVE JUROR: Hey.

4 THE COURT: Is this you or a family member?

5 PROSPECTIVE JUROR: Family member.

6 THE COURT: What's the relation?

7 PROSPECTIVE JUROR: My grandmother.

8 THE COURT: Was she the victim or defendant?

9 PROSPECTIVE JUROR: The defendant.

10 THE COURT: What was she accused of?

11 PROSPECTIVE JUROR: I don't remember what she got
12 charged for, but she shot my granddad.

13 THE COURT: Did he die?

14 PROSPECTIVE JUROR: No. She was put on
15 probation.

16 THE COURT: How long ago was that?

17 PROSPECTIVE JUROR: Like 2005.

18 THE COURT: Okay, and would that affect your
19 ability to be fair and impartial?

20 PROSPECTIVE JUROR: No.

21 THE COURT: Will you base your decision solely
22 off the evidence and the law?

23 PROSPECTIVE JUROR: Yes.

24 THE COURT: Okay. Thank you.

25 THE BAILIFF: 186.

1 THE COURT: Ms. Mims.

2 PROSPECTIVE JUROR: Right.

3 THE COURT: Okay. Is this you or a family
4 member?

5 PROSPECTIVE JUROR: It's me and my husband.

6 THE COURT: Okay.

7 PROSPECTIVE JUROR: We own a small business and
8 we've been burglarized many, many, many times in the
9 past ten, 15 years.

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

12 PROSPECTIVE JUROR: Possibly. We did go to
13 trial, but I've never had to testify.

14 THE COURT: Why don't you have a seat in the back
15 of the room.

16 Okay.

17 THE BAILIFF: 237.

18 THE COURT: All right. Yes, ma'am, is this you
19 or a family member?

20 PROSPECTIVE JUROR: My daughter.

21 THE COURT: Was she the defendant or victim?

22 PROSPECTIVE JUROR: Victim.

23 THE COURT: What kind of case?

24 PROSPECTIVE JUROR: Molestation.

25 THE COURT: How long ago was this?

1 PROSPECTIVE JUROR: 2010.

2 THE COURT: Would that affect your ability to be
3 fair and impartial?

4 PROSPECTIVE JUROR: No.

5 THE COURT: Are you willing to base your decision
6 solely off the evidence and the law?

7 PROSPECTIVE JUROR: I am.

8 THE COURT: Thank you.

9 THE BAILIFF: 188.

10 THE COURT: Ms. Mitchell?

11 PROSPECTIVE JUROR: Yes.

12 THE COURT: Is this you or a family member?

13 PROSPECTIVE JUROR: It's me.

14 THE COURT: Victim or defendant?

15 PROSPECTIVE JUROR: Victim.

16 THE COURT: And what kind of charge?

17 PROSPECTIVE JUROR: It was seven years ago.

18 THE COURT: Okay. What was the charge?

19 PROSPECTIVE JUROR: It was armed robbery.

20 THE COURT: Would that affect your ability to be
21 fair and impartial?

22 PROSPECTIVE JUROR: No.

23 THE COURT: Are you willing to base your decision
24 solely off the evidence and the law?

25 PROSPECTIVE JUROR: Yes.

1 THE COURT: Are you willing to do that?

2 PROSPECTIVE JUROR: Yes.

3 THE COURT: Thank you. All right.

4 THE BAILIFF: 164.

5 PROSPECTIVE JUROR: Hello.

6 THE COURT: Hold on one second.

7 (Pause.)

8 Okay. Yes, sir, Mr. Lacey. Is this you or a
9 family member?

10 PROSPECTIVE JUROR: My wife.

11 THE COURT: Was she the victim or defendant?

12 PROSPECTIVE JUROR: I'm sorry?

13 THE COURT: Was she victim or defendant?

14 PROSPECTIVE JUROR: Victim.

15 THE COURT: What kind of charge?

16 PROSPECTIVE JUROR: Assault.

17 THE COURT: How long ago was it?

18 PROSPECTIVE JUROR: It was prior to 2005, before
19 we met.

20 THE COURT: Would that affect your ability to be
21 fair and impartial?

22 PROSPECTIVE JUROR: I don't think so.

23 THE COURT: Are you willing to base your decision
24 solely off the evidence and the law?

25 PROSPECTIVE JUROR: Yes.

1 THE COURT: Will do you that?

2 PROSPECTIVE JUROR: Yes.

3 THE COURT: Okay.

4 THE BAILIFF: Sixty.

5 THE COURT: Yes, ma'am. Is this you or a family
6 member.

7 PROSPECTIVE JUROR: Both.

8 THE COURT: Victim or defendant?

9 PROSPECTIVE JUROR: Victim.

10 THE COURT: Both victims?

11 PROSPECTIVE JUROR: Uh-huh.

12 THE COURT: Okay. What was the charge?

13 PROSPECTIVE JUROR: Burglary.

14 THE COURT: Okay.

15 PROSPECTIVE JUROR: It hadn't been tried yet.

16 THE COURT: It's pending?

17 PROSPECTIVE JUROR: Yeah.

18 THE COURT: In what county?

19 PROSPECTIVE JUROR: It was in Georgia.

20 THE COURT: Oh, Georgia, okay. Would that affect
21 your ability to be fair and impartial?

22 PROSPECTIVE JUROR: No.

23 THE COURT: Are you willing to base your decision
24 solely off the evidence and the law in this courtroom?

25 PROSPECTIVE JUROR: Yes.

1 THE COURT: Will do you that?

2 PROSPECTIVE JUROR: Yes.

3 THE COURT: Okay. Thank you.

4 THE BAILIFF: 273.

5 THE COURT: Mr. Tillman?

6 PROSPECTIVE JUROR: Yes.

7 THE COURT: Is this you or a family member?

8 PROSPECTIVE JUROR: Family member.

9 THE COURT: Victim or defendant?

10 PROSPECTIVE JUROR: Defendant.

11 THE COURT: What was the charge?

12 PROSPECTIVE JUROR: He was with some guys and
13 they shot up a house and did prison.

14 THE COURT: And what was relation to you?

15 PROSPECTIVE JUROR: My brother.

16 THE COURT: How long ago was that?

17 PROSPECTIVE JUROR: 2006, 2007 something like
18 that.

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

21 PROSPECTIVE JUROR: No.

22 THE COURT: Are you willing to base your decision
23 solely off the evidence and the law?

24 PROSPECTIVE JUROR: Yes.

25 THE COURT: Will you do that?

1 PROSPECTIVE JUROR: Yes.

2 THE COURT: Thank you.

3 THE BAILIFF: 272.

4 THE COURT: Is this you or a family member?

5 PROSPECTIVE JUROR: My daughter and I.

6 THE COURT: Are you victims or defendants?

7 PROSPECTIVE JUROR: Victims.

8 THE COURT: What kind of case?

9 PROSPECTIVE JUROR: It was a residential break-in
10 in our home.

11 THE COURT: And how long ago was it?

12 PROSPECTIVE JUROR: About 20 years ago.

13 THE COURT: Would this affect your ability to be
14 fair and impartial?

15 PROSPECTIVE JUROR: No.

16 THE COURT: Are you willing to base your decision
17 off the evidence and the law?

18 PROSPECTIVE JUROR: Yes.

19 THE COURT: Yes, sir.

20 PROSPECTIVE JUROR: 101.

21 THE COURT: All right. Is this you or a family
22 member?

23 PROSPECTIVE JUROR: My parents.

24 THE COURT: Okay. Were they the victims or
25 defendants?

1 PROSPECTIVE JUROR: I'm sorry?

2 THE COURT: Victims or defendants?

3 PROSPECTIVE JUROR: Victims.

4 THE COURT: What kind of charge?

5 PROSPECTIVE JUROR: They were robbed.

6 THE COURT: Okay. How long ago was that?

7 PROSPECTIVE JUROR: Seven or eight years ago.

8 THE COURT: Okay. Would that affect your ability
9 to be fair and impartial?

10 PROSPECTIVE JUROR: No.

11 THE COURT: Are you willing to base your decision
12 solely off the evidence and the law?

13 PROSPECTIVE JUROR: Yes.

14 THE COURT: Thank you.

15 THE BAILIFF: Thirty-three.

16 THE COURT: My list is out of order. That's why
17 I have to find you.

18 PROSPECTIVE JUROR: Okay.

19 THE COURT: Is this you or a family member?

20 PROSPECTIVE JUROR: Family member.

21 THE COURT: What's the relation?

22 PROSPECTIVE JUROR: Nephew.

23 THE COURT: Victim or defendant?

24 PROSPECTIVE JUROR: Defendant.

25 THE COURT: Okay. What was the charge?

1 PROSPECTIVE JUROR: I think it was a stolen
2 weapon.

3 THE COURT: Okay.

4 PROSPECTIVE JUROR: I'm not quite sure.

5 THE COURT: How long ago was it?

6 PROSPECTIVE JUROR: 2007.

7 THE COURT: Okay.

8 PROSPECTIVE JUROR: Almost ten years ago.

9 THE COURT: Would that affect your ability to be
10 fair and impartial?

11 PROSPECTIVE JUROR: No.

12 THE COURT: Would you base your decision solely
13 on the evidence and the law?

14 PROSPECTIVE JUROR: Yes.

15 THE COURT: Are you willing to do that?

16 PROSPECTIVE JUROR: Yes.

17 THE COURT: Thank you.

18 THE BAILIFF: 214.

19 THE COURT: Okay, is this you or a family member?

20 PROSPECTIVE JUROR: Neither. I wanted to get
21 clarification on the gun control question. What was
22 the question again?

23 THE COURT: Are you a member of any group or
24 contribute to any group that supports gun control?

25 PROSPECTIVE JUROR: Okay. It's the opposite.

1 THE COURT: Okay. Just tell me what it is.

2 PROSPECTIVE JUROR: I have eight clients that are
3 all gun manufacturers and have pages on Facebook.

4 THE COURT: Okay. Great. Thank you.

5 THE BAILIFF: Thirty-two.

6 THE COURT: Thirty-two.

7 PROSPECTIVE JUROR: Thirty-two.

8 THE COURT: Oh, there you are. Is this you or a
9 family member?

10 PROSPECTIVE JUROR: Family member.

11 THE COURT: Okay. Victim or defendant?

12 PROSPECTIVE JUROR: They all dead now.

13 THE COURT: Okay. What was the charge?

14 PROSPECTIVE JUROR: Weapons.

15 THE COURT: Okay.

16 PROSPECTIVE JUROR: And, I think, if I'm not
17 mistaken, probably Lorenzo, what is his name, the guy
18 right here?

19 THE COURT: Do you know Lorenzo?

20 PROSPECTIVE JUROR: The guy back there. I'm not
21 sure.

22 THE COURT: We're going to excuse your.

23 PROSPECTIVE JUROR: I'm not sure.

24 THE COURT: That's fine. We're going to excuse
25 you from this case. Just sit in the back.

1 PROSPECTIVE JUROR: Okay.

2 THE CLERK: Thirty-two?

3 THE COURT: Yes, she is out.

4 THE BAILIFF: 249.

5 THE COURT: Yes, ma'am. Is this you or a family
6 member?

7 PROSPECTIVE JUROR: Family member.

8 THE COURT: What's the relation?

9 PROSPECTIVE JUROR: My auntie and uncle.

10 THE COURT: Were they the victim or defendant?

11 PROSPECTIVE JUROR: Both.

12 THE COURT: Okay. What were the charges?

13 PROSPECTIVE JUROR: Murder.

14 THE COURT: And how long ago was it?

15 PROSPECTIVE JUROR: In the 90s.

16 THE COURT: Okay. Would that affect your ability
17 to be fair and impartial in this case?

18 PROSPECTIVE JUROR: No, sir.

19 THE COURT: Are you willing to base your decision
20 on the evidence and the law?

21 PROSPECTIVE JUROR: Sir?

22 THE COURT: Are you willing to base your decision
23 on evidence and the law?

24 PROSPECTIVE JUROR: Yes.

25 THE COURT: Okay. Thank you very much.

1 I promise we're almost done with asking
2 questions.

3 Okay. The last question I'm going to ask you,
4 and you'll need answer in an individual capacity is
5 this: Does anybody have any personal knowledge about
6 this case? Are you aware of anything about this case,
7 have you expressed an opinion about this case? Have
8 you formed an opinion about this case? Are you aware
9 of any bias or prejudice or anything that would cause
10 you not to be fair and impartial to both sides?

11 I'm going to tell you with all the lawyers in
12 this room and all the parties in this room want is
13 they want 12 people to come into this courtroom who
14 can hear the evidence, who can hear the law and sit
15 there fairly and impartially without anybody to reward
16 or anybody to punish, hear the evidence and make a
17 decision about this case. This case, I'm not hiding
18 anything from you. This case has been in the news
19 media. There have been things on the internet, things
20 on different websites about this case. Anybody
21 involved in anything like that? Have you formed an
22 opinion, expressed an opinion, shared an opinion about
23 this case? Do you have any bias or prejudice against
24 anybody involved in the case? It doesn't matter which
25 side or anything else. We want people for this jury

1 that don't know the --- that know little to nothing
2 about this case. They can come in here, sit, hear the
3 evidence, hear the law and make a decision about it.

4 Is there anybody who believes they cannot do that
5 or they have done anything that I just mentioned in
6 any way, shape, or form, now, is your opportunity to
7 tell me. If I find out later, then you will subject
8 yourself to contempt of court, which means that's just
9 a fancy way of saying jail. Anybody else that needs
10 to tell me anything else about any relationship you
11 have with anybody involved in this case, now, is your
12 opportunity to do so.

13 (There was no response.)

14 THE COURT: Okay. Jurors stay here. Let me see
15 the lawyers in the back hall.

16 PROSPECTIVE JUROR: May I see you, Judge?

17 THE COURT: Come on up.

18 THE DEPUTY: Right here.

19 THE COURT: What is your number?

20 PROSPECTIVE JUROR: Sixty.

21 THE COURT: Yes, ma'am, what do you want to tell
22 me?

23 PROSPECTIVE JUROR: I want to err on the side of
24 caution. My husband is a psychiatrist and he works
25 with Timothy Malone.

1 THE COURT: Okay. Who is Timothy Malone?

2 PROSPECTIVE JUROR: He's a psychiatrist.

3 THE COURT: Scoot up a little bit closer. Say
4 that again. You're husband is --- he works with him?

5 PROSPECTIVE JUROR: Yes.

6 THE COURT: Are they like in the same practice?

7 PROSPECTIVE JUROR: They were.

8 THE COURT: They were. Are they anymore?

9 PROSPECTIVE JUROR: I don't know how the practice
10 works. I don't think so.

11 THE COURT: Okay.

12 PROSPECTIVE JUROR: He sees children --- my
13 husband is a psychiatrist for mental health.

14 THE COURT: Okay. Do you know anything about
15 this case?

16 PROSPECTIVE JUROR: Just whatever was out there.

17 THE COURT: Do you have any personal knowledge
18 about it?

19 PROSPECTIVE JUROR: No.

20 THE COURT: Have you formed any opinion about it?

21 PROSPECTIVE JUROR: No.

22 THE COURT: Have you expressed any opinion about
23 it?

24 PROSPECTIVE JUROR: Just to my husband.

25 THE COURT: Okay. What was that?

1 PROSPECTIVE JUROR: That I felt sorry for her as
2 a mom.

3 THE COURT: Okay. I'm going to excuse you from
4 the trial of this case.

5 PROSPECTIVE JUROR: Do I need leave?

6 THE COURT: Just sit in the back row.

7 All right. Attorneys in the back. Jurors stay
8 in here. Sheila, come with me.

9 (WHEREUPON, a short break was taken.)

10 THE COURT: Okay. All right. I promise we're
11 almost done.

12 MS. SIMPSON: Your Honor, may we approach?

13 THE COURT: Yes.

14 (WHEREUPON, a bench conference was held in the
15 presence, but not within the hearing of the
16 jury.)

17 THE COURT: All right. Are all the jurors back?
18 Okay, none of them left. Good. An additional witness
19 was just mentioned to me that inadvertently got left
20 off the list. That's Joe West with the State Law
21 Enforcement Division. Does anybody know him, have any
22 connection to him, related to him or anything else
23 like that?

24 (There was no response.)

25 THE COURT: Okay. There is no response for the

1 record. Okay. So Jackie, let's make sure we're
2 right, 60 is going, 297 is gone.

3 (WHEREUPON, there was an off-the-record
4 discussion.)

5 THE COURT: Okay. Here is the way it's going to
6 work at this point in time. When your name and number
7 are called, if you could, grab your personal
8 belongings and come down front. You'll stand right
9 here in the middle. You will face out towards the
10 seating area. The only thing you need to state is
11 your occupation, okay. All right. Then the State
12 will be asked if they want to keep you or strike you,
13 and then each defense table will be asked if they want
14 to keep you or strike you. If you get struck, do not
15 be offended. The lawyers have so many what we call
16 pre-emptory strikes that they are allowed to exercise,
17 so do not take any offense at that. If all three
18 groups say seat you, then you'll come here to where
19 Mr. Dye is and have a seat in the jury box. Is
20 everybody ready?

21 THE COURT: Ms. Garfield?

22 MS. GARFIELD: The State is ready, Your Honor.

23 THE COURT: Mr. Krzyston?

24 MR. KRZYSTON: Yes, sir.

25 THE COURT: Mr. Schnee?

1 MR. SCHNEE: Yes, Your Honor.

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

3 THE CLERK: Juror number 101.

4 (Katherine Herbst, white female.)

5 THE COURT: Right there at the microphone. Just
6 tell us what you do for a living.

7 PROSPECTIVE JUROR: I'm a stay-at-home mom for a
8 living.

9 THE CLERK: What says the State?

10 MS. GARFIELD: Please present the juror.

11 THE CLERK: What says the Defendant Barnes?

12 MR. SCHNEE: Please excuse the juror.

13 THE COURT: All right. Have a seat in the back
14 of the room.

15 THE CLERK: Juror number 99.

16 (Brooke Everhart, white female.)

17 THE COURT: If anybody says excused, then you can
18 just go to the back of the room.

19 PROSPECTIVE JUROR: Graduate student.

20 THE CLERK: What says the State?

21 MS. GARFIELD: Please present the juror.

22 THE CLERK: What says Defendant Young?

23 MR. KRZYSTON: Please seat the juror, Your Honor.

24 THE CLERK: What says Defendant Barnes?

25 MR. SCHNEE: Please seat the juror.

1 THE CLERK: Please have a seat in the jury box.

2 THE BAILIFF: Have a seat.

3 THE CLERK: Juror number 126.

4 (Benjamin Haigh, white male.)

5 PROSPECTIVE JUROR: Paramedic.

6 THE CLERK: What says the State?

7 MS. GARFIELD: Please present the juror.

8 THE CLERK: What says Defendant Barnes?

9 MR. SCHNEE: Please excuse the juror.

10 THE CLERK: Please return to the back of the
11 courtroom, sir.

12 Juror number 256.

13 (Brenda Stembridge, black female.)

14 PROSPECTIVE JUROR: Q.A. analyst for Blue Cross
15 Blue Shield.

16 THE CLERK: What says the State?

17 MS. GARFIELD: Please present the juror.

18 THE CLERK: What says Defendant Young?

19 MR. KRZYSTON: Please excuse the juror.

20 THE CLERK: Please return to the back of the
21 courtroom.

22 Juror number 193.

23 (Todd Moshier, white male.)

24 PROSPECTIVE JUROR: Director of operations.

25 THE CLERK: What says the State?

1 MS. GARFIELD: Please present the juror.

2 THE CLERK: What says Defendant Barnes?

3 MR. SCHNEE: Please present the juror.

4 THE CLERK: What says Defendant Young?

5 MR. KRZYSTON: Please excuse the juror.

6 THE CLERK: Please return to the back of the
7 courtroom.

8 Juror number 214.

9 (Robert Redfern, white male.)

10 PROSPECTIVE JUROR: Director for product
11 development.

12 THE CLERK: What says the State?

13 MS. GARFIELD: Please present juror.

14 THE CLERK: What says Defendant Young?

15 MR. KRZYSTON: Please present the juror.

16 THE CLERK: What says Defendant Barnes?

17 MR. SCHNEE: Please seat the juror.

18 THE CLERK: Please have a seat in the jury box.

19 Juror number 171.

20 (Blake Love, Hispanic male.)

21 PROSPECTIVE JUROR: I'm a photographer.

22 THE CLERK: What says the State?

23 MS. GARFIELD: Please present juror.

24 THE CLERK: What says Defendant Barnes?

25 MR. SCHNEE: Please seat the juror.

1 THE CLERK: What says Defendant Young?
2 MR. KRZYSTON: Please present the juror.
3 THE CLERK: Please have a seat in the jury box.
4 Juror number 151.
5 (Destiny Jackson, black female.)
6 PROSPECTIVE JUROR: Assistant teacher.
7 THE CLERK: What says the State?
8 MS. GARFIELD: Please present the juror.
9 THE CLERK: What says Defendant Young?
10 MR. KRZYSTON: Please excuse the juror.
11 THE CLERK: Please return to the back of the
12 courtroom.
13 Juror number 275.
14 (James Tonelis, white male.)
15 PROSPECTIVE JUROR: I am a restaurant owner.
16 THE CLERK: What says the State?
17 MS. GARFIELD: Please present the juror.
18 THE CLERK: What says Defendant Barnes?
19 MR. SCHNEE: Please excuse the juror.
20 THE CLERK: Please return to the back of the
21 courtroom.
22 Juror 164.
23 (Michael Lacey, white male.)
24 PROSPECTIVE JUROR: I'm a physical therapist.
25 THE CLERK: What says the State?

1 MS. GARFIELD: Please present the juror.

2 THE CLERK: What says Defendant Young?

3 MR. KRZYSTON: Please excuse the juror.

4 THE CLERK: Please return to the back of the
5 courtroom.

6 Juror number 33.

7 (Barbara Boyd-Porter, black female.)

8 PROSPECTIVE JUROR: An educator.

9 THE CLERK: What says the State?

10 MS. GARFIELD: Please present the juror.

11 THE CLERK: What says Defendant Barnes?

12 MR. SCHNEE: Please seat the juror.

13 THE CLERK: What says Defendant Young?

14 MR. KRZYSTON: Please seat the juror.

15 THE CLERK: Have a seat in the jury box.

16 THE BAILIFF: Watch your step, ma'am.

17 THE CLERK: Juror number 218.

18 (Carolette Robertson, black female)

19 PROSPECTIVE JUROR: Accounting.

20 THE CLERK: What says the State?

21 MS. GARFIELD: Please excuse the juror.

22 THE CLERK: Please return to the back of the
23 courtroom.

24 Juror number 283.

25 (Catherine Washington, black female.)

1 PROSPECTIVE JUROR: Claims processor.
2 THE CLERK: What says the State?
3 MS. GARFIELD: Please present the juror.
4 THE CLERK: What says Defendant Young?
5 MR. KRZYSTON: Please seat the juror.
6 THE CLERK: What says Defendant Barnes?
7 MR. SCHNEE: Please present juror.
8 THE CLERK: Please have a seat in the jury box.
9 Juror number 245.
10 (Nicole Simmons, black female.)
11 PROSPECTIVE JUROR: Registered nurse.
12 THE CLERK: What says the State?
13 MS. GARFIELD: Please present the juror.
14 THE CLERK: What says Defendant Barnes?
15 MR. SCHNEE: Please seat the juror.
16 THE CLERK: What says Defendant Young?
17 MR. KRZYSTON: Please excuse the juror.
18 THE CLERK: Please return to the back of the
19 courtroom.
20 Juror number 301.
21 (Denise Caulder, white female.)
22 PROSPECTIVE JUROR: Registered nurse, clinical
23 consultant.
24 THE CLERK: What says the State?
25 MS. GARFIELD: Please present the juror.

1 THE CLERK: What says Defendant Young?

2 MR. KRZYSTON: Please excuse.

3 THE CLERK: Please return to the back of the
4 courtroom.

5 Juror number 74.

6 (Fredia Cunningham, black female.)

7 PROSPECTIVE JUROR: I'm a supervisor.

8 THE CLERK: What says the State?

9 MS. GARFIELD: Please present the juror.

10 THE CLERK: What says Defendant Barnes?

11 MR. SCHNEE: Please seat the juror.

12 THE CLERK: What says Defendant Young?

13 MR. KRZYSTON: Please seat the juror.

14 THE CLERK: Please have a seat in the jury box.

15 Juror number 69.

16 (Jill Cox, white female.)

17 PROSPECTIVE JUROR: Nurse anesthetist.

18 THE CLERK: What says the State?

19 MS. GARFIELD: Please present the juror.

20 THE CLERK: What says Defendant Young?

21 MR. KRZYSTON: Please excuse the juror.

22 THE CLERK: Please return to the back of the
23 courtroom.

24 Juror number 250.

25 (Karen Soule, white female.)

1 PROSPECTIVE JUROR: I am retired.

2 THE CLERK: What says the State?

3 MS. GARFIELD: Please present the juror.

4 THE CLERK: What says Defendant Barnes?

5 MR. SCHNEE: Please seat the juror.

6 THE CLERK: What says Defendant Young?

7 MR. KRZYSTON: Please seat the juror.

8 THE CLERK: Please have a seat in the jury box.

9 Juror number 249.

10 (Samorray Smith, black female).

11 PROSPECTIVE JUROR: I work at a convenience
12 store.

13 THE CLERK: What says the State?

14 MS. GARFIELD: Please excuse the juror.

15 THE CLERK: Please return to the back of the
16 courtroom.

17 Juror number 41.

18 (Felicia Brown, black female.)

19 PROSPECTIVE JUROR: Retired AT&T.

20 THE CLERK: What says the State?

21 MS. GARFIELD: Please present the juror.

22 THE CLERK: What says Defendant Young?

23 MR. KRZYSTON: Please seat the juror.

24 THE CLERK: What says Defendant Barnes?

25 MR. SCHNEE: Please present the juror.

1 THE CLERK: Please have a seat in the jury box.
2 Juror number 4.

3 (Lee Andrews, white male.)

4 PROSPECTIVE JUROR: Retired commercial
5 contractor.

6 THE CLERK: What says the State?

7 MS. GARFIELD: Please present the juror.

8 THE CLERK: What says Defendant Barnes?

9 MR. SCHNEE: Please excuse the juror.

10 THE CLERK: Please return to the back of the
11 courtroom.

12 Juror number 190.

13 (John Moody, white male.)

14 PROSPECTIVE JUROR: I'm employed at the City of
15 Columbia.

16 THE CLERK: What says the State?

17 MS. GARFIELD: Please present the juror.

18 THE CLERK: What says Defendant Young?

19 MR. KRZYSTON: Please excuse the juror.

20 THE CLERK: Please return to the back of the
21 courtroom.

22 Juror number 292.

23 (Rachel Wilson, black female.)

24 PROSPECTIVE JUROR: Time Warner.

25 THE CLERK: What says the State?

1 MS. GARFIELD: Please excuse the juror.

2 THE CLERK: Please return to the back of the
3 courtroom.

4 Juror number 265.

5 (Kathy Sullins, white female.)

6 PROSPECTIVE JUROR: Administrator in accounting
7 and payroll.

8 THE CLERK: What says the State?

9 MS. GARFIELD: Please present the juror.

10 THE CLERK: What says Defendant Barnes?

11 MR. SCHNEE: Please excuse the juror.

12 THE CLERK: Please return to the back of the
13 courtroom.

14 Juror number 269.

15 (Nikela Tentyon, black female.)

16 PROSPECTIVE JUROR: Unemployed.

17 THE CLERK: What says the State?

18 MS. GARFIELD: Please excuse the juror.

19 THE CLERK: Please return to the back of the
20 courtroom.

21 Juror number 258.

22 (Brian Stockard, white male.)

23 PROSPECTIVE JUROR: Owner of the Cigar Box.

24 THE CLERK: What says the State?

25 MS. GARFIELD: Please present the juror.

1 THE CLERK: What says Defendant Young?
 2 MR. KRZYSTON: Please seat.
 3 THE CLERK: What says Defendant Barnes?
 4 MR. SCHNEE: Please present the juror.
 5 THE CLERK: Please have a seat in the jury box.
 6 THE BAILIFF: Watch your step.
 7 THE CLERK: Juror number 209.
 8 (Joseph Purvis, white male.)
 9 PROSPECTIVE JUROR: General contractor.
 10 THE CLERK: What says the State?
 11 MS. GARFIELD: Please present juror.
 12 THE CLERK: What says Defendant Barnes?
 13 MR. SCHNEE: Please excuse the juror.
 14 THE CLERK: Please return to the back of the
 15 courtroom.
 16 Juror number 199.
 17 (Ben Nyland, white male.)
 18 PROSPECTIVE JUROR: Dishwasher.
 19 THE CLERK: What says the State?
 20 MS. GARFIELD: Please excuse the juror.
 21 THE CLERK: Please return to the back of the
 22 courtroom.)
 23 Juror number 167.
 24 (Deborah Leamon, black female.)
 25 PROSPECTIVE JUROR: Registered nurse.

1 THE CLERK: What says the State?

2 MS. GARFIELD: Please present the juror.

3 THE CLERK: What says Defendant Young?

4 MR. KRZYSTON: Please seat the juror.

5 THE CLERK: What says Defendant Barnes?

6 MR. SCHNEE: Please excuse the juror.

7 THE CLERK: Please return to the back of the
8 courtroom.

9 Juror number 272.

10 (Mary Thompson, white female.)

11 PROSPECTIVE JUROR: Interior decorator.

12 THE CLERK: What says the State?

13 MS. GARFIELD: Please present the juror.

14 THE CLERK: What says Defendant Barnes?

15 MR. SCHNEE: Please seat the juror.

16 THE CLERK: What says Defendant Young?

17 MR. KRZYSTON: Please excuse the juror.

18 THE CLERK: Please return to the back of the
19 courtroom.

20 Juror number 54.

21 (Andrew Centella, white male.)

22 PROSPECTIVE JUROR: Builder.

23 THE CLERK: What says the State?

24 MS. GARFIELD: Please present juror.

25 THE CLERK: What says Defendant Young?

1 MR. KRZYSTON: Please seat the juror.
 2 THE CLERK: What says Defendant Barnes?
 3 MR. SCHNEE: Please seat the juror.
 4 THE CLERK: Please have a seat in the jury box.
 5 THE BAILIFF: Watch your step, sir.
 6 Juror number 211.
 7 (Michael Rathe, white male.)
 8 PROSPECTIVE JUROR: I'm a contractor.
 9 THE CLERK: What says the State?
 10 MS. GARFIELD: Please present juror.
 11 THE CLERK: What says Defendant Barnes?
 12 MR. SCHNEE: Please excuse the juror.
 13 THE CLERK: Please return to the back of the
 14 courtroom.
 15 Juror number 220.
 16 (Philicia Robinson, black female.)
 17 PROSPECTIVE JUROR: Manager of claims operations.
 18 THE CLERK: What says the State?
 19 MS. GARFIELD: Please present the juror.
 20 THE CLERK: What says Defendant Young?
 21 MR. KRZYSTON: Please seat the juror.
 22 THE CLERK: What says the Defendant Barnes?
 23 MR. SCHNEE: Please seat the juror.
 24 THE CLERK: Please have a seat in the jury box.
 25 THE BAILIFF: Right up here, ma'am.

1 THE CLERK: Juror number 70.

2 (Roberta Cross, black female.)

3 PROSPECTIVE JUROR: Retired Air Force.

4 THE CLERK: What says the State?

5 MS. GARFIELD: Please present juror.

6 THE CLERK: What says Defendant Barnes?

7 MS. BAMBACH: Please seat the juror.

8 THE CLERK: What says Defendant Young?

9 MR. KRZYSTON: Please excuse the juror.

10 THE CLERK: Please return to the back of the
11 courtroom.

12 Juror number 229.

13 (Gregory Sandel, white male.)

14 PROSPECTIVE JUROR: Customer service rep.

15 THE CLERK: What says the State?

16 MS. GARFIELD: Please present the juror.

17 THE CLERK: Does the Defendant Young challenge
18 for cause?

19 MR. KRZYSTON: No.

20 THE CLERK: What says Defendant Barnes?

21 MR. SCHNEE: Please excuse the juror.

22 THE CLERK: Please return to the back of the
23 courtroom.

24 Juror number 154.

25 (Kristina Jarvis, white female.)

1 PROSPECTIVE JUROR: Outpatient surgery
2 scheduling.

3 THE CLERK: What says the State?

4 MS. GARFIELD: Please excuse this juror.

5 THE CLERK: Please return to the back of the
6 courtroom.

7 THE CLERK: Juror number 237.

8 (Robin Scott, white female.)

9 PROSPECTIVE JUROR: Housewife, animal rescuer,
10 volunteer.

11 THE CLERK: What says the State?

12 MS. GARFIELD: Please present the juror.

13 THE CLERK: What says Defendant Barnes?

14 MR. SCHNEE: Please excuse the juror.

15 THE CLERK: Excuse?

16 MR. SCHNEE: Yes.

17 THE CLERK: Please return to the back of the
18 courtroom.

19 THE CLERK: Juror number 68.

20 (Andrea Cornell, Hispanic female.)

21 PROSPECTIVE JUROR: Self-employed sales manager
22 and business partner.

23 THE CLERK: What says the State?

24 MS. GARFIELD: Please excuse the juror.

25 THE CLERK: Please return to the back of the

1 courtroom.

2 Juror number 303.

3 (Doris Ellison, black female.)

4 PROSPECTIVE JUROR: Licensed practical nurse.

5 THE CLERK: What says the State?

6 MS. GARFIELD: Please present juror.

7 THE CLERK: Does the Defendant Young challenge
8 for cause?

9 MR. KRZYSTON: No, ma'am.

10 THE CLERK: Does Defendant Young challenge for
11 cause?

12 MR. SCHNEE: Present please the juror.

13 THE CLERK: Please have a seat in the jury box.

14 THE COURT: Two, two and two on each.

15 THE CLERK: Juror number 19.

16 (Beverly Biddle, white female.)

17 PROSPECTIVE JUROR: I'm a cashier.

18 THE CLERK: What says the State?

19 MS. GARFIELD: Please excuse the juror.

20 THE CLERK: Please return to the back of the
21 courtroom.

22 Juror number 113.

23 (Kevin Gaylord, black male.)

24 PROSPECTIVE JUROR: Security guard.

25 THE CLERK: What says the State?

1 MS. GARFIELD: Please present the juror.

2 THE CLERK: What says the Defendant Barnes?

3 MR. SCHNEE: Please present the juror.

4 THE CLERK: What says Defendant Young?

5 MR. KRZYSTON: Please excuse the juror.

6 THE CLERK: Please return to the back of the
7 courtroom.

8 Juror number 172.

9 (Gloria Lowe, black female.)

10 PROSPECTIVE JUROR: Quality assurance analyst.

11 THE CLERK: What says the State?

12 MS. GARFIELD: Please present the juror.

13 THE CLERK: What says Defendant Young?

14 MR. KRZYSTON: Please seat the juror.

15 THE CLERK: What says Defendant Barnes?

16 MR. SCHNEE: Please present the juror.

17 THE CLERK: Please have a seat in the jury box.

18 Juror number 168.

19 (Kristin Lehman, white female.)

20 PROSPECTIVE JUROR: I'm a title center clerk.

21 THE COURT: What?

22 PROSPECTIVE JUROR: Title center clerk.

23 THE COURT: Thank you.

24 THE CLERK: What says the State?

25 MS. GARFIELD: Please present the juror.

1 THE CLERK: What says Defendant Barnes?
2 MR. SCHNEE: Please seat the juror.
3 THE CLERK: What says Defendant Young?
4 MR. KRZYSTON: Please excuse the juror.
5 THE CLERK: Return to the back of the courtroom.
6 Juror number 72.
7 (Cassie Crump, black female.)
8 PROSPECTIVE JUROR: Preschool teacher.
9 THE CLERK: What says the State?
10 MS. GARFIELD: Please present the juror.
11 THE CLERK: What says the Defendant Young?
12 MR. KRZYSTON: Please present the juror.
13 THE CLERK: What says Defendant Barnes?
14 MR. SCHNEE: Please seat the juror.
15 THE CLERK: Please have a seat in the jury box.
16 THE CLERK: Juror number 141.
17 (Diane Horn, white female.)
18 PROSPECTIVE JUROR: Administrative assistant.
19 THE CLERK: What says the State?
20 MS. GARFIELD: Please present the juror.
21 THE CLERK: What says defendant Barnes?
22 MR. SCHNEE: Please excuse the juror.
23 THE CLERK: Please return to the back of the
24 courtroom.
25 Juror number 305.

1 (Cameron White, black female.)

2 PROSPECTIVE JUROR: Volunteer.

3 THE CLERK: What says the State?

4 MS. GARFIELD: Please excuse the juror.

5 THE CLERK: Please return to the back of the
6 courtroom.

7 Juror number 128.

8 (Charlotte Harris, black female.)

9 PROSPECTIVE JUROR: Retired teleconference
10 producer.

11 THE CLERK: What says the State?

12 MS. GARFIELD: Please present the juror.

13 THE CLERK: What says Defendant Young?

14 MR. KRZYSTON: Please present the juror.

15 THE CLERK: What says Defendant Barnes?

16 MR. SCHNEE: Please seat the juror.

17 THE CLERK: Please have a seat in the jury box.

18 THE COURT: Any matter of law as to the jury
19 selection process?

20 MS. GARFIELD: No, sir.

21 THE COURT: Mr. Krzyston?

22 MR. KRZYSTON: No, sir, Your Honor.

23 THE COURT: Mr. Schnee?

24 MR. SCHNEE: No, Your Honor.

25 THE COURT: Okay. All right. Ladies and

1 gentlemen, if you are seated out here in the audience,
2 thank you very much for your service this week. You
3 will be sent back down to the jury assembly room where
4 I assume you'll be released for lunch. Thank you very
5 much. Have a nice day. Everybody else remain seated.

6 (WHEREUPON, the unselected members of the jury
7 left the courtroom.)

8 THE COURT: Okay. All right. Ladies and
9 gentlemen, the good news is in about five minutes,
10 you're going to be released for the rest of the day,
11 okay. So just bear with me for literally five
12 minutes. Then we're going to show you how to get in
13 and get out of the building and then you're going to
14 be gone for the rest of the day.

15 As I told you first thing this morning, my name
16 is Robert Hood. I will be your presiding judge over
17 this trial. Thank you very much for your service this
18 week. I know there are literally thousands of other
19 places you would rather be and things you would rather
20 be doing, however, your service this week is vitally
21 crucial and important to our judicial system, so I do
22 say thank you.

23 All right. Let me give you some rules for the
24 week. I will say most of these rules over and over
25 again throughout the week. Yes, I know that I have

1 said them multiple times. I will keep and continue
2 saying them because of their extreme importance in
3 this case and in this matter. Just follow me the next
4 few minutes with the rules for this week, and then I
5 will get you out of here for the rest of the day.

6 Okay. Now, first thing is my three alternates on
7 the back row, my three ladies on the back, okay. You
8 all are always required to sit on the back row, okay.
9 So when you come in, you can choose any one of those
10 seats you want to, but you need to stay on the back
11 row for me so that everybody knows and understands
12 that you are alternates, okay.

13 Where is Mr. Centella? Stay where you are.
14 You're going to be the foreman of this jury. When we
15 come back on Wednesday morning, you're going to be
16 seated right hear where the young lady in the striped
17 shirt is, okay. So my foreman and my three alternates
18 have assigned seats. Everybody else you can sit where
19 you want to. It doesn't matter to me.

20 I would bring something as far as clothing goes
21 that helps you with your temperature, okay. So when I
22 got here in the courthouse this morning, it was so hot
23 I couldn't see straight. Now it's turned cold, so it
24 kind of goes back and forth. If you want to bring a
25 little jacket or a little sweater to cover up in,

1 that's fine. Whatever makes you happy as far as your
2 clothing so that you are comfortable in the courtroom.
3 That's how I want you to be. Okay.

4 Now, the most confusing thing that I'm going to
5 tell you is the most important thing that I'm going to
6 tell you, and that is this. You are not allowed to
7 discuss this case with anybody. That includes each
8 other, okay.

9 That means mom, dad, brother, sister, child,
10 nephew, niece, parent, grandparent, spouse,
11 girlfriend, boyfriend, employee, employer or each
12 other, or any other person in existence. Okay. You
13 cannot discuss this case. The reason is because we
14 don't want you forming any opinions about the case.
15 Everybody wants you to come back on Wednesday morning
16 a fresh slate ready to hear the evidence, ready to
17 hear the law and to make decisions about that once you
18 hear all the evidence and all the law as it applies to
19 this case. You're not allowed to discuss the case
20 with anybody. Can you tell people you're on a jury,
21 yes. Can you tell them it is a criminal case, yes.
22 But you just tell them that mean old Judge Hood will
23 not let me discuss the case with anybody. Okay.

24 Now have I know I live in the year 2014. Within
25 15 minutes of leaving this building, you're going to

1 text somebody, call somebody, go on Facebook, go on
2 Twitter, do something of that nature, but you cannot
3 discuss this case period.

4 That means with each other. So y'all can talk
5 about how bad the Gamecocks are or whether or not
6 Clemson should be ranked as high as they are or what
7 the weather is going to do this week. It doesn't
8 matter to me, but you're not allowed to talk about
9 this case in any way, shape, or form until the very
10 end of the case. At that point in time, I will give
11 you very specific instructions that control how you
12 talk about the case, but until you hear those
13 instructions from me at the very end, you can't talk
14 about the case at all.

15 Okay. Number two, even though we're in a big
16 county and we're in a big courthouse, there are going
17 to be times when you are coming in and out of the
18 courtroom where you are going to see people involved
19 in the case. It may be one of the lawyers. It may be
20 one of the witnesses. They are going to ignore you,
21 okay. Do not take that as any sign of them being rude
22 or anything else. They are merely following my
23 instructions. So nobody should be saying hello or hey
24 to you in the morning unless I see you walking in the
25 morning and I may say hello to you. Everybody else

1 should be ignoring you, because even a causal hello by
2 one of the lawyers to you which could be perfectly
3 innocent, seen by somebody else could be misconstrued.
4 We're going to avoid any type of contact with the
5 parties, the witnesses or the lawyers involved in the
6 case.

7 Now, your three points of contact for this week,
8 number one is Mr. Dye. Mr. Dye is in the back corner,
9 turn around, look at Mr. Dye. He have will be one of
10 your bailiffs. All right. Bailiff number two, these
11 are in no order of importance because we all know that
12 Ms. Sutton is the most important. Wave at everybody,
13 okay, Ms. Sutton, and then where is Mr. Tolbert?

14 THE BAILIFF: He went outside.

15 THE COURT: And the third one will be Mr.
16 Tolbert. Those will be your bailiffs for the week.
17 They will control how you come in and how you go.
18 They will be responsible for your snacks. They will
19 completely and totally in charge of you. That have
20 been up here longer than anybody else so they know
21 exactly what's going on and exactly what to do. If
22 you need help with something, they are your point of
23 contact for the week.

24 Now, the other thing that I want to tell you is
25 this. There is going to be media on this case, okay.

1 So I do not want you watching the news. I do not want
2 you going on the internet. I do not want you
3 listening to the radio. I do not want you going to
4 any major news source or Facebook or Twitter or any
5 other kind of social media that I don't even know what
6 it is to look at the case, discuss the case or
7 anything else. Okay. You're going to base your
8 decision on what happens in this courtroom, period.

9 So it doesn't matter how many news articles they
10 run or how many stories they produce, you're not going
11 to watch those. Okay. So just don't watch the news.
12 Don't have anything to do about it. If somebody tries
13 to say something to you, stop them, okay. So you need
14 to make a purposeful avoidance of the news and what is
15 on the news and that means radio, internet, television
16 anything. I mean, today in 2014 that means your
17 phone, okay, so if you have your phone set up to some
18 kind of alert from the news like WIS or WLTX, or WOLO,
19 you need to turn that off. I don't want you getting
20 some kind of alert about my case that you're not
21 supposed to know about, okay, because you're going to
22 base --- and that's the only thing that's fair to all
23 the parties. If you think about this, regardless ---
24 if you are connected to this case some way,
25 regardless of what side it is, you would want to know

1 that those people making the decision about the case
2 have not been improperly influenced by any outside
3 source. Right? Regardless of the side of the case or
4 the kind of case, if you are sitting out here because
5 you loved somebody or you cared about somebody, you
6 wouldn't want the jurors looking at anything that
7 isn't proper, okay. That's what's fair to the
8 parties. Keep that in mind. I don't tell you that to
9 torture you or to keep you from knowing something.
10 This isn't me trying to keep information from you.
11 This is a courtroom and there is a way evidence comes
12 in and there's a way exhibits and documents come in
13 and all those procedures need to be followed before
14 you consider the information.

15 Now, tomorrow is a holiday. As much as I'd like
16 to make all the county employees show up tomorrow,
17 because I can make my own people show up tomorrow, as
18 my court reporter looks at me like she wants to hurt
19 me, I cannot make the courthouse open and provide
20 security and everything else, so there will be no
21 court tomorrow at all. It is a state holiday, and it
22 is a county holiday. We will not be holding court
23 tomorrow. We will start afresh on Wednesday morning
24 at 9:00 A.M. I'm going to try to start at nine. I
25 usually start at 9:30 to keep things moving and to

1 keep the know of things going. We will normally take
2 a morning break. We will take a lunch break and an
3 afternoon break rarely if ever do I go past 5:30 at
4 night. We may stop some nights at five, maybe 5:15.
5 There is no exact science to what time I stop. If
6 we're finishing a witness at 5:05 and the next witness
7 is long, I'll stop. If we will finish a witness at
8 5:15 and the next witness is short, I'll push on till
9 5:30, but I'll do my best to get you out of here by
10 5:30 every night.

11 The bailiffs will show you how to come in and go
12 out. They will also take your phones from you. If
13 someone needs to reach you here in court, they will
14 need to call the Clerk of Court's office and they can
15 get a message to me and we can deal with that
16 situation as it comes. So the most important thing,
17 do not discuss the case with anybody in any way,
18 shape, or form, and do not have any communication with
19 the parties. Do not look at, watch, see, view, hear
20 or read anything about this case in any way, shape, or
21 form.

22 The last example I'm going to give you is let's
23 say we were trying a wreck case, okay. Like an
24 accident case. Two people get a little motor vehicle
25 collision and let's say it was on the corner of

1 Rosewood and Harden street. I would tell you not to
2 go by there, okay. You shouldn't visit the scene of
3 the accident. Why would I tell you that? Because you
4 don't know that what place looks like today what it
5 looked like when the accident happened. Does that
6 make sense? You would be filling your mind with
7 something that's not in evidence. I don't want you to
8 do that and you should stay away from anything like
9 that.

10 Thank you very much for your service. We'll see
11 you Wednesday morning at 9:00 A.M. ready to go. The
12 bailiffs will show you how to go out and come in.
13 Everyone remain seated while the jury is excused.

14 THE BAILIFF: Follow me, please.

15 (WHEREUPON, the jury left the courtroom at 2:32
16 P.M.)

17 THE COURT: All right. Anything before we break
18 for food?

19 MS. GARFIELD: No, sir.

20 MS. PINNOCK: No, sir.

21 MR. SCHNEE: No, Your Honor.

22 THE COURT: Lawyers, 3:30 in my office. I'll need the
23 defendants up about 3:35, 3:40 and we'll finish
24 whatever pretrial we have left. Jackie, tell the jury
25 coordinator that I need juror 259 up here. Let's just

1 see what's going on, but don't let 259 leave until I
2 see her today. Thank you very much. Lawyers, 3:30 in
3 my office.

4 (WHEREUPON, Court's Exhibit Number 8 was marked
5 for identification only.)

6 THE COURT: All right. We got a note from a
7 juror, which is marked as Court's Exhibit Number 8
8 stating that he has to use Facebook for work which he
9 will be doing in the evenings. I told him he is not
10 allowed to use Facebook to do any research in any way,
11 shape, or form, or look anybody up involved in the
12 case on Facebook.

13 Okay. Let's start with pictures. All right. Of
14 course, these rulings are assuming all the proper
15 foundation is laid and the objections, if necessary,
16 will need to be renewed at the appropriate time.

17 All right. So I'm looking at 22, 21, 27, 49 and
18 125. Do you all want to see what I'm talking about?
19 You can come up here, see which ones I'm grouping
20 together. These are going to be the photos of the
21 victim on the ground and put 125 --- tell me how these
22 are not all of the same thing or why we need five
23 copies of this shot?

24 MS. CAMPBELL: We can narrow it down, Your Honor.
25 The one that is relevant is this one, showing where

1 the projectile --- showing that in connection with
2 where she ended up.

3 THE COURT: Okay.

4 MS. CAMPBELL: We can withdraw --- this one shows
5 basically --- we may be able to crop it.

6 THE COURT: Okay.

7 MS. CAMPBELL: This shows the dents where some of
8 the bullets hit in the back.

9 THE COURT: So this is a sink area; is that
10 right?

11 MS. CAMPBELL: This is a sink area.

12 THE COURT: Okay. My review of the videos,
13 that's where she is standing?

14 MS. CAMPBELL: When the attack occurs.

15 THE COURT: Okay. And then --- so like this tiny
16 hole right here ---

17 MS. CAMPBELL: Could be significant.

18 THE COURT: So someone may be able to testify
19 that's where a projectile went?

20 MS. CAMPBELL: Yes, sir, so we could withdraw 49
21 and 22 perhaps, and this one just shows in connection
22 with where the spoon was as seen on the video where it
23 falls. Is that a different one? We can go with that
24 one, so we'll withdraw 21.

25 THE COURT: Okay.

1 MR. SCHNEE: Judge, with respect to 27 and bullet
2 holes, we have received nothing from anyone saying
3 that there were bullet holes recovered or bullets
4 recovered from the bakery.

5 MS. CAMPBELL: I think it's more like where
6 projectiles may have been going.

7 MR. SCHNEE: Right. I would object to relevance
8 if that's how they plan on using that photo.

9 THE COURT: Well, that's a different issue.

10 MS. CAMPBELL: These are all ---

11 THE COURT: Okay. So y'all are --- of course,
12 you would have objected to these, right? Okay. We're
13 going to create a stack.

14 MS. CAMPBELL: If you want me to double check
15 these two to see if there are other angles in
16 different pictures, I can.

17 THE COURT: I tried to group them together by
18 angles. These three are the same. This is a
19 different angle, but these two are kind of from the
20 same angle. You have markers down. What is your
21 objection to 123?

22 MS. PINNOCK: Judge, 123 was actually on a list.
23 I had two pictures that I was going to offer if you
24 kept out the other ones, I withdraw the objection on
25 that one.

1 THE COURT: Okay. So there is no objection to
2 123?

3 MR. KRZYSTON: No.

4 THE COURT: What about you, Mr. Schnee?

5 MR. SCHNEE: I have no reason to object to that.

6 THE COURT: Okay. So 123 --- we're going to
7 create a different stack now, pursuant to the proper
8 foundation being laid.

9 MR. SCHNEE: Okay.

10 MR. KRZYSTON: Go ahead.

11 THE COURT: Go ahead.

12 MR. KRZYSTON: This one to the far left, if we're
13 admitting 123, I think both this one and that far left
14 are cumulative.

15 THE COURT: I'm coming back to that. Hold on.

16 MR. KRZYSTON: Okay.

17 THE COURT: So 123 is in and we're going to come
18 back to these two. What about these two?

19 MS. CAMPBELL: Those show different angles.

20 THE COURT: This is definitely a different angle.

21 MS. CAMPBELL: We can withdraw 23, I guess.

22 THE COURT: Okay. What's your objection to this?

23 MS. PINNOCK: We don't see the relevance of it.
24 There is a video that is going to be played. They
25 will have one picture possibly introduced.

1 THE COURT: Don't say relevance. It's relevant.
2 It's the victim lying on the ground, so it's
3 definitely relevant.

4 MS. PINNOCK: But it's cumulative at this point.

5 THE COURT: That's a different argument, okay.

6 MS. PINNOCK: It's a picture of her lying on the
7 ground. I mean, I don't see...

8 THE COURT: Mr. Schnee?

9 MR. SCHNEE: I would object to the same thing. I
10 don't see how that will enhance the jury's
11 understanding of what happened compared to the other
12 photos.

13 MS. CAMPBELL: Basically these are closer up of
14 this photo, which we usually do something different to
15 --- I mean, it's not something you could see in the
16 video, as far as looking at this area.

17 MR. SCHNEE: I'm not sure what is in dispute is
18 going to be showing, I guess is the issue. We're not
19 disputing that she was shot in the bakery or shot and
20 fell down right there.

21 THE COURT: I understand that.

22 MR. SCHNEE: The prejudicial value is humongous.
23 If they want to crop off everything past her --- have
24 her legs and just show the markers, I won't object to
25 that. It's the pools of blood that are a problem.

1 THE COURT: Do you think you have a witness
2 that's going to talk about this projectile?

3 MS. CAMPBELL: He is going to talk about a dent
4 in the area. I can't say that that he is going to say
5 that's caused by a bullet. I don't think anybody can
6 say that.

7 MR. KRZYSTON: What witness is going to --- I
8 guess my question would be, what witness?

9 MS. CAMPBELL: The reason he took a picture of it
10 is because it's relevant. This is where she was shot.

11 MS. PINNOCK: If he can't say it's a bullet hole,
12 I don't see how he can say ---

13 MR. KRZYSTON: There is nothing ---

14 MS. PINNOCK: There is nothing to say what it
15 could be.

16 MR. KRZYSTON: No examiner or solicitor provided
17 a report on that.

18 MS. CAMPBELL: You have a list of everything we
19 have.

20 THE COURT: Is your objection to this one, 125,
21 the blood?

22 MR. SCHNEE: Yes.

23 MR. KRZYSTON: And based again on cumulativeness
24 and prejudicial or danger of unfair prejudice.

25 MS. CAMPBELL: Just for the record, we withdrew

1 all the ones where the body had been moved at all. In
2 addition to that, we have minimized the number of
3 photos and limited it to these, but we feel like they
4 are relevant.

5 MS. PINNOCK: I would agree with Mr. Schnee, if
6 they want the markers, we wouldn't object to it being
7 cropped.

8 THE COURT: Can you crop this one?

9 MS. CAMPBELL: Uh-huh.

10 THE COURT: Okay.

11 THE COURT: Because that would then --- 27 would
12 then show the same thing as 125 if I let that in. You
13 get the same angle, right, if you crop it? That
14 version of the picture.

15 MS. CAMPBELL: Yes, this would hold --- if you
16 crop it, that would make those two different.

17 THE COURT: All right. So 123 is going to be in.
18 There is no objection to 123 being in.

19 I mean, this is all pursuant to the proper
20 foundation. 125 is in. It goes directly to the
21 probative value of the elements of the crime which the
22 State has to prove and really going to be as far as
23 crime scene photos the only one that has any
24 significant amount of blood, and it's not that
25 significant amount of blood compared to normal crime

1 scene photos. Twenty-seven is going to be cropped
2 from the body up.

3 MS. CAMPBELL: Just the bottom of the sink.

4 THE COURT: Right, the bottom of the sink up, and
5 whether or not he can testify that that's a whatever
6 is a different argument than whether or not the
7 picture is admissible and 126 is going to be in. It's
8 a pull out shot from 113. I mean, it's close-up shot
9 from 113 as to 125 is and the amount of blood in that
10 picture is very minimal, so all four of these are in
11 pursuant to the proper foundation and the cropping of
12 the one with the sink and the dent.

13 MS. GARFIELD: And their objection 123 is
14 withdrawn?

15 THE COURT: Yes.

16 MS. PINNOCK: I also have 122 and 124 on my list
17 unless they are ---

18 MR. SCHNEE: That will work.

19 THE COURT: I've taken --- they're agreeing not
20 to submit 23, 22, 49, 21. For the record, all of
21 those have a --- is a --- the majority of those are
22 much, much, much more close up view of the bloody
23 area, which I think that --- I believe, that based
24 upon the photos that I've admitted, the State will
25 still be able to produce or be able to show the

1 elements that they need to show without up close
2 bloodier pictures than the other ones.

3 THE COURT: All right. Where are the next ones
4 that there are objections to?

5 MS. CAMPBELL: Your Honor, I will point out the
6 photographs from Lucille Drive, which is the
7 Stevenson's --- or the Barnes' residence, there were
8 photos and markers done of a long gun that has nothing
9 do with this case. We made sure we did not put any of
10 those photos in and additionally, we will instruct
11 them to leave that out. That was the only gun found
12 in that house. That wasn't relevant to this case.

13 THE COURT: There was a long gun found in whose
14 house?

15 MS. CAMPBELL: Mr. Barnes and Mr. Stevenson, the
16 other codefendant's house on Lucille street.

17 THE COURT: So who collected that gun?

18 MS. CAMPBELL: The investigator although that
19 crime scene was Paul Nelson.

20 THE COURT: Paul Nelson. Okay, so was he the one
21 --- so no one is going into the long gun at that
22 house, right?

23 MS. CAMPBELL: If they want me to go into it, I
24 will go into it, but I'm assuming there would be an
25 objection to it.

1 MR. SCHNEE: Certainly not.

2 MS. PINNOCK: We're not.

3 THE COURT: Okay. So the long gun at the Lucille
4 Drive house ---

5 MS. CAMPBELL: We do not intend to offer that,
6 assuming they have objections.

7 THE COURT: All right. What else? Other
8 pictures that are objected to?

9 MS. CAMPBELL: I believe they are objecting to
10 all of the photographs on Bronx street based on their
11 argument about the search warrant.

12 THE COURT: Okay. We're coming back to the
13 search warrant. What else?

14 MS. CAMPBELL: I believe that's it, that I know
15 of on the photos.

16 MS. SIMPSON: The autopsy photos that we
17 submitted to you for your review.

18 THE COURT: Do I still have those?

19 MS. SIMPSON: I believe you do.

20 MS. CAMPBELL: I'm sorry, there's lots of stuff.

21 THE COURT: Are you objecting to all the autopsy
22 photos?

23 MS. PINNOCK: We have withdrawn the objection
24 that showed the bullet after it was --- yes, that one
25 and then the --- there was one of an entry wound.

1 THE COURT: All right. Mr. Schnee, do you have
2 an objection to that one?

3 MR. SCHNEE: No. Like I said, we already
4 covered. That one is not ---

5 THE COURT: Okay. I'm doing them one at a time,
6 State's Exhibit Number 7, there is no objection to and
7 what's the other one?

8 MS. PINNOCK: It's the entry wound. It's a close
9 up.

10 THE COURT: Okay. What about this one?

11 MR. SCHNEE: That's correct.

12 THE COURT: Okay. State's Exhibit Number 6 there
13 is no objection to.

14 All right. Have you seen these enough to talk
15 about them or do you need them back?

16 MS. CAMPBELL: I need to look just quickly.

17 THE COURT: Okay.

18 THE COURT: So help me with the medical relevance
19 of that as it relates to the autopsy.

20 MS. CAMPBELL: Your Honor, we did ask the
21 pathologist herself to go through the ones that she
22 thought would be helpful to the jury and to explain
23 those. The ones to the face and near where the wound
24 is, there is stippling involved in this case, Your
25 Honor, which you can clearly see on her face in

1 State's Exhibits 4 and 5, as well as in 3. State's
2 Exhibit 3 is an overview showing how close the wound
3 is to her actual face. Then the stippling is shown
4 clearly in the other two. That is only reason. There
5 are some 200 photographs, Your Honor, that we are not
6 offering.

7 THE COURT: Okay.

8 MS. CAMPBELL: So we have been able to narrow it
9 down to these. That's based on what she actually
10 reviewed and picked out.

11 THE COURT: By she, you are referring to Dr.
12 Durso?

13 MS. CAMPBELL: Yes, sir.

14 THE COURT: That's your potential pathologist or
15 top pathology witness in the case?

16 MS. CAMPBELL: Yes, sir.

17 THE COURT: What says the defense as to exhibits
18 3, 4, and 5?

19 MS. PINNOCK: Your Honor, if it pleases the
20 court.

21 THE COURT: Do you need to see them or do you
22 know what I'm talking about?

23 MS. PINNOCK: I know which ones they are.

24 THE COURT: Okay.

25 MS. PINNOCK: Dr. Durso also prepared a chart

1 that shows all of the injures to Ms. Hunnewell's body.
2 It indicates where the injuries --- this is not a case
3 that involves any dispute over what the cause of death
4 was. She has testified in a previous case using only
5 the diagram. I would just ---

6 THE COURT: What case was that?

7 MS. PINNOCK: It was State vs. Maurice Roberts
8 and State vs. Demetrius James, Judge. She testified
9 using only her diagram explaining where the injury
10 wounds were. She testified to --- she did the
11 diagonals for the projectiles going through body in
12 that case. She is quite capable of testifying from a
13 diagram. I would say that she probably needs to be
14 here to explain if there is any more explanation that
15 Your Honor would require as to why she need those
16 pictures. The cause of death is not an issue.

17 You can clearly see the --- Ms. Hunnewell fall to
18 the floor in the video. It's not --- these facts are
19 not at issue. I don't believe the pictures are going
20 to lend any more understanding to her testimony to the
21 jury. She can describe where the stippling is. She
22 can describe where the wound was. I do think it would
23 be a adequate for her to only use the diagram. I
24 think the pictures are necessary, and I think they are
25 --- the prejudicial value of those is substantially

1 outweighing any probative value because it's a close
2 up of Ms. Hunnewell's face lying on the autopsy table.
3 I understand the need for them to present the
4 pathologist in their case in chief. I understand that
5 completely, but I do believe based on her history that
6 she is going to be able to testify fully and explain
7 to the jury fully using the diagram that does not have
8 those graphic shots.

9 MS. CAMPBELL: May I approach? I would hand up
10 State vs. Henry Gray and Bentley Collins the two most
11 recent cases on this issue. In those cases I believe
12 one of the photographs showed at autopsy the person's
13 skull, the skin actually peeled back from the skull
14 showing some injuries in the brain. In addition, the
15 other case, Your Honor, showed injuries that were done
16 by a dog to a ten-year-old, I believe, boy where he
17 was torn apart and partially eaten by dogs. The court
18 found in those cases, as we have here, that the
19 pathologist found it was necessary in order to explain
20 things to the jury that they were extremely relevant
21 and the prejudicial effect is not outweighed by the
22 probative value.

23 THE COURT: Mr. Schnee.

24 MR. SCHNEE: Judge, I would join with Ms.
25 Pinnock's motion in her arguments. You can see the

1 gunshots on the video itself. For a pathologist or
2 even anyone else to explain how the stippling got
3 there or the fact there is stippling, that is --- it's
4 completely not in dispute. You can actually witness
5 it live on video, the close up graphic photo, I
6 believe, is completely unnecessary.

7 The issue isn't how this is really going to help
8 the pathologist, but how it helps the State's theory
9 of the case. There is no dispute as to cause of death
10 at all. There is no dispute as to the distance the
11 shots were fired from, location of the shots, location
12 of shooters, location of the victim or anything else.

13 I fail to see how it will assist the jury in
14 doing anything other than them seeing the woman's face
15 on an operating room table.

16 THE COURT: Tell me where she is shot. I don't
17 understand that from the pathologist standpoint.

18 MS. CAMPBELL: She was shot right --- the
19 entrance wound, Your Honor?

20 THE COURT: Is this it right here?

21 MS. CAMPBELL: I have may be on the wrong side.
22 It's coming in her collar bone. The shot actually
23 enters and goes through --- and does not exit, but
24 it's lodged below the skin on her very upper back.

25 THE COURT: Okay. So she is just struck once?

1 MS. CAMPBELL: Struck once, yes.

2 THE COURT: Struck once. Okay.

3 MS. CAMPBELL: But there are multiple shots.

4 THE COURT: I've seen the video. There are
5 multiple shots, but she is just struck one of those
6 times and that's the --- so what is the mark up the
7 neck?

8 MS. CAMPBELL: The mark on the neck is an
9 abrasion, Your Honor, that she thinks would be
10 consistent with perhaps the way she was twisted. It
11 would have grazed on that skin on entry depending on
12 how she --- it all depends on how she is bent at the
13 time of entry.

14 THE COURT: Right.

15 MS. CAMPBELL: That's what she is attempting to
16 show there, as well as the stippling, Your Honor.

17 THE COURT: And what is the difference between 4
18 and 5, if you want to come look at them?

19 MS. CAMPBELL: Actually, I believe that 4 and 5
20 are --- we can withdraw 5.

21 THE COURT: Okay. All right. Anything else,
22 Ms. Pinnock?

23 MS. PINNOCK: Yes, Your Honor. I would just add
24 that Collins V. --- it was a Court of Appeals case
25 where --- until the Supreme Court heard it, and they

1 did overturn it, but what the Collins case does not do
2 is say that autopsy pictures are just automatically
3 admissible into evidence. It's still in Your Honor's
4 discretion. The court is very clear about that. They
5 made a ruling on that based on the cause of death in
6 that case. They decided the pictures that were kept
7 out of the evidence should have been introduced for
8 that reason. It was a dog attack on a child.

9 They said that the --- the court said the State
10 did have a right to introduce those pictures to go
11 along with the pathologist's testimony to further
12 assist the jurors in making a determination. It did
13 not take discretion out, Your Honor. You still have
14 all the discretion in the world to keep these pictures
15 out. These pictures do not, in our opinion, these
16 pictures do not add anything to the cause of death.
17 The cause of death is not at issue. It's a gunshot
18 wound and nobody is arguing that it's not.

19 Again, Dr. Durso has testified in the past using
20 a diagram. It explains stippling. It explains the
21 entrance wound. It explains the trajectory of the
22 bullet. The pictures are going to do nothing but
23 inflame the jury.

24 Your Honor, it's my understanding, and I could be
25 wrong and have to review the autopsy report, but the

1 mark you asked about, I believe was a bruise from the
2 sweat shirt she was wearing or where she was laying on
3 it.

4 THE COURT: Anything else, Ms. Campbell?

5 MS. CAMPBELL: Your Honor, another thing I would
6 say is that I believe she has mischaracterized what
7 the Supreme Court held in the Bentley Collins case.
8 They talk about courts and juries cannot be too
9 squeamish about looking at unpleasant things, objects
10 or circumstances in proceedings to enforce the law and
11 especially if the truth is on trial. The mere fact
12 that an item of evidence is gruesome or revolting, if
13 it sheds light on, strengthens or gives character to
14 other evidence, sustaining the issues in the case,
15 should not exclude it.

16 Your Honor, specifically in that case, that was
17 just an involuntary manslaughter case. Here we have
18 to prove malice. Thereafter the circumstances and
19 events surrounding, as well as the pathologist's
20 findings are extremely probative to us being able to
21 prove malice in this case, Your Honor.

22 We have limited it down from, I don't know how
23 many autopsy pictures that were taken, but we have
24 limited to --- and specifically asked her to limit it
25 to the ones she felt would be helpful. We also could

1 put her up before admitting any photographs or showing
2 to a jury to make sure she feels it is --- if you deem
3 appropriate, Your Honor.

4 THE COURT: Ms. Pinnock.

5 MS. PINNOCK: I would just add lastly, Judge, it
6 was not only an involuntary manslaughter case in
7 Collins. It was also three counts of owning a
8 dangerous animal, which is why the court decided that
9 the pictures were essential to the State to help prove
10 the elements of the charge. He was not only charged
11 with involuntary manslaughter. There was also the
12 harboring of a dangerous animal and that's what the
13 court decided those pictures are relevant for.

14 THE COURT: All right. I'm going to admit
15 State's Exhibit Numbers 3 and 4 over the defense
16 objection. I find they are relevant under South
17 Carolina Rules of Evidence in that their probative
18 value does outweigh any potential prejudicial effect
19 there may be. For the record, these photos are ---
20 one is of an up close picture of Ms. Hunnewell's face.
21 It looks like there is a really bad bruise with very
22 little minor bleeding on her face and I believe that I
23 can see stippling although I'm not an expert. I think
24 that's what that is attempting to show.

25 State's Exhibit Number 4 is admissible. State's

1 Exhibit Number 3 is also admissible. It shows the
2 entrance wound and the collateral damage that was
3 caused by that entrance wound. It does show
4 Ms. Hunnewell laying down really from the chest up and
5 her face and her hair. While there is blood in the
6 picture and there is an entrance wound, it is not so
7 overly prejudicial that I think it would raise any of
8 the passions to create an unjust result and that the
9 probative effect with the distance and the entrance
10 wound, which would go to corroborate the State's other
11 evidence in the video would make it admissible under
12 403, so State's Exhibit Number 5 is out, and it's
13 basically just a closer up view of State's Exhibit
14 Number 4 and I find it to be cumulative to that issue.
15 Okay.

16 Any other photos other than the search warrant
17 photos?

18 MS. SIMPSON: Your Honor, I believe that there
19 were --- we are didn't mark these or address them, but
20 we did provide them to you. They had a motion with
21 respect to the still photographs from the images
22 downloaded from the crime scene video from Lexington.

23 THE COURT: All right. I reviewed all the still
24 photos that are taken from the video. Tell me why we
25 need all those photos. I mean, there's so many of

1 them, I can't see straight.

2 MS. CAMPBELL: Your Honor, we would --- pretty
3 much, unless there are issues that come up during the
4 trial, I don't know what of those we would offer. You
5 did ask to just be able to review them so you would be
6 prepared on this and so you could see them ahead of
7 time, but unless things become relevant that we aren't
8 aware of at this point, we would bring that up to the
9 court at the time, before we ---

10 THE COURT: All right. Anything as to the still
11 photos besides that, Ms. Pinnock?

12 MS. PINNOCK: Your Honor, we would just reserve
13 the right to object ---

14 THE COURT: Yes, sure. Yes.

15 MS. PINNOCK: --- if I --- not knowing which ones
16 they're going try to introduce.

17 THE COURT: Well, I reviewed every single one of
18 them. There were some of them I thought I was looking
19 at the same picture over and over again. If we get to
20 the point that we're looking at still photos we can
21 take a break and all look at the still photos. You're
22 not waiving the right to object or anything at all.

23 MR. SCHNEE: I know, Your Honor.

24 THE COURT: All right. Very good. All right.
25 Now, let's go to the --- is there a motion as to the

1 videos?

2 MS. PINNOCK: Well Judge, I'm sorry, but to go
3 back to the pictures.

4 THE COURT: Sure.

5 MS. PINNOCK: There were some pictures that were
6 provided to us from the cell phone.

7 THE COURT: Yeah, the phone --- we're going to
8 come back to the phone.

9 MS. PINNOCK: Yes, sir.

10 THE COURT: I got that right here.

11 MS. PINNOCK: Yes, sir.

12 THE COURT: Okay. So let's go to the videos from
13 inside the bakery, okay. All right. So there's one
14 video that is the actual video; is that correct?

15 MS. GARFIELD: From the bakery, from the bakery.

16 THE COURT: Yes, ma'am. That's right. Okay. And
17 that basically has four different views; is that
18 right?

19 MS. GARFIELD: That's correct, Judge.

20 THE COURT: And then there is --- I call it the
21 Zmroczek enhancement; is that right?

22 MS. GARFIELD: That's right.

23 THE COURT: That's the video that Ms. Zmroczek
24 had enhanced from what she was given in discovery.
25 That's the same thing that's on the original bakery

1 video.

2 MS. GARFIELD: Yes, sir.

3 THE COURT: Have I stated all that correct?

4 MS. GARFIELD: Yes, sir.

5 THE COURT: All right. So. Which one does the
6 State intend on introducing?

7 MS. GARFIELD: We're not entirely sure yet, but I
8 believe we were leaning towards using Ms. Zmroczek's
9 enhanced video. If you recall, she employed the
10 services of --- what's his name, Michael Watkins?

11 MS. CAMPBELL: Christopher Watkins.

12 MS. GARFIELD: Christopher Watkins. I have
13 spoken to him. He will be prepared to testify and
14 explain how he made the video.

15 MS. ZMROCZEK: Your Honor, I did --- and I'm not
16 part of the trial, but just for the transcript, I did
17 waive any confidentiality when we turned it over. I
18 spoke with him and did hire him as my private
19 investigator.

20 THE COURT: Okay.

21 MS. ZMROCZEK: I just wanted the court to know
22 that I did waive any confidentiality when I turned it
23 over.

24 THE COURT: Thank you, Ms. Zmroczek. Let's start
25 with any video in and of itself. Is there an

1 objection to the video as it stands in the original
2 format? Let's call it that.

3 MR. KRZYSTON: I don't believe we have an
4 objection to the video in its original format.

5 THE COURT: How about you, Mr. Schnee?

6 MR. SCHNEE: The original four separate files, no
7 objection to that at all.

8 THE COURT: Do you have any objection to the
9 enhancement?

10 MR. KRZYSTON: No, Your Honor, subject to the
11 proper foundation, we would have no objection.

12 THE COURT: Okay.

13 MR. SCHNEE: Judge, I have no objection to that
14 video if the original four were put in. The only
15 concern I have is essentially if we are dealing with
16 four smaller views at the same time, I think that's
17 more useful to the jury, but I think if they want to
18 look at one particular frame, the original is probably
19 more useful in terms of it being a larger image.

20 THE COURT: So you don't really care as long as
21 they introduce both.

22 MR. SCHNEE: Yes, sir. That would be a fair
23 assessment.

24 THE COURT: What about --- how do you feel about
25 that?

1 MR. KRZYSTON: I don't have a problem with that.

2 THE COURT: All subject to someone coming in and
3 laying the foundation that's proper for the
4 admissibility of the evidence.

5 MR. SCHNEE: Yes, sir.

6 THE COURT: Does the State have an objection to
7 that?

8 MS. GARFIELD: No, sir.

9 THE COURT: Okay. Now, I've viewed them both.
10 One is a little clearer than the other. It's not to
11 the level of where you can pick somebody out or
12 determine something or, you know --- I mean, it is
13 clearer, but it's not to the level of there's
14 something shocking in the enhancement that's not in
15 the original video. It's just a little bit clearer
16 frame. Okay.

17 All right. Are these what you plan on
18 introducing, what you gave me or do you have your own
19 copies of them?

20 MS. CAMPBELL: We can use those. We'll mark
21 them.

22 THE COURT: Okay. Well, I've written on them, so
23 you may want to get your own copies. I've made my own
24 notes on them.

25 Okay. The Ale House video. Does the State

1 intend on introducing that?

2 MS. GARFIELD: Yes, sir.

3 THE COURT: Okay. What's the purpose of
4 introducing that?

5 MS. GARFIELD: It just shows them all arriving
6 and hanging out in the parking lot. It will go
7 towards our theory they were there for the purposes of
8 robbing another establishment and then changed the
9 course.

10 THE COURT: All right. Mr. Krzyston, do you have
11 an objection to the Ale House video?

12 MR. KRZYSTON: Subject to the proper foundation,
13 no, Your Honor.

14 THE COURT: Fair enough. Mr. Schnee?

15 MR. SCHNEE: Not to the video, but certainly any
16 mention of attempted robbery or plan of a robbery,
17 since it's uncharged conduct, but the video itself,
18 no.

19 THE COURT: That's a different issue.

20 MR. SCHNEE: Yes, sir.

21 THE COURT: All right. So here is the Ale House
22 video.

23 So now let's move to the phone dumps. Let's talk
24 about the photos from the phone dumps. Other than the
25 pictures with the red hat or the red sweater, I can't

1 remember which one it is.

2 MS. SIMPSON: It's a red hoodie. Lorenzo is the
3 one wearing it. It's dated --- those photos were
4 actually taken on June 28th, which would be two days
5 prior to this murder. As far as relevance goes, we
6 definitely deem it to be relevant. I anticipate that
7 identity will be an issue in this case as to whether
8 he is the person that did it. These are taken from
9 the phone that he had in his possession at the time of
10 his arrest and that Ms. Coleman, his --- the mother of
11 this child who he is living with at the time as well,
12 will testify that he had that phone and, of course,
13 these are selfies of him. Admittedly, I believe there
14 are five pictures. We would offer them all into
15 evidence, but understand that we can limit them
16 because I do believe that he is doing gang signs with
17 respect to signing out Blood.

18 THE COURT: All right. Show me specific pictures
19 you intend on introducing.

20 MS. SIMPSON: And Your Honor, we had better
21 quality photos, so I apologize. I do not have those
22 in front of me now. These are two of the photographs
23 on there, which are not premarked, but they're on the
24 videos. We would offer all five into evidence, but
25 those --- we're getting better resolution of them.

1 THE COURT: I thought I had better resolution.

2 MS. SIMPSON: You may have better ones, but the
3 actual ones that we ---

4 THE COURT: They would have been in Karen's
5 stack.

6 MS. CAMPBELL: That's in the bakery.

7 MS. SIMPSON: Those would be the ones that we
8 would be offering as far as still shots.

9 MS. CAMPBELL: They aren't in here.

10 MS. SIMPSON: Your Honor, we actually did submit
11 these in the format of a disc, as well. You may have
12 viewed it with the three videos on the phone, as well
13 as the actual photos.

14 THE COURT: I know I did.

15 Do you have an objection to the red hat and
16 hoodie?

17 MS. BAMBACH: It's all of the pictures of him
18 wearing the red hoodie. First we already ruled. I
19 believe the State already consented to the no-gang
20 activity unless we opened the door. Every single one
21 of those five photos there is an alleged gang sign
22 used in all of them. I don't know how ---

23 THE COURT: What's the gang sign in this?

24 MS. BAMBACH: An "O" for Bloods.

25 THE COURT: Okay.

1 MS. BAMBACH: And Ms. Simpson just said it was
2 gang.

3 MS. SIMPSON: Your Honor, I believe in all five
4 or six photos that he is spelling out with his hands
5 the different possessions for Blood, which I am not
6 super familiar with gang activity and things of that
7 nature so we would limit it, but each individual photo
8 in itself, I do not think reflects gang. Now, if we
9 were to show all five spelling out Blood, that might
10 be different. We can limit it to two of the
11 photographs. Our main purpose, as I said, is to put
12 Lorenzo Young in a red hoodie, which he clearly has
13 distanced himself and defense counsel is aware of that
14 throughout the discovery in this case.

15 MS. BAMBACH: Again, these are all gang signs in
16 every single one of the pictures.

17 THE COURT: Do you have any substantiation for
18 that? I mean, I'm not an expert on gang signs, but
19 how do you know that's a gang sign? It looks like the
20 sign language for "O".

21 MS. BAMBACH: Well, I don't know who the person
22 in that picture is well versed in sign language.
23 Also, authenticating that that is Mr. Young in the
24 picture. It was on Ms. Coleman's phone and yes, they
25 can say he was using her phone, but how do we know

1 that was actually him in that photo.

2 THE COURT: Well, Ms. Coleman would need to come
3 in and say that's him.

4 MS. SIMPSON: Or Investigator McCoy.

5 THE COURT: Right.

6 MS. SIMPSON: Or Investigator Jimenez, all of
7 whom we indicate will identify Lorenzo in one of the
8 videos, but clearly it's a selfie of him, and we do
9 have witnesses who can identify him in those videos or
10 photos, my apologies.

11 THE COURT: So your objection to the red hoodie
12 is identification and gang signs?

13 MS. BAMBACH: Identification and gang signs.

14 THE COURT: Okay.

15 MS. BAMBACH: And also this was taken two days
16 before and it's just a red hooded sweatshirt. I think
17 it's highly prejudicial.

18 THE COURT: You can't just say it's highly
19 prejudicial. You have to say why it's prejudicial.

20 MS. BAMBACH: Because it is --- other than the
21 gang signs, it is the picture of the person wearing
22 the red hooded sweatshirt two days before. It's not
23 tying him to the bakery whatsoever. The picture is
24 not at the bakery. He is not with anyone else
25 involved in this case. I don't see how it's relevant

1 that he has on a plain red hooded sweat shirt two days
2 before this incident occurred where someone with a red
3 hooded sweat shirt was in the bakery. We don't know
4 where that picture was taken. I mean, it's in a car,
5 but we don't know exactly where, and I would just
6 offer these up. They're are some of the ---

7 MS. SIMPSON: Your Honor, if I could just look at
8 what she is saying. We haven't seen these yet.

9 MS. BAMBACH: It's just these.

10 MR. KRZYSTON: Judge, just for the record there's
11 are from a packet entitled Institute of Police
12 Technology and Management. The packet is entitled
13 "Basic Street Gangs Hand Signs." It looks to be
14 authored by Michael Bishop Brown. We would offer not
15 only those images but the document as to whole as a
16 Court's exhibit so that --- we feel it may be
17 instructive in determining that the sign language or
18 hand gestures are in fact gang related.

19 THE COURT: Where did you get that?

20 MR. KRZYSTON: That was actually disclosed in
21 Mr. Stevenson's reciprocal Rule 5 to the State.

22 THE COURT: So you got it from Ms. Zmroczek?

23 MR. KRZYSTON: I believe it was disclosed to
24 Mr. Schnee, us, and the State.

25 MS. SIMPSON: By Ms. Zmroczek, correct.

1 THE COURT: That's not going to be made a Court's
2 exhibit. There is no foundation for it in any way,
3 shape, or form. So...

4 MR. KRZYSTON: Okay. Your Honor.

5 THE COURT: Okay. All right. Well, I need to
6 see the pictures in their, whatever format you intend
7 on introducing them, and then I'll rule on the
8 admissibility of the red hoodie.

9 All right. Is that the only two photos from the
10 phone?

11 MS. SIMPSON: Now, there are a total of five.

12 THE COURT: I thought ---

13 MS. SIMPSON: But we'll limit how many we offer.

14 THE COURT: Well, I need to see them.

15 MS. SIMPSON: I will get those to you as soon as
16 possible. I don't ---

17 THE COURT: How about the videos from the phone
18 dump?

19 MS. SIMPSON: The videos, Your Honor, and I have
20 spoken with defense counsel, there are a total of
21 three. Initially, the first video which you would
22 have reviewed, is one of Mr. Young where he is
23 pointing several different guns and certain
24 individuals are rapping, however you want to term it.
25 I --- my request or the State's request, we are had a

1 firearms examiner, Ms. Suzann Cromer from SLED review
2 these videos. Upon her review and the ability to
3 actually see the guns in the video, she cannot say
4 whether they are consistent with one of the weapons
5 that would have been used in this crime. So with
6 respect to that video, we are not offering any portion
7 of it or any still photographs from that video.

8 THE COURT: All right. Fair enough.

9 MS. SIMPSON: The second video, Your Honor, this
10 is a video that was taken on ---

11 THE COURT: There is one where he is sitting down
12 and there is one kind of outside.

13 MS. SIMPSON: Right.

14 THE COURT: Yeah.

15 MS. SIMPSON: The one where he is sitting down
16 with the guns in his lap and pointing, that one we're
17 not offering at this time unless they ---

18 THE COURT: All right.

19 MS. SIMPSON: --- unless they open the door. The
20 second video where they are in the street and
21 investigators will identify Mr. Young as being the
22 individual in the camo jacket, they're walking through
23 the in the streets in the Belvedere area holding out
24 their firearms and discussing their firearms. At
25 approximately 44 seconds into that video, they

1 specifically began discussing the gun he has is a
2 Glock, we take Glocks around here. Hey, put that
3 Glock 45 up to the camera.

4 At that point, the phone --- they zoom in and it
5 is a Glock. I had Ms. Cromer review that. She is
6 here and available to testify on anything that the
7 Court needs additional testimony on that that is
8 consistent with a Glock and it would have been
9 consistent with a firearm that could have fired the
10 ammunition which was a 45 GAP ammunition, somewhat
11 rare, typically only seen in law enforcement, that was
12 found at the scene, such as the shell casings. Also
13 ammunition that was located in Mr. Young's room during
14 a search warrant on Broad Street.

15 So we deem that evidence highly relevant and its
16 probative value is definitely not substantially out
17 weighed by any danger of unfair prejudice because in
18 this case, the firearm was never recovered. There are
19 two firearms that were used. One to shoot a
20 40 caliber bullet and then this GAP 45 ammunition, so
21 it's highly relevant and puts the potential murder
22 weapon in Mr. Young's hand. As I said, without the
23 firearm in front of her to actually examine it, she
24 cannot say that this is the firearm that was used.
25 She can definitely say it was consistent. This is

1 close in time just right before the murder occurs,
2 just two days prior --- four days prior to the murder
3 on this specific video.

4 THE COURT: All right. Come on up.

5 SUZANN CROMER,
6 after being duly sworn, testified as follows:

7 THE CLERK: Please have a seat. State your full
8 name for the record.

9 THE WITNESS: My name is Suzann Cromer, spelled
10 C-R-O-M-E-R.

11 THE COURT: How long have you worked at SLED?

12 THE WITNESS: It will be sixteen years next
13 month.

14 THE COURT: What do you do at SLED?

15 THE WITNESS: I'm a firearm and tool marks
16 examiner.

17 THE COURT: How long have you been doing that?

18 THE WITNESS: Fourteen years.

19 THE COURT: Have you reviewed the discovery in
20 this case?

21 THE WITNESS: Yes, sir, I have.

22 THE COURT: Have you reviewed the video with the
23 gentlemen on the street holding guns?

24 THE WITNESS: Yes, sir, I have.

25 THE COURT: What do you know about the shell

1 casings found at the scene?

2 THE WITNESS: I examined those shell casings
3 found at the scene.

4 THE COURT: What kind of firearms --- I mean,
5 what were the shell casings found at the scene?

6 THE WITNESS: There were 45 GAP caliber cartridge
7 cases, four of them, and there were also two
8 40 caliber cartridge cases.

9 THE COURT: There were 45 GAP --- when you say
10 GAP, GAP is G-A-P, and that's actually a very unique
11 brand of 45 firearm that not every 45 is made to fire,
12 correct?

13 THE WITNESS: That's correct.

14 THE COURT: So like in the standard 1911 you
15 wouldn't be able to shoot 45 GAP. You have to have
16 something that is made for a 45 GAP?

17 THE WITNESS: Actually, no, you can shoot 45 GAP
18 in a 45 Auto.

19 THE COURT: Okay.

20 THE WITNESS: But you can't shoot 45 Auto in a 45
21 GAP firearm.

22 THE COURT: Okay. So ---

23 THE WITNESS: Because the 45 GAP is actually
24 shorter.

25 THE COURT: So the 45 GAP is shorter than the ---

1 what's the other one, a Colt?

2 THE WITNESS: 45 Auto or ACP Automatic Colt
3 Pistol.

4 THE COURT: Automatic Colt Pistol?

5 THE WITNESS: Yes.

6 THE COURT: Okay. So which can go in which?

7 THE WITNESS: You can shoot 45 GAP in Auto.

8 THE COURT: But you can't shoot 45 Auto in 45
9 GAP.

10 THE WITNESS: That's correct.

11 THE COURT: Kind of like you can shoot a 38 in a
12 357, but you can't shoot a 357 in a 38.

13 THE WITNESS: That's exactly the same principal.

14 THE COURT: Okay. So there were 45 GAP shell
15 casings found at the crime scene?

16 THE WITNESS: Yes, sir, there were.

17 THE COURT: Okay. But there was no weapon
18 recovered?

19 THE WITNESS: No, sir, there was not.

20 THE COURT: Okay. And can you tell the brand of
21 the gun from the video of the crime scene?

22 THE WITNESS: There were several pictures that we
23 found and we saw that were consistent with a Glock.
24 There was one part where they actually hold up the
25 firearm towards the gun. You can see the part where

1 it has Made in Austria.

2 THE COURT: I'm talking about from the crime
3 scene.

4 THE WITNESS: No, I have not seen the crime scene
5 video.

6 THE COURT: You have not seen the crime scene
7 video?

8 THE WITNESS: Yes.

9 THE COURT: But you know there was 45 GAP casings
10 found at the crime scene.

11 THE WITNESS: Correct, 45 GAP cartridge cases
12 with a firing pin impression consistent with Glock and
13 also there were 45 caliber bullets that had the
14 general rifling characteristics. At this time, the
15 only known manufacturer to have those general rifling
16 characteristics in 45 caliber is a Glock firearm.

17 THE COURT: Okay. And Glock actually makes a
18 very unique rifling that other firearm companies
19 don't, right?

20 THE WITNESS: No, sir, what they use is polygonal
21 rifling. It's more of a rounded edge rifling and
22 there are some other manufacturers that use it, but
23 not in the number of lands and grooves and twists.
24 What we have is we have an FBI database that we can
25 put all of those general rifling characteristics in

1 and it gives us a list of firearms that could have
2 potentially fired that bullet.

3 THE COURT: Okay. And then on the video from the
4 street, tell what you were about to tell me about what
5 you saw there.

6 THE WITNESS: They actually hold up --- I believe
7 it was the video from the street, but they hold up the
8 guns close to the camera. You can actually see where
9 a Glock firearm has "Made in Austria, Glock
10 Incorporated, Smyrna, Georgia."

11 THE COURT: Okay. Which those are all unique
12 characteristics to a Glock firearm.

13 THE WITNESS: That's correct.

14 THE COURT: And can you tell from the street
15 video that it's a 45?

16 THE WITNESS: No, sir, I can't.

17 THE COURT: Okay. So the marking on the barrel
18 that states --- the marking on the slide that states
19 the caliber, you're not close enough to see that?

20 THE WITNESS: No, sir, it was fuzzy.

21 THE COURT: What about from size?

22 THE WITNESS: I did not even attempt to try that.

23 THE COURT: Okay. Because the Glock usually has
24 the three different sizes, kind of the baby, the mid
25 size and the full size.

1 THE WITNESS: Right. And 45 GAP, they are model
2 37, 38 and 39.

3 THE COURT: Which is going to be the small,
4 medium and large versions of them.

5 All right. You can question her if you *want to.
6 You can --- we can start with the State.

7 MS. SIMPSON: And, Your Honor, this is just
8 referencing the video from the street, there is a
9 third video, too, but we can address that separately.

10 THE COURT: Do you want to ask her any questions
11 about the video from the street?

12 MS. SIMPSON: Just briefly, Your Honor.

13 DIRECT EXAMINATION:

14 BY MS. SIMPSON:

15 Q You examined the video in full, correct?

16 A That's correct.

17 Q Then we also showed you some still shots, some of
18 which weren't very clear, right?

19 A That's correct.

20 Q But you had seen the video in full, so you were
21 able to tell, I guess, which gun went with what?

22 A That's correct.

23 Q If we were able to pull some clearer shots, that
24 would be beneficial to you, correct?

25 A Yes, ma'am.

1 Q But the video offers the clearest portion and
2 probably would be the most helpful to your testimony?

3 A Yes, ma'am.

4 Q In that video, did you also hear them discussing
5 the firearms, as well?

6 A Yes.

7 Q What did you hear that was significant with
8 respect to when the gun was held by the guy in the
9 camo regarding the Glock?

10 A I heard someone say, "This is a Glock 37."

11 Q Or that's --- we're referring to the second video
12 in the street where he refers to it as a Glock 45?

13 A Right, a Glock 45.

14 THE COURT: All right.

15 MS. PINNOCK: May it please the Court.

16 CROSS-EXAMINATION:

17 BY MS. PINNOCK:

18 Q Can you tell me what the rifling characteristics
19 are for the 45 GAP?

20 A It is eight, right polygonal rifling, and that's
21 in Glock, that's the same for 45 auto, as well.

22 Q The same for 45 as well?

23 A Yes, ma'am.

24 Q You said you weren't able to --- well, you hadn't
25 seen the video from the actual crime scene?

1 A No, ma'am, I have not.

2 Q You said you can shoot 45 GAP ammunition out of a
3 45 automatic pistol?

4 A That's correct.

5 Q And the rifling will be the same?

6 A Yes, ma'am.

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

8 (Pause.)

9 Thank you, Your Honor.

10 THE COURT: All right. Tell me --- what?

11 MR. SCHNEE: Never mind, Judge.

12 THE COURT: Yeah, I don't think it has Mr. Barnes
13 in any of these videos, is he?

14 MS. SIMPSON: No, not that we can see. There are
15 some people that we aren't able to recognize. I
16 believe Ms. Zmroczek has indicated that her client
17 would recognize certain persons, but we are not aware
18 of exactly who that is.

19 THE COURT: Okay.

20 MS. SIMPSON: With respect to the caliber of the
21 gun used to kill Ms. Hunnewell, the 40 caliber is not
22 at issue here or in any of the videos that we're
23 referencing.

24 THE COURT: Okay. Now, do you want to talk about
25 the third video?

1 MS. SIMPSON: Yes, and the with respect to the
2 third video, Your Honor, this is where there are a
3 number of individuals in the house and the phone was
4 being used to, I guess, photograph or video the
5 individuals with weapons. They all have a number of
6 weapons. I sat down and along with Ms. Cromer and Joe
7 West of SLED and reviewed that video, as well. We
8 took several still shots and attempted to get close-
9 ups of that.

10 I provided that information to the defense and
11 then Ms. Cromer did take the opportunity to review
12 that in addition to her entire review of the video.

13 If you like, I can tell you her ---

14 THE COURT: Let her tell me.

15 MS. SIMPSON: Or you can question her.

16 THE COURT: Go ahead.

17 THE WITNESS: There were several firearms that we
18 saw on those still shots that were consistent with a
19 Glock firearm.

20 THE COURT: Okay.

21 THE WITNESS: But, again, we could not determine
22 it down to caliber or --- there was actually one
23 picture where we were trying get the serial number,
24 but we just could not get it to be in focus enough.

25 REDIRECT EXAMINATION:

1 BY MS. SIMPSON:

2 Q One picture we actually made a reference to in
3 the statement earlier in that there is an individual
4 with a mask on his face. In his right hand, he is
5 actually holding one of the weapons that Ms. Cromer
6 says is consistent with a Glock. There is a comment
7 made as that is being shown up close to the camera,
8 "Yeah, look at this Glock 37," which is consistent
9 with being able to shoot the GAP 45 ammunition, is my
10 understanding, correct?

11 A That's correct.

12 MS. SIMPSON: That's all, Your Honor.

13 MS. PINNOCK: Real quick, Ms. Cromer.

14 RECROSS EXAMINATION:

15 BY MS. PINNOCK:

16 Q How many people were in that video?

17 A Which video?

18 Q The third one.

19 A I don't recall.

20 Q Was there a number of people in there?

21 A I don't recall. I mean, I know there were at
22 least two, but I don't recall how many.

23 Q Okay. And you said the pictures that you were
24 trying to review, you could not get a make and model;
25 you couldn't see exactly what it was?

1 A Well, I could tell that they were consistent with
2 a Glock, but I could not determine it down to a model.

3 Q So you don't ---

4 A Some of the pictures ---

5 Q All you can say is that it's consistent with a
6 Glock?

7 A That's correct.

8 Q You didn't get serial numbers?

9 A No, ma'am.

10 Q And nobody provided you with firearm tests in
11 this case?

12 A That's correct.

13 MS. PINNOCK: Thank you, Judge.

14 THE COURT: Are there any faces in video 3,
15 because I couldn't pull it up so...

16 MS. PINNOCK: Yes, sir, there's about seven
17 people in this very small room in the third video.
18 The camera is going around the room and everybody's
19 talking, rapping, holding up guns, picking up guns,
20 putting them down. I mean, it's a number of people
21 that are seen on this video involved with handling
22 these weapons.

23 THE COURT: Can you see Mr. Young on the video?

24 MS. SIMPSON: Your Honor, no, and it would be our
25 contention that he is actually the one, the most

1 likely one, holding the phone since it was found in
2 his possession. Additionally, the video on the
3 streets is actually taken on the same day within a
4 matter of hours of the video taken in the house. At
5 some point, at the appropriate time, I'll make the
6 arguments with respect to other to other testimony
7 that makes this more relevant, as well.

8 However, there is no real question that Rolanda
9 Coleman was not in possession and that Lorenzo Young
10 was, we submit, in possession of that phone during
11 this time. And also, as there are codefendants, both
12 Trenton Barnes, as well as Troy Stevenson, who are
13 potential individuals in the video, as well.

14 THE COURT: Okay. Well, here is what you're
15 going to need to do. You're going to need to be
16 able --- I have a time trying to get these things to
17 play on my computer because the State has so many ---
18 I don't know what they are, but it just shuts down
19 when you put something new in it because they have so
20 many safeguards in place on these computers. You're
21 going to need to be able to show me exactly the
22 portions of the videos that you want to play.

23 MS. SIMPSON: And we would actually go ahead and
24 work on redacting that down to the portion that's
25 relevant ---

1 THE COURT: Right.

2 MS. SIMPSON: --- because we absolutely agree
3 that the videos in their entirety would be just ---

4 THE COURT: All right. Get that redacted down to
5 where you can put a computer in front of me with
6 everybody in the room and say this is what we want to
7 play and hit play so I can look at it.

8 MS. PINNOCK: Your Honor, we would just ask that
9 when they are redacting the videos, that you consider
10 them taking out the audio. It's completely
11 irrelevant. There are --- I know they're saying
12 they're going to try to redact it, but there is a
13 number of different images on those videos where there
14 are people walking around holding blunts just walking
15 around smoking weed in the street. I would ask that
16 all that information be taken out because that is
17 character evidence, and I would argue they cannot
18 redact it and not use --- redact it, keep all that
19 information out and completely cut out the audio on
20 these videos, Judge. I don't see how it could be
21 admissible because of the character evidence, the bad
22 character evidence, they would be introducing and we
23 did not open the door.

24 THE COURT: All right. Redact it to the level
25 that you think it's admissible and then let me review

1 it. Then I'll make a decision on it.

2 MS. SIMPSON: Thank you, Your Honor.

3 THE COURT: Okay. But I need to be able to go in
4 my office and everybody there and me hit play and me
5 watch it instead of spending an hour trying to figure
6 how to pull it up on my computer without Court
7 Administration coming to get me.

8 MS. SIMPSON: Yes, Your Honor. We actually have
9 a fairly large smart TV that we can play it on for
10 you.

11 THE COURT: That's fine. Whatever works to where
12 I can see it without having to fight with my computer.
13 Okay.

14 Okay. As to the --- anything else on the videos?
15 You're good. Thank you very much. Sorry. I forgot
16 about you.

17 THE WITNESS: That's Okay.

18 THE COURT: All right. Anything else as to the
19 videos?

20 MS. SIMPSON: I'm not --- I guess once we have
21 the redactions, and I think we have established the
22 relevance of the information on that video, I'll be
23 happy to expand further if the court requires, but at
24 this time, I think they are relevant in their redacted
25 form and, of course, I'll show the defense the copy

1 that we believe to be admissible, but as far as the
2 photos being relevant to be admissible in this case, I
3 believe they definitely far exceed the 403 analysis
4 with respect to the probative value.

5 THE COURT: We'll come back to that. Anything
6 else as far as to any different videos?

7 MS. SIMPSON: Your Honor, that would be all the
8 videos on the phone.

9 THE COURT: All right. As to the motion to
10 suppress the search warrant, that motion hereby
11 denied. South Carolina law requires the finding of
12 probable cause by a neutral and detached magistrate
13 prior to the issuing of a valid search warrant. Based
14 on the information contained in that search warrant
15 and on the testimony given by Investigator McCoy with
16 the City of Columbia as to the information that he
17 provided the municipal recorder in respect to the
18 information concerning Donald Moore, who was listed as
19 an informant in the search warrant, but was not listed
20 as a confidential informant, I find that the search
21 warrants are proper. They had a proper foundation and
22 they are not in violation of the Fourth Amendment or
23 the South Carolina Constitution and the information
24 contained or executed in those warrants will not be
25 suppressed, and they have met the elements of a proper

1 search warrant and a search warrant would be
2 admissible.

3 All right. Anything else before I deal with this
4 juror?

5 MS. SIMPSON: Briefly, Your Honor, with respect
6 to the phone dump, the only additional information at
7 this time, and like I said upon further review we may
8 offer more, that we would be seeking to introduce is
9 the search history up to July 5th, the date of Mr.
10 Young's arrest. There were searches where he is
11 actually captured in images of the crime scene video
12 in the news feed that was posted in W.I.S., as well as
13 whatever other media outlets. There are also some
14 Alvin S. Glenn Detention searches, but we would limit
15 it from the timeframe of the incident to the date of
16 his arrest, which would be the 5th. However, that
17 limited information is absolutely relevant in this
18 case.

19 THE COURT: All right. Do you want to say
20 anything about that?

21 MS. PINNOCK: Judge, the only concern I have is
22 that we don't know --- at this point, unless they have
23 testimony to prove otherwise, which I don't know who
24 they would bring in to testify about that. We don't
25 know who has taken screen captures. We don't have any

1 of that information. We haven't been updated on
2 anybody who is going to be testifying about that. All
3 we know is they are present on the phone and it was a
4 phone Mr. Young did not --- he used that phone. A
5 number of people used that phone, so I don't believe
6 it can be authenticated in any way or proved that
7 Mr. Young was the person taking those screen captures.

8 MS. SIMPSON: And, Your Honor, with respect to
9 defense counsel's concerns, all of that seems to go to
10 the weight, not the admissibility of the evidence.
11 This phone was located next to him during his arrest
12 and there will be testimony and there are some
13 evidence that this phone was the phone that he used
14 and was in his possession.

15 THE COURT: We'll deal with that when we get to
16 the foundation of that being properly laid by the
17 State before I deem that to be admissible. I want to
18 hear that foundation.

19 MS. BAMBACH: Yes, Your Honor.

20 THE COURT: Okay. Anything else, Mr. Schnee?

21 MR. SCHNEE: I don't think so, Your Honor.

22 THE COURT: Mr. Krzyston?

23 MR. KRZYSTON: No --- yes, Your Honor.

24 MS. PINNOCK: I apologize, Your Honor, one more
25 quick issue. Going through the State's witness list,

1 there were a number of people listed that were
2 involved with the arrest of Mr. Young. At the time he
3 was arrested, he was being arrested on a burglary
4 warrant. He was not currently charged with the murder
5 and this would be a prior bad act, which they told us
6 they were not going into, so we would have concern if
7 there is going to be any testimony about when he was
8 actually arrested and where he was arrested. It was
9 for a completely unrelated charge. They swore out
10 warrants for him and all the reports that we have
11 indicate that he was being arrested at that time for
12 an unrelated burglary charge, so we just like to, I
13 guess, put Your Honor on notice that we would have an
14 objection to anybody who was involved with the arrest
15 of Mr. Young testifying about him being arrested and
16 how it was ---

17 THE COURT: What do you know about that?

18 MS. SIMPSON: Your Honor, with respect to the
19 circumstances and why they were there to arrest him, I
20 think we can limit it and not go into the fact that
21 there was an outstanding burglary. We'll advise our
22 witnesses, however, the fact that he was arrested, the
23 phone was found with him. It was several days after
24 the incident and that he was hiding in a closet. All
25 that is definitely ---

1 THE COURT: What I hear her saying is she doesn't
2 want anything about his ---

3 MS. SIMPSON: We don't intend ---

4 THE COURT: If the warrant they were holding was
5 for an unrelated incident, you would have an objection
6 to them going into that; is that what you're saying?

7 MS. PINNOCK: Yes, sir.

8 THE COURT: And the issue is with the fact that
9 whatever warrant they may have been holding to
10 execute, if it was an arrest warrant for an unrelated
11 crime, then instructing your witnesses not to go into
12 that.

13 MS. SIMPSON: We have no issue with that, Your
14 Honor.

15 THE COURT: As to the facts and circumstances of
16 where he was, what he had on, what he was doing ---
17 those kind of things, that's fine. If they're
18 actually arresting him physically on another warrant
19 that has nothing to do with this case, I don't want
20 any of that in.

21 MS. SIMPSON: Yes, sir.

22 THE COURT: Does that make sense, Ms. Pinnock?

23 MS. PINNOCK: Yes, sir, Your Honor. And, I guess
24 our concern is there was a K-9 involved.

25 THE COURT: Okay.

1 MS. PINNOCK: They called K-9. They took the K-9
2 to his apartment. The K-9 was involved with arresting
3 him for the burglary, so we do not want any of to
4 testimony in because at the time he went to the
5 headquarters, he was not under arrest for the murder.
6 He was under arrest for the unrelated burglary charge
7 and he was questioned at that point on the current
8 charges. I think any testimony about the
9 circumstances surrounding his arrest would be improper
10 because he was not arrested for these charges. He was
11 being arrested for something else.

12 THE COURT: So now you're objecting to
13 everything?

14 MS. PINNOCK: I misunderstood what you said. I'm
15 objecting to the testimony as a whole. That would be,
16 I believe, Eunice and Sergeant Nelson or Investigator
17 Nelson, who is K-9. They were not involved with
18 arresting him for this charge. He was not --- it was
19 before that the K-9 that arrested him. That's
20 completely unrelated. I think it's mischaracterizing
21 the circumstances of his arrest if we're going to have
22 testimony about him being tracked by K-9 and hiding in
23 a closet in an apartment when it has nothing to do
24 with these charges.

25 MS. SIMPSON: And, Your Honor, if I may, the

1 circumstances, that is only a portion of why he was
2 being arrested. As the search warrant for both the
3 burglary and the arrest warrant for Mr. Young were
4 attempting to be served at the Bronx Street location
5 where Ms. Coleman was and where Mr. Young resided, Mr.
6 Young actually called the location or attempts were
7 made and there was a conversation. He was requested
8 to turn himself in. I believe he had a conversation
9 where he was not going to turn himself in. At that
10 point, he was clearly a fugitive and law enforcement
11 was looking for him with respect to his arrest. So he
12 actually made some communications with law enforcement
13 while they're serving a search warrant, and he --- for
14 both the murder and the burglary, Your Honor, so I
15 think the circumstances surrounding the K-9 unit and
16 what happened where he was arrested are relevant.

17 THE COURT: Okay. I'll need to hear this
18 testimony before you give it so I understand it. At
19 this point I'm confused. Okay. All right. What
20 else?

21 MS. GARFIELD: I believe Mr. Young's attorneys
22 had made a motion last week to suppress any testimony
23 regarding Mr. Young possessing a gun or wearing red.
24 After that you instructed me to provide you summaries
25 of what those witnesses would testify to, which I have

1 done so.

2 THE COURT: Right. Do you want to be heard on
3 that argument?

4 MS. PINNOCK: Your Honor, I believe the testimony
5 we were to be provided would be a summary of Donald
6 Moore and the original statement by Rolanda Coleman
7 that was given back in July. I'm not sure if the
8 State is it still intending on putting Mr. Moore on
9 the stand, but we --- the only information we have for
10 Ms. Coleman was from July. I don't know if she is
11 going to be coming to court to testify, but --- I
12 mean, that's just the information we've had. I'm not
13 sure what the summaries added to any of that
14 information. The fact that he owned a gun in the past
15 is considered, I believe, is a prior bad act. Owning
16 a gun ---

17 THE COURT: How is owning a gun a prior bad act?

18 MS. PINNOCK: Because of his age, Judge.

19 THE COURT: How old was he?

20 MS. PINNOCK: He is under 21.

21 THE COURT: That's not a crime. There's a South
22 Carolina case on point.

23 MS. PINNOCK: And that he was carrying it at any
24 point ---

25 THE COURT: I believe it starts with a "B",

1 Burgess, Belton, something like that.

2 MS. PINNOCK: Yes, sir, and because anytime he
3 was carrying the pistol it was not in his house, that
4 could potentially be an unlawful carrying. I don't
5 think testimony of him owning a gun at some point in
6 the future --- in the past, has any relevance in this
7 case whatsoever. We're dealing with a bunch of
8 assumptions and speculation about what Mr. Young
9 allegedly owned and what was --- what kind of weapons
10 was involved with this incident. I think there is no
11 concrete evidence saying that anything he allegedly
12 owned in the past was involved with this whatsoever.
13 All of this is speculation. It's talking about
14 potential prior bad acts that he did. We don't know
15 how long ago. We can't say a week ago or months
16 before. I mean, it is character evidence, Judge. It
17 is prior bad acts that are alleged by Mr. Young. I
18 think without a solid --- something solid tying him
19 with what they're saying of him before and what
20 weapons were involved with this incident, I don't
21 think it's relevant.

22 THE COURT: Okay. Now as to Mr. Moore, I didn't
23 really see anything in here in the summary you gave me
24 about him saying Mr. Young had a gun.

25 MS. GARFIELD: He sees Mr. Young with a gun about

1 7:45 to 8:00 the evening prior to the murder.

2 THE COURT: Okay. That's not in my summary.

3 MS. GARFIELD: If it's not in there, it should
4 have been, Judge. He testified that about 7:45 to
5 8:00 the evening of June 30th, he saw Mr. Young with a
6 gun. In fact, Mr. Moore originally tells law
7 enforcement he was very upset with Mr. Young having a
8 gun because there were several small children around
9 and he instructed him to put it up.

10 THE COURT: So Mr. Moore says that on June 30th
11 around 7:45 ---

12 MS. GARFIELD: Correct.

13 THE COURT: --- he says he saw Mr. Young with a
14 gun?

15 MS. GARFIELD: Correct.

16 THE COURT: Does he describe this gun?

17 MS. GARFIELD: I'm going to turn it over to
18 Ms. Simpson. She has her notes before her.

19 MS. SIMPSON: He specifically says, Your Honor,
20 that on Sunday, June 30th, around 7:30 to 8:30 he is
21 in the street.. I guess the circle where all these
22 guys hang out. Lorenzo has the gun out and pointing
23 it. He was probably within arm's length distance of
24 it. There were kids behind him. He says it was a
25 Glock 40 and he told him to "put that junk up." I'm

1 paraphrasing. At that point, he actually follows
2 Lorenzo or claims to have followed Lorenzo into Troy
3 and Trenton's home on Lucille Drive where he sees
4 Lorenzo put the gun up at that point, following his
5 instructions. He goes on further, but he does say
6 that he had the opportunity to view that gun. In
7 addition he also talks to seeing Troy with guns, as
8 well, but I know that's not defense counsel's motion
9 at this point.

10 THE COURT: All right. On Ms. Coleman, do you
11 have her bullet point thing?

12 MS. GARFIELD: I didn't bring a copy with me
13 Judge, but if my memory is correct, she had seen
14 Mr. Young with a Glock previously. She sees him come
15 home to the house where they live about 6:00 A.M. or
16 7:00 on the morning of the murder, which would have
17 been approximately three hours later. She sees him.
18 Initially she says he puts it on a dresser. She later
19 changes that story putting it in a baby crib, sort of
20 at the end of the crib where you keep wipes and
21 diapers and things of the nature. He covers it up
22 with a shirt, a red shirt. They leave to go to their
23 job in West Columbia at the meat packing company.
24 When they get home the gun and shirt are missing,
25 which turns into basically a family feud because no

1 one can find the gun, and she has testified --- she
2 would testify that Mr. Young has told her it was a
3 Glock 45 GAP.

4 THE COURT: Okay. What is your position on that?

5 MR. KRZYSTON: Judge, I don't know that that's
6 what --- it's substantially accurate, yes, but is that
7 what Ms. Coleman said word for word? I don't believe
8 so. I believe when I heard Ms. Coleman's statement she
9 indicated she possibly was told it was a 45. I don't
10 recall --- and again, I don't recall that she ever
11 said anything specifically about a Glock. With
12 respect to Donald Moore, I would just draw the court's
13 attention to the substance of Mr. Moore's statement
14 indicating that Mr. Young was allegedly outside in
15 possession of the gun. That would circle back
16 obviously to the 404(b) and prior bad act argument to
17 the extent and again before, I think, appropriately
18 formulate and put for the argument, I think we need
19 get definitely what Ms. Coleman said.

20 I believe --- and this is not a sworn transcript
21 I have here. That is transcript that we created,
22 Investigator Reese stated that when Ms. Coleman was
23 asked if this was the same gun she had seen before,
24 Rolanda said, "Yes," and Investigator Reese asked, "Is
25 that the gun he described to you as a 45 or as the

1 4-5." Ms. Coleman says "Yes," and then Mr. ---
2 Investigator Reese asks, "Okay, that's the same
3 gun..." So I think there is some question to what
4 Ms. Coleman actually said. I think before we proffer
5 an argument, I'd just like to understand exactly what
6 the State intends to offer in regards to that.

7 THE COURT: Is there anything that you plan on
8 getting into with Ms. Coleman involving a gun prior to
9 the incident other than she has seen him with a gun,
10 just one. He got it a month or two before the
11 incident.

12 MS. GARFIELD: And that he told her it was a
13 Glock.

14 THE COURT: Because the majority of the
15 information that you summarized that she is going to
16 provide was post incident.

17 MS. GARFIELD: Yes, sir.

18 MR. KRZYSTON: And, Judge, if I'm reading our
19 transcript right, Coleman's statement may have been
20 post incident, but I believe the statements to which
21 he is discussing, Investigator Reese and potentially
22 Investigator McCoy, predate the incident. I mean, I
23 think there are some foundational issues, and
24 potentially some ---

25 THE COURT: This says, "He came into the house

1 with it after the murder."

2 MR. KRZYSTON: Okay, then again I was focusing on
3 a different ---

4 THE COURT: "Wrapped in his shirt."

5 MR. KRZYSTON: Okay. I was focusing on a
6 different subsection of her statement. I would note
7 for the record that I do not believe Ms. Coleman ever
8 specifically said it was a Glock. I believe
9 Investigator Reese probably had a Glock on his belt
10 and said that it may have looked similar to that.
11 That's the extent of that.

12 Okay. All right. Anything else?

13 MS. GARFIELD: No, sir.

14 THE COURT: Mr. Krzyston?

15 MR. KRZYSTON: Yes, Your Honor.

16 THE COURT: Anything else?

17 MR. KRZYSTON: Other than the obvious renewal of
18 Riddle, Brady, all those and its progeny, we would
19 have nothing further for Your Honor at this point.

20 THE COURT: All right. Mr. Schnee?

21 MR. SCHNEE: Judge, I would also renew all my
22 prior motions and requests for discovery. Apparently
23 they are claiming to have identities of various people
24 on those videos, and I don't know who they're claiming
25 they are. The only other issue I'd bring up, Your

1 Honor, is sequestration. We apparently have state
2 witnesses sitting in here now. We have a SLED
3 firearms person.

4 MS. CAMPBELL: Expert.

5 THE COURT: She is an expert.

6 MR. SCHNEE: I was under the impression that all
7 witnesses were sequestered.

8 THE COURT: Sequestration never applies to
9 experts.

10 MR. SCHNEE: I wanted bring it up and bring it to
11 the court's attention and make sure people were
12 watching their witnesses.

13 MR. KRZYSTON: We would like to renew all
14 previously made motions and objections.

15 THE COURT: Okay.

16 MS. GARFIELD: We just renew our reciprocal
17 motions, as well. We learned on Friday that Mr.
18 Krzyston that he may or that Mr. Schnee has an expert
19 on the witness list and we would like CVs or reports
20 on any of them.

21 MR. KRZYSTON: Judge, just to clarify from the
22 beginning of this morning and this afternoon, we do
23 not intend to offer any such witnesses. If we do and
24 that changes, we will certainly let the prosecutor's
25 office know as soon as we know.

1 THE COURT: Okay.

2 MR. SCHNEE: I have no reports. I do not
3 currently have a CV. If I'm going to end up calling
4 him as a witness --- and I'm obviously still
5 uncertain, I will be providing anything he gives me.

6 THE COURT: Okay. What about his CV?

7 MR. SCHNEE: I don't have that yet.

8 THE COURT: When are you going to ask for it?

9 MR. SCHNEE: I'm going to get it from him when I
10 decide if I'm going to use him. I'll have that
11 decision probably by Wednesday or Thursday.

12 THE COURT: All right. Do you want to be here
13 while I deal with this juror?

14 Yes, Ms. McDuffie, what is it?

15 MS. MCDUFFIE: We have one more matter. Last
16 Friday on November 7th around 2:00 P.M., counsel for
17 Mr. Young filed a motion to recuse the 5th circuit
18 solicitor's office. Your Honor, they notified us via
19 text message yesterday that they are withdrawing that
20 motion. I quote, "That they realize it's based on
21 improper ground for relief," and they apologized for
22 the filing of that motion. Your Honor, we are asking
23 that that motion be removed from the clerk's file and
24 sealed.

25 MR. KRZYSTON: Judge, as previously discussed, we

1 are consenting to withdrawing the motion. If Your
2 Honor sees fit to seal the transcript or the clerk of
3 court's file, I don't believe our office would have
4 any objection.

5 THE COURT: Okay. So done.

6 MS. MCDUFFIE: Thank you.

7 THE COURT: Do you want to be here while I deal
8 with this juror or go on and go?

9 MR. KRZYSTON: That's okay.

10 THE COURT: Okay. Let's find juror number 259.
11 You don't have to be here for this if you don't
12 want to. Doesn't matter to me.

13 MR. KRZYSTON: Thank you, Judge.

14 THE COURT: Same for you, Mr. Schnee, and the
15 solicitor's office.

16 (WHEREUPON, State's Exhibits Numbers 323, 324,
17 325 were marked for identification only.)

18 THE COURT: All right, Ms. Stokes, raise your
19 right hand.

20 WENDY STOKES,
21 after being duly sworn, testified as follows:

22 THE COURT: All right. I want to know what
23 connection, if any, you have to either defendant in
24 this case.

25 THE JUROR: None. I don't even know them.

1 THE COURT: Okay. The deputies have informed me
2 that they witnessed you embracing some of the
3 defendant's family members this morning.

4 THE JUROR: I didn't embrace anybody's family
5 members. I was talking to one of the jurors. That's
6 it.

7 THE COURT: Okay.

8 THE JUROR: I didn't say anything. I didn't know
9 who she was.

10 THE COURT: Well, why didn't you talk to her.

11 THE JUROR: I didn't say anything to her. I was
12 just saying was she a juror and that's all.

13 THE COURT: And that involved touching her?

14 THE JUROR: No, I didn't touch her. I didn't
15 even touch her. I was like this far away from her.

16 THE COURT: All right. Deputy Barefoot, tell me
17 what you saw.

18 THE DEPUTY: When everybody went to the break
19 room there, the family came down. As they were going
20 out, she turned around and hugged one of them.

21 THE JUROR: Oh, I didn't hug anybody. That's not
22 true. Oh, I hugged a girl who was up here. Oh, up
23 here.

24 THE COURT: That's where the ---

25 THE JUROR: I thought you was talking about

1 outside. No, I was up there. I hugged her because I
2 helped raise her.

3 THE DEPUTY: Do you know her?

4 THE JUROR: Yeah, I do know her. I didn't know
5 she was one of the jurors.

6 THE COURT: Who was the woman you hugged?

7 THE JUROR: I think her last name is Carter. I
8 do not know her name. I just know they call her Pig
9 by her nickname.

10 THE COURT: Okay. And do you know if she is
11 connected to either of the defendants' families?

12 THE JUROR: I don't know.

13 THE COURT: What part of town does she live in?

14 THE JUROR: Her grandmother lives right up the
15 street like three houses up from me. Her sister has
16 some other --- and some grandchildren. I helped raise
17 her. Not raise her, but they came to my house all the
18 time. I helped raise them and care for them in
19 different places.

20 THE COURT: Do you know either defendant
21 personally?

22 THE JUROR: I just know the young lady that I had
23 hugged.

24 THE COURT: Do you know any of the family members
25 of any of the defendants?

1 THE JUROR: No, I just only know her. That's all
2 I know is her.

3 THE COURT: Okay. All right. She can be put
4 back in the standard jury pool. Do you understand,
5 Jackie?

6 THE CLERK: Yes, Your Honor.

7 THE COURT: Okay. Thank you very much. All
8 right. We'll see you all Wednesday morning at
9 9:00 A.M.

10 (WHEREUPON, Court was adjourned for the day.)

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12 (WHEREUPON, Court's Exhibit Number 9 was marked
13 for identification only.)

14 THE COURT: All right. So we need to do a Denno
15 hearing; is that right?

16 MS. SIMPSON: There are two issues, Your Honor.
17 Denno, as well as --- and I don't know if you actually
18 want to do the Denno hearing now. I don't believe
19 it's going to be addressed in opening statements by
20 the State as far as Mr. Barnes' statement, but there
21 were two other issues that Your Honor requested, the
22 still photos ---

23 THE COURT: Right.

24 MS. SIMPSON: --- and I'm showing these to the
25 defense. It's State's 390 through 394 would be what

1 we would be offering.

2 THE COURT: And these pictures were taken on what
3 phone?

4 MS. SIMPSON: They were taken from the phone of
5 Lorenzo at the time of his arrest. It was attributed
6 to Lorenzo through the testimony of Rolanda Coleman.
7 The photos themselves were taken on June 28th, which
8 would be two days prior to this incident occurring and
9 the relevance of these photos, of course, is Lorenzo
10 in the red hoodie, which was never recovered and, of
11 course, that is the --- one of the shooters identified
12 in the video from the murder.

13 THE COURT: Outside of the alleged gang signs, do
14 you have an objection to those photos?

15 MS. PINNOCK: Yes, Your Honor. We would renew
16 our original objection to it. And then we object to
17 the number of photographs. I don't see the relevance
18 or the necessity of having five different photographs
19 of the same thing. So if Your Honor is still inclined
20 to deny our motion based on the hand signs that are
21 being made, we would ask that you only allow them to
22 admit one because it is cumulative at that the point
23 if there's multiple pictures of the exact same thing.
24 We would renew our objection as a whole.

25 I believe everybody --- at this point, we do not

1 know if foundation will be laid as to who took the
2 pictures. It was not Mr. Young's phone. That was
3 told to the investigators originally back in 2013.
4 That was a phone that he used occasionally, but it was
5 not his phone. We renew our original objection. We
6 would object based on no foundation at this point, and
7 we would also argue that ---

8 THE COURT: Well, we're not dealing with the
9 foundation right now. We are just dealing with
10 general nature of the photos.

11 Okay, so 390 is out, 391 is out, 394 is out, 393
12 is out. 392 is subject to the proper foundation will
13 be admitted, but I want the right hand that's in the
14 picture cut out so you have the full hoodie and the
15 hat subject to the proper foundation, but I don't know
16 what that is. It looks like he's making an "o" with
17 his hand. I'm not going to pretend like it's not a
18 gang sign, but out of an abundance of caution of
19 occasion I'm going to order that part of the hand be
20 cut out so that really the only part --- you still
21 would be able to see Mr. Young, assuming they could
22 make the proper foundation wearing the red hoodie and
23 the hat.

24 Okay.

25 MS. PINNOCK: Thank you, Your Honor.

1 THE COURT: All right. So I've removed any
2 reference to the alleged gang sign. I don't know if
3 that's a gang sign or not, but out of an abundance of
4 caution, let's cut it out. I don't know that there's
5 any probative value to the hand sign in it. I find
6 there is probative value assuming they can lay the
7 foundation as to time and place and who it is and
8 everything else. Based on my review of the video,
9 that would be relevant. Okay.

10 MS. SIMPSON: Your Honor, the final matter would
11 be with respect to the videos from the phone, which
12 Ms. Cromer testified to.

13 THE COURT: Right.

14 MS. SIMPSON: I've spoken with the defense. We
15 were actually able to yesterday redact down a total of
16 four different portions from those two videos that we
17 would seek to introduce.

18 The defense was fine with reviewing it along with
19 Your Honor. There are issues playing from the
20 computer. However, it's my understanding that we have
21 it queued up and we can play it from the big TV for
22 Your Honor to review.

23 THE COURT: Okay.

24 MR. KRZYSTON: And, Your Honor, we are would just
25 ask that the State position the TV in such a way so it

1 obviously only faces you.

2 THE COURT: I need to see it.

3 MS. SIMPSON: Yes.

4 THE COURT: These are the videos from the phone;
5 is that right?

6 MS. SIMPSON: Yes, Your Honor. These are the
7 portions with respect to each one. The primary reason
8 we want the video offered with the audio, it actually
9 puts a 45 in Lorenzo Young's hand where he is
10 referring to it and speaks about it on the video, as
11 well as showing the gun while it's in his hand.
12 Another portion that you will see references Lorenzo
13 by name. It's very limited portion. And then the
14 final refers to the Glock that Ms. Cromer testified
15 to.

16 THE COURT: Do them one at a time. Mr. Barnes is
17 not in these videos, correct?

18 MS. SIMPSON: Correct. Not that we're aware of.

19 THE COURT: Is Mr. Stevenson?

20 MS. SIMPSON: Arguably, but I don't believe so.

21 THE COURT: Okay, but you don't have ---

22 MS. SIMPSON: Nobody can identify him.

23 THE COURT: You don't have anybody that can say
24 that's Troy Stevenson?

25 MS. SIMPSON: No.

1 THE COURT: Okay.

2 MS. SIMPSON: And my apologies, Your Honor. It
3 looks like we're having issues with the audio, which
4 is the important portion of this video. And the audio
5 will be played through Windows Media Player, but the
6 video portion doesn't show, but I believe we can also
7 address this later if Your Honor wants to. I don't
8 believe it's referenced in the opening statements
9 either.

10 THE COURT: Is there audio in this?

11 MS. SIMPSON: Yes, there is audio. I was
12 actually able to play the audio portion through my
13 Windows Media Player, however the video portion did
14 not show, with respect to it, but as I said, we can
15 address this unless you want to play the audio.

16 THE COURT: No. If no one is going to mention it
17 in opening then we can deal with it later.

18 MS. SIMPSON: Okay. Did you want to see the
19 portions or just wait?

20 MR. KRZYSTON: We can wait.

21 MS. BAMBACH: We can wait.

22 THE COURT: Okay. All right. Anything else? Do
23 we have all the jurors, Mr. Dye?

24 THE BAILIFF: Yes, sir.

25 MS. PINNOCK: If Ms. Simpson is finished, just

1 for housekeeping, Judge, we understand you did rule on
2 our motion to sever yesterday. We understand the
3 ruling was based on the State's representations to us
4 that they were not going to be using certain pieces of
5 evidence and because there was no more Bruton issues
6 involved in this case, Your Honor did hand down a
7 ruling. We would respectfully ask that you reconsider
8 that ruling, now, because you're apparently going to
9 be dealing with statements made by Mr. Barnes to law
10 enforcement. More importantly, Judge, I believe
11 everybody has been made aware in this case that there
12 is going to be competing constitutional protections at
13 issue.

14 Mr. Young has a constitutional right to a fair
15 trial. He is guaranteed that through the federal and
16 state constitution. Mr. Barnes also has
17 constitutional rights that are guaranteed to him. I
18 think at this point starting the trial, those
19 constitutional rights are going to be competing with
20 each other. I think there are going to have to be
21 rulings weighing whose rights are more important than
22 somebody else's. I don't see how we can go forward
23 for Mr. Young or Mr. Barnes and ensure their right to
24 a fair trial, their right to a defense. It's a
25 fundamental due process protection that's provided to

1 both of them. So for Mr. Young, Your Honor, we would
2 just renew our request that you do sever these cases.
3 Again, we understand that you did rule. We're just
4 asking you to reconsider that ruling and sever these
5 cases.

6 THE COURT: All right. Your motion is denied.
7 Yes?

8 MR. SCHNEE: Thank you, Your Honor. May it
9 please the Court. I just have a couple of brief
10 things. First, based on the information that I've
11 been provided in the past day or so in doing some
12 research, I also would, at this point, just for the
13 record --- I know Your Honor is going to rule --- what
14 Your Honor's ruling is, I also would move for a
15 severance based on the same issues.

16 Additionally, Your Honor, I handed up to your
17 bench before you arrived --- I did provide a motion, a
18 memorandum of law dealing with hearsay statements.

19 Without Troy Stevenson testifying, which has now
20 been announced, additionally with Donald Moore
21 indicating through his lawyer to me that his intention
22 is to plead the Fifth, there are numerous problems
23 with statements that are --- that the State is going
24 to attempt to introduce pursuant to rule 804(b)(3). I
25 ask Your Honor to read through the memo specifically

1 dealing with Williamson v. United States, Lilly v.
2 Virginia. There are two State cases on point in
3 this, the Fuller and Holmes.

4 Essentially what this comes down to is any
5 statement that's been made by another person whether
6 it's a co-conspirator or codefendant or anyone who is
7 not testifying, every single phrase has to be analyzed
8 by Your Honor, prior to its admissibility to determine
9 if it's actually a self-inculpatory statement. If it
10 exonerates that person or exonerates another or
11 inculpates another, the courts have ruled that they
12 are wholly inadmissible. I would ask that Your Honor
13 limit the State to prevent any of that testimony from
14 being elicited improperly and/or reviewing in-camera
15 any witnesses ahead of time to ensure that none of
16 this happens.

17 THE COURT: I read your whole memo, Mr. Schnee,
18 but it doesn't tell me anything specific about what
19 about you're talking about.

20 MR. SCHNEE: Perhaps one of the best examples
21 would be Rolanda Coleman. She was discussed
22 yesterday. She was one of the State's main witnesses.
23 It's Lorenzo Young's girlfriend or common-law wife,
24 I'm not exactly sure. All the information she has
25 about this case came directly from Lorenzo. Anything

1 that she talks about involving Lorenzo and anyone
2 else, the parts about anyone else would be
3 inadmissible under Rule 804(b)(3). That would be
4 improper as hearsay, and I'm seeking to exclude that
5 information.

6 THE COURT: Now, you still haven't told me
7 anything.

8 MR. SCHNEE: Well, Judge, I'm not exactly sure
9 what she is going to testify to.

10 THE COURT: Okay.

11 MR. SCHNEE: But I know she is going to be
12 talking about that Troy was --- I'm sorry, that
13 Trenton was with Lorenzo that night. That fact by
14 itself would be inadmissible because they're talking
15 about my client now and that would be impermissible
16 hearsay.

17 THE COURT: Okay. Does the State want to respond
18 to that?

19 MS. SIMPSON: Your Honor, I think that's an
20 objection made at the appropriate time when she
21 actually testifies. We're familiar with the hearsay
22 rules. As far as --- I'm a little confused as to what
23 exactly he is referring to, but, you know, if the
24 appropriate objection has been made, we'll address it
25 at that time with respect to any hearsay issues.

1 THE COURT: All right. You'll need to bring that
2 up when it happens. I mean, I can't rule on it in the
3 abstract.

4 MR. SCHNEE: I understand, Your Honor.

5 MS. SIMPSON: Your Honor, just briefly the State
6 would renew at this time its reciprocal Rule 5 motion.
7 We have not obtained any information from Mr. Young's
8 counsel or from Mr. Barnes' counsel, while we did
9 receive reciprocal Rule 5 from Troy Stevenson, who is
10 not on trial here today, so I would renew that.
11 Additionally, Mr. Schnee did provide us a witness
12 list, but we asked for dates of birth so that we could
13 actually run their criminal history and identify who
14 they are. Those have not been provided yet, and we
15 have already settled the record or provided records
16 for our witnesses.

17 THE COURT: Okay. Where are you on dates of
18 birth?

19 MR. SCHNEE: Judge, there is only one potential
20 lay witness and I do not have his date of birth.

21 THE COURT: Okay.

22 MR. SCHNEE: The other two witnesses that I
23 listed, one is a teacher on the juvenile wing of Alvin
24 S. Glenn and the other is a doctor who may or may not
25 testify.

1 THE COURT: Okay.

2 MR. SCHNEE: I don't have his date of birth
3 either, obviously.

4 THE COURT: So you have a witness that's a lay
5 witness, but you're not talking to them?

6 MR. SCHNEE: I'm not sure I'm going to call them
7 as a witness yet.

8 THE COURT: That's not the question, Mr. Schnee.
9 The question is: have you talked to the lay witness?

10 MR. SCHNEE: I have not personally talked to him,
11 no.

12 THE COURT: Okay. Has anybody?

13 MR. SCHNEE: Yes, a brief phone conversation with
14 an investigator.

15 THE COURT: Okay. The investigator --- whoever
16 is talking to your potential witnesses, needs to call
17 every single one of them and get their dates of birth
18 and turn it over to the State by the end of the day.

19 MR. SCHNEE: All right. We'll work on that, Your
20 Honor.

21 THE COURT: That's not a work on, that's a you're
22 going to make it happen during a break. Do you
23 understand?

24 MR. SCHNEE: Yes, sir.

25 MR. KRZYSTON: Judge, with respect to our

1 requirements under Rule 5, we have nothing that
2 qualifies.

3 THE COURT: Okay. Anything else?

4 MS. SIMPSON: Nothing from the State, Your Honor.

5 MR. KRZYSTON: Nothing from Mr. Young, Your
6 Honor.

7 THE COURT: Mr. Schnee?

8 MS. BAMBACH: Nothing else, Your Honor.

9 THE COURT: All right. Let me say this to all
10 these people out here in the audience. I'm glad that
11 you're here. I'm happy you're here. I'm happy for
12 you to be here, okay. I've done a bunch of trials
13 that are of the nature and the sensitivity that this
14 one is. I understand that, and I'm very respectful as
15 to that. However, if you cannot control your behavior
16 in this courtroom, I will have you removed from the
17 courtroom. Okay.

18 Now, it is a natural emotion during some things
19 that are present or that may come up during this trial
20 to cry, be upset or to be emotional. I understand
21 that. I'm not going to allow any behavior from anyone
22 in the courtroom that would disturb the proceedings or
23 the jurors during their process of this case, so if
24 something is about to happen or something is happening
25 and you do not feel that you can appropriately control

1 your emotions, then you just need to quietly go out
2 the back door. No one is going to look down on you
3 for that or think anything about that. You just need
4 to quietly slip out the back door so as not to disturb
5 any jurors.

6 I understand these cases are emotional. I
7 understand there are multiple families present in the
8 courtroom and this is a very important case for
9 involved. I understand that. I will do my best to be
10 respectfully of that. What I cannot have is the court
11 being disturbed because of situations like that. So
12 if at any time you think this is just too much or I'm
13 getting upset or, you know, I'm not going to be able
14 to control my emotions. You can just slowly slide out
15 and slide back in when you need to when we move on to
16 the next witness or whatever it may be.

17 Okay. Thank you very much.

18 All right. Bring them in.

19 THE BAILIFF: Thank you, Your Honor.

20 (WHEREUPON, the jury entered the courtroom at
21 9:26 A.M.)

22 MS. SIMPSON: Your Honor, may we approach?

23 THE COURT: Sure.

24 (WHEREUPON, a bench conference was held in the
25 presence, but not within the hearing of the

1 jury.)

2 THE BAILIFF: The jury is seated, Your Honor.

3 THE COURT: Thank you very much, Mr. Dye.

4 All right. Good morning, ladies and gentlemen.

5 I hope you had a nice day off yesterday or you were
6 able to get work done or whatever you needed to do to
7 come in here today ready to start this trial.

8 The first thing that we are going to do this
9 morning is you are going to be sworn in. Now, the
10 other day or Monday you took a couple of different
11 oaths to provide accurately information or truthful
12 information to everybody to try the case. This
13 morning's oath is different. This morning's oath
14 truly encompasses what we expect of you as jurors and
15 what the system expects of you as jurors. It truly
16 embodies, as you sit here and you review this case
17 this week, your duty and your responsibility to be
18 fair and impartial to both sides with nobody to punish
19 or nobody to reward, setting aside any bias or
20 prejudice that you may have against anyone involved in
21 the case to reach a fair and just verdict. We've
22 literally been using this oath for hundreds of years.
23 It truly encompasses your duty and your responsibility
24 this week. At this time, if you will please stand and
25 the clerk will swear you in.

1 THE CLERK: Ladies and gentlemen of the jury,
2 please stand and raise your right hand to be sworn.
3 At the end of the statement that I'm about to give
4 you, please respond by saying "I do."

5 Do you swear or affirm that you shall well and
6 truly try and true deliverance make, between the State
7 of South Carolina and the defendants at bar, whom you
8 shall have in charge, and a true verdict give,
9 according to the law and the evidence, so help you
10 God?

11 THE JURORS: (in unison) I do.

12 THE CLERK: You may be seated.

13 PRETRIAL CHARGE:

14 THE COURT: All right. Thank you very much,
15 ladies and gentlemen. Before we begin the actual
16 trial of this case, I thought it might be helpful if I
17 explain to you how a trial will proceed.

18 First, the State or the solicitor's office will
19 be allowed to make an opening statement. An opening
20 statement made by any party is not evidence. It is
21 simply an outline to help you understand what that
22 party expects the evidence shows --- will show.

23 The defendants may, if they choose, present
24 opening statements, but they do not have to for
25 reasons that I will explain to you in just a moment.

1 Following the opening statements, you will hear
2 testimony and evidence in the case. This will consist
3 of testimony from the State's witnesses, as well as
4 any physical exhibits which will be introduced into
5 evidence.

6 Following the completion of the testimony, the
7 attorneys will again have an opportunity to make what
8 is called a closing statement or summation to you.
9 This is an opportunity for the attorneys to summarize
10 the case from their respective points of view. Again,
11 the opening statements and the closing statements of
12 the attorneys are not evidence.

13 Following the closing statements by the
14 attorneys, I will tell you what --- or instruct you
15 what the law is in South Carolina as it pertains to
16 the issues that have arisen in this case.

17 When I have completed my instructions to you, you
18 will then be permitted to begin your deliberations in
19 order to reach a verdict.

20 You are now the jury in this case. I need take a
21 few minutes to tell you something about your duty as
22 jurors and to give you some instructions.

23 At the end of the trial, I will give you more
24 detailed instructions that will control your
25 deliberations. It will be your duty to decide from

1 the evidence what the facts are. You and you alone
2 judge the facts. You will hear the evidence, decide
3 what the facts are and then apply those facts to the
4 law that I will give you. That is how you will reach
5 a verdict.

6 In doing so, you must follow the law that I give
7 you whether you agree with it or not.

8 The evidence will consist of testimony of
9 witnesses that will come from this witness stand,
10 documents or other things that are received into
11 evidence as exhibits and any facts in which all
12 parties agree or anything I tell you that you must
13 accept.

14 You should not take anything that I do or
15 anything that I say during this trial as indicating
16 what I think the evidence should be or what the
17 evidence is or what your verdict should be. I am not
18 allowed to take any position as to the facts in this
19 case.

20 Now, that is criminal case brought by the State
21 of South Carolina against the defendants, and the
22 defendants have been charged with murder, attempted
23 armed robbery, burglary in the second degree violent
24 and kidnapping.

25 The defendants --- excuse me, the charges against

1 the defendants are contained in the indictments which
2 I read to you on Monday. These indictments are not
3 evidence of anything. They are not proof of anything.
4 They are merely the documents that gives this the
5 Court the authority to hear this case.

6 To these charges, the defendants have pled not
7 guilty and they are presumed innocent unless and until
8 proven guilty beyond a reasonable doubt. Proof beyond
9 a reasonable doubt is proof that leaves you firmly
10 convinced of the defendant's guilt.

11 A defendant has the right not to testify and
12 never has to prove his innocence or present any
13 evidence. The burden of proof in this case is always
14 upon the State of South Carolina. Now, some things
15 are not evidence and you must not consider them as
16 evidence in deciding the facts of the case.

17 These things are not evidence: number one, the
18 statements and the arguments of the attorneys are not
19 evidence; number two, the questions and the objections
20 of the attorneys are not evidence; number three, any
21 testimony that I tell you to disregard should not be
22 considered by you as evidence.

23 Now, there are two different types of evidence
24 that you will hear during this trial. Evidence may be
25 direct or circumstantial. Direct evidence is

1 testimony by a witness about what that witness saw,
2 heard or did. Circumstantial evidence is indirect
3 evidence. That is, it is a proof of one or more facts
4 from which somebody can find another fact.

5 You are to consider both direct and
6 circumstantial evidence. The law permits you to give
7 equal weight to both, but it is for you to decide how
8 much weight to give any evidence.

9 Now, in this courtroom and throughout this trial,
10 there are Rules of Evidence made by the State of South
11 Carolina, deemed the South Carolina Rules of Evidence,
12 okay.

13 You will see me with this notebook all week.
14 Okay. This is my evidence notebook. Every trial that
15 I ever do, I have my evidence notebook with me, okay.
16 Because in this courtroom, there are procedures and
17 Rules of Evidence that control how you hear things,
18 how you see things, what is admitted and what is not
19 admitted.

20 Now, when a lawyer asks a question or offers an
21 exhibit into evidence, and a lawyer on the other side
22 of the case thinks that it is not permitted by the
23 Rules of Evidence, that lawyer may object, so they
24 would stand up and say, "objection, Your Honor." If I
25 overrule the objection, then the question may be

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

8 Sometimes it may be necessary for me to request
9 that you leave the courtroom while I discuss with the
10 attorneys legal questions that come up during the
11 trial. I'm going to go ahead and tell you now. This
12 happens in every single trial, okay. Whether you are
13 in magistrate's court for a speeding case or you're
14 in circuit court for a case like this, there are times
15 that in every single criminal trial in this state
16 where the Judge has to discuss matters of law outside
17 of your presence.

18 It's not an issue of if this occurs. It's an
19 issue of when it will occur. When it does occur, you
20 should not speculate about what we are discussing or
21 the reason that you were asked to leave the room.
22 This is simply a procedure that the law requires when
23 some legal issues arise. Now, there may also be
24 occasions when I will ask the attorneys to approach
25 the bench so that I can discuss a legal matter with

1 them in private. I will do this as much as possible
2 so that you will not be required to leave the
3 courtroom. Sometimes we end up in a scenario where
4 you feel like you are going out, and coming back in
5 and going out and coming back in. Sometimes I have to
6 do that, okay. Other times it will be okay or
7 permissible for me to bring the attorneys up to the
8 bench to discuss whatever matter needs to be
9 discussed.

10 Again, if I ask the attorneys to step up to the
11 bench or if I ask you to leave the courtroom, please
12 don't think that anybody is trying to hide anything
13 from you or keep anything from you. This is simply a
14 procedure used by all lawyers and by all judges to
15 determine and decide legal questions. Now, I do
16 something a little bit different than most people do,
17 but I think it works out pretty well.

18 Once the trial really starts going, we'll be
19 going for about an hour-and-a-half or so before we
20 take a break. Now, that's not a set rule and I don't
21 have a timer, but the court reporter can only type so
22 much, okay, and you can only sit still for so long,
23 okay.

24 So when the lawyers say, Judge, can I approach,
25 when that happens you all are allowed to stand up

1 where you are, stretch and talk amongst yourselves.
2 Okay. Now, you're not allowed to talk about the case,
3 all right. I've told you that before and that's still
4 the rule, but you can talk about whatever you want to
5 in and amongst yourselves. Sometimes a bench
6 conference lasts 30 second. Sometimes they last three
7 minutes. The first time you do this, you're going to
8 feel funny, okay? So I'll have to remind you, and say
9 stand up, talk amongst yourselves.

10 Use it as an opportunity to stand up, stretch
11 your legs, move around a little bit, and then we'll be
12 right back with you shortly.

13 Now, in deciding the facts of the case you have
14 to decide what witnesses to believe and what witnesses
15 not to believe. You can believe everything a witness
16 says, none of what a witness says, or some of what a
17 witness says. In deciding what to believe, you may
18 consider a number of factors, including but not
19 limited to the following: What was that witness's
20 ability to see, hear or know what he or she testified
21 to? What was the quality of their memory? What was
22 the witness's demeanor on the witness stand? Does the
23 witness have an interest in the outcome of the case or
24 any motive, bias or prejudice? Was the witness
25 contradicted by anything the witness said or wrote

1 before the trial or by other evidence? How reasonable
2 was the witness's testimony when considered in the
3 light of other evidence that you believe?

4 Now, until I advise you to begin your
5 deliberations, you must not discuss this case with
6 anyone including each other, friends, family members
7 or anyone involved in the case. This includes
8 face-to-face, text message, telephone, email, blogs,
9 Facebook, Twitter, Google plus or any other type of
10 social media that I don't even know what it is, you
11 can't discuss this case or do any independent research
12 on this case.

13 Now, you may not use a computer, cell phone or
14 other electronic device with communication
15 capabilities at any time while in the courtroom or
16 during deliberations. During your breaks for meals or
17 overnight, if necessary, you may use these devices.
18 However, you may not at any time use these devices to
19 get information about the case or send information
20 about the case.

21 This includes information about a party, a
22 witness, an attorney, a court officer, news accounts
23 about the case, research on any topics raised or any
24 topic you may think would be helpful in deciding this
25 case or any testimony presented by any witness.

1 The best example I can give you of that is this.
2 It's very simple, but if today during the testimony
3 you hear a word and you do not know the meaning of it,
4 okay. You cannot go home, pull the dusty dictionary
5 off the shelf and look it up, all right. That would
6 be your own independent research of an issue. That's
7 the extent to which I'm taking this. Now, during the
8 trial do not read, listen to or watch any news reports
9 about this case.

10 This includes anything that may be in the
11 newspaper, on the internet, the radio or television,
12 or on the phone for that matter. You must not
13 consider anything that you may have read or heard
14 about the case outside the courtroom whether before or
15 during the trial. Once the case is submitted to you,
16 that will be at the very end, you must discuss it only
17 in the jury room and only with your fellow jurors.

18 The attorneys and the parties in this case have
19 been advised that they are not to talk to you at all.
20 If you see anyone involved in this case and they do
21 not even say hello, they are not being unfriendly.
22 They are merely following my instructions.

23 It is important that you keep an open mind and
24 not decide any issue in the case until all of the
25 evidence has been presented, the parties have made

1 their closing arguments, and I have told you what the
2 law is in this case.

3 It is your sole responsibility to determine the
4 guilt or the innocence of the defendants, and your
5 verdict must be based solely on the evidence as it is
6 presented to you in this trial and on the law that I
7 will give you at the close of the trial.

8 Now, Mr. Foreperson, it is your added duty to
9 preside in the jury room. Some would call you the
10 presiding juror. Now, you don't get paid any extra,
11 okay, and your vote doesn't count any more, but
12 somebody has to preside in the jury room to control
13 what is going on in there, and you will be the jury
14 spokesperson here in court. It will also be your
15 added duty at the conclusion of the trial to write the
16 verdict, but I'll explain all that to you at a later
17 time.

18 Now, let me take just a moment to make sure you
19 know who everybody is. You know who your bailiffs
20 are. They were there waiting for you this morning,
21 right? Okay. They will take good care of you. I
22 have full faith and confidence in them and they know
23 exactly what to do and they can answer any questions
24 you may have.

25 Right here to my left is my law clerk. This is

1 Emily. She has graduated law school. She has passed
2 the bar exam. She is actually my temporary clerk. My
3 main law clerk just had a baby a few weeks ago. Emily
4 is filling in for her. You will see Emily go in and
5 out of the courtroom the whole time. You will see her
6 on her computer most of the time. That's perfectly
7 normal. I'm the chief administrative judge of the
8 circuit, so outside of this trial, I have literally
9 hundreds of other responsibilities that are going on
10 at the same time, so if you see her going out or
11 coming in, she is just working or doing the things
12 that need to be done.

13 At the end of the day, I still have another hour
14 to an hour-and-a-half's day worth of work to be done
15 before I can even start the next day to keep the
16 process of the courthouse here going.

17 Now, seated over here to my right is
18 Ms. Ambroziak. She is our court reporter and she is
19 the most important person in the courtroom, okay.
20 Why? Because she is the only person who is keeping a
21 true and accurate record of everything that happens in
22 the courtroom.

23 So she is literally writing down every word that
24 is said. So when she tells me she needs a break, we
25 take a break, okay, because while --- and I will stop

1 talking here in just a moment and the attorneys will
2 stop talking and once the State stops, the defense may
3 give their opening statements, so there are times when
4 everybody is not working, but she is always working
5 and she is always typing.

6 So if I tell the attorneys to stop talking over
7 each other or if I tell the witness and the attorney
8 to stop talking over each other or if I make them take
9 a little bit of a break while they mark exhibits, all
10 that is so Ms. Ambroziak can make sure we have a true
11 and accurate record that everything going on in here,
12 so when I get evil eye from her that we need take a
13 break, I will usually do that even if it's not the
14 best time because she can only type so much in one
15 sitting before she needs to take a break herself,
16 okay.

17 Then down front is Ms. Pendegrass. She is with
18 the clerk of court's office. She will be swearing
19 witnesses in, dealing with the exhibits and things
20 like that. That's just so you know who everybody is
21 from a court staff perspective that you see. You may
22 be wondering what are they doing or what are they not
23 doing, so that's the reason that I explain that to
24 you.

25 All right. Let me go through my notes. Okay.

1 At this point in time, we will move onto opening
2 statements. The State will be allowed to go first and
3 Ms. Garfield, the floor is yours.

4 MS. GARFIELD: Thank you, Your Honor. May it
5 please the Court.

6 THE COURT: Yes, ma'am.

7 OPENING STATEMENT:

8 MS. GARFIELD: No. No. No. Pleas of mercy
9 followed by screams of terror. Those were the last
10 words and sounds made by 33-year-old Kelly Lynn
11 Hunnewell. They were heard by Theresa Baskin who
12 lived next door to the bakery where Ms. Hunnewell
13 worked, where she was at 3:00 A.M. on July 1, 2013,
14 when the defendants Lorenzo Young and Trenton Barnes
15 shot her, took her life away and fled leaving her to
16 die.

17 Kelly Hunnewell was 33 years of age. She was the
18 mother of four small children. Three daughters and a
19 son. She worked at Carolina Cafe. It's a local
20 popular eatery located right behind the state house on
21 the corner of Pendleton and Sumter Street. Her job
22 was to report every morning at an offsite bakery, a
23 catering kitchen, located on Tommy Circle, which is
24 right off Beltline. She would arrive every morning at
25 3:00 A.M. to make bagels. It's a very popular place,

1 famous for its bagels and its bagel sandwiches. She
2 would arrive every morning to make the bagels and then
3 transport them to the Carolina Cafe behind the State
4 house to serve to the morning customers.

5 She worked until about 11:00 A.M. She purposely
6 chose that shift so that she could then go home and
7 care for her four children. Not only was Kelly a
8 mother, she was a sister. She was a daughter. She
9 was a cousin, she was friend, and she was a coworker.

10 In the early morning hours of July 1, 2013,
11 Lorenzo Young and Trenton Barnes chose to make her a
12 victim of murder. When Kelly went to work that
13 morning, what she didn't know is that Trenton Barnes
14 and Lorenzo Young were planning a robbery. They
15 planned to rob the Original Ale House, which is a
16 restaurant located in the vicinity of the bakery where
17 Kelly was working. Their plan was to arrive and rob
18 the late night customers that were leaving and the
19 employees that were leaving.

20 When they got there, I submit to you they were
21 greatly disappointed because the establishment was
22 already closed. This was a very early Monday morning.
23 It was raining very hard. Lorenzo Young and Trenton
24 Barnes chose to find other prey.

25 Next door, the bakery was there with the lights

1 on, and the door was propped open. Both armed with
2 firearms, they went into the bakery and approached
3 Kelly Hunnewell, who was cooking. Guns were drawn,
4 placed to her head area and a brief struggle ensues.
5 Kelly cannot get away. They begin to fire at her
6 multiple times, and one bullet enters her chest area
7 and lodges in her back. Lorenzo Young and Trenton
8 Barnes flee the bakery leaving Kelly Hunnewell
9 collapsed on the floor drowning in her own blood.

10 Theresa Baskin, the neighbor that lived by the
11 bakery, had gotten up in the middle of the night to go
12 to the bathroom and after she used the bathroom, she
13 went to the kitchen to fix herself some water.
14 Outside her kitchen window she could see the bakery,
15 and she could see the light on. She went back to her
16 room and as she was preparing to get back into her
17 bed, she heard the screams of terror and the pleas for
18 mercy that she will never forget.

19 She immediately called law enforcement and within
20 minutes, police officers from the City of Columbia
21 police department arrived. Investigators arrived.
22 Columbia Fire Department arrives, EMS personnel
23 arrived. They find Ms. Hunnewell dead on the floor.
24 An investigation immediately begins. They collect
25 evidence. They collect projectiles --- shell casings

1 from the floor. They photograph the scene.

2 Investigator McCoy with the Columbia Police
3 Department learns that there is a video. He takes the
4 video to the Columbia Police Department where they are
5 able to see the crime that had just happened hours
6 before.

7 On that video, they see Ms. Hunnewell working,
8 and they see an individual in a red hoodie come in
9 with a gun, followed by a second individual in a gray
10 hoodie come in. They see them put the guns to her.
11 They see them shoot her. They see a third individual
12 in dark clothing come to the door as the shooting
13 begins, and then they see them flee.

14 This video is released to the media, and as a
15 result, law enforcement begins to collect information.
16 The names Lorenzo Young, Trenton Barnes, and Troy
17 Stevenson begin to surface.

18 Law enforcement learned that Trenton Barnes and
19 Troy Stevenson are brothers and they live on Lucille
20 Drive, which is just within walking distance of the
21 bakery.

22 They also learned that Lorenzo Young lives on
23 Bronx Avenue, which is very close near by the bakery,
24 as well. As a result, witnesses start to come in.
25 They hear from Rolanda Coleman, who is the girlfriend

1 of Lorenzo Young.

2 Ms. Coleman gives information that Lorenzo Young
3 came home early that morning with a firearm, he
4 wrapped it in clothing, and he hid it in a crib where
5 his daughter sleeps.

6 Mary Brown comes forward. She gives information
7 that the evening before this happened she saw a person
8 she knows as Lorenzo and he was wearing a red hoodie
9 and he was with another fella, a younger guy, who was
10 wearing a gray hoodie.

11 Also, other people come in, such as Donald Moore,
12 who gives information about the role of Lorenzo Young
13 in this case.

14 A search warrant is executed at the home of
15 Lorenzo Young. During that search, they find
16 ammunition, 45 GAP ammunition. This ammunition would
17 be the same type caliber of shell casings that are
18 left on the floor where Kelly Hunnewell died.

19 There is also a box of gloves found in Lorenzo
20 Young's home that were sent to our state crime
21 laboratory known as SLED. There they test positive
22 for gunshot residue. Rolanda Coleman is also able to
23 view that video with law enforcement. She tells law
24 enforcement that the individual in the gray hoodie,
25 that's Trenton Barnes.

1 Trenton Barnes' mother Latoya Barnes comes
2 forward to law enforcement, and she tells law
3 enforcement that her son Trenton Barnes, he always
4 wears a gray hoodie, wears it all the time.

5 She has seen that video, and she knows her
6 children from their fingers to their toes. She knows
7 the person in the gray hoodie is her son Trenton
8 Barnes.

9 She also tells law enforcement that Trenton
10 Barnes and Lorenzo Young had been together at their
11 home earlier that evening and they had left. She was
12 concerned about them, and she sent her son Troy
13 Stevenson to go get them. She says the person in the
14 dark clothing that approaches the door is her other
15 son, Troy Stevenson.

16 Lastly, once Trenton Barnes is in jail, he sends
17 a letter to his mom where he tells her he did it.
18 Lastly, the spoon that Kelly Hunnewell was holding
19 when she was killed is sent to our state laboratory,
20 as well, and it's tested for DNA. DNA is found on
21 that spoon, and Lorenzo Young and Trenton Barnes
22 cannot be ruled out as having their DNA on that spoon.

23 Trenton Barnes and Lorenzo Young are both charged
24 with murder, attempted armed robbery, burglary in the
25 second degree violent and kidnapping.

1 Ladies and gentlemen, again, I am Dolly Garfield,
2 and I am a prosecutor for the State of South Carolina.
3 Seated at the table to my left is Luck Campbell,
4 senior assistant solicitor and to my right Nicole
5 Simpson, another assistant solicitor. It will be our
6 job in the next few days to prove to you that Lorenzo
7 Young and Trenton Barnes are guilty of these brutal
8 acts of violence.

9 The burden is on the State to prove this case to
10 you, and today in this courtroom in this courthouse,
11 the State of South Carolina, we welcome that burden.

12 We will deliver to you.

13 Now, I just mentioned several crimes that they
14 are charged with. Let me go through each of those
15 crimes and let me explain what those crimes mean in
16 the State of South Carolina.

17 First, I'll start with burglary second violent.
18 It is unlawful in the State of South Carolina to enter
19 a business or a building during the hours of darkness
20 with the intent to commit a crime, like hurting
21 someone, or while armed with a firearm or while
22 displaying a dangerous weapon or while you hurt
23 someone that is not a participant of a crime.

24 The State will submit to you that Lorenzo Young
25 and Trenton Barnes did all of these.

1 They are also charged with attempted armed
2 robbery and that simply means the unlawful taking of
3 something while you're armed with a weapon. In this
4 case it's an attempt. You don't have to successfully
5 take something just as long as you try.

6 They're also charged with kidnapping. Kidnapping
7 is not in the sense where you would think where you
8 see in books where someone has got to be roped up and
9 put it in a trunk or involving a child. Kidnapping
10 just simply means confining someone, keeping them
11 against their will from being able to get away. There
12 is no doubt Kelly Hunnewell cannot get away.

13 Lastly, they are charged with murder. Murder is
14 the intentional killing of another person with malice
15 aforethought either expressed or implied.

16 Now, ladies and gentlemen, how would we prove
17 this case to you? You're going to hear from several
18 witnesses from this witness stand.

19 You're going to hear from police officers.
20 You're going to hear from emergency medical personnel.
21 You're going to hear from investigators, from the fire
22 department. You're going to hear from a DNA expert.
23 You're going to hear from a pathologist. All the
24 evidence will come from this witness stand, and ladies
25 and gentlemen, let me stop here and just express to

1 you, and I know Judge Hood went through this a little
2 bit yesterday, our country as a whole is enthralled
3 with crime dramas. I'm guilty of it myself. Ladies
4 and gentlemen, I want you to keep in mind that the
5 crime dramas you see on television are not real. This
6 is a real courtroom with a real victim, real
7 witnesses, real facts.

8 Crime dramas consist of scripts with paid actors
9 with endings that keep the viewers wanting to watch
10 the next week. It's all by design. This is a real
11 courtroom, and you will hear how real criminal cases
12 unfold.

13 But like all crime dramas, there are directors
14 involved. I submit to you that on July 1, 2013, the
15 directors of the crime that you will learn about were
16 the defendants, Lorenzo Young and Trenton Barnes.
17 They cast the witnesses in this case.

18 I bring that to your attention because there may
19 be some witnesses that you will question their
20 day-to-day life. They might not be the kind of people
21 that you hang out with on a routine basis. Just keep
22 in mind, these witnesses were not chosen by the State.
23 They were chosen by the defendants.

24 You will even hear from some inmates who
25 befriended Lorenzo Young and they will share with you

1 what he told them about his role in this crime.

2 Ladies and gentlemen, everybody in this
3 courtroom, as Judge Hood just went through, has a job
4 to do. We've learned about the bailiffs, the court
5 reporter, our clerk of court. It's our job to present
6 the case to you. Judge Hood's job is to sort of
7 referee the lawyers and make sure that we follow the
8 Rules of Evidence and the law of our state in this
9 court.

10 The defense attorneys have a job do and that is
11 to represent their client to the best of their
12 ability, but ladies and gentlemen, you have a job. It
13 is your job to listen to these witnesses carefully,
14 and I know you will because this is a very important
15 case about a brutal crime that occurred in your
16 community in your county.

17 Now, right now Lorenzo Young and Trenton Barnes
18 sit before you presumed innocent, and that's the way
19 it should be. That's what makes our judicial system
20 the best system in the world.

21 They are wrapped, I like to think, with a cloak
22 of innocence like a coat or a jacket. As every
23 witness takes the stand and as they leave, I submit to
24 you that a piece of that cloak will be torn from them.

25 Some witnesses may tear a small piece, and some

1 witnesses may tear a large piece, but at the
2 conclusion of the case, the defendants Lorenzo Young
3 and Trenton Barnes will be exposed for the burglars
4 that they are, for the robbers that they are, for the
5 kidnapers that they are, for the murderers that they
6 are.

7 Now, in South Carolina, we have a law called the
8 hand of one is the hand of all. That is the law that
9 will prevail in this case. What that means is when
10 two or more people are acting together in committing a
11 crime, they are responsible for the acts of each
12 other, so it doesn't matter if you're the trigger man.
13 It doesn't matter if you're the getaway driver. It
14 doesn't matter how much you or how little you got in the crime.
15 Everybody is guilty of the same thing. That's what
16 applies in this case. Trenton Barnes and Lorenzo
17 Young are responsible for each other's actions.
18 That's why at the conclusion of this case, your job
19 will be simple, and you'll be able to make a decision
20 to find them guilty.

21 Theresa Baskin heard those pleas of mercy and
22 cries from Kelly Hunnewell. So did Lorenzo Young, so
23 did Trenton Barnes.

24 At the conclusion of this case, the State will
25 come back to you and ask you for verdicts of guilty

1 and sending a crime for justice to Lorenzo Young and
2 Trenton Barnes.

3 THE COURT: Thank you, ma'am.

4 Mr. Schnee.

5 MR. SCHNEE: Up the, Your Honor. May it please
6 the Court.

7 THE COURT: Yes, sir.

8 OPENING STATEMENT:

9 MR. SCHNEE: Good morning. I don't think you can
10 be fair. I say that because studies have shown that
11 one-third of you have already made up your minds,
12 which means out of the 15 of you sitting there, one-
13 third of you have already made up your minds based on
14 Dolly Garfield's opening statement and everything
15 you've heard already. You know what, that's
16 understandable. I really do understand that, and it's
17 okay. I don't blame you for that. I'm not going to
18 blame you for having an emotional response to this
19 case.

20 Very often I get up in front of juries and tell
21 them you have to ignore your emotions. Your job is to
22 look at the facts. I know that's not possible. You
23 have a lot of pressure on you. You have pressure on
24 you from the State. You have an audience full of
25 people. You have the victim's family members, and

1 yes, Ms. Hunnewell is absolutely the victim. You have
2 the judge giving you instructions. You have bailiffs
3 taking away your phones, and multiple cameras up there
4 recording every single thing that's being said.

5 You're under pressure. You're under pressure from
6 each other. At the end of this case when you're
7 deliberating, you're going to want to reach some
8 consensus. That's another point of pressure. It's a
9 pressure that you're going to have to be very very
10 conscious of and pay attention to because one of your
11 jobs is to ignore that pressure wherever it is.

12 One of the first things that the solicitor talked
13 to about, she said, "pleas for mercy and screams of
14 terror."

15 That has nothing do with the facts of what
16 happened. Nothing at all. That is purely to make
17 sure that the third of you that have made up your
18 minds are firmly convinced that's what you're going to
19 do at the end. That's what that's for. That's not
20 factual. What's factual? Ms. Garfield talked about
21 DNA. There's a metal spoon. You're going to see that
22 metal spoon on the video now that spoon has DNA on it
23 from a --- and they tested a lot of people. You're
24 going to about that when their DNA expert gets up
25 there. Now, Ms. Garfield told you that Trenton Barnes

1 and Lorenzo Young could not be excluded.

2 Well, I'll tell you who else could not be
3 excluded. One third of the entire population of this
4 planet. That's the odds that they were able to get
5 based on the quantity of DNA obtained, which means if
6 you go to Williams Brice stadium for USC's next
7 football game, there are going to be more than 30,000
8 people inside of the stadium that are just as likely
9 to have killed Ms. Hunnewell according to the DNA.
10 That's what they consider evidence.

11 You're not to hear anything about fingerprints
12 being found, so what are you left with? You're left
13 with witnesses that are going to get on the stand and
14 testify. You're left with the lead investigator,
15 Matthew McCoy, who is sitting right here. You were
16 introduced to him before. You're going to hear a lot
17 of things that he has done and things he didn't do.
18 You're going to hear how he is hiding evidence, you're
19 going to hear he is lying about witnesses and the
20 existence of witnesses. You're going to hear how he
21 even threatened to kill a suspect to try to get a
22 confession. That's who the State is going to be
23 putting up as their star lead investigator.

24 They're going to call Rolanda Coleman, the
25 girlfriend, the mother of Lorenzo Young's child.

1 MS. GARFIELD: Judge, objection. We have a
2 matter of law.

3 THE COURT: All right. Ladies and gentlemen, if
4 you'll retire to your jury room. Do not discuss the
5 case. Keep an open mind. We'll be back with you in
6 just a few moments.

7 (WHEREUPON, the jury left the courtroom at 10:08
8 A.M.)

9 THE COURT: Yes, ma'am.

10 MS. GARFIELD: Thank you, Your Honor. I
11 apologize. I don't like to object during openings,
12 but I just thought that that opening was going too
13 far. We don't know what he is talking about as far as
14 Investigator McCoy threatening to kill someone, and
15 hiding evidence is completely improper. It was done
16 solely to make the jury immediately just think badly
17 of him. We don't know where he was going.

18 THE COURT: I want your good faith basis for
19 hiding evidence, lying about the existence of
20 witnesses and threatening to kill a suspect.

21 MR. SCHNEE: I'll start with the last one, Your
22 Honor. In the interview with Lorenzo Young,
23 Investigator Moorner threatens Lorenzo Young multiple
24 times and ---

25 THE COURT: Investigator who?

1 MR. SCHNEE: I'm sorry. Investigator McCoy
2 threatens Lorenzo Young with the death penalty, with a
3 needle in his arm and things like that to try to force
4 him to confess. That's a threat of death.

5 THE COURT: All right.

6 MR. SCHNEE: As to hiding evidence and the
7 existence of witnesses, during his interviews of
8 Donald Moore and actually probably a couple of others
9 that he has talked about things, specifically in one
10 of the Donald Moore interviews, he talks to Donald
11 Moore about a completely unrelated rape case that
12 Donald Moore may or may not be able to find out the
13 name. He tells Donald Moore, I think it's on a phone
14 call that if he can find out the name, he will claim
15 that Donald Moore is an informant and not release it
16 because as long as the victim can identify him, they
17 never have to turn that over. That's hiding evidence
18 and concealing the identity of a witness. That's
19 McCoy's own words.

20 THE COURT: I don't understand why you think
21 that's proper in an opening statement even if you
22 think you do have a good faith basis.

23 MR. SCHNEE: It goes to his credibility and
24 veracity.

25 THE COURT: You're not allowed to make arguments

1 in opening statements.

2 MR. SCHNEE: Judge, I'm explaining to the jury
3 what evidence they will hear. I'm not arguing what
4 they should do with it. I'm telling them that what
5 they will hear in the cross-examination. I had
6 actually already moved on to Rolanda Coleman. I was
7 done with Investigator McCoy, so I wasn't going to go
8 back and say anything else about that.

9 THE COURT: None of your opening statement allows
10 anything that's argumentative.

11 MS. GARFIELD: Our position is how is anything he
12 just referenced admissible?

13 THE COURT: I don't even know that it is.

14 MS. GARFIELD: I don't know how we cure that when
15 it's not even anything we can address. It was
16 deliberately done to inflame the passions of the jury.

17 THE COURT: What are you asking for,
18 Ms. Garfield?

19 MS. GARFIELD: Judge, I think we have to ask for
20 a mistrial at this point.

21 THE COURT: Do you want to jump in? What's
22 your --- you're talking about as to Mr. Barnes only or
23 both?

24 MS. GARFIELD: I think it has to apply to both
25 because they're both on trial. He is specifically now

1 referencing Mr. Barnes.

2 THE COURT: What's your position on that,
3 Mr. Schnee?

4 MR. SCHNEE: Judge, what I discussed in my
5 opening statement is my plan of impeaching
6 Investigator McCoy and the effectiveness and the
7 methods of his investigation. That is the cornerstone
8 of cross-examination, so I don't understand how I
9 wouldn't be able to ask that or how it would not be
10 admissible because the jury has to weigh the
11 investigator's credibility and his motives and how he
12 acts. That's the jury's function.

13 Even if I end up not playing the audio, which is
14 not my intent at this point, I'm certainly going to
15 ask him if he threatens Lorenzo Young with the death
16 penalty. I'm certainly going to ask him that.

17 I can't see any way that I would not be allowed
18 to ask that question. I certainly don't understand
19 how this would rise to the level of a mistrial or
20 inflame the passions of the jury when that is pretty
21 much the entire thing the State did in their opening
22 statement talking about screams of terror.

23 MS. GARFIELD: That's what Ms. Baskin would
24 testify to.

25 THE COURT: I understand that. I mean, how is he

1 not going to be able to ask McCoy, did you threaten
2 somebody with the death penalty?

3 MS. GARFIELD: We just don't understand how that
4 can be admissible under any theory. That's
5 something --- it was brought out in the context of a
6 self-serving statement of Lorenzo Young. Lorenzo
7 Young denied all involvement, so I don't understand
8 how that can come in when it's self-serving.

9 MR. SCHNEE: Judge, I'm not seeking to introduce
10 Lorenzo Young's statement. It's McCoy's statement.

11 MS. GARFIELD: Judge, if you want them to hear
12 that, the jury is going to be aware that this could
13 have potentially been a death penalty case, and I
14 don't think that's proper for the jury to consider.

15 THE COURT: Do you want to say anything?

16 MS. PINNOCK: Yes, Your Honor, I would. As far
17 as Mr. Young goes, jeopardy has attached to
18 Mr. Young's case. We have done nothing that would
19 cause a mistrial. My understanding is the State is
20 asking for a mistrial based on Mr. Young and
21 Mr. Barnes. If Your Honor is only inclined to grant a
22 mistrial on Mr. Barnes per their request, they have
23 already submitted information to the jury about
24 statements that Mr. Barnes made, statements of
25 witnesses that they are under --- that they are aware

1 of pleading the Fifth and not testifying, so we have
2 done nothing to cause this request by the State for a
3 mistrial against Mr. Young, so all I'll say is that
4 jeopardy has attached. They have made statements in
5 their opening based on the theory that we were going
6 forward on both codefendants in this case.

7 So they requested the mistrial, Your Honor, and I
8 would let the record reflect we have done nothing
9 cause that on behalf of Mr. Young. They have
10 requested the mistrial for both cases.

11 THE COURT: All right. All the lawyers in the
12 back.

13 (WHEREUPON, a short break was taken.)

14 (WHEREUPON, State's Exhibits Numbers 326 through
15 394 were marked for identification only.)

16 THE COURT: All right. So when we took a break
17 this morning during opening statements, and the State
18 made a motion for mistrial based upon parts of
19 Mr. Schnee's opening statements, the main part being
20 dealing with his statement about Investigator McCoy,
21 who is one of the lead investigators on the case. At
22 this point in time, does the State wish to go forward
23 with that motion?

24 MS. GARFIELD: Your Honor, based on our
25 discussions in chambers, we would be willing to

1 withdraw the motion at this time and go forward on
2 both defendants.

3 THE COURT: All right. Anything from you,
4 Mr. Krzyston?

5 MS. GARFIELD: With obviously a curative
6 instruction to the jury.

7 THE COURT: Right. And anything from you,
8 Mr. Krzyston?

9 MR. KRZYSTON: Not as it stands.

10 THE COURT: Thank you. Mr. Schnee, anything from
11 you?

12 MR. SCHNEE: Yes, Your Honor, very briefly back
13 in chambers during one of our many meetings, Your
14 Honor had informed me that you believed my actions
15 have been entirely improper and outside the rules of
16 evidence and appropriateness and have threatened me
17 with contempt. My client has a Sixth Amendment right
18 to conflict free counsel and the right to present a
19 full and complete defense. At this point, based on
20 Your Honor's assertion that I would be in contempt and
21 quote in a cell with my client, at this point I'm
22 requesting that Your Honor recuse yourself. I'm
23 requesting a mistrial, and I have some cases that I'd
24 like to --- I don't have copies of them. I've just
25 been handed some of these.

1 I'd like to point out to Your Honor State v.
2 Wright, which is 271 S.C. 534. That was dealing
3 specifically with comments outside the presence of the
4 jury made to defense counsel about not having a valid
5 defense, things of that nature.

6 The court ultimately found in that case that
7 while it did not --- they decided not to --- I think
8 they decided not to grant a new trial on that one, in
9 the ultimately findings were they recognize a new
10 trial should be ordered when counsel is so inhibited
11 by the Court's review that counsel feared conduct and
12 therefore affected the defense.

13 At this point, Your Honor --- there are also
14 cases from the US Supreme Court Holt v. Commonwealth
15 of Virginia, which is 85 Supreme Court 1375. Another
16 South Carolina case is Mallet v. Mallet, which is 323
17 S.C. 141. All of those cases deal with the issue of a
18 trial judge recusal based on actions towards the
19 lawyers themselves.

20 I don't believe I can effectively represent my
21 client in this particular situation at this point and
22 provide him with a full and complete defense.

23 Additionally, based on Your Honor's --- I guess
24 for lack of a better term, rulings, regarding what I
25 can and cannot go into based on the fact that Lorenzo

1 Young is on trial at the same time specifically
2 dealing with the bias of Rolanda Coleman, which is one
3 of the State's main witnesses, I am at this time
4 renewing my motion to sever the cases.

5 THE COURT: All right. Your motion for a
6 mistrial is denied. Your motion to recuse myself is
7 denied. The factual scenario that you gave about what
8 transpired in chambers was pretty close to completely
9 inaccurate. I informed you that the information you
10 provided as to your good faith basis for making the
11 statements about Investigator McCoy didn't even rise
12 to the level of the statements that you made, and even
13 if it did, more than likely that would be inadmissible
14 in the trial and was inappropriate.

15 We had moved on from that issue, and the State
16 had informed the judge that they intended on removing
17 their mistrial motion, at which point in time, you
18 informed us all that there would be another mistrial
19 motion within five minutes of going back on the record
20 because you intended in going into Mr. Young's --- and
21 Mr. Young is the co-defendant --- Mr. Young's current
22 pending charges in the opening statements, at which
23 point in time I informed that you that that was not
24 appropriate. It was not admissible under the Rules of
25 Evidence, and you alluded to essentially doing it

1 anyway.

2 At which point in time, I informed you of the
3 contempt power of this court, which is --- and the
4 court does have the ability and the authority to put
5 anyone who violates a direct order of the court in the
6 presence of the court in the county jail.

7 So, your motion for a mistrial is denied. Your
8 motion for me to recuse myself is denied. I have
9 studied during this time Rule (3)(e) of the South
10 Carolina rules, appellate court rules, involving
11 judicial candidates and I have no prejudice or no bias
12 towards you or your client and therefore your motion
13 is denied. The trial will continue. Bring in the
14 jury. You may continue with your opening statement,
15 Mr. Schnee.

16 MR. SCHNEE: If I may continue briefly before the
17 jury comes back in go on the record?

18 THE COURT: Yes.

19 MR. SCHNEE: Judge, I specifically did not say
20 that I would be talking about Lorenzo Young's pending
21 charges.

22 THE COURT: What you said was, "I'm going to go
23 into the credibility of Rolanda" --- is that her name?

24 MS. GARFIELD: Yes, sir.

1 THE COURT: --- "Rolanda Coleman, who has pending
2 charges."

3 THE COURT: I informed you that you can talk
4 about her pending charges as much as you want to. You
5 said, "Her pending charges that she has with
6 Mr. Young." That means that Mr. Young has pending
7 charges, and I would not allow you to go into the
8 information concerning the fact in front of the jury
9 that Mr. Young has pending charges. He hadn't been
10 convicted of any of these charges. They're merely
11 pending charges, and I would deem that to be
12 inadmissible. You said, "I don't understand that
13 ruling." I said, "You don't have to understand it.
14 That's the ruling of the court and you need to follow
15 it."

16 MR. SCHNEE: Judge, if I may for the record, what
17 I indicated in chambers was that my intention was to
18 attack the credibility, motive, and bias of Rolanda
19 Coleman. The fact that she has pending charges is
20 relevant. The fact that she is a witness for the
21 State and originally presented an alibi for Lorenzo
22 Young is relevant. The fact of the pending charges
23 also involve Mr. Young with relation to Ms. Coleman's
24 credibility and her motive to lie are relevant issues.
25 I specifically asked Your Honor if it was a separate

1 trial if that would be admissible. Your Honor
2 indicated that it probably would, which is why I moved
3 for a severance based on that.

4 I did not indicate that I would be trying to
5 impugn the credibility or character of Mr. Young, but
6 in order for me to fully go into the credibility of
7 Rolanda Coleman, it's impossible to do that without
8 indicating that the charges involve her child's
9 father, as well. That's all I have for the record,
10 Judge.

11 THE COURT: Thank you very much. Bring them in.

12 THE BAILIFF: Yes, Your Honor.

13 (WHEREUPON, the jury entered the courtroom at
14 2:09 P.M.)

15 THE BAILIFF: The jury is seated, Your Honor.

16 THE COURT: All right. Thank you very much,
17 Mr. Dye. Thank you, ladies and gentlemen, I apologize
18 for the extended delay. I just wanted to let you know
19 that I take full responsibility for the extended
20 delay. No type of anything by you against any of the
21 parties should be in any way, shape, or form
22 considered. I control the mode of this trial and the
23 timing of this trial. I accept full responsibility
24 for it. You should not lay any blame or anything else
25 upon any of the parties, any of the lawyers or anybody

1 else. I accept full responsibility for that.

2 Now, I do need to remind you of something that I
3 told you earlier this morning. I know I told you that
4 this --- what I told you this morning, and I'm going
5 to tell you again. A lot of things I say to juries I
6 say multiple times in trial to make sure that you
7 understand and to make sure everybody is listening,
8 but there were some statements made in the opening
9 statement about something that the lead investigator
10 had done or not done throughout the course of this
11 trial.

12 That information needs to be disregarded by you.
13 Now, I told you in the very beginning, and I will tell
14 you at the very end that nothing these attorneys say
15 in opening statements is evidence. You haven't heard
16 any evidence.

17 Even though you started the trial this morning,
18 you haven't heard one piece of evidence yet in this
19 courtroom. Evidence comes from where? It comes from
20 the witness stand. Anything the attorneys say in
21 their opening statements or closing argument is not
22 evidence. It is not proof of anything. It's merely
23 their position on something. Therefore it's not to be
24 considered by you as evidence of anything.

25 I told you this morning what was evidence and

Opening by Schnee
(continued)

1 what was not evidence. One of the things I was very
2 clear is that the opening statements and the closing
3 arguments and the questions of the attorneys are not
4 evidence. The evidence is when someone takes that
5 witness stand, swears to tell the truth and testifies
6 to you, their testimony or the exhibits received
7 through them or any stipulations of all the parties,
8 that's the evidence in the case, so keep that in mind
9 as you proceed today.

10 Again, I apologize for the delay. I accept full
11 responsibility.

12 Mr. Schnee, you may continue.

13 MR. SCHNEE: May it please the Court, Your Honor.

14 THE COURT: Yes, sir.

15 OPENING STATEMENT:

16 (continued)

17 MR. SCHNEE: Good afternoon.

18 THE JURORS: Good afternoon.

19 MR. SCHNEE: Witness credibility is going to be
20 one of the most important issues that you're going to
21 have to decide in this trial.

22 You're going to be hearing from witnesses who are
23 --- some of them are incarcerated. Some of them have
24 pending charges that are unrelated to this. Some of
25 them have family relationships with people involved in

1 this case regardless of which side they are.

2 All of them have their own motives to say what
3 they're going to say, to say what they've said in the
4 past, or to change their story. You're going to hear
5 that a lot of people have changed stories. You're
6 going to hear that from various witnesses. It's not
7 that their memories have changed over time, it's that
8 they're trying to decide what the truth is. You're
9 going to figure that out when you're listening to
10 these witnesses. Rolanda Coleman, as I was saying
11 hours ago, she has pending criminal charges. She is
12 the girlfriend and mother of Lorenzo Young's child.

13 She is going to get up and say various things.
14 She has said various things to law enforcement in the
15 past. I have no idea what she is actually going to
16 get up there and say because I haven't heard her say
17 it yet. All I have is what she said in the past. If
18 she sticks to what she said in the past and that is
19 what is presented, you're going to hear things that
20 don't make any sense. The reason why she is going to
21 be testifying in that way if that's what she actually
22 says is because she is Lorenzo Young's girlfriend,
23 commonlaw wife and mother of his child. She has a
24 motive to protect him and to lie.

25 She also has a motive to incriminate other people

1 as a means of helping that out. You're going to see
2 that throughout the course of this trial. She is
3 certainly not the only witness, but she is one of the
4 main witnesses for the State.

5 There's a lot of pressures that are put on life
6 in people. Trenton Barnes, you heard what he was
7 charged with. In July of last year, he was 16 years
8 old. A lot of pressure put on him by his family, by
9 his brother, by education, by a lot of different
10 circumstances. You're going to hear quite a bit about
11 interactions with him and other people in the events
12 surrounding all of this.

13 Your job is going to be able to determine at the
14 end certain things, certain elements of crimes. One
15 of the most important elements you're going to have to
16 analyze for the murder charge is the element of
17 malice. You're going to have to determine was malice
18 present on any of this situation for anybody at any
19 time.

20 That's going to be especially challenging for you
21 when dealing with a 16-year-old child.

22 Now, the State mentioned a letter that you're
23 going to be hearing about that Trenton Barnes wrote to
24 his mother.

25 Now, when that statement is put before you, I

1 want you to think about a few things. I want you to
2 think about his family relationship. I want you to
3 think about how he treats his brother and what he
4 wants for his brother because his brother, Troy
5 Stevenson, is also charged with this. He is not on
6 trial today, but he is charged with all of this. You
7 also need to think of motives of why people would say
8 things that are not beneficial to themselves.

9 The letter from Trenton Barnes is the best
10 example. Why would he put what's in that letter,
11 which he will be able to --- which you will hear
12 during the trial --- why would he say the things that
13 he says? He is trying to protect his bigger brother.
14 That's as simple as this. He is not making rational
15 decisions. He is not thinking about his future. He
16 certainly didn't think about it when he wrote that
17 letter. What he is thinking about is how to protect
18 an older brother and that's completely understandable.
19 It's also completely --- for the same reason, it's
20 understandable as to why all of you have emotional
21 responses to the fact there's a 32-year-old woman who
22 left four children behind. I understand that
23 completely. I'm not asking you to ignore that. I'm
24 not asking you to pretend it doesn't exist.

25 The only thing I'm asking you to do is analyze

1 the actual evidence and really think about why people
2 have said things they have said or why they didn't say
3 things they said they did, why people have certain
4 actions or why people fail to take certain actions.

5 That's going to be your job for the next week of
6 the trial, and it's going to be a tough one. It's
7 going to be a tough one because there is no forensic
8 evidence that ties anyone to this at all. The State
9 wants to tell you this is not a TV show because they
10 think you've watched shows like CSI or Law and Order
11 where they have 50 DNA swabs and they all come back to
12 the same person. Yep, that's the guy. He did it.
13 They don't have any of that here. They have no
14 forensics. They have a blurry video, which I'm sorry
15 to say you will have to see.

16 There are a lot of things that you're going to
17 have to see that you're not going to want to see. I
18 wish that wasn't the case. You're going to hear a lot
19 of things that you don't want to hear. It's
20 unfortunate that you're put in that position. I'm
21 really sorry for the victim's family because they have
22 heard it and seen it and they have to relive all of
23 this the rest of this week even though they have
24 virtually no part in this trial at all.

25 There is nothing I can do about that to prevent

1 that. There is certainly nothing I can do to prevent
2 what you have to hear as jurors and what you have to
3 see. The only thing I am going to can ask you to do
4 is keep an open mind, pay attention to the witnesses,
5 but concentrate on motivations for liars. There are
6 going to be quite a few getting up there. They all
7 have reasons to lie or to withhold information. Keep
8 that in your mind at the forefront. Thank you.

9 THE COURT: Thank you, Mr. Schnee.

10 Ms. Bambach.

11 MS. BAMBACH: Thank you, Your Honor.

12 OPENING STATEMENT:

13 MS. BAMBACH: On July 1st, 2013, at 3:45 A.M.
14 Kelly Hunnewell's life tragically came to an end. It
15 came to an end for no reason at all. This is about a
16 mother, a mother who left --- who should be with her
17 kids right now and she can't and that's heartbreaking.
18 That's why you're all here. You're here for
19 Ms. Hunnewell. You're here to make sure that justice
20 is served.

21 You're the finders of fact. You're the most
22 important people in this room. And you must do what
23 is right, what is fair, and what is just.

24 It's human nature to be affected by the emotional
25 nature of this case, but you took an oath that you

1 would render a true verdict according to law and
2 according to the evidence.

3 This case has been centered around emotion since
4 the very day that it happened. The video of the
5 shooting was released to the public that same morning.
6 You can all see the news, the newspaper, the public in
7 here now. You can all see that this case created
8 headlines and when head lines exist, it creates
9 pressure, pressure to close this case as quickly as
10 possible.

11 The public wanted this case closed. The chief of
12 police wanted this case closed. The solicitor wanted
13 this case closed. The mayor wanted this case closed.
14 Everyone here in our city wanted this case closed.

15 A rushed investigation that was based on emotions
16 led to the arrest of an innocent teenager, Lorenzo
17 Young. The State wants you to convict Lorenzo. They
18 want you to put this case to rest for once and for
19 all, but the evidence doesn't point to Lorenzo. The
20 evidence doesn't prove that Lorenzo was there.

21 They had to make the pieces fit, but this is a
22 puzzle that can't be put together. You won't see
23 anything definitively connecting Lorenzo Young to this
24 shooting. The normal things that you would see in a
25 murder case are just not there. The arrest of Lorenzo

1 Young was based on a statement of one witness, and
2 credibility is a major issue in this case and
3 credibility is an easy concept. Do you believe the
4 witness or not?

5 You must decide that. You must make that
6 decision. You must think about whether you believe
7 each witness, that what they are saying is true,
8 whether they have a reason to lie. Whether they have
9 something to gain, whether they have something to
10 lose, and again, that decision is up to you.

11 The State must prove beyond a reasonable doubt
12 that Lorenzo Young was at 93 Tommy Circle that night.
13 It is their job to prove to you that Lorenzo was
14 involved and that Lorenzo helped in killing this
15 innocent woman, and it is your responsibility to hold
16 the State to that burden.

17 If you have any doubt that Lorenzo was at the
18 bakery that night, you must find him not guilty.
19 Again, I cannot stress how important your job is here,
20 and remember your oath, to render a true verdict based
21 on the law and the evidence.

22 The evidence in this case does not add up, and
23 there are still to this day many questions left
24 unanswered and that, ladies and gentlemen, is
25 reasonable doubt.

1 If you have any question as to whether or not
2 Lorenzo Young was at the 93 Tommy Circle bakery on
3 July 1, 2013, you must find him not guilty.
4 Convicting Lorenzo Young is not the answer here. It
5 is not justice.

6 Thank you.

7 THE COURT: Thank you very much, Ms. Bambach.

8 The State may call their first witness.

9 MS. SIMPSON: The State calls Officer Jonathan
10 Brayboy.

11 JONATHAN BRAYBOY,
12 after being duly sworn, testified as follows:

13 THE CLERK: Please have a seat. State your full
14 name.

15 THE WITNESS: My name is Jonathan Brayboy.

16 DIRECT EXAMINATION:

17 BY MS. SIMPSON:

18 Q Officer Brayboy, where are you employed?

19 A Columbia Police Department.

20 Q And how long have you been with the Columbia
21 Police Department?

22 A I've been with the city for approximately eight
23 years.

24 Q Eight years and what is your position there?

25 A I am a patrolman with the Columbia Police

1 Department.

2 Q As a patrolman, tell the jury a little bit about
3 your duties in the area that you work.

4 A Basically, we respond to calls for service from
5 the citizens of Columbia.

6 Q Okay. Do you have a particular area that you
7 actually parole within the city?

8 A Yes. I'm assigned to the metro region.

9 Q And I want to turn your attention back to the
10 early morning hours of July 1, 2013. Did you become
11 involved in this case?

12 A Yes, I did.

13 Q Tell us how you received the call.

14 A On July 1, 2013, approximately at 3:44 A.M., I
15 received a call from dispatch about shots being fired
16 and a complaint about hearing a --- what sounded like
17 a female screaming from the Tommy Circle area.

18 Q And where did you actually respond to when this
19 call came out? Where did you go?

20 A The complainant called from 81 Tommy Circle,
21 which is where I initially made contact.

22 Q And who was that person that was there?

23 A It was an elderly white female. I don't know her
24 name exactly.

25 Q And when you made contact with her, did you speak

1 with her about what she heard?

2 A Yes, I did.

3 Q And as a result of your conversation with her,
4 did you learn that was the actual incident location or
5 what did you do?

6 A That was not the actual incident location. She
7 stated she was.

8 MS. PINNOCK: Objection, Your Honor, that's
9 hearsay.

10 THE COURT: Sustained.

11 BY MS. SIMPSON:

12 Q Without telling me exactly what she said ---

13 A Okay.

14 Q --- as a result of your conversation, what did
15 you do and where did you proceed?

16 A I spoke to her about what she had heard and began
17 paroling the area. That's when I noticed that the
18 door at 93 Tommy Circle was open. I further
19 investigated why the door was open.

20 Q And were there actually vehicles parked outside
21 the location, as well?

22 A Yes, there was.

23 Q Okay. And upon observing the vehicles, what did
24 you do?

25 A I checked the vehicles to make sure no one was

1 outside, nobody was flagging me down. There was
2 nobody outside. Looked inside the vehicles, didn't
3 see anybody.

4 I noticed the door was open, like I said. I
5 entered the building and heard the radio playing.

6 Q Okay. And what did you do next?

7 A I proceeded further inside the building, looked
8 around, called out, you know, announced who I was,
9 with the Columbia Police Department, and that's when I
10 noticed a white female laying on the floor to my right
11 in a pool of blood.

12 Q And after observing her at this point --- and you
13 said this was a shots fired call, correct?

14 A Correct.

15 Q What did you do?

16 A I backed out of the building and called for
17 additional units to assist me and also to have EMS en
18 route.

19 Q Okay. And we're backing up just a little bit.
20 In relation to where you first responded at, I
21 believe, 81 Tommy Circle?

22 A Yes, ma'am.

23 Q Where is that in relation to 93 Tommy Circle?

24 A It's directly diagonal cross the street.

25 Q And so just right across the street from the

1 complainant's home?

2 A Correct.

3 Q What type of location is this area?

4 A It's a residential area.

5 Q And the building at 93 Tommy Circle, what was
6 that building?

7 A It was a bakery.

8 Q A bakery. And did other units arrive fairly
9 quickly?

10 A Yes, they did.

11 Q What happened once they arrived?

12 A Once the other units arrived, we proceeded inside
13 the building to clear the building, make sure there
14 was no one else inside hurt or injured or possible
15 suspects inside. We entered and cleared the building,
16 then stepped back out and secured the location for EMS
17 to arrive on scene.

18 Q Okay. And in securing the location --- I guess
19 let me back up. The security sweep, that is one of
20 your primary goals to make sure there's no one else is
21 in the area?

22 A Yes, it is. It's to provide officers' safety and
23 EMS workers safety.

24 Q And was anybody else located in the building
25 other than the deceased --- the white female that you

1 observed on the floor?

2 A No, there was not.

3 Q Okay. In order to secure the scene, what did you
4 do?

5 A We began to place our crime scene tape around the
6 van and the other patrol cars that were there to kind
7 of cordon off an actual crime scene, because we didn't
8 know what we had at that point.

9 Q So that you would actually serve as the perimeter
10 of the crime scene?

11 A Correct.

12 Q Did EMS arrive fairly quickly?

13 A Yes, they did.

14 Q Were you responsible initially for kind of
15 maintaining the scene as well as the log?

16 A Yes, I was.

17 Q When EMS arrived, did you observe them go inside
18 the building?

19 A Yes, we did. We also informed them --- once we
20 conducted the security sweep and secured the scene, we
21 placed traffic cones next to the rounds so they would
22 not be disturbed or kicked around from their original
23 casing once EMS entered the crime scene.

24 Q So prior to EMS entering, you actually observed
25 --- you said rounds. What do you mean by rounds?

1 A Shell casings.

2 Q Shell casings?

3 A Yes.

4 Q And where were they primarily located?

5 A Right around the --- there was a table sitting in
6 the middle of the room. They were around the table,
7 the two tables in the middle of the room.

8 Q So you marked those so they would not be ---

9 A Disturbed.

10 Q Disturbed. And was investigations also notified?

11 A Yes, they were.

12 Q As well as crime scene investigators?

13 A Yes, ma'am.

14 Q Were you actually there when they did arrive?

15 A Yes, ma'am.

16 Q As a responding officer, is it actually your duty
17 to, I guess, interview witnesses and process the crime
18 scene itself?

19 A No.

20 Q That is actually for the investigators in the
21 crime scene?

22 A Correct. Our basic duties are to preserve the
23 scene as is until the investigators and any crime
24 scene personnel arrive on the scene.

25 Q I'm going to show you what's being marked as

1 State's 378. Do you recognize the area depicted in
2 State's 378?

3 A Yes, I do.

4 Q Okay. Does it fairly and accurately depict the
5 location?

6 A Yes, it does.

7 MS. SIMPSON: Your Honor, at this time I would
8 offer State's 378 into evidence.

9 MS. BAMBACH: No objection.

10 MR. SCHNEE: No objection.

11 THE COURT: Very well. State's Exhibit 378
12 without objection.

13 (WHEREUPON, State's Exhibit Number 378 was
14 admitted into evidence.)

15 MS. SIMPSON: Permission for the witness to step
16 down.

17 THE COURT: All right. Now, Officer Brayboy, I
18 need you to come to this side so the court reporter
19 can hear you, okay. Yes, that's right.

20 BY MS. SIMPSON:

21 Q And show us exactly we're looking in State's 378.
22 What is this area?

23 A This is obviously Tommy Circle, the roadway.
24 This is the parking lot adjacent to the bar, the Ale
25 House. This is the actual bakery that the crime scene

1 was at.

2 Q Okay. So located right next to the bakery you
3 stated that is a bar?

4 A Correct.

5 Q Known as the Ale House Lounge?

6 A Correct.

7 Q And you're pretty familiar with this area when
8 you patrol?

9 A Yes, ma'am.

10 Q Is this area located in Richland County?

11 A Yes, it is.

12 Q And with respect to 81 Tommy Circle, we don't see
13 it on the map, but is it right across the street?

14 A Yes, 81 Tommy Circle would be approximately right
15 in here. (indicating)

16 Q Thank you.

17 A You're welcome.

18 THE COURT: Ladies and gentlemen, as we go
19 throughout the trial and different exhibits will be
20 introduced, all attorneys do it differently, so some
21 of them may hand the exhibits to you and you can pass
22 them around. Some of them will show them to you for a
23 brief second. That's completely up to the attorney
24 and how they want to present it. What you need to
25 understand is at the conclusion of the trial when you

1 go back to deliberate, all of the exhibits that have
2 been admitted into evidence will be sent back to the
3 jury room so you'll be able to spend as much time as
4 you need looking at anything. So no one is trying to
5 keep anything from you. The attorneys can do it in
6 their own style as to how they let you see it. You
7 will have any admitted exhibits with you in the back
8 when you begin deliberations.

9 Go ahead, Ms. Simpson.

10 MS. SIMPSON: Thank you, Your Honor.

11 BY MS. SIMPSON:

12 Q Just briefly, too, with respect to other roads in
13 the area near Tommy Circle, are you familiar with
14 Lucille Drive?

15 A Yes, I am.

16 Q And is that in fairly close proximity to the
17 incident location?

18 A Yes, it is.

19 Q And what about Bronx Road?

20 A Yes, it is.

21 Q Now, at some point did your shift end?

22 A Yes, it did.

23 Q At that point what did you do?

24 A The crime scene log was turned over to an Officer
25 Bunton at that time, and I was properly relieved.

1 Q And would that be the extent of your involvement
2 with respect to this case?

3 A Yes, it is.

4 MS. SIMPSON: Thank you.

5 THE COURT: All right. Cross examination?

6 MS. PINNOCK: I have no questions, Judge.

7 THE COURT: Okay.

8 MR. SCHNEE: No questions, Your Honor.

9 THE COURT: All right. Thank you very much,
10 Officer Brayboy. You may be excused.

11 THE WITNESS: Thank you.

12 THE COURT: All right. I'm going to assume
13 witnesses are excused from their subpoenas. If
14 somebody doesn't want somebody excused, just jump up
15 and let me know. I'll tell them they are not excused
16 from their subpoena, okay.

17 MR. KRZYSTON: Thank you, Judge.

18 THE COURT: Do you understand, Mr. Schnee?

19 MR. SCHNEE: Yes, sir.

20 THE COURT: Do you understand?

21 MS. GARFIELD: Yes, sir.

22 THE COURT: Very good. Call your next witness.

23 MS. GARFIELD: Thank you, Your Honor. The State
24 calls Theresa Baskin.

25 THERESA BASKIN,

1 after being duly sworn, testified as follows:

2 THE CLERK: Please have a seat and state your
3 full name for the record.

4 THE BAILIFF: Watch your step, ma'am.

5 THE WITNESS: Theresa Greer Baskin.

6 MS. BAMBACH: Your Honor, may we approach?

7 THE COURT: Sure.

8 All right. Ladies and gentlemen, stand up and
9 stretch your legs. Talk amongst yourselves.

10 (WHEREUPON, a bench conference was held in the
11 presence, but not within the hearing of the
12 jury.)

13 THE COURT: See, that was quick. You have the
14 idea. Whenever we do that, you don't need me to tell
15 you. Sometimes I will remind you. You're free to do
16 that, stretch your legs a little bit.

17 Ms. Garfield.

18 MS. GARFIELD: Thank you, Your Honor.

19 DIRECT EXAMINATION:

20 BY MS. GARFIELD:

21 Q Good afternoon, Ms. Baskin. Ms. Baskin, would you
22 please share with the jury where you live?

23 A 78 Tommy Circle.

24 Q Ms. Baskin, are you nervous today?

25 A Yes.

1 Q Have you ever testified before?

2 A No.

3 Q Ms. Baskin, are you familiar with a bakery that
4 is located near your home?

5 A Yes.

6 Q Were you also familiar with the Original Ale
7 House?

8 A Yes.

9 Q And just explain to the jury in proximity from in
10 your home, where they're located.

11 A The bar is approximately 150 feet from my front
12 door. The bakery is about 125.

13 Q And back in July of last year, were you familiar
14 with any of the employees at the bakery?

15 A No.

16 Q Did you have the occasion to wake up in the
17 middle of the night on July 1, 2013?

18 A Yes.

19 Q And just explain to the jury what woke you up?

20 A I got up to use the restroom, went in the kitchen
21 to get water, was just getting ready to sit down and
22 things happened.

23 Q All right. When you were getting water, did you
24 have a chance to look out your window?

25 A I did.

1 Q Please share with the jury what you observed when
2 you were looking out your window.

3 A When I looked out the window, the bar light was
4 off. There were no cars there. I could see the light
5 from the bakery door open, but I couldn't see the door
6 itself. I could just see the light from the door.

7 Q And after that, did you go back to your bedroom?

8 A I did.

9 Q And when you got to the bedroom, did you hear
10 anything that caught your attention?

11 A As soon as I sat on the edge of the bed, I heard
12 a woman scream.

13 Q What did you hear? Share with the jury exactly
14 what you remember?

15 A I just heard a woman screaming, "No, no, no," and
16 then heard bam, bam, bam, bam. I jumped up, screamed
17 to myself that those were gunshots.

18 Q And were the screams --- did they seem scary?

19 A It was terrifying. I mean, I can't describe the
20 terror that was in the voice.

21 Q And you recall that today just as you did back
22 then?

23 A Yes.

24 Q And based on hearing the gunshots and the
25 screams, Ms. Baskin, tell the jury what you did next?

1 A I jumped up, I grabbed my phone. I have dispatch
2 programmed into my cell phone. I went to call it and
3 accidentally disconnected and had to call again.

4 Q And what did you tell law enforcement when they
5 answered?

6 A That I had heard a woman screaming. I heard
7 gunshots. They asked me if I had seen anything. I
8 told them no.

9 Q And did law enforcement arrive?

10 A Within about two to three minutes.

11 Q And did they come to your home?

12 A Yes.

13 Q And did you tell law enforcement what you had
14 heard?

15 A I did.

16 Q And you told them about the light on in the
17 bakery?

18 A Well, not right at first. I told them that I
19 really could not tell where the sound came from
20 because it echoes in that area. I said it could have
21 been in front of my house. It could have been beside
22 my house, across the street, behind me, that I just
23 didn't know.

24 Q But it caused you such concern that you felt the
25 need to call police?

1 A Yes.

2 Q Is this home and the bakery, is that in Richland
3 County?

4 A Yes.

5 MS. GARFIELD: Beg the Court's indulgence.

6 (Pause.)

7 BY MS. GARFIELD:

8 Q Ms. Baskin, just to clarify, what was your
9 address?

10 A At the time it was 81 Tommy Circle. The city has
11 changed the numbering on my house. It's now 78 Tommy
12 Circle.

13 Q And that's something that's been done since this
14 incident?

15 A Yes.

16 Q Thank you. Please answer any questions defense
17 counsel may have

18 MS. BAMBACH: I have no questions.

19 MR. SCHNEE: May it please the Court, Your Honor.

20 THE COURT: Yes, sir.

21 CROSS-EXAMINATION:

22 BY MR. SCHNEE:

23 Q I just have a few questions for you, ma'am.

24 A Uh-huh.

25 Q How long have you lived at that place?

1 A Almost ten years.

2 Q Okay. Have you had occasions on any other time
3 to be up at three, four in the morning and look out
4 that same window?

5 A Pretty much every night.

6 Q Okay. Is it normal for you to see the light in
7 the bakery on?

8 A Most of the time it was.

9 Q Okay. So that didn't cause you any concern or
10 any worry?

11 A No.

12 Q And you didn't see anybody walking around
13 anywhere at any time?

14 A No.

15 Q Didn't hear anybody walking around your house or
16 anything like that?

17 A No.

18 Q So you heard a woman screaming and then the
19 gunshots and then you called the police?

20 A Correct.

21 Q Right did you look back out the window after
22 that?

23 A I did.

24 Q Did you see anyone?

25 A No.

1 Q Okay. If you look out your window, is it a
2 direct view of the bakery?

3 A It's at a --- about a two o'clock angle.

4 Q Okay. Did you look over toward the bakery or did
5 you just look out the window --- if you remember.

6 A It's just automatic for me to look that way
7 because that's probably the most lit area.

8 Q So how long after the shots would you say you
9 looked out the window?

10 A One, maybe two minutes.

11 Q And you didn't see anybody walking around or
12 anything like that?

13 A No.

14 Q Thank you, ma'am.

15 THE COURT: Redirect?

16 MS. GARFIELD: No, sir.

17 THE COURT: Ms. Baskin, have a nice day. Thank
18 you very much.

19 Call your next witness.

20 MS. SIMPSON: The State calls Mary Ellen Swain.

21 MARY ELLEN SWAIN,

22 after being duly sworn, testified as follows:

23 THE CLERK: Please have a seat. State your full
24 name for the record.

25 THE BAILIFF: Watch your step.