

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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SC Court of Appeals

Appeal from Horry County

Honorable B. Alex Hyman, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

CHRIWANTA CYNTONIO BRYANT,

APPELLANT

APPELLATE CASE NO. 2025-001503

RECORD ON APPEAL

LARA M. CAUDY
Senior 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

AMIE L. CLIFFORD
Special Assistant Attorney General
P. O. Box 11549
Columbia, SC 29211-1549
(803)734-3727

ATTORNEY FOR APPELLANT

JIMMY A. RICHARDSON
Solicitor, Fifteenth Judicial Circuit
P. O. Box 1276
Conway, SC 29528
(843) 915-5460

ATTORNEYS FOR RESPONDENT

INDEX

INDEX	i
TRIAL TRANSCRIPT DATED JULY 14-15, 2025.....	1
 <u>NEIL V. BIGGERS HEARING (IN-CAMERA)</u>	
BRE'ANNA HYDE	
Direct Examination by Mr. Oskin.....	3
Cross-Examination by Mr. Hiller	20
Redirect Examination by Mr. Oskin	30
NICHOLAS CONTINO	
Direct Examination by Mr. Oskin.....	31
Cross-Examination by Mr. Hiller	37
Redirect Examination by Mr. Oskin	45
DAWN MCQUISTON	
Direct Examination by Mr. Hiller	49
Cross-Examination by Mr. Oskin	69
DEFENSE'S MOTION TO EXCLUDE OUT OF COURT IDENTIFICATION OF DEFENDANT BY MR. HILLER	75
RESPONSE BY MR. OSKIN	79
COURT'S RULING FINDING OUT OF COURT IDENTIFICATION OF DEFENDANT ADMISSIBLE	82
OPENING STATEMENT BY MR. OSKIN.....	87
OPENING STATEMENT BY MR. HILLER.....	92
 TESTIMONY	
ROBERT NICHOLL	
Direct Examination by Mr. Dichiaro	94
DEFENSE'S OBJECTION TO STATE'S EXHIBIT #4 (PRINTOUT FROM ALPR) BY MR. HILLER	106
COURT'S RULING FINDING STATE'S EXHIBIT #4 (PRINTOUT FROM ALPR) ADMISSIBLE	106

TESTIMONY

ROBERT NICHOLL	
Continued Direct Examination by Mr. Dichiarà.....	106
DEFENSE’S OBJECTION TO STATE’S EXHIBIT #5 (TWO PHOTOGRAPHS) BY MR. HILLER.....	112
COURT’S RULING FINDING STATE’S EXHIBIT #5 (TWO PHOTOGRAPHS) ADMISSIBLE	112

TESTIMONY

ROBERT NICHOLL	
Continued Direct Examination by Mr. Dichiarà.....	112
DEFENSE’S OBJECTION TO STATE’S EXHIBIT #3 (REGISTRATION FOR DODGE AVENGER) BY MR. HILLER.....	113
COURT’S RULING FINDING STATE’S EXHIBIT #3 (REGISTRATION FOR DODGE AVENGER) ADMISSIBLE.....	113

TESTIMONY

ROBERT NICHOLL	
Continued Direct Examination by Mr. Dichiarà.....	113
Cross-Examination by Mr. Hiller	117
Redirect Examination by Mr. Dichiarà.....	131
BRE’ANNA HYDE	
Direct Examination by Mr. Oskin.....	133
DEFENSE’S OBJECTION TO STATE’S EXHIBIT #7 (PHOTOGRAPHIC LINEUP) BY MR. HILLER.....	143
COURT’S RULING FINDING STATE’S EXHIBIT #7 (PHOTOGRAPHIC LINEUP) ADMISSIBLE	143

TESTIMONY

BRE’ANNA HYDE	
Continued Direct Examination by Mr. Oskin.....	143
Cross-Examination by Mr. Hiller	146
Cross-Examination <i>In-Camera</i> by Mr. Hiller.....	151
Cross-Examination by Mr. Hiller	153
Redirect Examination by Mr. Oskin	155

NICHOLAS CONTINO	
Direct Examination by Mr. Oskin.....	157
Cross-Examination by Mr. Hiller	161
Redirect Examination by Mr. Oskin	166
SHANEIKQA SMALLS	
Direct Examination by Mr. Oskin.....	170
Cross-Examination by Mr. Hiller	172
Redirect Examination by Mr. Oskin	174
STATE RESTS.....	175
DEFENSE’S MOTION FOR A DIRECTED VERDICT BY MR. HILLER	175
DEFENSE RESTS	176
CLOSING ARGUMENT BY MR. DICHARA.....	177
CLOSING ARGUMENT BY MR. HILLER.....	184
CHARGE ON THE LAW	190
VERDICT.....	203
SENTENCING.....	204
STATE’S EXHIBIT NO. 2 PRETRIAL AND NO. 8 TRIAL (PHOTOGRAPHIC LINEUP FORM).....	206
INDICTMENTS	207
SENTENCE SHEETS	211
CERTIFICATE OF COUNSEL	213

**THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:
STATE’S EXHIBIT NO. 5 (TWO PHOTOGRAPHS), STATE’S EXHIBIT NO. 1
PRETRIAL AND 7 TRIAL (PHOTOGRAPHIC LINEUP), STATE’S EXHIBIT NO. 3
PRETRIAL AND 9 TRIAL (LARGE PHOTOBOARD), AND DEFENDANT’S EXHIBIT
NO. 1 PRETRIAL (1 PHOTOGRAPH).**

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS

COUNTY OF HORRY) 2023-GS-26-01882

STATE OF SOUTH CAROLINA,)

Plaintiff,) **Transcript of Record**

vs.)

July 14-15, 2025

CHRIWANTA CYNTONIO)

BRYANT,)

Defendant.)

B E F O R E:

Honorable B. Alex Hyman
Horry County Courthouse
Conway, South Carolina

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

Seth Oskin, Esquire
Anthony J. DiChiara, Esquire
Attorneys for State of South Carolina

Jonathan M. Hiller, Esquire
Lisa A. Deitle, Esquire
Attorneys for Defendant

Kay H. Richardson
Circuit Court Reporter

STATE V. BRYANT - 2023-GS-26-01882
PRETRIAL MOTIONS

32

1 THE COURT: Okay.

2 MR. HILLER: And to in the morning, Your Honor, I would
3 just move to sequester the state's witnesses for purposes of
4 trial. I think that's more appropriate ---

5 THE COURT: I'm fine with doing that. For the purposes
6 of these hearings, I'm not gonna have it sequestered. But for
7 trial, it's usually my stance that all witnesses are
8 sequestered, state or defense.

9 MR. OSKIN: Yes, sir.

10 THE COURT: Okay?

11 MR. OSKIN: We'll proceed with the *Neil v. Biggers*?

12 THE COURT: Let's go.

13 MR. OSKIN: Your Honor, the state would call Bre'Anna
14 Hyde.

15 THE COURT: And I will tell you this, Mr. Oskin, for the
16 *Neil v. Biggers*, my motion in limine is for the trial, it is
17 not for pretrial motions. So, if that goes to, again, some of
18 her identification for this, I'm happy to hear it. I'm not --
19 my ruling doesn't affect that.

20 MR. OSKIN: I understand. She'll be prepared
21 accordingly.

22 THE COURT: Okay.

23 BRE'ANNA HYDE, HAVING BEEN SWORN,
24 TESTIFIED AS FOLLOWS:

25 THE CLERK: Thank you. You may be seated.

STATE V. BRYANT - 2023-GS-26-01882
PRETRIAL - BRE'ANNA HYDE - DIRECT BY OSKIN

33

1 Please state your name and spell it for the Court.

2 MS. HYDE: Bre'Anna Hyde, B-R-E-A-N-N-A, H-Y-D-E.

3 DIRECT EXAMINATION OF BRE'ANNA HYDE BY MR. OSKIN:

4 Q: Ms. Hyde, thank you for being here. Just do the best you
5 can to speak loudly and clearly and into that microphone.

6 Okay? Just focus on the table in front of you. All right?

7 I'm just gonna call you Bre or Ms. Hyde, though, right?

8 A: (Indicates affirmatively.)

9 Q: Ms. Hyde, have you ever testified in court before?

10 A: No.

11 Q: Have you ever been a witness or victim to a crime before?

12 A: No.

13 Q: What is your education level?

14 A: I'm going to Horry-Georgetown Technical College right
15 now.

16 Q: So, you graduated high school?

17 A: Yes.

18 Q: Okay. It sounds like a silly question, but I have to ask
19 you. Throughout your life, have you came in contact with
20 members of the defendant's race, specifically African-
21 American?

22 A: Yes.

23 Q: Moving towards the incident, where did this incident
24 occur in February 2023?

25 A: It was at my apartment complex.

1 Q: What was that called at the time?

2 A: The Arch.

3 MR. OSKIN: If I could approach this witness, Your Honor?

4 THE COURT: Yes, sir.

5 MR. OSKIN: And, Your Honor, all these exhibits at this
6 point is for Court IDs.

7 THE COURT: Okay. Has that been marked already?

8 MR. OSKIN: It has, yes, sir.

9 BY MR. OSKIN:

10 Q: I'm showing you what's been marked as State's Exhibit 3.
11 Do you recognize this?

12 A: Uh-huh, (affirmative response).

13 Q: And what is this?

14 A: It's my apartment building.

15 Q: It looks like a map showing your apartment building. And
16 do you recall -- were you parked when this incident occurred?

17 A: Yes.

18 Q: Do you recall whereabout you were parked?

19 A: Yes, where the red dot is.

20 Q: Okay.

21 A: They marked it.

22 Q: So, this exhibit looks like a accurate reflection of the
23 condo complex as you remember it?

24 A: Yes.

25 Q: Nothing has been changed, altered, edited, deleted, or

STATE V. BRYANT - 2023-GS-26-01882
PRETRIAL - BRE'ANNA HYDE - DIRECT BY OSKIN

35

1 changed or inserted other than the red dot there?

2 A: Right.

3 Q: All right.

4 MR. OSKIN: Your Honor, at this time, the state would
5 seek to move as a Court's exhibit, State's Exhibit Number 3.

6 THE COURT: Any objection for the purposes of this
7 hearing?

8 MR. HILLER: No, Your Honor.

9 THE COURT: State's Number 3 is admitted for the purposes
10 of this hearing. Trial will be a different matter.

11 MR. OSKIN: Yes, sir.

12 STATE'S EXHIBIT NUMBER 3

13 ADMITTED INTO EVIDENCE FOR PRETRIAL ONLY

14 BY MR. OSKIN:

15 Q: I believe we touched on it, but were you parked when you
16 first noticed the suspect?

17 A: Yes.

18 Q: Did you notice where -- did he drive into your complex,
19 did he walk into your complex?

20 A: He was driving.

21 Q: Okay. Where did he first come from?

22 A: He was coming from the side. Like I was in my car, and
23 he was coming from there(indicating).

24 Q: Please show the Court where he came in from.

25 A: Right there, (indicating).

1 Q: Okay.

2 THE COURT: Mr. Oskin, where is 544 in -- for that.
3 Isn't The Arch on 544?

4 MR. OSKIN: Yes, sir, Your Honor. It's ---

5 THE COURT: I'm just trying to orientate myself with
6 that. Which side would 544 be?

7 MR. OSKIN: I believe it would be this side, sir. That's
8 the front building that you would see.

9 THE COURT: Ms. Hyde, is that correct?

10 A: So, it's three apartment complexes, and The Arch is in
11 the middle. And that's The Ascent building. My apartment
12 complex was all the way in the back.

13 BY MR. OSKIN:

14 Q: Okay. So, after you noticed him driving in your complex,
15 what did he do next?

16 A: He had pulled -- he backed up. So, I was facing forward
17 and he backed up his car so that his driver side was facing my
18 driver side.

19 Q: Okay. Did he say or do anything at that time?

20 A: Yes.

21 Q: What did he say?

22 A: To go -- I wasn't paying attention to him because I just
23 assumed that he was -- he lived there. And I heard a knock on
24 my window, and I looked over and it was -- he came knocking
25 with his gun.

STATE V. BRYANT - 2023-GS-26-01882
PRETRIAL - BRE'ANNA HYDE - DIRECT BY OSKIN

37

1 Q: Knocking with the gun?

2 A: Uh-huh, (affirmative response).

3 Q: Were you able to describe that type of gun?

4 A: It was like a skinny, like handgun.

5 Q: Okay. Did you notice any particular physical
6 characteristics of the defendant at that time?

7 A: Yes. I noticed he was wearing black gloves, and he had
8 -- it was his like nose and his facial features.

9 Q: Okay. Did you notice his race at that time as well?

10 A: Yes.

11 Q: Okay. And that was -- he was black man?

12 A: Yes.

13 Q: I know it's a silly question, but it's stuff we have to
14 ask for the purpose of this hearing.

15 After he knocked on your window with the gun, what
16 happened next?

17 A: I went to go back up my car, because I couldn't go
18 forward because there's like the curb with the grass, and he
19 told me if I moved my car that he would shoot me.

20 Q: Okay.

21 A: So, I stopped and I parked.

22 Q: Okay. What happened next?

23 A: I rolled my window down, and he said that he's not -- he
24 wasn't trying to hurt me, but he just wanted to get money for
25 his kid because he just got out of prison.

1 Q: And you're aware of the Court's ruling for later
2 testimony, you can certainly talk about him feeding his kid?
3 A: Yes.
4 Q: All right. After he said that, what happened next?
5 A: I told him I didn't have any cash on me, and that I
6 didn't even have my card and my card was upstairs, and I asked
7 if I could go upstairs and get it -- and then I offered to do
8 a Venmo or Cash App because I didn't want to be hurt.
9 Q: What did he say to that?
10 A: He agreed to Cash App.
11 Q: Did you, in fact, Cash App this defendant or somebody
12 that he told you to Cash App?
13 A: Yes.
14 Q: Do you remember who?
15 A: It was like -- (inaudible) to Talisa Smalls on the Cash
16 App thing.
17 Q: So, after you send money on Cash App, what did he do
18 next?
19 A: He backed up away from my car and pointed the gun at me,
20 and then he got in his car and drove away.
21 Q: Okay. If you can remember, will you please show His
22 Honor which way he left?
23 A: Here (indicating).
24 Q: It's okay. I'll bring it to you. You're okay.
25 A: He pulled out and went out that way and sped away.

STATE V. BRYANT - 2023-GS-26-01882
PRETRIAL - BRE'ANNA HYDE - DIRECT BY OSKIN

39

1 Q: Okay. About how long did your whole interaction with the
2 defendant at that time last?

3 A: I'd say it felt like 15 minutes. I didn't look at the
4 time when it was happening.

5 Q: I understand. What did you do after he left?

6 A: I moved my car, because I was scared that he was gonna
7 come back and change his mind and maybe shoot me, so I
8 wouldn't call the cops. So, I moved my car. And I called my
9 ex-boyfriend. At the time, he was living in that apartment
10 building to come down, and I called my Aunt Daphne, and then I
11 called the cops.

12 Q: Okay. And some of these might be repetitive. I'm trying
13 to lay out the whole night before this Court. And again, some
14 of these questions are silly, but we have to ask them. Okay?
15 How good is your eyesight?

16 A: Very good.

17 Q: What about your hearing?

18 A: Very good.

19 Q: And I think you stated it, but how old are you, ma'am?

20 A: Twenty-two.

21 Q: And you were -- so, you were 20 at the time this
22 occurred?

23 A: Twenty.

24 Q: Okay. What would you say your state of mind was at the
25 time of this incident? Were you -- had you been drinking, had

STATE V. BRYANT - 2023-GS-26-01882
PRETRIAL - BRE'ANNA HYDE - DIRECT BY OSKIN

40

1 you been smoking anything, had you been taking any
2 medications?
3 A: No. I was going to the gym.
4 Q: All right. What did you focus on during the incident,
5 that is your interaction with this defendant?
6 A: I was focusing on the gun that he was holding. I've
7 never been in front of a gun before.
8 Q: Do you remember what the physical conditions were
9 outside? Was it light, was it dark out?
10 A: It was dark.
11 Q: Okay. Backing up a little bit, and I think you stated it
12 in the parking lot, but how close were you to him when you
13 first noticed the suspect?
14 A: When I first saw him drive in?
15 Q: I guess, yeah. Yards, feet away, significantly far away?
16 A: Yards.
17 Q: Okay. About how close -- I didn't clarify this. How
18 close were you to him during the actual incident itself?
19 A: Very close.
20 Q: This close?
21 A: No.
22 Q: Tell me when to stop.
23 A: Right there.
24 Q: Okay. So, about arm's length?
25 A: Yeah.

STATE V. BRYANT - 2023-GS-26-01882
PRETRIAL - BRE'ANNA HYDE - DIRECT BY OSKIN

41

1 Q: What was your line of sight with the defendant? Were you
2 standing up, were you seated in your car this whole time, did
3 you get out of your car?
4 A: No. I was sitting in my car, and he was standing up
5 outside.
6 Q: Did you see about how tall he was?
7 A: I would say a normal average male height. He wasn't
8 tall; he wasn't short.
9 Q: And nothing blocked your view of the defendant?
10 A: No.
11 Q: But he was just holding a gun?
12 A: (Indicates affirmatively.)
13 Q: And I think you touched on it, after you -- were there
14 any streetlamps in the parking lot or anything like that or
15 near where you were parked at?
16 A: Yes. There's like one right in the grass that was right
17 next to my car.
18 Q: Okay. You stated that you called your boyfriend at the
19 time, you called your aunt, and then you called 911?
20 A: Uh-huh, (affirmative response).
21 Q: So, you discussed this incident with your boyfriend and
22 aunt at the time; is that correct?
23 A: Yes, cause I wanted him to come down to get -- to bring
24 me up.
25 Q: Okay. What did you -- once officers arrived, did you

STATE V. BRYANT - 2023-GS-26-01882
PRETRIAL - BRE'ANNA HYDE - DIRECT BY OSKIN

42

1 tell them what you just told this Court here today?

2 A: Yes.

3 MR. OSKIN: Court's indulgence, Your Honor.

4 THE COURT: Uh-huh, (affirmative response).

5 BY MR. OSKIN:

6 Q: Ms. Bre, you said you gave a written statement to the
7 police at that time?

8 A: Yes.

9 Q: Let me show you what's been marked as a Court exhibit as
10 State's Exhibit Number 4. Can you look over that for me.
11 Just tell me after you've read it.

12 A: Okay.

13 Q: Is that accurate what you wrote that night?

14 A: Yes.

15 Q: And that was what you told officers when they responded
16 and asked for a written statement?

17 A: Yes.

18 Q: Nothing's been added, edited, changed, or deleted on that
19 statement? Nobody has said that you said something that you
20 didn't in there?

21 A: No.

22 MR. OSKIN: Your Honor, at this time, the state would
23 seek to move as a Court's exhibit, State's Exhibit Number 4.

24 THE COURT: Any objection for the purposes of this
25 hearing?

STATE V. BRYANT - 2023-GS-26-01882
PRETRIAL - BRE'ANNA HYDE - DIRECT BY OSKIN

43

1 MR. MR. HILLER: Not for purposes of this hearing.

2 THE COURT: I understand.

3 State's Number 4 is admitted for the purposes of this
4 *Neil v. Biggers* hearing.

5 STATE'S EXHIBIT NUMBER 4

6 ADMITTED INTO EVIDENCE FOR PRETRIAL ONLY

7 BY MR. OSKIN:

8 Q: Did you forget to tell the police anything at the time of
9 the incident?

10 A: No.

11 Q: And what was your initial description of the defendant to
12 the police?

13 A: I said he was African-American, he was wearing gloves,
14 black gloves, and like a track suit type thing. And I said he
15 had dreads at the time.

16 Q: Okay. Did you tell anyone else about his description,
17 did you tell your boyfriend or your aunt at the time?

18 A: No, I didn't describe him; I just said a man robbed me.

19 Q: Okay. And then you called police and the police
20 responded?

21 A: Yes. My aunt told me to call the police right away.

22 Q: Okay. Let's talk about the actual identification of the
23 suspect. Could you tell this Court what you thought his age
24 was?

25 A: At the time what I thought it was?

1 Q: Yes.

2 A: I said 30s, 40s.

3 Q: I think I asked you about his height. What about his
4 weight?

5 A: Skinny.

6 Q: You said he was African-American. You mentioned his
7 hair. Anything about his eye color that you were able to
8 notice?

9 A: Not anything about his eye color.

10 Q: Were you able to notice anything particular about the
11 shape of his face, his nose?

12 A: I noticed his nose.

13 Q: What about his eyes, mouth, lips?

14 A: His nose and the scruff on his face.

15 Q: Okay. Facial hair?

16 A: Uh-huh, (affirmative response).

17 Q: Did he have any glasses or mask or anything covering ---
18 A: No.

19 Q: --- half his face or anything like that?

20 A: Just gloves.

21 Q: Okay. Did you see any tattoos or piercings or anything
22 like that?

23 A: I didn't see any.

24 Q: All right. You stated earlier that the defendant was
25 holding a weapon. Do you remember which hand he was holding

STATE V. BRYANT - 2023-GS-26-01882
PRETRIAL - BRE'ANNA HYDE - DIRECT BY OSKIN

45

1 it in?

2 A: I'd say right.

3 Q: Okay. Anything unusual about the way he talked? Did he
4 have a lisp or accent or sound like he was from another
5 country or anything?

6 A: Not that I can remember.

7 Q: Okay. And had you ever seen this person before he was
8 standing in front of you with a gun?

9 A: No.

10 Q: I'm trying to skip ahead a little bit. We'll talk more
11 about things at the trial, but at some point did you meet with
12 Conway Police and look at a photo lineup?

13 A: Yes, sir.

14 Q: All right. Do you recall what procedure was used to do
15 that? Did you see a person -- did you see a person standing
16 there?

17 A: No.

18 Q: Did you see one photo, did you see multiple photos?

19 A: It was multiple photos, like a collage.

20 Q: Do you recall what was said to you by police before the
21 hearing, before that procedure?

22 A: Just told me that I was gonna do a photo lineup and
23 identify the -- try to identify the guy who robbed me.

24 Q: Okay. And did they say anything to you during the
25 procedure?

1 A: No.

2 Q: And did you make an identification off the lineup in this
3 matter?

4 A: Yes.

5 Q: Okay. What did they -- what did they say to you after
6 that? Anything? Did they provide any forms or anything for
7 you to sign?

8 A: I signed a form, and I also signed the lineup.

9 Q: I'm gonna show you what's been marked as Court's Exhibit
10 State's 1. Do you notice that?

11 A: Uh-huh, (affirmative response).

12 Q: Is that the photo lineup you're indicating to the Court?

13 A: Yes, sir.

14 Q: Do you see your initials there on a photo?

15 A: Yes.

16 Q: Where are they at?

17 A: There (indicating).

18 Q: Did you sign that as well?

19 A: Yes.

20 Q: And is this the form you were talking about after you
21 made the identification?

22 A: Yes.

23 Q: How were you able to tell -- did you write anything on
24 there?

25 A: My signature.

STATE V. BRYANT - 2023-GS-26-01882
PRETRIAL - BRE'ANNA HYDE - DIRECT BY OSKIN

47

1 Q: Okay. Has any of this been edited, altered, changed,
2 deleted in any way?

3 A: No.

4 Q: It's an accurate reflection of the lineup you were shown
5 and the form you signed after?

6 A: Yes.

7 MR. OSKIN: Your Honor, at this time, as a Court's
8 exhibit, the State you seek to enter it as State's Exhibit 1
9 and 2, please.

10 THE COURT: Any objection for the purposes of this
11 hearing?

12 MR. HILLER: No, Your Honor.

13 THE COURT: State's 1 and 2 are admitted.

14 Is 1 the lineup or is 1 the form?

15 MR. OSKIN: 1 is the six-pack, Your Honor.

16 THE COURT: Okay.

17 STATE'S EXHIBIT NUMBER 1 AND 2

18 ADMITTED INTO EVIDENCE FOR PRETRIAL ONLY

19 BY MR. OSKIN:

20 Q: So, you get to the point of it, law enforcement didn't
21 tell you who to pick; is that correct?

22 A: No.

23 Q: Okay. About how long after the incident did you meet
24 with them and review this photo lineup?

25 A: I think it was the next day, or it had to've been the day

1 after, it was one -- I can't remember.

2 Q: Cause this happened at night.

3 A: Yeah.

4 Q: On the 8th?

5 A: Right, yeah. I think it would've been the next day at

6 like 12.

7 Q: Who was present at the procedure with you; do you recall?

8 A: In the room?

9 Q: Yes, ma'am.

10 A: It was just a policeman detective guy.

11 Q: Okay. And back to -- I think you touched on it, how it

12 was conducted, did -- you said that he just presented you this

13 lineup and said see if you can identify anybody from this?

14 A: Yeah.

15 Q: And you were able to pick someone out of the lineup; is

16 that correct?

17 A: Yes.

18 Q: Before you did that, did you hear anyone else identify

19 this defendant or suspect before you saw that?

20 A: No.

21 Q: Had you seen any pictures or photos or this defendant

22 before that? Did you go to the bond hearing or anything like

23 that before this?

24 A: No.

25 Q: Okay. And you did identify -- or did you identify this

STATE V. BRYANT - 2023-GS-26-01882
PRETRIAL - BRE'ANNA HYDE - DIRECT BY OSKIN

49

- 1 defendant as the suspect?
- 2 A: Yes.
- 3 Q: How long did it take you to pick him out on that lineup?
- 4 A: I'd say it was within like 10-15 seconds of seeing it.
- 5 Q: Okay. What was your reaction -- did you have a reaction
- 6 to seeing the defendant on the photo lineup?
- 7 A: No.
- 8 Q: Other than selecting him?
- 9 A: No.
- 10 Q: Did you identify anyone else in that lineup?
- 11 A: No.
- 12 Q: Did you see any other lineups and identify anybody else?
- 13 A: No.
- 14 Q: And how sure were you when you picked this defendant out,
- 15 how sure were you then?
- 16 A: I was a hundred percent sure.
- 17 Q: All right. Are you still a hundred percent sure?
- 18 A: Yes.
- 19 Q: Was there any difference in the description that you gave
- 20 compared to the photo that you picked?
- 21 A: His hair.
- 22 Q: Okay. Do you see the person that committed the crime
- 23 that night present in the courtroom today?
- 24 A: Yes.
- 25 Q: All right. At this time -- has that appearance changed

STATE V. BRYANT - 2023-GS-26-01882
PRETRIAL - BRE'ANNA HYDE - CROSS BY HILLER

50

1 in any way from the night that it happened?

2 A: No.

3 Q: At this time -- I know it might be uncomfortable, but
4 I'll have you -- for the Court's purpose, I'll have you point
5 out the defendant if you see him -- if you notice the person
6 in the photo and the person that robbed you?

7 A: (Indicating.)

8 MR. OSKIN: The record will reflect she's pointing to the
9 defendant, Mr. Bryant, at the defense table.

10 BY MR. OSKIN:

11 Q: Just a few more questions. I'm going to talk to you
12 about the actual photos. And you've told this Court that you
13 noticed the nose and lips, is that correct?

14 A: Uh-huh, (affirmative response).

15 Q: Anything else lead you to pick that defendant?

16 A: No. I had just looked at him the night ---

17 Q: A night or two before?

18 A: Right.

19 Q: Ms. Hyde, that's all the questions I have for you at this
20 moment. Please answer any questions the defense may have.

21 Okay?

22 MR. HILLER: May I approach her, Your Honor?

23 THE COURT: You may.

24 CROSS-EXAMINATION OF BRE'ANNA HYDE BY MR. HILLER:

25 Q: I'm just gonna set these up here for you because I'm

STATE V. BRYANT - 2023-GS-26-01882
PRETRIAL - BRE'ANNA HYDE - CROSS BY HILLER

51

1 gonna have a question or two about them. Okay?

2 Ms. Hyde, from your direct, it sounds like you remember
3 talking to the police officers that night, the night of
4 February 8th, 2023.

5 A: Yes.

6 Q: Do you remember talking to them up on, I guess, the stoop
7 kind of outside of your apartment complex?

8 A: Yes.

9 Q: Did you know at that time that their body cameras were
10 recording?

11 A: No.

12 Q: Just curious, have you had any occasion since then to
13 view any of the bodycam footage?

14 A: To view it?

15 Q: Yeah.

16 A: I only viewed it briefly.

17 Q: Okay. Before those officers left that night, do you
18 remember one of them giving you what he was calling a victim
19 bond package that gave you basically some paperwork about your
20 rights as a victim?

21 A: I don't remember getting that.

22 Q: When did you first learn that the police had made an
23 arrest in your case?

24 A: Well, I was super scared that night to go to bed, and I
25 didn't find out until, I think, two days after that he had

STATE V. BRYANT - 2023-GS-26-01882
PRETRIAL - BRE'ANNA HYDE - CROSS BY HILLER

52

1 been arrested.

2 Q: The -- I believe it's State's Exhibit 2, the form that
3 you signed.

4 A: Uh-huh, (affirmative response).

5 Q: You testified earlier that you thought that might've been
6 the next day.

7 A: Right, identifying him.

8 Q: Is there a date and time written on that form? Does that
9 refresh your recollection of when this identification actually
10 took place?

11 A: It says 2/10.

12 Q: And what time?

13 A: 10:59 a.m.

14 Q: Do you have any reason to doubt that the identification
15 took place on 2/10 at 10:59 a.m.?

16 A: No, that's what it says.

17 Q: But you just said that you found out two days after that
18 you -- that there had been an arrest, so I'm a little
19 confused, because it sounds -- it looks like you actually did
20 the identification a day and a half after the arrest.

21 A: Yeah. I had been notified that someone had been
22 arrested. I didn't know who.

23 Q: When -- and that's what I was asking you, when were you
24 informed that somebody was arrested?

25 A: I'd say roughly two days after. I can't exactly

STATE V. BRYANT - 2023-GS-26-01882
PRETRIAL - BRE'ANNA HYDE - CROSS BY HILLER

53

1 remember. That was two years ago.

2 Q: I mean, you obviously found out that there was an arrest
3 before you did the identification, right?

4 A: No, I did not.

5 Q: You didn't know why you were being brought to the police
6 station for the identification?

7 A: I knew I was doing a photo lineup, but I didn't know
8 somebody had been arrested yet. I thought I was helping get
9 someone arrested by identifying them.

10 Q: Okay. That makes sense. Thank you. I'm not trying to
11 beat you up; I'm just trying to understand. So, I guess to
12 this day you don't know exactly when Mr. Bryant was arrested?

13 A: Right. I don't know what date.

14 Q: And we kind of covered this on direct, but I'm gonna ask
15 my questions my way, too, just to make sure the record is
16 perfectly clear. Did you ever go to the J. Reuben Long
17 Detention website to look for a mugshot of the person who got
18 arrested?

19 A: No.

20 Q: Did you watch any television news coverage -- I don't
21 know if this made the news, but did you see it on TV?

22 A: No.

23 Q: Any online news articles that you might've ---

24 A: No.

25 Q: Okay. You've already testified that you called 911. Do

STATE V. BRYANT - 2023-GS-26-01882
PRETRIAL - BRE'ANNA HYDE - CROSS BY HILLER

54

1 you recall giving a physical description to that 911 operator?
2 A: To the person on the phone?
3 Q: Yes, did they kind of -- did they ask you what the person
4 looked like?
5 A: I can't remember what I said on the phone. I was like
6 hysterical.
7 Q: You testified on direct that it felt like 10 to 15
8 minutes for this interaction to occur; is that right?
9 A: Right.
10 Q: And basically, just to kind of summarize it, during this
11 interaction, you were asked to send money electronically from
12 your Cash App account to some other Cash App account?
13 A: Yes.
14 Q: I'm assuming that you already had and used Cash App. You
15 didn't like download it that night or anything, right?
16 A: No, I already had Cash App.
17 Q: So, a user of Cash App both has like a display name,
18 right?
19 A: Right.
20 Q: I think they call it a handle?
21 A: Yeah, that app.
22 Q: And you can't -- I guess it looks like your name was just
23 Bre is how you kind of present your name on Cash App. And I
24 think it might still be or maybe you changed it; I would
25 certainly understand if you did.

STATE V. BRYANT - 2023-GS-26-01882
PRETRIAL - BRE'ANNA HYDE - CROSS BY HILLER

55

- 1 A: I deleted Cash App. I deactivated it.
- 2 Q: Fair. The handle was the dollar sign, and then Hyde --
- 3 \$BreHyde12; is that what it was?
- 4 A: Yes.
- 5 Q: And I guess this is pretty obvious, but just to kind of
- 6 cover it and make sure it's clear, in order to send money on
- 7 Cash App, you have to know the handle of the other person
- 8 receiving it?
- 9 A: You have to type it in.
- 10 Q: Right. And you, of course, had no idea what that handle
- 11 was until you were provided it, right?
- 12 A: Right.
- 13 Q: So, I assume while you're typing it in, you're looking
- 14 down at your phone, right?
- 15 A: Yes.
- 16 Q: And to complete the transaction, you always have to
- 17 interact with your phone, so you're looking down to do that?
- 18 A: Right.
- 19 Q: How soon after the money -- how soon after the
- 20 transmittal of the money did, did the person who robbed you
- 21 leave?
- 22 A: I'd say one-and-a-half to two minutes after. It
- 23 wasn't...
- 24 Q: Why stay around for a minute or two later if the
- 25 transaction had already happened?

STATE V. BRYANT - 2023-GS-26-01882
PRETRIAL - BRE'ANNA HYDE - CROSS BY HILLER

56

1 A: He was talking to me. He said something, I can't
2 remember, and then he backed up into his car and sped away.
3 Q: You already testified that you were scared, and that your
4 attention was drawn to the gun, right?
5 A: Right.
6 Q: Was your focus, after you knew there was a gun,
7 distracted by knowing that there was a gun involved?
8 A: No. Was I distracted?
9 Q: Was your focus distracted by the gun? I mean, was it in
10 your head that this guy has a gun?
11 A: Yes.
12 Q: Okay. Now, you described the gun earlier on direct as a
13 skinny handgun. Do you know the difference between a pistol
14 and a revolver?
15 A: I've never seen -- never been around guns before, so I
16 don't know.
17 Q: Right. Did law enforcement ever show you a picture of a
18 gun and ask you if this one looked like the gun that ---
19 A: Not that I can recall.
20 Q: Okay. And I knew that -- kind of knew that some of these
21 questions, I was thinking about would probably be covered on
22 direct, but just to be clear, you testified that you were not
23 under the influence of drugs or alcohol that night?
24 A: No.
25 Q: I think you said you were going to the gym?

STATE V. BRYANT - 2023-GS-26-01882
PRETRIAL - BRE'ANNA HYDE - CROSS BY HILLER

57

- 1 A: Correct.
- 2 Q: On bodycam, speaking with law enforcement, you described
3 the person as a black male, correct?
- 4 A: Correct.
- 5 Q: You said he was skinny, then you mentioned the black
6 gloves, and at the time you said he was wearing a black
7 crewneck, correct?
- 8 A: Yeah, like a black -- yeah.
- 9 Q: Is that what you mean kind of by track suit, you said --
10 I think you used the words ---
- 11 A: Yeah, like a pant suit, like ---
- 12 Q: Just all black, right?
- 13 A: Yeah, like a sweat outfit.
- 14 Q: Short sleeves or long sleeves?
- 15 A: It was long sleeves.
- 16 Q: It was February, right?
- 17 A: Right.
- 18 Q: And you did say he had dreads?
- 19 A: I did say that.
- 20 Q: You said that -- up on the third floor, do you remember
21 going back down -- do you remember going down to the parking
22 lot with -- when the officers were still there, and do you
23 recall the officer asking you to identify a Dodge?
- 24 A: Yes.
- 25 Q: Do you remember again during that conversation stating

STATE V. BRYANT - 2023-GS-26-01882
PRETRIAL - BRE'ANNA HYDE - CROSS BY HILLER

58

1 again that the person who robbed you had dreads?

2 A: I don't remember.

3 Q: Given that you had previously told the police that the
4 person who robbed you had dreads, when you went to the police
5 station on February 10th, were you at all surprised that
6 nobody in the lineup had dreads?

7 A: No.

8 Q: Why not?

9 A: Just wasn't. I also wasn't very focused on his hair.

10 Q: Why would have you picked somebody out of the lineup
11 without dreads?

12 A: Nobody had dreads.

13 Q: Right.

14 A: But I recognized his face immediately.

15 Q: The statement that the state put in as Court's 4,
16 anywhere -- does that statement anywhere contain any physical
17 description whatsoever of the person who robbed you?

18 A: No.

19 MR. HILLER: One moment, Your Honor.

20 THE COURT: Mr. Hiller, was that last thing a question or
21 a statement about if it said anything? I just didn't hear an
22 answer.

23 MS. DEITLE: She said, no, I think.

24 MR. HILLER: I thought she did say no.

25 THE COURT: Okay. And Ms. Hyde, I apologize. My hearing

STATE V. BRYANT - 2023-GS-26-01882
PRETRIAL - BRE'ANNA HYDE - CROSS BY HILLER

59

1 is not the best, years of hunting, but if you don't mind, just
2 try -- I know you're kind of softspoken, but if you'll talk
3 into the microphone.

4 All right. Thank you.

5 BY MR. HILLER:

6 Q: So, just to be clear, you've just reviewed the statement
7 that you gave the night of, and there is no physical
8 description given at all to law enforcement in that written
9 statement, correct?

10 A: Correct.

11 Q: Almost done. You testified earlier that you were 100
12 percent certain that you picked out the right person.

13 A: Correct.

14 Q: Did you verbalize that in any way to the officer who
15 administered the lineup, or did you just rely on the form
16 itself for the certainty.

17 A: I just looked at the form.

18 MR. HILLER: I don't have any other questions, Your
19 Honor.

20 THE COURT: Hang on one second, Ms. Oskin.

21 MR. HILLER: No further questions.

22 THE COURT: All right. Ms. Oskin?

23 MR. OSKIN: Court's indulgence, Your Honor?

24 THE COURT: Yes, sir.

25 REDIRECT EXAMINATION OF BRE'ANNA HYDE BY MR. OSKIN:

STATE V. BRYANT - 2023-GS-26-01882
PRETRIAL - BRE'ANNA HYDE - REDIRECT BY OSKIN

60

1 Q: Real quick about the actual transaction itself. Did this
2 -- did the person that robbed you, did they try to use your
3 phone at first to do the Cash App transaction?
4 A: I tried to use my phone, but I couldn't type it in
5 because like my hands were too shaky. So, I asked for him to
6 type it in.
7 Q: Was he able to do that or no?
8 A: No. He gave me back the phone and I had to type it in.
9 Q: Did he have gloves on when he was doing that?
10 A: Yeah.
11 Q: Real quick, just to bridge a gap for the Court. You told
12 law enforcement this is the guy you picked by signing your --
13 by putting your initials and signing your name there; is that
14 correct?
15 A: He told me ---
16 Q: And the date?
17 A: They told me to signature it.
18 Q: After you told them you'd picked somebody?
19 A: Uh-huh, (affirmative response).
20 Q: Okay. After that, then you read that form, and did you
21 read where it says, after viewing the photo lineup, I'm a
22 hundred percent positive that the person in the photograph
23 labeled as Number 3 is the person I observed involved in a
24 crime in the city limits of Conway on 2/8/23?
25 A: Yes.

STATE V. BRYANT - 2023-GS-26-01882
PRETRIAL - NICHOLAS CONTINO - DIRECT BY OSKIN

61

1 Q: And you signed that?

2 A: Yes.

3 Q: Okay. It's okay to be nervous. We're nervous. The
4 Judge still gets nervous. Court is an excitable thing.

5 But for now, that's all I have for you.

6 THE COURT: All right. Thank you, Ms. Hyde, you can step
7 down.

8 A: Thank you.

9 MR. OSKIN: The state would next call Detective Nicholas
10 Contino.

11 THE COURT: Okay.

12 NICHOLAS CONTINO, HAVING BEEN SWORN,
13 TESTIFIED AS FOLLOWS:

14 THE CLERK: Please state your name and spell the last for
15 the Court.

16 MR. CONTINO: Spell what?

17 THE CLERK: The last one for the Court.

18 MR. CONTINO: Nicholas Contino, C-O-N-T-I-N-O.

19 DIRECT EXAMINATION OF NICHOLAS CONTINO BY MR. OSKIN:

20 Q: Mr. Contino, are you a detective or an officer these days
21 with Horry County?

22 A: I'm just an officer.

23 Q: Okay. Back in February of 2023, who were you employed
24 with?

25 A: Conway Police Department.

STATE V. BRYANT - 2023-GS-26-01882
PRETRIAL - NICHOLAS CONTINO - DIRECT BY OSKIN

62

1 Q: Do you remember being involved -- involved in an armed
2 robbery -- I think it's called The Arch now, but it may've
3 been different, apartments?
4 A: Yes, sir.
5 Q: Near Coastal Carolina in February of 2023?
6 A: Yes, sir.
7 Q: All right. What was your involvement in that case, sir?
8 A: I was a detective at the time, and I was asked to
9 complete a photo lineup form for the victim in the case, and
10 had her respond to the police department to provide that.
11 Q: Okay. Do you remember the -- you mentioned the location,
12 but do you remember the date and time of that?
13 A: May I refer to my officer's narrative?
14 Q: Yes, sir, please, as long as the Court doesn't object.
15 THE COURT: Sure.
16 A: It was February 10th, 2023, at 10:59 a.m.
17 Q: And you hang on to these notes, because officers are
18 involved in dozens to hundreds of cases from February of 2023
19 until July of '25; is that correct?
20 A: Yes, sir.
21 Q: And you've changed departments since then?
22 A: Yes, sir.
23 Q: So, about how long from the presentment of the photo
24 lineup, how long had it been since the crime was -- been
25 alleged to have occurred?

STATE V. BRYANT - 2023-GS-26-01882
PRETRIAL - NICHOLAS CONTINO - DIRECT BY OSKIN

63

1 A: From the notes, it says that the crime occurred on the
2 8th, and the lineup was presented on the 10th.
3 Q: So, about approximately 36 hours afterwards?
4 A: Yes, sir.
5 Q: Do you recall who the witness was to the photo lineup?
6 A: The witness was the victim, Ms. Hyde.
7 Q: Is that who just testified in this Court?
8 A: Yes, sir.
9 Q: All right. Was she the only person with you when this
10 photo lineup was reviewed?
11 A: Yes, sir.
12 Q: All right. What if anything was she told before seeing
13 these photos; do you recall?
14 A: That she would be respond here to be presented a photo
15 lineup.
16 Q: Okay. Do you recall how many photos were displayed in
17 the lineup?
18 A: Six photos.
19 Q: Were they presented at one time?
20 A: Yes, sir.
21 Q: Do you recall what the nature of the photos were?
22 A: It was a SLED generated six-pack photo lineup.
23 Q: All right. And do you recall how the photos were
24 displayed? I know it's self-explanatory as a six-pack, but
25 can you reiterate for the record how a six-pack -- what a six-

1 pack looks like?

2 A: It's three photos on top and three photos on the bottom.

3 Q: I'm going to show you what's been entered as a Court's

4 Exhibit Number 1, see if you recognize that?

5 A: Yes, sir.

6 Q: Is that the photo lineup we're referencing?

7 A: Yes, sir.

8 Q: Is that the photo lineup that you showed Ms. Hyde?

9 A: Yes, sir.

10 Q: Did you or -- was anyone else in your presence when this

11 lineup was presented to the witness?

12 A: No, sir.

13 Q: Did you do anything or say anything to influence her on

14 who to pick?

15 A: No, sir.

16 Q: I think actually at this point, with your involvement in

17 the case, did you even know who the suspect was?

18 A: No. I was an outside detective that presented this.

19 Q: Okay. Did anybody else see that photo lineup or

20 participate in seeing this photo lineup before the victim, Ms.

21 Hyde?

22 A: No, sir.

23 Q: Did anybody review it after her?

24 A: No, sir.

25 Q: Did you show Ms. Hyde any pictures of the defendant

STATE V. BRYANT - 2023-GS-26-01882
PRETRIAL - NICHOLAS CONTINO - DIRECT BY OSKIN

65

1 before showing her this lineup?

2 A: No, sir.

3 Q: And based off that exhibit, did the witness select a
4 photo in that lineup?

5 A: Yes, sir.

6 Q: Which photo did she pick?

7 A: Number 3.

8 Q: Did she state that that was the person that committed the
9 crime?

10 A: Yes, sir.

11 Q: Do you recall how long it took her to pick out that
12 particular photo?

13 A: Almost immediately.

14 Q: Please tell this Court whose photo was selected.

15 A: The defendant, Mr. Bryant's.

16 Q: Are you able to point out that person in this courtroom?

17 A: Yes, sir.

18 Q: Do you recall any witness reaction upon picking that
19 defendant? Did she cry, did she shout, did she shake, or did
20 she just pick the defendant?

21 A: She was pretty quiet.

22 Q: And do you provide a form to witnesses after showing them
23 a lineup?

24 A: Yes, sir.

25 Q: I'm showing you what's been entered as a Court's exhibit

1 as State's Exhibit Number 2.

2 A: Yes, sir.

3 Q: Have you looked over that?

4 A: Yes, sir.

5 Q: Do you recognize that?

6 A: Yes, sir.

7 Q: Does it have the witness testify or affirm how sure they

8 are selected in that photo?

9 A: Yes, sir.

10 Q: And what -- this states she was a hundred percent sure;

11 is that correct?

12 A: Yes, sir.

13 Q: Did she communicate the -- was anyone -- no one else was

14 participating in the lineup; that's correct?

15 A: No, sir.

16 Q: And she did not pick any other person in that lineup?

17 A: No, sir.

18 Q: The individuals in this lineup, are they of a similar age

19 range, race, facial features, build, weight, height,

20 hairstyle?

21 A: Yes, sir.

22 Q: Is that typical when lineups are generated for witness

23 identification?

24 A: Yes, sir.

25 Q: Okay. So, that concluded your involvement in this case

STATE V. BRYANT - 2023-GS-26-01882
PRETRIAL - NICHOLAS CONTINO - CROSS BY HILLER

67

1 other than preparing for being involved in trial here today?

2 A: Yes, sir. Yes, sir.

3 Q: Please answer any questions of the defense.

4 A: Yes, sir.

5 CROSS-EXAMINATION OF NICHOLAS CONTINO BY MR. HILLER:

6 Q: So, I'm assuming that if you were a detective back in
7 February of 2023, you -- what kind of clothes were you wearing
8 -- what kind of clothes did you wear when you reported to work
9 that day?

10 A: Similar to what I'm wearing today, just not a jacket.
11 We're required to wear like a Polo, nice pants, shoes as well.

12 Q: Since you were a detective, I'm assuming a standard body-
13 worn camera was not part of your uniform at the time?

14 A: If we were out in the field, typically we would be
15 wearing our vests with our body camera.

16 Q: So, even though you're a detective, you still did have
17 access to a body camera?

18 A: Yes, sir.

19 Q: Were you wearing it that day?

20 A: It would've been placed in the room.

21 Q: Did you record with your body camera?

22 A: To my knowledge, yes.

23 Q: Okay. That's interesting. Were you issued a phone by
24 the Conway Police Department as part of your regular uniform?

25 A: Yes, sir.

STATE V. BRYANT - 2023-GS-26-01882
PRETRIAL - NICHOLAS CONTINO - CROSS BY HILLER

68

1 Q: Or equipment, I guess. Did you -- do you remember if you
2 used your phone to record the identification -- audio capture
3 of it?
4 A: Typically, I would not.
5 Q: Okay. And then were you in an actual interview room?
6 A: Yes, sir.
7 Q: Do those have pre-installed audio and video recording?
8 A: Yes, sir.
9 Q: Did you activate any audio or video recording?
10 A: The moment you walk in it activates itself.
11 Q: Okay. So, this should be recorded?
12 A: Yeah.
13 Q: Okay. Let's talk about the lineup itself. I think you
14 already testified, other than showing Ms. Hyde the lineup,
15 that concluded your involvement in this case?
16 A: I prepared the photo lineup as well.
17 Q: Oh, you did. Okay. So, you were actually the individual
18 who submitted the photo of Mr. Bryant to SLED?
19 A: Correct.
20 Q: Okay. Who asked you to administer the photo lineup to
21 Ms. Hyde?
22 A: I don't recall, but it would've been somebody -- maybe my
23 supervisor, so -- that would've said that the victim needs to
24 be provided a lineup.
25 Q: Do you remember if you were the one who called her to set

STATE V. BRYANT - 2023-GS-26-01882
PRETRIAL - NICHOLAS CONTINO - CROSS BY HILLER

69

1 up the appointment or would that have been someone else's job?

2 A: I don't recall. It could've either been told that she
3 was gonna be there at that time or I would've called her
4 myself.

5 Q: So, if you actually sent the photo to SLED, is it fair to
6 say that the photo -- the six-pack was sent back to you by
7 SLED?

8 A: To the best of my knowledge it was.

9 Q: So, there's very little doubt then that you were aware
10 already that Mr. Bryant was the person of interest in the
11 lineup?

12 A: I would've had to put his name and stuff on the
13 paperwork, yes.

14 Q: And you knew what position he was in on the six-pack?

15 A: Yes, they do let me know in the paperwork which one is
16 the defendant.

17 Q: And then this particular lineup, Mr. Bryant was in the
18 Number 3 spot wearing an orange jail jumpsuit, correct?

19 A: He's in a orange shirt, yes.

20 Q: And he's the only person featured in that six-pack that's
21 wearing jail attire, right?

22 A: He's in an orange shirt, yes.

23 MR. HILLER: May I approach?

24 THE COURT: You may.

25 BY MR. HILLER:

STATE V. BRYANT - 2023-GS-26-01882
PRETRIAL - NICHOLAS CONTINO - CROSS BY HILLER

70

1 Q: Will you -- do you recognize the photograph that has been
2 marked for identification?

3 A: Yes, sir.

4 Q: Okay. And is that the picture that you selected for the
5 lineup?

6 A: I would've sent either DMV photos or jail photos to SLED,
7 and they do what they do to make a photo lineup, like for
8 example, that's not the exact photo I sent to SLED with the
9 background being altered to match the rest of the six-pack.

10 Q: What is -- who is depicted in the photo marked as Court's
11 Exhibit 5 ---

12 A: The defendant ---

13 Q: --- for identification.

14 A: Mr. Bryant.

15 Q: And you are the officer who selected that photograph,
16 correct?

17 A: To the best of my knowledge, yes.

18 MR. HILLER: Your Honor, at this time, I would ask that
19 that -- for purposes of this hearing, be admitted as Court's
20 5.

21 MR. OSKIN: No objection, Your Honor.

22 THE COURT: All right. For purposes of this hearing, it
23 be admitted.

24 DEFENDANT'S EXHIBIT NUMBER 1

25 ADMITTED INTO EVIDENCE FOR PRETRIAL ONLY

STATE V. BRYANT - 2023-GS-26-01882
PRETRIAL - NICHOLAS CONTINO - CROSS BY HILLER

71

1 BY MR. HILLER:

2 Q: So, it sounds like you're -- that is a jail jumpsuit from
3 J. Reuben Long, correct?

4 A: It appears to be an orange shirt. I don't know for sure
5 that it's a jail jumpsuit or not. It doesn't say it is on it.

6 Q: But you know where you got the photograph from, right?

7 A: I sent whatever facial photos I could've gotten, whether
8 DMV or jail photos.

9 Q: We'll get to the DMV in a minute. But jail photo was
10 certainly a source of photograph that you would be willing to
11 use in a lineup?

12 A: Correct.

13 Q: You don't think that's at all suggestive?

14 A: Sir?

15 Q: You don't think that that's at all suggestive?

16 A: It's the best photographs that I could get of the
17 defendant to send off to get a lineup back.

18 Q: You mentioned the DMV. As a law enforcement officer, you
19 have the ability to access records in the DMV?

20 A: I do.

21 Q: Do you know how recent the photograph -- well, first of
22 all, do you know, did you look at the DMV record to look for a
23 ---

24 A: I don't recall.

25 Q: So, you -- if you don't recall that, I'm assuming you

STATE V. BRYANT - 2023-GS-26-01882
PRETRIAL - NICHOLAS CONTINO - CROSS BY HILLER

72

1 don't recall or know the date that he renewed his license
2 last, do you?
3 A: I don't recall.
4 Q: Would you agree with me that using a DMV photograph of
5 Mr. Bryant instead of what appears to be a mugshot, would have
6 made the photo lineup less suggestive?
7 A: I don't recall what that photo looks like.
8 Q: You're talking about the DMV photo?
9 A: Yeah.
10 Q: Turning your attention to the instruction form.
11 A: Yes, sir.
12 Q: And also, I guess the identification form; it kind of
13 serves two purposes, it seems.
14 A: Okay.
15 Q: You testified that you read the instructional form to Ms.
16 Hyde before the identification took place.
17 A: Okay.
18 Q: Did you?
19 A: To the best of my knowledge, yes.
20 Q: Did you read it verbatim to the best of your knowledge?
21 A: To the best of my knowledge, yes.
22 Q: And did you have any other conversation with Ms. Hyde at
23 all before showing her this lineup?
24 A: Not to knowledge.
25 Q: What about during the administration of the lineup?

STATE V. BRYANT - 2023-GS-26-01882
PRETRIAL - NICHOLAS CONTINO - CROSS BY HILLER

73

- 1 A: Not to my knowledge.
- 2 Q: This form, if you look at it, there are two places for
3 the person viewing the lineup to sign, right?
- 4 A: Correct.
- 5 Q: And then there is one blank space -- well, two blank
6 spaces. One for the date, right?
- 7 A: Correct.
- 8 Q: And then there's a blank space for the identification of
9 the slot that the person identified is, right?
- 10 A: I see two signatures, a date -- two dates, two more
11 signatures, and then I see a case number, date and time.
- 12 Q: Look in the middle.
- 13 A: Oh, yes; I'm sorry. I do see that, labeled as Number 3.
- 14 Q: Because obviously, not every person of interest is in the
15 Number 3 spot; SLED picks that.
- 16 A: Correct.
- 17 Q: So, you need a blank to fill in the blank when you're
18 done.
- 19 A: Correct.
- 20 Q: And this was read out on the record already, but the form
21 also contains a statement that the person making the
22 identification is 100 percent positive that it's the person
23 who committed the crime in Horry County?
- 24 A: Correct.
- 25 Q: Or Conway limits, I'm sorry. Why is the phrase 100

1 percent positive typed out on the form in advance?

2 A: Because they need to be a hundred percent positive.

3 Q: Would not the better practice be to allow the person
4 participating in the lineup to supply their own level of
5 certainty for him or herself?

6 A: Well, the form is for a hundred percent certainty, and
7 not for anything minimal.

8 Q: Where on the form does it say do not pick someone unless
9 you're 100 percent certain?

10 A: I guess it doesn't. They wouldn't have picked anyone.

11 Q: You've heard of the Department of Justice before,
12 correct?

13 A: Yeah.

14 Q: What about the International Association of Chiefs of
15 Police?

16 A: Maybe, maybe not.

17 Q: Do you know that organizations -- those organizations and
18 others like it often set forth best practices or model
19 policies for various types of police investigative techniques?

20 A: Sure.

21 Q: Does the Conway Police Department have internal policies
22 and procedures regarding the proper creation of photo lineups?

23 A: I wouldn't know their policies anymore.

24 Q: At the time?

25 A: At the time, I would've followed my command policies.

STATE V. BRYANT - 2023-GS-26-01882
PRETRIAL - NICHOLAS CONTINO - REDIRECT BY OSKIN

75

1 Q: And so, it is your belief that the policies and
2 procedures were followed when preparing the lineup that
3 contained Mr. Bryant's photograph?

4 A: Yes, sir.

5 Q: And similarly, the procedures and policies were followed
6 when the identification process itself took place?

7 A: Yes, sir.

8 Q: So, then it would be if these policies were followed,
9 because it was just your testimony, it would stand to reason
10 that Conway Police Department has no policy against
11 administering a photo lineup that mixes mugshots with other
12 photographs?

13 A: I wouldn't recall that.

14 Q: Does Conway Police Department have any policy regarding
15 audio or video recording of a photo lineup?

16 A: I would not recall that.

17 Q: But again, to your knowledge, the identification at issue
18 in this case should have been audio and video recorded?

19 A: Correct.

20 Q: Okay. I do not have any other questions.

21 THE COURT: Redirect?

22 REDIRECT EXAMINATION OF NICHOLAS CONTINO BY MR. OSKIN:

23 Q: Briefly, sir, just to be clear for the Court.

24 A: Yes, sir.

25 Q: The witness signed this form on State's Exhibit 2, after

STATE V. BRYANT - 2023-GS-26-01882
PRETRIAL - NICHOLAS CONTINO - REDIRECT BY OSKIN

76

1 selecting an individual on State's Exhibit 1; is that correct?

2 A: Correct.

3 Q: So, she's not predisposed to seeing a hundred percent
4 before she picks this?

5 A: Correct.

6 Q: If she didn't pick anybody, there'd be no need to sign
7 that form, correct?

8 A: Correct.

9 Q: I believe you explained the photos and how they got
10 there.

11 A: Correct.

12 Q: And just to elaborate for the Court, this picture here,
13 Defense 1, on State's Exhibit, individual number three, that
14 photo is significantly cropped; is that correct?

15 A: Correct.

16 Q: You see the shirt above the shoulders; that's about it,
17 correct?

18 A: Correct.

19 Q: No folding of the shirt or anything?

20 A: Correct.

21 Q: There's also other individuals in this photo with shirts
22 that aren't black; is that correct?

23 A: That's correct.

24 Q: Can you point to a number where somebody is not wearing a
25 black shirt in it?

STATE V. BRYANT - 2023-GS-26-01882
PRETRIAL - NICHOLAS CONTINO - REDIRECT BY OSKIN

77

- 1 A: Number 6, sir.
- 2 Q: And the shoulders of these individuals are covered
3 miscellaneously, right?
- 4 A: Correct.
- 5 Q: There's no real rhyme or reason to it. Some people you
6 see more of the shoulder's; some people you don't?
- 7 A: Yes, sir.
- 8 Q: I guess the heart of this whole matter is you didn't tell
9 this -- did you tell this witness who to pick?
- 10 A: No, sir.
- 11 Q: Have you conducted plenty of lineups in your career where
12 somebody was not picked?
- 13 A: Yes, sir.
- 14 Q: I have to do this. Orange, a lot of people like a team
15 that's orange is South Carolina, right? Orange is a color
16 that can be worn by individuals in South Carolina or any
17 state?
- 18 A: Yes, sir.
- 19 MR. OSKIN: Court's indulgence, sir; I'm sorry.
- 20 BY MR. OSKIN:
- 21 Q: So, you have an individual's name, you send those photos
22 to SLED, however you can pull them whether it's the DMV or
23 other county records.
- 24 A: Yes, sir.
- 25 Q: And they send you back a six-pack?

STATE V. BRYANT - 2023-GS-26-01882
PRETRIAL - NICHOLAS CONTINO - REDIRECT BY OSKIN

78

1 A: Yes, sir.

2 Q: And you present it?

3 A: Yes, sir.

4 Q: All right. Nothing further from the state.

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

6 A: Yes, sir.

7 MR. OSKIN: Your Honor, we'd just excuse Officer Contino
8 until trial tomorrow, Your Honor.

9 THE COURT: All right. Any objection to that?

10 MR. HILLER: No, sir.

11 THE COURT: He's excused until tomorrow. Thank you, sir.
12 Any other witnesses for the state?

13 MR. OSKIN: None from the state, Your Honor. We would --
14 we'd be able to argue admission at the appropriate time.

15 THE COURT: I understand. Does the defense have a
16 witness?

17 MR. HILLER: Yes, sir, Your Honor.

18 THE COURT: All right. Let's hear the defense witnesses,
19 and then I'll hear your arguments, Ms. Oskin.

20 MR. OSKIN: Yes, sir.

21 MR. HILLER: Your Honor, at this time, the state would
22 call Dr. Dawn McQuiston.

23 DR. DAWN MCQUISTON, HAVING BEEN
24 SWORN, TESTIFIED AS FOLLOWS:

25 THE CLERK: Please state your name and spell your last

STATE V. BRYANT - 2023-GS-26-01882
PRETRIAL - DAWN MCQUISTON - DIRECT BY HILLER

79

1 for the Court.

2 DR. MCQUISTON: It's Dawn McQuiston, M-C-Q-U-I-S-T-O-N.

3 THE COURT: All right. Counsel, your witness.

4 MR. HILLER: Thank you, Your Honor.

5 DIRECT EXAMINATION OF DR. DAWN MCQUISTON BY MR. HILLER:

6 Q: Good afternoon, Doctor.

7 A: Good afternoon.

8 Q: Thank you for being here this afternoon. Let's start
9 with some background questions. What is your current
10 occupation?

11 A: I'm a professor at Wofford College.

12 Q: A professor in what department?

13 A: Psychology.

14 Q: How many years have you held this occupation?

15 A: For 22 years.

16 Q: What type of educational or background or degrees do you
17 hold?

18 A: I have a bachelor's degree in psychology, and a PhD and a
19 master's degree in experimental psychology.

20 Q: What do your responsibilities at Wofford consist of?

21 A: I teach, and I do research.

22 Q: Research under what type of -- research in what field?

23 A: My main area for many years has been eyewitness memory,
24 eyewitness identification.

25 Q: Do you have -- so, eyewitness identification, is that --

1 is that a term of art as in like a identification for purposes
2 of law enforcement investigation?

3 A: Correct.

4 Q: Okay. Do you belong to any national psychological
5 organizations?

6 A: Yes, I do.

7 Q: Would you just name off a few of them, please?

8 A: The Society for Applied Research and Memory and
9 Cognition, the American Psychology Law Society, and a couple
10 of others.

11 Q: Have you published any of your research?

12 A: Yes.

13 Q: And then most importantly, I think, for types of hearings
14 like this, has your research been peer reviewed?

15 A: Yes.

16 Q: What exactly is peer review?

17 A: Peer review is a process by which scholars submit their
18 research to be published, and experts in the field review it
19 for its quality and -- its content, its quality, its
20 contribution to the field, and then an editor makes a decision
21 based on reviews of experts, whether or not it's -- it's good
22 enough quality to be published.

23 Q: So, your work has been peer reviewed?

24 A: Yes.

25 Q: Or published, I should say, and conversely, have you

STATE V. BRYANT - 2023-GS-26-01882
PRETRIAL - DAWN MCQUISTON - DIRECT BY HILLER

81

1 conducted peer review of other -- other people's work?

2 A: Yes.

3 Q: Have you ever presented any of your research or findings
4 at any professional psychology conferences or conventions?

5 A: Yes.

6 Q: Have you ever been qualified as an expert in, I guess,
7 the areas of eyewitness identification issues and also the
8 procedural aspect of like a lineup?

9 A: Yes.

10 Q: Okay. About how many times?

11 A: Overall, I've testified 45 times.

12 Q: And of all those times, have you ever testified for the
13 prosecution, or has it always been for the defense?

14 A: It's always been for the defense.

15 Q: Is there any particular reason for that?

16 A: I've only been asked by the defense.

17 Q: And obviously, just so it gets out there, you are being
18 compensated for your time consulting and testifying today,
19 correct?

20 A: Yes.

21 MR. HILLER: Your Honor, at this time and for purposes of
22 this hearing, I would ask that Dawn McQuiston be found to be
23 an expert in the area of eyewitness identification and police
24 procedural -- police procedure, rather, involving
25 identification issues.

STATE V. BRYANT - 2023-GS-26-01882
PRETRIAL - DAWN MCQUISTON - DIRECT BY HILLER

82

1 THE COURT: Any objections or further inquiries from the
2 state?

3 MR. OSKIN: Most definitely, Your Honor, I just would
4 object to relevance at this stage. I think she's certainly
5 qualified to testify to a jury if that's what the defense
6 wants to do. I don't know that the Court needs to hear it,
7 but that's -- I just wanted to say that.

8 THE COURT: Mr. Hiller, I've heard her -- you're moving
9 that she be qualified as an expert in eyewitness
10 identification, but also police procedure, correct?

11 MR. HILLER: Yes, sir. She did testify ---

12 THE COURT: All right. I would like for you to inquire
13 further as to her experience as far as police procedure. I
14 understand eyewitness ID and the psychology behind that, but I
15 don't know what her background is in police procedure.

16 MR. OSKIN: And to be clear real quick, I have no
17 objection to her qualification on the psychology behind
18 witness ID. It's just the relevancy at this state and
19 certainly inquire to the relevance as Your Honor instructed.

20 BY MR. HILLER:

21 Q: Dr. McQuiston, have you published any articles
22 specifically on the topic of police procedure as it relates to
23 eyewitness identification?

24 A: Yeah. Several papers on proper administration of
25 lineups, lineups and photospreads, yes.

STATE V. BRYANT - 2023-GS-26-01882
PRETRIAL - DAWN MCQUISTON - DIRECT BY HILLER

83

1 Q: And why is that an area that's important to study?

2 A: Eyewitness science goes back several decades.

3 Researchers conduct studies in order to determine what are the
4 procedures that law enforcement can use that will help
5 eyewitnesses help to minimize mistakes. So, specific
6 procedures when it comes to how to interview an eyewitness,
7 how to put a lineup together as a line of composition, the
8 specific procedure to administer a lineup. So, those very
9 specific things are what researchers focus -- psychological
10 scientists focus on.

11 Q: And just to kind of point out just a couple of your
12 published works, back in 2006 did you -- I guess with the
13 collaboration of others publish a work in the Psychology
14 Public Policy and Law? I guess that's a journal?

15 A: Yes.

16 Q: Do you recall the name of that article by any chance or
17 would I need to ---

18 A: It's Simultaneous and Sequential Lineups Methods and
19 Theory.

20 Q: Yes, it is. And you published another -- that's actually
21 one of two, at least, that you published that same year in
22 that same magazine -- or, I'm sorry, journal. Do you have any
23 other experience or research relevant specifically to the
24 proper conduct of police procedural investigative efforts that
25 relate to identification?

STATE V. BRYANT - 2023-GS-26-01882
PRETRIAL - DAWN MCQUISTON - DIRECT BY HILLER

84

1 A: It would be conducting research, publishing research,
2 peer reviewing other people's research, giving presentations.
3 So, it's all scholarly work that's known in my field.

4 MR. HILLER: Your Honor, at this time I would renew my
5 request that Dr. Dawn McQuiston be viewed as an expert in the
6 field of police procedural identification issues and
7 eyewitness identification.

8 THE COURT: The objection was relevance; is that correct?

9 MR. OSKIN: Yes, sir, Your Honor.

10 THE COURT: All right. I'm gonna find her an expert in
11 this field for the purposes of this hearing alone at this
12 point. All right?

13 BY MR. HILLER:

14 Q: Doctor, I'm gonna start with the -- could you explain to
15 us all what a lineup procedure is?

16 A: Did you say what a lineup procedure is?

17 Q: Yes. What is a lineup procedure?

18 A: Lineup procedure is when a witness is shown several
19 photos to see whether that person can make an identification.

20 Q: Why is a lineup -- why is a lineup procedure important to
21 use?

22 A: A lineup procedure is important because it provides,
23 showing several photos alongside a suspect, provides
24 protection against a witness who might not have a good memory.
25 Having the other photos there are important for that reason.

STATE V. BRYANT - 2023-GS-26-01882
PRETRIAL - DAWN MCQUISTON - DIRECT BY HILLER

85

1 And I usually explain it like in multiple choice question that
2 if a witness has a good sense of the answer, the witness
3 should be able to pick that person out amongst several wrong
4 answers. So, it provides -- having those other photos
5 provides protection against a witness who might not have a
6 good memory, and/or a suspect who is not the perpetrator.

7 Q: Are there national guidelines and recommendations that
8 discuss proper identification procedure when law enforcement
9 is working with a witness, or obviously a victim?

10 A: Yes.

11 Q: Can you cite a few other -- several or just one?

12 A: There are several, yes.

13 Q: And would one of those be the Department of Justice?

14 A: Yes.

15 Q: And do you remember when they most recently updated their
16 policies -- their best -- is it fair to say best practices or
17 model policy?

18 A: Best practices; either one. Yeah, I think 2016, 2017.

19 Q: What about -- does the National Association of Chiefs of
20 Police, have they also issued recommendations ---

21 A: Yes.

22 Q: --- or best practices?

23 A: Yes, right around that same time.

24 Q: What about the National Academy of Sciences?

25 A: Yes. The same thing, National Academy of Sciences

STATE V. BRYANT - 2023-GS-26-01882
PRETRIAL - DAWN MCQUISTON - DIRECT BY HILLER

86

1 understood a couple of years study on kind of the state of
2 eyewitness identification policies, procedures, where we could
3 make some improvements, and they've published a really
4 comprehensive report that really parallels the DOJ guidelines,
5 et cetera, 2014-15.

6 Q: So, why is this -- all this important? Why do three --
7 at least three different agencies feel the need to publish,
8 and I assume release to agencies best practices?

9 A: We know that there are certain procedures if when
10 followed it promotes eyewitness accuracy. It can help
11 eyewitnesses be more reliable in their identifications. And
12 so, there are specific things that have been studied for many
13 years that we now know are really important to do when
14 conducting, when police conduct an identification procedure
15 with a witness. So, what we're doing is trying to avoid
16 eyewitness mistakes.

17 Q: Do you -- so, you've been here for this testimony, so you
18 -- are you aware that the victim in this case was asked to
19 participate in a photo lineup?

20 A: Yes.

21 Q: When it comes to the guidelines and recommendations
22 around a photo lineup, are those -- do those guidelines say
23 anything about the actual lineup members selected to be in
24 that lineup?

25 A: Yes.

STATE V. BRYANT - 2023-GS-26-01882
PRETRIAL - DAWN MCQUISTON - DIRECT BY HILLER

87

1 Q: And what is that?

2 A: All of the recommendations say that all of the persons in
3 the lineup should be reasonably similar when it comes to the
4 facial characteristics, background, lighting, so the fillers
5 should be selected to reasonably match the suspect. And the
6 point is so that no one stands out in the lineup.

7 Q: So, your testimony is that it is important for these six
8 people, the five fillers, who are the non-persons of interest?

9 A: Correct.

10 Q: And the suspect to all look similar?

11 A: Correct.

12 Q: And again, just to make sure I'm clear, why is that
13 important?

14 A: Because you want to avoid any one person or more than one
15 person standing out relative to the other lineup members.

16 Q: Are suspects in unfair lineups identified more often than
17 suspects in fair lineups?

18 A: Yes.

19 Q: I'm turning your attention to the specific lineup a
20 question in this case. Is it your opinion that the lineup in
21 this case is fair?

22 A: I think the lineup in this case is very unfair.

23 Q: Why?

24 A: I think it's suggestive. There's one person who stands
25 out relative to the other lineup members.

STATE V. BRYANT - 2023-GS-26-01882
PRETRIAL - DAWN MCQUISTON - DIRECT BY HILLER

88

1 Q: How does this other person -- how does this one person
2 stand out?
3 A: In terms of his orange clothing.
4 Q: Now, does it -- does the -- I believe up there you have
5 Number 5, that photograph is -- does it appear to you that
6 that's the photograph that was the -- that formed the basis
7 for the picture -- the number three slot in this photo lineup?
8 A: I think so.
9 Q: It's obviously cropped, correct?
10 A: That's right.
11 Q: Okay. In the un-cropped version, it's more obvious that
12 that is -- in the cropped version -- I'm sorry -- in the
13 uncropped version, is it pretty obvious to you what is being
14 worn by that individual?
15 A: Yes.
16 Q: What is it?
17 A: A prison jumpsuit or clothing.
18 Q: In the lineup, it is much more cropped than is in the
19 source picture?
20 A: It is, yes.
21 Q: Does it -- so, I guess my question is whether or not it's
22 an orange jumpsuit or whether it's noticeable as a jumpsuit,
23 does the color itself matter, just the fact that it's a
24 different color?
25 A: I think that can matter, yes. You don't want any one

STATE V. BRYANT - 2023-GS-26-01882
PRETRIAL - DAWN MCQUISTON - DIRECT BY HILLER

89

1 person standing out relative to the other members on any
2 dimension, but particularly something like this that gives the
3 witness a cue to prison clothing.
4 Q: And I guess just so it's very clear for the record, the
5 individuals in Numbers 1 and 2 are wearing black?
6 A: Yes.
7 Q: And then individuals in 4 and 5 are wearing black?
8 A: Yes.
9 Q: The individual in 3 is wearing orange?
10 A: Yes.
11 Q: And the individual in in 6 is wearing what?
12 A: It looks like white, but it's pretty cropped in Number 6.
13 Q: Is -- does -- would you say 6 is more cropped than 3?
14 A: Yes.
15 Q: So, what can happen if the suspect stands out compared to
16 the other members of the lineup?
17 A: Suspects who stand out are more likely to be identified
18 than suspects who do not.
19 Q: What is a blind administration of a lineup?
20 A: That is when the person administering the lineup does not
21 know the identity of the suspect in that lineup.
22 Q: Is that -- or why is that important?
23 A: It's important when you consider not -- the potential for
24 nonverbal cues. That research goes back decades, even outside
25 of the field of law enforcement, that nonverbal cues can be

1 given in lots of different circumstances, but will only apply
2 that to specifically the administration of the lineup. There
3 is research that shows that fewer false identifications are
4 made when it is -- when the lineup is conducted in a manner
5 that is blind. The person conducting it does not know who the
6 suspect is. And so many studies have shown this that this has
7 now become one of the major recommendations better made in
8 terms of best practices.

9 Q: So, the national guidelines do recommend blind
10 procedures?

11 A: Yes.

12 Q: Do the national guidelines also recommend that the police
13 ask the witness how competent she is after making that
14 implication from the lab?

15 A: Yes.

16 Q: And why is that important? Confidence is something that
17 has been studied for long time in the literature. And that is
18 we wanted to look at whether an eyewitness' confidence is
19 related to their accuracy. And so, there's been many studies
20 that looked at this. And sometimes, under certain
21 circumstances, you can use a witness's confidence as a cue to
22 their accuracy. It's a good predictor of their accuracy. So,
23 if they are very competent you can rely on that as information
24 when judging the accuracy of their identification. So, it's
25 really important to know -- for the witness themselves, or in

STATE V. BRYANT - 2023-GS-26-01882

91

PRETRIAL - DAWN MCQUISTON - DIRECT BY HILLER

1 this case the victim, to be able to provide that information
2 themselves. We also know -- another reason it's important
3 that it be documented is because we know that witness
4 confidence is malleable. A witness' confidence in their
5 identification can change over time based on lots of different
6 information. Hearing feedback from somebody, seeing it on the
7 news, reading it on social media, talking with other people.
8 And so, you really want to get a good solid documentation of a
9 witness' confidence from their own mouth when the lineup
10 procedure is done.

11 MR. HILLER: Based on the materials that you have
12 reviewed in this case and the information that's available to
13 you, was the lineup -- was a blind lineup conducted in this
14 case?

15 A: No, not the way the officer described it.

16 Q: Have you heard audio or seen a video recording of the
17 identification process in this case?

18 A: No.

19 Q: Is there anything else about this lineup -- well, let me
20 guess, in your opinion, were best practices followed in this
21 case, in the preparation and presentation of -- well, let's
22 first of all, take the preparation of the lineup. Were best
23 practices followed in that phase of this case?

24 A: No.

25 Q: Can you list off a few ways in which this selection

1 process fell short?

2 A: Namely that the suspect stands out relative to the other
3 lineup members.

4 Q: And what about the presentation portion of the lineup?

5 A: No. It was not conducted blind. From what the officer
6 described, the proper instructions were not given.
7 Instructions are really important when it comes to presenting
8 this in a fair and unbiased way. So, giving what we call
9 unbiased instructions, which are the -- the person who
10 committed this crime, may or may not be in this lineup. The
11 officer didn't indicate that that was said. And also, a
12 witness -- the witness wasn't able to provide her own -- or
13 the victim was not able to provide her own confidence. So,
14 the way that the confidence statement is handled, be
15 preprinted on the form is suggestive. So, the lineup itself
16 is suggestive. And the form, I think, when it comes to the
17 victim not being able to provide their own information, it's
18 suggestive.

19 Q: The form, the photo lineup -- let's call it the photo
20 lineup form, can you look at this second sentence on that form
21 real quick if you have it in front of you.

22 A: Is it this one? Oh, it does, it does. This group may or
23 may not contain a picture of the person who committed the
24 crime. I was going by what the officer said out loud, but the
25 fact that it says it on the form is good.

STATE V. BRYANT - 2023-GS-26-01882
PRETRIAL - DAWN MCQUISTON - DIRECT BY HILLER

93

1 Q: There are -- are there other -- is there other model
2 language that could have been included on this form?
3 A: No, other than the confidence statement; no, I think it's
4 fine.
5 Q: Have you ever seen another photo lineup form where the
6 confidence statement was supplied by the form itself?
7 A: No.
8 Q: What does it normally look like -- what would one of
9 these normally look like in the ones that you have seen and
10 testified about?
11 A: I mean, it's similar to this, but typically the procedure
12 is recorded in some way, then the witnesses ask themselves how
13 confident are you that this is the person that committed the
14 crime, and a range of answers are given.
15 Q: Is it true that a person must be 100 percent certain in
16 order to identify someone?
17 A: Well, according to the officer that testified, the answer
18 to that would be -- it would be yes; that's what the officer
19 said.
20 Q: That's what he said, but do you agree with that?
21 A: All I can say is what I have seen in many cases. And the
22 answer to that would be a witness -- witnesses are not always
23 100 percent confident is what I have seen.
24 Q: So, the 100 percent positive is -- as obviously in this
25 case is supplied by the form, is that standard or nonstandard?

STATE V. BRYANT - 2023-GS-26-01882
PRETRIAL - DAWN MCQUISTON - DIRECT BY HILLER

94

1 A: That is not standard.
2 Q: What is it -- what would it normally look like as to that
3 issue only?
4 A: It wouldn't be up on the form. It would be a question
5 that is asked to the witness, and the witness would answer.
6 Q: Okay. Preferably recorded?
7 A: That's right.
8 Q: And if -- does the model language contain any
9 instructions for the event that the recording -- or the
10 interview process cannot be recorded?
11 A: I'm sorry.
12 Q: So, like if it's impossible to record it, for whatever
13 reason, field or just whatever, there's no recording
14 available, is there -- are there instructions in the model
15 policies for what to do in that instance?
16 A: I believe it says just to have a written -- have it
17 written down what transpired during the identification
18 procedure ---
19 Q: Would it ---
20 A: --- to have a record of it if it isn't audio or video
21 recorded.
22 Q: And here we do have a written record of what has
23 happened. Do you recall reviewing that in discovery?
24 A: I don't recall.
25 Q: If I showed you that portion of the incident report that

STATE V. BRYANT - 2023-GS-26-01882
PRETRIAL - DAWN MCQUISTON - DIRECT BY HILLER

95

1 I previously provided you, would that refresh your
2 recollection?

3 A: Yes.

4 MR. HILLER: May I approach?

5 THE COURT: You may.

6 A: Yes, I remember this, yes.

7 BY MR. HILLER:

8 Q: How would you characterize the narrative of the report
9 documenting the identification procedure?

10 A: It didn't have much detail. That's how we characterize
11 it, just -- yeah.

12 Q: So, ultimately, is it your opinion that the lineup
13 presented on February 10th of 2023 was suggestive?

14 A: It is, yes. And the problem with a suggestive lineup is
15 that you can never know what the source of the identification
16 was. When someone who stands out is identified, you -- it's
17 impossible to determine whether that person was identified
18 because they're actually -- because the victim actually
19 remembers this is the person who committed the crime or simply
20 because that person stands out in the lineup. It's impossible
21 to know which one of those is true.

22 Q: Does a suggestive lineup create the concern of a
23 potential likelihood of irreparable misidentification?

24 A: Yes.

25 Q: So, even if there is coercive -- let's assume for the

1 sake of the next couple of questions, and were getting close
2 to the end here, that the lineup at issue is suggestive. Is
3 that end of the analysis or is there more?

4 A: I believe there's more.

5 Q: Are you familiar with the five factors -- I guess they're
6 called often the *Braithwaite* factors?

7 A: Yes.

8 Q: Can you talk about those a little bit?

9 A: Sure. It's kind of an overall analysis, being able to
10 dig into the witness's or victim's experience, how they
11 experienced the event, looking at -- would you like me to list
12 them?

13 Q: Sure.

14 A: Looking at whether the description given of the
15 perpetrator matches the defendant; what the level of
16 confidence is indicated by the witness; the opportunity to
17 view during the experience -- the opportunity for the victim
18 to view the perpetrator; the witness's degree of attention
19 during the experience; and the time between, like the
20 retention interval, the time between the event and the
21 subsequent identification procedure.

22 Q: So, the level of certainty demonstrated by the witness or
23 the victim at the time of the confrontation, that's referring
24 to the photo lineup identification?

25 A: Correct, correct.

STATE V. BRYANT - 2023-GS-26-01882
PRETRIAL - DAWN MCQUISTON - DIRECT BY HILLER

97

1 Q: And what do we know about Ms. Hyde's confidence at this
2 time, at the time of the -- or now what do we know about her
3 confidence at the time of the lineup.

4 A: We know what's on the form. And according to the form,
5 she's a hundred percent confident.

6 Q: But again, that was typed on the form already. She did
7 not type that herself?

8 A: That's correct. We have no statement from her prior to
9 seeing what I think is suggestive language. Her own level of
10 confidence. We don't have that.

11 Q: All right. So, another factor is the opportunity to view
12 -- you heard testimony that a gun was involved?

13 A: Yes.

14 Q: Can the presence of a gun impact someone's opportunity to
15 view?

16 A: Certainly, we heard the victim say that, certainly.

17 Q: Does time of day matter, like light or dark?

18 A: Sure, yes.

19 Q: What about degree of attention? That's also referring to
20 the time of the crime, not the time of the lineup?

21 A: That's right, yes. Yeah. The same -- the same kind of
22 circumstances, the ability to pay attention to or tend to the
23 perpetrator's physical appearance. I think the focus on the
24 gun, which is what the victim had stated. She was focusing on
25 the gun, which is exactly what you see in cases like that,

1 people would naturally focus on the gun to the expense of
2 other information. So, it makes sense that in many cases
3 there are not a lot of descriptors of the perpetrator's face
4 because of such a focus on the gun, naturally.

5 Q: And then finally, you were able to view bodycam footage
6 in this case?

7 A: I did, yes.

8 Q: Are there any differences between the Ms. Hyde's on-scene
9 description and the -- of the person who robbed her and the
10 photographs presented in the lineup?

11 A: Yes.

12 Q: Could you talk about that, please, ma'am?

13 A: The hair, she indicated a couple of times the night of
14 the incident that the robber had dreadlocks. But there is
15 nobody with dreads in the lineup.

16 Q: So, assuming that -- and I'm not saying that this would
17 happen, but just assuming that the lineup is deemed by this
18 Court to be suggestive, would it be your -- is it your opinion
19 that the identification is otherwise reliable?

20 A: I think there's a question -- there's reason to question
21 the reliability of the identification based on the -- based on
22 the factors that we just went -- we just went through. I
23 think there's several variables that are important during the
24 -- that the victim experienced that can diminish the
25 reliability of an identification.

STATE V. BRYANT - 2023-GS-26-01882
PRETRIAL - DAWN MCQUISTON - CROSS BY OSKIN

99

1 Q: Thank you. I don't have any further questions.

2 CROSS-EXAMINATION OF DAWN MCQUISTON BY MR. OSKIN:

3 Q: Normally, I have to pay to talk to psychologists, so this
4 will be a little better for both of us, I hope.

5 You said you testified for defense nationwide; is that
6 true?

7 A: Yes.

8 Q: Okay. Are you involved in the founding or are one of the
9 lead directors in the Innocence Initiative of South Carolina?

10 A: I am.

11 Q: Have you stated at one time or another that you're pen
12 pals with death row inmates?

13 A: No.

14 Q: Okay. That might've been -- that must've been a
15 convention you were at where somewhere else was ---

16 A: No, no.

17 Q: Talk about the suggestiveness, what about the reliability
18 -- so, you're not saying that this lineup identification --
19 you can't say whether her IDs were reliable or not based off
20 the information you have and the way it's presented; is that
21 correct?

22 A: That's correct.

23 Q: Okay.

24 A: Yeah.

25 Q: Did you review all of the discovery in this matter?

STATE V. BRYANT - 2023-GS-26-01882
PRETRIAL - DAWN MCQUISTON - CROSS BY OSKIN

100

1 A: I don't know if I reviewed all the discovery. I reviewed
2 what I was sent.

3 Q: Okay. And just to clarify a few things you said --
4 you've been extremely fair -- did you state that people who
5 committed the crime are more likely to be picked by witnesses
6 or victims? I'm not trying to trick you, but ---

7 A: I don't think that -- I don't think that's what I said.

8 Q: Okay. Can you explain -- we're talking about unfair
9 lineups, and I guess are people that committed the crime more
10 likely to be picked than not based off your research and
11 experience?

12 A: Based off my research, people that are -- if the lineup
13 is unfair, the person -- the suspect, whether that is the
14 perpetrator or not, that person is more likely to be picked.

15 Q: Okay.

16 A: That person may be guilty; that person may not be guilty.

17 Q: All right. And we talked about degrees of confidence,
18 did you tell Mr. Hiller that when people state their numerical
19 confidence, that that -- does that make a difference for you
20 in your studies or anything?

21 A: It does, it does.

22 Q: But you're saying here that's tough to tell because the
23 form has the number in it? Would you have rather -- would you
24 have liked to've seen her say I am with a hundred percent
25 confidence instead of ---

STATE V. BRYANT - 2023-GS-26-01882
PRETRIAL - DAWN MCQUISTON - CROSS BY OSKIN

101

1 A: I -- that's correct.

2 Q: And is that because some examples, witnesses or victims
3 ID a defender, somebody they think committed a crime, that can
4 -- kind of a long statement, but I promise a question -- law
5 enforcement can use that information to then go do further
6 investigation to build off that ID?

7 A: Yes, yes.

8 Q: So, you were present when the victim stated that she
9 identified the vehicle the defendant was driving?

10 A: Was I present? No.

11 Q: You weren't present for her testimony an hour ago?

12 A: Oh, sorry, sorry. Yes.

13 Q: I know you were present.

14 A: Right. Repeat that question.

15 Q: You were present when the victim testified to describe
16 the vehicle that the suspect defendant drove? She described
17 it as a black Dodge.

18 A: Yes, yes.

19 Q: Okay. And she described a gun?

20 A: Yes.

21 Q: A skinny gun; she didn't know if it was a pistol or
22 revolver?

23 A: That's right.

24 Q: And she indicated sending a text message to a Talisha
25 Smalls?

STATE V. BRYANT - 2023-GS-26-01882
PRETRIAL - DAWN MCQUISTON - CROSS BY OSKIN

102

1 A: Yes.

2 Q: By Cash App?

3 A: Yes, yeah.

4 Q: Okay. Would it affect your opinion on reliability at all

5 if that car with that gun in it was found at Talisha Smalls'

6 residence when this defendant was arrested?

7 A: I think that is beyond what I'm here to testify about.

8 That's not really specific to the eyewitness identification of

9 the defendant.

10 Q: But it's other factors that this witness stated to law

11 enforcement at the time of the incident based on her

12 testimony?

13 A: That's correct.

14 Q: Okay. And we were talking about times and policies for

15 presenting a lineup, but I never got like a -- when is the

16 best time to present an ID; did you answer that?

17 A: I don't think I was asked that question.

18 Q: But you're aware our courts say up to two weeks later

19 they've said that IDs are reliable?

20 A: I'm not aware of that statement being made, not that I

21 don't agree with it, but ---

22 Q: Yes, ma'am.

23 A: Yeah, I'm not aware of that statement.

24 Q: Okay. And lastly, we stated -- I'm sure we're in

25 agreement with this -- that having a gun pointed at you, that

STATE V. BRYANT - 2023-GS-26-01882
PRETRIAL - ARGUMENTS OF COUNSEL

103

1 can -- that can deter your ability to probably to -- she was
2 probably focused on the gun.

3 A: Sure, yes.

4 Q: Okay. And you heard this witness testify about the
5 mouth, the nose, the facial hair, the center structures of the
6 face?

7 A: Yes.

8 Q: That's it for me. Thank you so much.

9 THE COURT: Any brief redirect?

10 MR. HILLER: Nothing, Your Honor.

11 THE COURT: All right. Doctor, you may step down.

12 Let's take five minutes. I'll be right back.

13 MR. OSKIN: Yes, sir.

14 **RECESS - 4:00 P.M.**

15 *****OFF THE RECORD*****

16 **ON THE RECORD - 4:05 P.M.**

17 THE COURT: All right. Mr. Hiller, are you ready to make
18 your argument?

19 MR. HILLER: Yes, sir, Your Honor.

20 THE COURT: Is the state ready?

21 MR. OSKIN: I believe so, thank you, Your Honor.

22 THE COURT: All right. Yes, sir?

23 **ARGUMENTS OF COUNSEL:**

24 MR. HILLER: First of all, Your Honor. I do want the
25 record to reflect that the state has not provided any audio or

STATE V. BRYANT - 2023-GS-26-01882
PRETRIAL - ARGUMENTS OF COUNSEL

104

1 video recording of the photo lineup. We have done evidence
2 view; we've done everything. So, if ---

3 MR. OSKIN: The state is not in possession of one, never
4 has been in possession of one. Had we gotten one, we'd have
5 given it. If one appears tonight, they'll get it. Don't
6 anticipate that happening. Mr. DiChiara has reviewed that
7 extensively with Conway Police. We are not in possession of
8 that.

9 THE COURT: Okay. If they don't have it, they don't have
10 it.

11 MR. HILLER: I understand. But I was honestly not
12 expecting ---

13 THE COURT: Well, and I know his testimony was that it
14 should have. It's my understanding he hasn't been with the
15 City of Conway now for a while.

16 MR. OSKIN: That's correct, sir. He left shortly after
17 all this.

18 THE COURT: Wasn't he involved in an officer shooting or
19 something?

20 MR. OSKIN: Yes, sir, Your Honor.

21 THE COURT: Yeah, okay. But as to what you just said,
22 Mr. Hiller, we'll cross that bridge if we get there. If it
23 doesn't exist, then we won't have to, but if it does ---

24 MR. HILLER: I was preparing as if it doesn't exist, but
25 so -- but you never know, you know, the answer to question

STATE V. BRYANT - 2023-GS-26-01882
PRETRIAL - ARGUMENTS OF COUNSEL

105

1 until you ask it, I guess.

2 Judge, one of the things that I will say as I get into my
3 argument is, at first, you know, we just downloaded discovery
4 from the internet, you know, photocopied, and we had just a
5 black-and-white version of the photo lineup. It was not until
6 we did evidence view that we saw the colored one. And I tell
7 you just as someone who had seen the black-and-white version
8 and then seeing the orange pop in color, it was stark just for
9 that reason alone. So, I do believe that in this case the
10 photo lineup was suggestive. There was some hemming and
11 hawing about whether or not that was an orange jumpsuit or
12 not, but also we heard from the officer that mugshots are an
13 appropriate source of photographs for him. He ---

14 THE COURT: Let me ask you this, and maybe I'm wrong but
15 it appears that all of them are mugshots.

16 MR. HILLER: Maybe. I mean, certainly there's no smiles
17 on any of those pictures, but -- and I mean, it's clearly that
18 -- clearly true that he submitted Mr. Bryant in a mugshot
19 format. Another thing I would kind of note in, not rebuttal
20 to that, but I'll point out is he was talking about shading
21 and making sure that the backgrounds were all uniform and
22 things like that. I would assume there would've been a way to
23 make it to where they are all the same color. I mean, the
24 orange is still the only orange one, whether those are ---

25 THE COURT: I don't know. That would probably be a SLED

1 question, but yeah.

2 MR. HILLER: Probably -- possibly, but obviously the
3 officer did concede that SLED does doctor these photos to some
4 extent. The one thing that SLED clearly didn't do is, you
5 know, and to the extent they could maybe -- or if they
6 couldn't, that would be a question for SLED. But he's clearly
7 the only person in a brightly-colored shirt, which does make
8 him stand out a lot.

9 THE COURT: All right.

10 MR. HILLER: So, I think even for that alone, it is
11 suggestive, and then that doesn't, of course, end the inquiry
12 as Your Honor knows. And I'm looking at *State v. Liberman*
13 (spelled phonetically), which is 389 S.C. 130. And it just
14 basically lays it out if the Court finds that the
15 identification process, excuse me, is suggestive, then the
16 question becomes whether the out-of-court identification was
17 nevertheless so reliable that no substantial likelihood of
18 misidentification existed. And those are those five factors
19 that we took some testimony on: The witness's opportunity to
20 view the perpetrator at the time of the crime; degree of
21 attention; accuracy of the witness's prior description of the
22 perpetrator; the level of certainty demonstrated at the time
23 of confrontation; and then the length of time between the
24 crime and confrontation.

25 I really have no argument on the length of time between

STATE V. BRYANT - 2023-GS-26-01882
PRETRIAL - ARGUMENTS OF COUNSEL

107

1 crime and confrontation that is, I think, 36 hours is not an
2 unreasonable amount of time. I do have concerns about all the
3 other factors, though.

4 Obviously, we talked about -- we took testimony as to the
5 fact that she -- that Ms. Hyde was scared, she had the gun in
6 her face, she was shaking so hard that she couldn't use her
7 phone, she was looking down at her phone to complete the
8 transaction. Those are all diminished ability to make a -- an
9 ID, to have the ability to get a good look at the person at
10 the time.

11 I think similarly the degree of attention. You're having
12 to look down at your phone, you have the gun on you, and
13 you're scared. Those all like go together to create concerns
14 that the brief amount of time that she had to view this person
15 was -- that she was very distracted during that time.

16 And then, of course, the last -- the other factor is the
17 accuracy of her prior description. I mean, she is clear, he
18 has dreads, he's got dreads, and this -- well, you know, law
19 enforcement really did run with the description of her saying
20 having dreads. They -- that was the angle they were working
21 until they, you know, made other discoveries and kind of just,
22 oh, well, dreads or no dreads, whatever. But the accuracy of
23 the description as having dreads, and then just the absolute
24 deletion of anyone having dreads from the lineup is -- there's
25 a huge difference between he's got dreads, and then, oh,

1 here's six guys with, you know, close cropped, you know, maybe
2 someone might quibble with close cropped, but certainly not
3 twists, no braids, no dreads on any of those six people. So,
4 there is a big difference between her description on the
5 scene, and then the six-pack presented to her 36-or-so hours
6 later. All we have is the officer's word that she said she
7 was 100 percent certain. I do think that the form that just
8 supplies that answer is suggestive, not in line with best
9 practices. And when you don't have a recording, which at this
10 time I have not heard a recording, the Court has not been able
11 to hear a recording of the identification process or view a
12 recording. All we have is the -- oh, yeah, she said she was
13 100 percent certain. I would just also point out that, you
14 know, the officer couldn't recall a lot of things that I asked
15 him but could recall that. So, and he doesn't really have any
16 independent basis for that, but what the form supplies, not
17 Ms. Hyde, at least that was given to us today.

18 So, for those reasons, Your Honor, I do believe that the
19 six-pack lineup presented to Ms. Hyde was suggestive, that
20 therefore there's a huge risk of harm. Some of the caselaw
21 talks about the fact that an in-court identification is a very
22 strong piece of evidence against the defendant. It carries a
23 lot of weight with the jury. That's why we have to have this
24 full-blown hearing, and we do appreciate how much time the
25 Court has devoted to this hearing today, because a lot hangs

STATE V. BRYANT - 2023-GS-26-01882
PRETRIAL - ARGUMENTS OF COUNSEL

109

1 in the balance for Mr. Bryant. If she, based on that
2 identification and those factors, is allowed to identify him
3 in court at trial tomorrow, there is I believe an irreparable
4 likelihood of harm to Mr. Bryant as possibly misidentified.

5 For those reasons, Your Honor, we would ask that the
6 Court disallow her from making an in-court identification
7 tomorrow, that's the remedy that would be appropriate given
8 the lineup and the issues with it in this case.

9 THE COURT: All right. Happy to hear from the state.

10 MR. OSKIN: Thank you, Your Honor.

11 The central question is whether, under the totality of
12 circumstances, the identification made was reliable even
13 though the confrontation procedure was suggestive. If Your
14 Honor finds that this confrontation procedure was suggestive
15 under *Neil v. Biggers*, that we must then turn to the factors
16 that determine reliability the defense indicated. First, the
17 witness's opportunity to view the subject at the time of the
18 crime. She stated where she was at when it happened. She
19 described the clothing that he was wearing. She described his
20 nose, African-American male, and his facial features. She
21 said this armed robbery lasted about 15 minutes. I don't know
22 if it exactly lasted 15 minutes or not. It could've lasted
23 five. When people are in distress, that environment, if
24 you've ever been in a argument or fight, sometimes that feels
25 like a whole lot longer than it actually is. That's -- I'm

1 not sure -- that doesn't really cut one way or the other.
2 However, she did have ample opportunity to identify this
3 defendant. Where she stated the facial features in addition
4 to the hair description, which I think this last expert
5 witness was fair in describing that when someone has a gun
6 pointed at them, it's understandable that they miss something
7 like that or don't get the ID completely correct. But when
8 she -- the witness, the victim witness really focused on nose,
9 eyes, facial hair. That is important because in a six-pack
10 lineup, that's what she describes as well. That's what she
11 indicates -- that's what she indicates that made her notice
12 that individual.

13 And she said that she was sure, she was sure very
14 quickly. The shirt had nothing to do with her identification.
15 Instead, it was the facial features. She didn't know what
16 that shirt meant, why it was different. She picked this
17 individual. She would not have been presented the form, which
18 I think Contino was consistent in, she would not have been
19 presented this form had she not picked out a suspect. She
20 never saw Defendant's 1, and then saw the lineup. I think
21 that's important to know. Obviously, those photos were
22 cropped to fit six photos on a page. This also goes to the
23 accuracy of the witness's prior description. Again, focusing
24 on the facial features, she stated that she had 100 percent
25 level of certainty at the confrontation, being a photo lineup.

STATE V. BRYANT - 2023-GS-26-01882
PRETRIAL - ARGUMENTS OF COUNSEL

111

1 The length of time not quite conceded to by the defense but
2 agreed that the case law, *State v. Patterson*, *Neil v. Biggers*,
3 *State v. Cheeseboro*, an ID made up to two weeks later can
4 still be reliable. These factors must be weighed against the
5 corrupting effect of any unduly suggestive procedure under
6 *Brathwaite*, I don't believe there was any unduly suggestive
7 procedure done. However, I do believe -- I do believe that
8 this lineup and in-court identification is still admissible.

9 Lastly, under *State v. Campbell*, suggestiveness alone
10 does not require the exclusion of the evidence unless pretrial
11 ID procedure creates a very substantial likelihood of an
12 irreparable misidentification then the ID is admissible, and
13 its weight is for the jury to consider. That's why she
14 answered questions about, whether it be on cross-examination
15 or on redirect, about the vehicle used, the Cash App receipt
16 used, and how that -- and when I asked the expert, she
17 wouldn't answer that question. I didn't expect her to, but
18 her non-answer was an answer. Those factors make this ID even
19 more so reliably -- more so reliable for this Court to
20 consider. But the state stands by her facial recognition of
21 the defendant, the nose, the eyes, the chin; that's what she
22 relied on. She was not told who to pick. She was not
23 corrupted by law enforcement of who to pick. And without
24 rambling, Your Honor, I think I've covered the factors ---

25 THE COURT: Let me ask you this. And you touched on it

STATE V. BRYANT - 2023-GS-26-01882
PRETRIAL - RULING OF THE COURT

112

1 with Dr. McQuiston -- is that how you pronounce your name? Am
2 I saying that right?

3 MR. HILLER: McQuiston.

4 THE COURT: McQuiston?

5 MR. HILLER: Yes, sir.

6 THE COURT: Okay. You touched on it with her about the
7 -- was it Ms. Smalls that the vehicle was found at her house
8 along with the defendant, and that was who the Cash App
9 receipt was for. I guess my point was, did you take info --
10 or did law enforcement take information from her and her
11 identification to come up with that information?

12 MR. OSKIN: From Ms. Smalls?

13 THE COURT: No, from Ms. Hyde. I'm saying did that get
14 to Ms. Smalls from Ms. Hyde?

15 MR. OSKIN: Yes, sir, Your Honor.

16 THE COURT: The reason I said is there is case law that
17 specifically states about inevitable discovery, that
18 identification, even if it's unduly suggestive, if it's
19 inevitable discovery, that that's completely different.

20 RULING OF THE COURT:

21 THE COURT: I will say this, I find -- and Mr. Hiller,
22 you make a good argument. I don't find that it's overly
23 suggestive. I find that whatever suggestiveness it is is
24 harmless in nature. I do think that you may be able to use
25 some of the arguments that you've made to challenge the

STATE V. BRYANT - 2023-GS-26-01882
BY THE COURT

113

1 reliability in cross-examination when Ms. Hyde testifies, but
2 I don't find enough to suggest that it was overly suggestive.
3 And I say that because I think it was the statements made by
4 everyone, that I've excluded, that he had just gotten out of
5 prison. Well, they don't wear orange in prison in South
6 Carolina. They wear blue or tan or black. Quite a few of
7 these are wearing black, and including Number 4, you can
8 actually tell that it's a uniform. I mean it's a -- Number 4
9 would be suggestive in that manner. While J. Reuben uses
10 orange, blue, tan, red, and green.

11 MR. OSKIN: I saw a striped one the other day, as well,
12 Your Honor.

13 THE COURT: At J. Reuben? Again, it changes quite
14 frequently. I understand that orange does stand out; I
15 completely agree with that. That's why they probably make
16 jokes all the time about Clemson players and cleaning up trash
17 on the side of the road. I'm a Carolina fan, so I guess I can
18 make that. Again, I think that -- I think you can argue
19 certain things as far as how long she witnessed it, as to her
20 credibility and reliability of her identification. But for
21 the purpose of the *Neil v. Biggers* hearing, I do not find that
22 it is overly suggestive. So, I will allow the in-court
23 identification.

24 BY THE COURT:

25 THE COURT: Mr. Hiller, do you have any other motions by

STATE V. BRYANT - 2023-GS-26-01882
BY THE COURT

114

1 the defense that we need to take up?

2 MR. HILLER: No, Your Honor. And I wanted to say one
3 thing ---

4 THE COURT: Sure.

5 MR. HILLER: --- and I'm not arguing with the Court.

6 THE COURT: Sure. I understand.

7 MR. HILLER: The reason that I think it's so important --
8 and I understand Your Honor's ruling, and I just want to say
9 that the caselaw that I have read says basically, any error
10 that existed is cured by defense attorney's vigorous cross-
11 examination. I don't know; that just puts me -- that irks me
12 because ---

13 THE COURT: It did when I was in your shoes, too. I
14 definitely know exactly what you mean.

15 MR. HILLER: I've said my piece, and I do not believe
16 that we have anything else.

17 Your Honor, as a scheduling matter, I am not telling the
18 Court right now that I have him a 100 percent decision to call
19 Dr. McQuiston during the -- if I were to put on a defense.
20 But she is not available tomorrow. I do believe that the
21 state may just take one day to present their case, but I do
22 think it will be a pretty full day.

23 THE COURT: Okay.

24 MR. HILLER: So, I ---

25 THE COURT: If you do intend to put up a defense, I mean,

STATE V. BRYANT - 2023-GS-26-01882
BY THE COURT

124

1 there can be any description of it before seeing it.

2 MR. HILLER: And there certainly wouldn't be. And I
3 think I can also just play that relevant section of the
4 bodycam and if that -- still do the still but essentially
5 streamline it. If it does, it does; if it doesn't, it
6 doesn't. I'm just trying to anticipate because you never know
7 what will happen.

8 THE COURT: Sure. Well, we'll cross that bridge when we
9 get there.

10 MR. HILLER: Yes, sir.

11 THE COURT: Anything else?

12 MR. HILLER: Not from the defense.

13 THE COURT: Okay.

14 Are we good?

15 MR. OSKIN: Yes, sir. We were just clarifying about the
16 exhibits. They're all present there. I spoke with Ms. Kay.
17 About them, we're just clarifying they were Court Exhibits
18 yesterday, today the foundation ---

19 THE COURT: Right. You need to lay it in front of the
20 jury, yeah.

21 MR. OSKIN: And made as State's exhibits for the
22 presentation at trial.

23 THE COURT: Got you. Well, let's go ahead and bring in
24 the jury and we'll get started.

25 (REPORTER'S NOTE: Jury enters courtroom @ 10:13 a.m.)

STATE V. BRYANT - 2023-GS-26-01882
BY THE COURT

125

1 BY THE COURT:

2 THE COURT: All right. Good morning, ladies and
3 gentlemen, and I appreciate your patience. We had a few more
4 matters to take up.

5 But we are about to begin the trial of this case, and
6 before we swear you as a jury, I do want to tell you a little
7 bit about your duties. I talked with you a little bit
8 yesterday about this, but your duty in this case is to be the
9 finders of fact. I -- my duty is to charge you on the law and
10 the rule on the admissibility of evidence. But you will be
11 the determining factor of what the facts are for this case.
12 And I charge you that you need to listen, that you need to use
13 your eyes, your good common sense, and listen to the witnesses
14 as they testify on the stand. And at the end of the case,
15 after you've heard all of the evidence, you will determine
16 what the facts are of this case. And then I'll charge you on
17 what the law is, and you'll apply the facts as you find them
18 to the law that I charge you.

19 But let's go ahead and swear the jury, please.

20 JURY DULY SWORN:

21 THE CLERK: Thank you. You may be seated.

22 THE COURT: All right, ladies and gentlemen. We are
23 about to begin the case, and we'll start with what we call
24 opening statements. I will tell you that what the attorneys
25 say during their opening statements is not evidence. It is

STATE V. BRYANT - 2023-GS-26-01882

126

OPENING BY OSKIN

1 simply a road map of what they believe the evidence may show
2 or may not show. But I just want you to remember that during
3 the trial of the case, that the attorneys are not witnesses,
4 and what they say is not evidence. So, with that being said,
5 we'll go ahead and begin.

6 You may give your opening statement.

7 MR. OSKIN: Yes, sir, Your Honor. May it please the
8 Court?

9 THE COURT: Yes, sir.

10 OPENING BY MR. OSKIN:

11 MR. OSKIN: Good morning, ladies and gentlemen.

12 Bre'Anna Hyde was sitting in her car, a college student.
13 She had plans to see her boyfriend and go to the gym. It was
14 a night in February. If you've lived here for any amount of
15 time, you know February is kind of our worst month of the
16 year, I think. There's nothing going on. It's dark. It's
17 the coldest month we have. Luckily, we don't have too many of
18 those. But that was her plan that night. However, the
19 defendant had other plans. As she's sitting in her car, about
20 to make her next move, see her boyfriend, she hears a knock on
21 the window. She sees the defendant, and he tells her, don't
22 move or I'll shoot you. Clearly, her plans that night changed
23 very quickly. She then has interaction with him where he asks
24 her for money and that gun pointed at her the whole time, and
25 they're very close. His driver's window pulls up to her

STATE V. BRYANT - 2023-GS-26-01882
OPENING BY OSKIN

127

1 driver's window. He gets out and he's in her face armed with
2 a weapon. He says give me the money. She doesn't have any
3 cash on her, which is not uncommon in today's times. She says
4 -- she's trying to figure out how to get him some money and
5 hopefully end this encounter. She offers to go to her room
6 and get some cards; he doesn't want that. Thinking, whether
7 clearly or not, she states I can Cash App you. Cash App is
8 like an electronic way to send money. You might have Venmo or
9 be familiar with that, Apple Pay; there's a couple of
10 different ways to do that. So, throughout this interaction,
11 she sends him \$200, and that's what this is about. This whole
12 trial is about \$200 and this victim's rights. She sends this
13 money -- he uses his girlfriend's Cash App to get -- to
14 receive the money. And that's kind of the gist of their
15 encounter. He's armed the whole time. As he's leaving the
16 scene he's still armed. The transaction is complete. Thank
17 God, for the victim, he left.

18 What does she do after that? She checks in with her
19 boyfriend. I believe she called her aunt. And then she calls
20 the police. The police show up to the scene, they respond.
21 These are apartments near Coastal Carolina, which is in
22 Conway. They respond, they get a description of the guy. And
23 she also tells them some other things. She tells them about
24 the car he was driving, a black Dodge. She describes the gun,
25 somewhere around a long skinny gun, some sort of pistol.

STATE V. BRYANT - 2023-GS-26-01882
OPENING BY OSKIN

128

1 She's not a gun expert; she doesn't have to be.

2 So, from there, law enforcement tries to figure out who
3 owns that car, and they find out who it is. It's a lady named
4 Shaneikqa Smalls. So, they find this car traveling westbound
5 back out to Conway. They pick it up on a license plate
6 reader. And they go to the residence of where they believe
7 the car owner should be. They get there and they see a black
8 Dodge, but it wasn't this defendant's black Dodge. That was
9 gonna take a few more minutes. But a few minutes after that,
10 the defendant in that black Dodge, with the weapon in it
11 arrives where that car should be, at the residence of Ms.
12 Smalls. So, once they get there, they detain the defendant at
13 this time, trying to figure out if he matches what they are
14 told from the victim. And I think it's important to know at
15 this point if that car -- Shaneikqa Talisha Smalls is the same
16 Cash App receipt that he had the victim send the money to.
17 That's led him -- this whole encounter, and we're gonna flesh
18 his out a little bit more, but that's kind of your story.
19 That's it, that's the whole encounter, from the time the crime
20 occurred to her calling the police, till the police find him.
21 He fell into their lap. This wasn't a hard day's search
22 looking through all these other means and ways, they didn't
23 have to across state borders, they didn't have to call in
24 federal agencies. He literally drove right to them. And he's
25 on trial in front of you in this Court for armed robbery and

STATE V. BRYANT - 2023-GS-26-01882
OPENING BY OSKIN

129

1 possession of a weapon during a violent crime.

2 At the end of this trial, His Honor is gonna describe and
3 explain that law to you. He's gonna give it to you verbatim.
4 Anything I say different from him, absolutely listen to him.
5 He's sitting up there for a reason. But I wanted to tell you
6 that we know what we have to prove. So, armed robbery is kind
7 of what it sounds like. A defendant is armed with a weapon or
8 what appears to be a weapon, and takes goods or items from
9 another individual, taking it while armed. Possession of a
10 weapon during a violent crime is about as easy. Our state
11 legislature has said that armed robbery is violent crime.
12 He's armed with a weapon during it; that kind of explains
13 that. So, that's what he's on trial for.

14 And throughout this trial, it's our job, it's our burden
15 to prove him guilty beyond a reasonable doubt. This is the
16 highest burden in the law, right? This is a high burden, but
17 it's not an impossible burden. It's not an insurmountable
18 burden. It's a burden that we're prepared to meet, we're
19 prepared to show you. And all it really means at the end of
20 the day, we don't do this every day, is that your firmly
21 convinced of the defendant's guilt. This defendant is not
22 guilty just because I say he is. He's guilty because the
23 evidence that's gonna come through this witness stand. So,
24 throughout this trial, that's what you're gonna hear. You're
25 gonna hear from the people that I just mentioned and how this

STATE V. BRYANT - 2023-GS-26-01882
OPENING BY OSKIN

130

1 all came together.

2 I want to go ahead and tell you what you're not gonna
3 hear about in this case. This is not gonna sound like a
4 Netflix documentary. This is not a deep crime novel. This is
5 old school, old-fashioned police work. This is an eyewitness
6 identification of the defendant, who says what happened, and
7 says that her money got taken. You're gonna see the receipt
8 of that actual transaction. You guys know this but everything
9 we do on our phone, every step we take, whether we like it or
10 not, we're tracked. There's receipts of all of our
11 encounters, communications that we have. And this is no
12 different. So, that's how this is gonna play out. It's an
13 important case; it's a very important case. It's important to
14 the state. It's important to the defendant. It's a crime
15 that occurred in your community. It's not gonna take all
16 week. It's not gonna go into next week. I'll be surprised if
17 it goes into Thursday, but however long it takes it takes. I
18 don't want you to mistake that for any lack of importance or
19 any lack of evidence. You're gonna hear from everybody on
20 this stand. And what's gonna happen as this trial happens,
21 it's gonna build on -- you're gonna hear from the victim,
22 you're gonna hear her description of the defendant, of the
23 vehicle, and of the gun. You're gonna hear from the officers
24 who find that vehicle, who find that gun, who find that
25 defendant. You're gonna hear about that electronic receipt,

STATE V. BRYANT - 2023-GS-26-01882
OPENING BY HILLER

131

1 you're gonna see it, and it's literally -- the only outcome
2 that the evidence demands, and that's your job is to apply the
3 facts to the law and render a verdict. If you do that -- and
4 I can talk forever, but there's no need to and wear you out,
5 cause we want to get to the trial. But once you do that
6 you'll have -- the only outcome in front of you that you can
7 return, and that's a verdict of guilty or armed robbery, and a
8 guilty on possession of a weapon during a violent crime.

9 THE COURT: Mr. Hiller?

10 MR. HILLER: Thank you, Your Honor. May it please the
11 Court?

12 THE COURT: Yes, sir.

13 OPENING BY MR. HILLER:

14 MR. HILLER: I'll add my good morning as well, ladies and
15 gentlemen.

16 The state has already pointed an accusing finger at my
17 client, Mr. Chriwanta Bryant. However, the only fingers that
18 matter in this case are the 12 fingers of -- the 12 jurors who
19 sit and decide the ultimate question of this case, is Mr.
20 Bryant guilty or not guilty of the allegations brought by the
21 state. You heard a summary of what the state intends to
22 prove. At this time, those are mere allegations. This
23 witness stand is silent. No one has taken it yet. Until that
24 happens, as the Judge said, no evidence has been presented.
25 Certainly, an overview, a road map is what the state has

STATE V. BRYANT - 2023-GS-26-01882
OPENING BY HILLER

132

1 presented and hopes to get there. And the rest of this trial
2 will be to see whether or not they can.

3 There are -- I would say there are a few things that were
4 left out that I think will come to light during the trial.
5 For one, the eyewitness identification. You will hear that
6 the individual identified -- was described by Ms. Hyde, she's
7 the lady who the state is -- you know, the victim in this case
8 from the state's perspective. Her -- she des -- you will hear
9 that she describes to law enforcement that her attacker had
10 dreads. I believe you will hear that Mr. Bryant never had
11 dreads. That's a huge issue. One that we're gonna need your
12 help in deciding that factual dispute. What really happened?
13 You're gonna hear that the 911 call and dispatch came in
14 around 9:11, the evening of October 8, 2022. And you're gonna
15 hear through direct and cross-examination how long it took the
16 officers to arrive at the secondary location, the one where
17 they found Mr. Bryant in a Dodge that he's not the owner of.
18 And we'll have some more things to say about that later. But
19 the point is you cannot assume, at the early stage of opening,
20 wow, what that prosecutor said sounded good. All right.
21 Let's get there. Because there's a lot more than that, and
22 that is not doing your duty. Your job is to hear every stitch
23 of evidence, to listen, keep an open mind, pay attention to
24 everything. That's the most important thing you can do is pay
25 attention. Just keep an open mind, and do your duty, which is

STATE V. BRYANT - 2023-GS-26-01882
ROBERT NICHOLL - DIRECT BY DICHARA

133

1 to follow the law. And the law is that that defendant's
2 chair, the defense -- the defendant's chair is just another
3 chair in this room. He is not any more guilty because he's
4 sitting in that chair than the Judge is because he's sitting
5 behind the bench. It's just he's here because the process
6 that we have in this state and this nation is innocent until
7 proven guilty. Not one thing has been proved yet; he's
8 innocent. The only way the state can change that is by
9 convincing each and every one of you to unanimously point all
10 twelve fingers, one each, at him at the end of this trial.

11 I'm going to submit that the state will not be able to
12 carry its burden. And at the end of this trial, I'm gonna
13 come back with a closing statement and ask that you find him
14 not guilty.

15 Thank you.

16 THE COURT: The state can call its first witness.

17 MR. DICHARA: Thank you, Your Honor. The state calls
18 Officer Robbie Nicholl.

19 ROBERT NICHOLL, HAVING BEEN SWORN,
20 TESTIFIED AS FOLLOWS:

21 THE CLERK: Please state your name and spell the last for
22 the Court?

23 MR. NICHOLL: Robert Nicholl, N-I-C-H-O-L-L.

24 DIRECT EXAMINATION OF OFFICER ROBERT NICHOLL BY MR. DICHARA:

25 Q: Good morning, Officer. Where are you employed?

STATE V. BRYANT - 2023-GS-26-01882
ROBERT NICHOLL - DIRECT BY DICHIARA

134

- 1 A: The City of Conway Police Department.
- 2 Q: How long have you been there?
- 3 A: Since October of 2020.
- 4 Q: And did you receive training before you joined law
- 5 enforcement?
- 6 A: Yes, sir.
- 7 Q: Tell us about that.
- 8 A: Pre-academy training, training at the South Carolina
- 9 Criminal Justice Academy, and then field training with a
- 10 supervisor officer.
- 11 Q: And what's your current rank at Conway PD?
- 12 A: Senior Master Patrol Officer.
- 13 Q: How long have you been in that capacity?
- 14 A: Since June of 2023.
- 15 Q: And what are your responsibilities?
- 16 A: Handling calls for service, traffic stops, if necessary,
- 17 and just enforcing the basic laws of the State of South
- 18 Carolina.
- 19 Q: Were you working the night of February 8th, 2023?
- 20 A: Yes.
- 21 Q: And did you become involved in an armed robbery at 642
- 22 Highway 544, right here in Conway?
- 23 A: Yes.
- 24 Q: How did you become involved?
- 25 A: I was the sector officer where that incident was located,

STATE V. BRYANT - 2023-GS-26-01882
ROBERT NICHOLL - DIRECT BY DICHIARA

135

1 and I was dispatched to that call for service.

2 Q: And do you recall what time that was around?

3 A: It was around -- I believe we had the call for service at
4 9:11 p.m., so 2111 hours.

5 Q: Did you arrive on scene?

6 A: Yes.

7 Q: Could you -- can you describe the scene as you walked
8 into it?

9 A: It was a apartment complex building on the third floor,
10 right near Coastal Carolina.

11 Q: And had you been familiar with that area?

12 A: Yes, sir.

13 Q: How so?

14 A: I actually went to Coastal, so I know that area pretty
15 well, and have been here since 2009, so between that and going
16 to Coastal, and then my employment with Conway City Police.

17 Q: And I'm gonna show you what is going to be State's
18 Exhibit 1. Do you recognize this?

19 A: Yes, sir.

20 Q: What is it?

21 A: It's an aerial map of Conway showing the incident
22 location. The traffic camera, the plate reader, and the
23 incident where we found the defendant.

24 Q: And can you tell us about your familiarity with that
25 camera location?

STATE V. BRYANT - 2023-GS-26-01882
ROBERT NICHOLL - DIRECT BY DICHIARA

136

1 A: Yes. So, I mean, since I started and I found out that we
2 had these traffic cameras, the plate readers, I've kind of
3 taken an obsession to knowing the incidence of them.

4 Q: Can you elaborate on that?

5 A: Yeah, any call for service we have where we're looking
6 for a vehicle, I'm always the first one that's got it pulled
7 up, got the information and can typically find it before any
8 of our other officers.

9 Q: And that's -- would you call that like an investigatory
10 tool or ---

11 A: Yes.

12 Q: And can you just explain how that would aid in your
13 investigation?

14 A: Yeah. So, if we're able to find out a vehicle license
15 plate number, we can plug that into our plate readers, and
16 it'll give us the location, if it picks it up on which camera
17 it essentially made a hit on.

18 Q: All right. And we'll get to that. But for now, aside
19 from the camera, do you have familiarity with this right upper
20 quadrant?

21 A: Yes, sir.

22 Q: And can you tell us about that area?

23 A: That's the registered address to the registered owner of
24 that vehicle.

25 Q: Did you arrive at that address?

STATE V. BRYANT - 2023-GS-26-01882
ROBERT NICHOLL - DIRECT BY DICHIARA

137

1 A: Yes, sir.

2 Q: And was that on the night in question?

3 A: Yes.

4 MR. DICHIARA: Your Honor, the state moves to have
5 State's Exhibit 1 admitted into evidence.

6 THE COURT: Any objection, Mr. Hiller?

7 MR. HILLER: I just haven't really looked -- I mean,
8 today. No objection.

9 THE COURT: State's Number 1 is admitted into evidence.

10 STATE'S EXHIBIT NUMBER 1

11 ADMITTED INTO EVIDENCE

12 MR. DICHIARA: Permission to publish, Your Honor?

13 THE COURT: You may.

14 (REPORTER'S NOTE: State's 1 published to the jury.)

15 BY MR. DICHIARA:

16 Q: Now, can you tell us -- going back to with the armed
17 robbery location, can you tell us if you had learned anything
18 when you arrived there that night?

19 A: I spoke with the victim and learned that an armed robbery
20 did occur.

21 Q: Did you -- were you able to formulate a suspect?

22 A: Yes.

23 Q: How so?

24 A: The victim had described who the suspect was in that
25 incident.

STATE V. BRYANT - 2023-GS-26-01882
ROBERT NICHOLL - DIRECT BY DICHIARA

138

1 Q: Did you -- did you learn anything else about the
2 incident, about the armed robbery specifically?

3 A: We learned that there was that Cash App transaction, and
4 we had a name for that transaction of who the money went to.

5 Q: And where did you -- where were you able to find that
6 Cash App information?

7 A: The victim showed us off of her cellphone.

8 Q: Okay. And was it -- that information, did that aid in
9 your investigation?

10 A: Yes.

11 Q: How so?

12 A: We had that name who the transaction went to, we were
13 able to link that back to that address at 1911 9th Avenue.

14 Q: Okay. I'm showing you what's been marked as State's
15 Exhibit 2. Do you recognize this?

16 A: Yes, sir.

17 Q: What is this?

18 A: That is the transaction from the Cash App from the
19 victim's phone or from the victim's account.

20 Q: And, again, is there any significant information on this
21 document?

22 A: Yes. There's a name on there, Talisha Smalls, of showing
23 who it went to or who that transaction went to.

24 Q: Okay. Just to clarify, the -- this is picture of the
25 victim's cellphone with her Cash App?

STATE V. BRYANT - 2023-GS-26-01882
ROBERT NICHOLL - DIRECT BY DICHARA

139

1 A: Yes.

2 Q: Okay. Has this been altered, edited, modified in any
3 way?

4 A: No.

5 Q: Is this the same as you saw it on the night in question?

6 A: Yes.

7 MR. DICHARA: Your Honor, the state moves to have
8 State's Exhibit 2 admitted into evidence.

9 THE COURT: Any objection, Mr. Hiller?

10 MR. HILLER: It was his testimony that he took that
11 photograph?

12 THE COURT: Was it his testimony?

13 A: No, just that I was present for it.

14 BY MR. DICHARA:

15 Q: You were present when law enforcement had taken this
16 photo?

17 A: Yes.

18 Q: And does this look the same as it was when you had seen
19 the picture being taken?

20 A: Yes.

21 Q: It has not been edited or altered?

22 A: It has not been edited or altered.

23 MR. DICHARA: The state moves to have it admitted into
24 evidence.

25 THE COURT: Any objection?

STATE V. BRYANT - 2023-GS-26-01882
ROBERT NICHOLL - DIRECT BY DICHIARA

140

1 MR. HILLER: Your Honor, I think the best person to put
2 that into evidence would be the actual photographer, him or
3 herself.

4 THE COURT: Who took the picture?

5 MR. DICHIARA: That would be Sergeant Ellis who was also
6 present with Officer Nicholl when they were interviewing the
7 victim.

8 THE COURT: All right. I'm gonna admit it.

9 Your objection is noted, Mr. Hiller.

10 STATE'S EXHIBIT NUMBER 2

11 ADMITTED INTO EVIDENCE

12 MR. DICHIARA: Permission to publish to the jury, Your
13 Honor?

14 THE COURT: You may.

15 BY MR. DICHIARA:

16 Q: Aside from the Cash App, did you learn anything else from
17 the victim about the armed robbery?

18 A: About the suspect or just ---

19 Q: About the details of the incident.

20 A: We just learned that he'd approached her, approached her
21 vehicle with a firearm described as black and long.

22 Q: Okay. So, the -- my apologies -- a moment of the Court's
23 indulgence?

24 THE COURT: Sure.

25 Q: You just testified that the victim described the firearm

STATE V. BRYANT - 2023-GS-26-01882
ROBERT NICHOLL - DIRECT BY DICHIARA

141

1 that was used in this armed robbery?

2 A: Yes.

3 Q: And what was that description again?

4 A: She described it as ---

5 MR. HILLER: Objection. It's really just dancing around
6 hearsay.

7 THE COURT: It could possibly be hearsay if -- you can't
8 testify as to what she actually told you as far as her words,
9 but did you receive a description may've been the better
10 question.

11 A: There's a -- the description is a long, black firearm.

12 Q: Okay. Did you receive any information about the vehicle
13 that was used in this case?

14 A: Yes. It was described as an older model, black in color
15 Ram or a Dodge.

16 Q: And were you able to obtain any information about that
17 particular vehicle?

18 A: Yes.

19 Q: What was that?

20 A: We were able to take the information of the name of the
21 individual that the transaction went to, Ms. Smalls. We were
22 able to find her information on the South Carolina Department
23 of Motor Vehicles page and then check the -- any vehicles that
24 were registered to her, and that had come back with a 2010
25 Dodge Avenger.

STATE V. BRYANT - 2023-GS-26-01882
ROBERT NICHOLL - DIRECT BY DICHIARA

142

1 Q: Do you know who that vehicle was registered to?

2 A: It was registered to Ms. Smalls.

3 Q: And I'm now gonna show you what will be marked as State's
4 Exhibit 3. Do you recognize this?

5 A: Yes.

6 Q: What is this?

7 A: That is the registration with the current tag -- the
8 current tag at that time for that vehicle, that 2010 Dodge
9 Avenger to Ms. Smalls.

10 Q: Okay. Is this the information or the document that you
11 had obtained on the night in question?

12 A: Yes.

13 Q: Does it look to be edited, altered in any way?

14 A: No.

15 MR. DICHIARA: Your Honor, at this point, I'm just going
16 to have this marked for identification as State's Exhibit 3.

17 THE COURT: Okay.

18 MR. DICHIARA: And I'll request to publish this toward
19 the end of Officer Nichols' testimony.

20 THE COURT: Well, are you gonna admit it before then?

21 MR. DICHIARA: Yes, Your Honor. My apologies.

22 THE COURT: But for right now, it's just identification?

23 MR. DICHIARA: Yes.

24 THE COURT: All right.

25 STATE'S EXHIBIT NUMBER 3

STATE V. BRYANT - 2023-GS-26-01882
ROBERT NICHOLL - DIRECT BY DICHARA

143

1 MARKED FOR IDENTIFICATION

2 BY MR. DICHARA:

3 Q: So, off that DMV printout, were you able to get Ms.
4 Smalls' address?

5 A: Yes.

6 Q: And do you recall what her address was?

7 A: 1911 9th Avenue, Apartment A2 or Alpha-2.

8 Q: Okay. So, as far as this information that you obtained
9 from the South Carolina DMV, how did that aid in your
10 investigation?

11 A: I was able to use the tag that was registered to that
12 vehicle and check any of our license plate reader cameras or
13 ALPRs, automated license plate reader cameras, and was able to
14 see the vehicle traveling from the incident location back into
15 Conway.

16 Q: And do you recall what time that was around?

17 A: I believe -- may I check my notes?

18 THE COURT: Yes, you may.

19 A: Okay. I believe it was -- it was 9:08 p.m.

20 Q: And was -- did you -- were you able to use information
21 from the South Carolina DMV and apply it to that ALPR camera
22 system?

23 A: Yes.

24 Q: Can you tell us about that?

25 A: So, we took the license plate for that vehicle, put it in

STATE V. BRYANT - 2023-GS-26-01882
ROBERT NICHOLL - DIRECT BY DICHIARA

144

1 the camera system, was able to find a picture of the vehicle
2 and it matched the description that the victim described as
3 the vehicle.

4 Q: I am showing you what's gonna be marked as State's
5 Exhibit 4. Do you recognize this?

6 A: Yes.

7 Q: What is this?

8 A: That is the result from the timeframe that I gave you of
9 that vehicle crossing back into -- I call it the city limits,
10 but the westbound side of Lake Busbee on Highway 501.

11 Q: Where would you have obtained this information from?

12 A: From the ALPR system that we use.

13 Q: Okay. And you just testified that you were able to run
14 that tag number through this system?

15 A: Yes.

16 Q: Is this what generated from that?

17 A: Yes.

18 Q: And does this look as it did on the day in question?

19 A: Yes.

20 Q: Has it been altered, edited?

21 A: No.

22 MR. DICHIARA: Your Honor, the state moves to have
23 State's Exhibit 4 admitted into evidence.

24 THE COURT: Any objection?

25 MR. HILLER: I'm not sure of the theory, Your Honor. Is

STATE V. BRYANT - 2023-GS-26-01882
ROBERT NICHOLL - DIRECT BY DICHIARA

145

1 it a business record?

2 MR. DICHIARA: Your Honor, this is a document created in
3 the ordinary course of business. Officer Nicholl has access
4 to this ALPR system. He is the one who inputs the information
5 in order to have this kick back out, if you will.

6 MR. HILLER: I would say he's not the record custodian,
7 which I understand would be required for that exception. I do
8 object. I think he can testify as to what he recalls from it,
9 but I don't think it's appropriate to put a printout that he
10 has no recordkeeping responsibility for into evidence unless
11 it's -- they have some other theory.

12 MR. DICHIARA: Your Honor, he is the one who created this
13 record. He did so during the investigation with information
14 that he also obtained from this investigation.

15 THE COURT: State's 4 is admitted over objection, but
16 your objection is noted.

17 MR. HILLER: Yes, sir.

18 STATE'S EXHIBIT NUMBER 4

19 ADMITTED INTO EVIDENCE

20 BY MR. DICHIARA:

21 Q: Were you able to obtain any additional information off
22 this document?

23 A: Just the fact of the time and the location where -- when
24 the vehicle hit on that camera.

25 Q: Okay. And where -- going back to the State's Exhibit 1,

STATE V. BRYANT - 2023-GS-26-01882
ROBERT NICHOLL - DIRECT BY DICHARA

146

1 if you could for the jury just explain where the defendant
2 traveled from at this point or what you believed him to be
3 traveling from?

4 A: Down at the bottom, that red dot, 642 Highway 544,
5 believed to be making a left out of the complex, going over
6 the 544/501 overpass and taking the 501 exit towards Conway
7 and traveling straight down 501 into the city of Conway.

8 Q: So, you're testifying that he traveled from here to here?

9 A: That's my belief, yes.

10 Q: Okay. And you previously testified to your familiarity
11 with the Conway section of Horry County, right?

12 A: Yes, sir, yes.

13 Q: Is it possible or plausible that the defendant could've
14 driven from that incident location to hit that camera in that
15 amount of time?

16 MR. HILLER: Objection, speculative.

17 THE COURT: It is speculative. I'm gonna sustain the
18 objection.

19 BY MR. DICHARA:

20 Q: Around the time did the camera get a hit on the license
21 plate?

22 A: I believe it said 9:08 p.m.

23 Q: 9:08 p.m. What did you do after you got that camera hit?

24 A: We went to that 1911 9th Avenue address to see if we
25 could find the vehicle. And we saw that Dodge Avenger that we

STATE V. BRYANT - 2023-GS-26-01882
ROBERT NICHOLL - DIRECT BY DICHIARA

147

1 believed it was, but it was a different Dodge Avenger. And
2 then we sat -- before we decided if we were even gonna make
3 contact with the address, and the defendant showed up in that
4 described Dodge Avenger into the parking lot.

5 Q: Okay. And well, we'll get to that. But did anything
6 else occur when you had arrived at 11 -- or 1911 9th Avenue in
7 Conway?

8 A: Prior to his arrival, no.

9 Q: Were you able to locate the recipients of the \$200 Cash
10 App transaction?

11 A: Yes.

12 Q: And who was that?

13 A: Ms. Smalls.

14 Q: And at this point, was Ms. Smalls a suspect in this case?

15 A: Yes.

16 Q: Why is that?

17 A: Just kind of based off of the description of the suspect
18 and a picture that we found of her.

19 Q: Did there come a time that you ultimately had to advise
20 Ms. Smalls of her rights?

21 A: Yes.

22 Q: And why is that exactly?

23 A: Just because of the question -- us questioning about the
24 case and the fact that she could've possibly been a suspect.

25 MR. DICHIARA: Just a moment of the Court's indulgence,

STATE V. BRYANT - 2023-GS-26-01882
ROBERT NICHOLL - DIRECT BY DICHIARA

148

1 Your Honor?

2 THE COURT: Yes, sir.

3 BY MR. DICHIARA:

4 Q: All right. Going back to the defendant arriving at that
5 location, can you tell us about that?

6 A: In regards to ---

7 Q: Just as you recall from that night, what did you see if
8 anything? Just tell us about what you had personally
9 observed.

10 A: Like when we arrived at that apartment complex?

11 Q: Yes.

12 A: Okay. Yeah, we pulled into the apartment complex, and it
13 kind of makes -- as you turn in to get to the back lot,
14 there's an R-shape or an L-shape, whatever you want to call
15 it. We observed a black Dodge Avenger, and -- but it had a
16 different tag on it and like a license plate bracket on it.
17 So, we knew that wasn't our vehicle, and then we just kind of
18 sat there for a few minutes, just trying to figure out what
19 our next course of action was gonna be. And then our alleged
20 suspect vehicle pulled into the parking lot.

21 Q: And what happened then?

22 A: I -- we got out of our vehicle, and the defendant had
23 exited his, and we approached him and immediately placed him
24 into handcuffs and detained him.

25 Q: Now, was anyone else present when you had detained the

STATE V. BRYANT - 2023-GS-26-01882
ROBERT NICHOLL - DIRECT BY DICHIARA

149

1 suspect?

2 A: No.

3 Q: And were you able to verify whether Ms. Smalls was the
4 recipient of that \$200 transaction?

5 A: Yes.

6 Q: How?

7 A: After we had our defendant detained, we went and made
8 contact with Ms. Smalls, advised her of her rights, and asked
9 if she had a cellphone, she had Cash App, and asked if we
10 could see those transactions from her Cash App, which she
11 granted us.

12 Q: Was this before or after you advised her of her rights?

13 A: We advised her of her rights first, and then, and then
14 asked those questions.

15 Q: Were you present with Ms. Smalls had shown law
16 enforcement her cellphone?

17 A: Yes.

18 Q: And what did you see when you saw her cellphone?

19 A: I saw the \$200 transaction that she had received from the
20 username of the victim.

21 Q: Okay. And, I'm sorry, did you say for how much that was?

22 A: \$200.

23 Q: \$200. Did you learn anything else from Ms. Smalls during
24 this time?

25 A: Yes.

STATE V. BRYANT - 2023-GS-26-01882
ROBERT NICHOLL - DIRECT BY DICHIARA

150

1 Q: What was that?

2 A: We learned that the defendant, who we had detained, was
3 the only individual who would've had access to her vehicle,
4 and that she wasn't aware of how that \$200 came to her Cash
5 App account.

6 Q: Okay. And was there anyone else considered a suspect in
7 this case?

8 A: No.

9 Q: All right. I'm gonna show you now what's been marked as
10 State's Exhibit 5. You know what that is?

11 A: Yes.

12 Q: What's that?

13 A: This is a picture of Ms. Smalls' Cash App account with
14 the transaction.

15 Q: And does that document contain the same information that
16 you just testified to?

17 A: Yes.

18 Q: And what is that again?

19 A: Showing a \$200 transaction in the account from the
20 victim's Cash App account.

21 Q: And you were present when that information was obtained?

22 A: Yes.

23 Q: Does that appear to be edited, altered, or modified in
24 any way?

25 A: No.

STATE V. BRYANT - 2023-GS-26-01882
ROBERT NICHOLL - DIRECT BY DICHARA

151

1 MR. DICHARA: Your Honor, at this point the state moves
2 to have State's Exhibit 5 admitted into evidence.

3 THE COURT: Same objection as before?

4 MR. HILLER: If he didn't take the picture, yes sir, Your
5 Honor, for consistency.

6 THE COURT: All right. State's Number 5 is admitted over
7 objection.

8 MR. DICHARA: Thank you, Your Honor.

9 STATE'S EXHIBIT NUMBER 5

10 ADMITTED INTO EVIDENCE

11 MR. DICHARA: Permission to publish to the jury?

12 THE COURT: You may.

13 (REPORTER'S NOTE: State's 5 published to the jury.)

14 BY MR. DICHARA:

15 Q: While we're at it, can we go back to State's Exhibit 3
16 for a moment. It's been marked for identification as State's
17 Exhibit 3. Can you tell us what this is again?

18 A: It's the vehicle registration to that 2010 Dodge Avenger.

19 Q: Okay. And what information were you able to pull from
20 this document?

21 A: The registered owner's name and address.

22 Q: And who was the registered owner?

23 A: Ms. Smalls.

24 Q: And what's her address?

25 A: 1911 9th Avenue, Apartment A2 in Conway.

STATE V. BRYANT - 2023-GS-26-01882
ROBERT NICHOLL - DIRECT BY DICHARA

152

1 Q: Does this document appear to be altered, edited, or
2 modified in any way?

3 A: No.

4 Q: Does it appear to be the same as it was on the day in
5 question?

6 A: Yes.

7 MR. DICHARA: Your Honor, the state moves to have
8 State's Exhibit 3 put into evidence.

9 THE COURT: Any objection?

10 MR. HILLER: Yes, Your Honor. I don't think he's the
11 records custodian of that, and I think that's a clear DMV
12 business record.

13 MR. DICHARA: Your Honor, it is a DMV business record
14 that the officer used as part of his investigation. Arguably,
15 he, while not necessarily creating this document, he did -- he
16 is the person that -- he is the individual who had produced it
17 from his inquiry.

18 THE COURT: All right. State's Number 3 is admitted over
19 objection.

20 STATE'S EXHIBIT NUMBER 3

21 ADMITTED INTO EVIDENCE

22 BY MR. DICHARA:

23 Q: So, after you spoke to Ms. Smalls and the defendant was
24 detained, did there come a time that law enforcement searched
25 that vehicle?

STATE V. BRYANT - 2023-GS-26-01882
ROBERT NICHOLL - DIRECT BY DICHIARA

153

1 A: Yes.

2 Q: Can you tell us what led to that search?

3 A: Just the totality of the circumstances of -- we had our
4 suspect vehicle, and it had just arrived on scene that was
5 alleged to have been used in a crime.

6 Q: Did law enforcement uncover anything from that vehicle?

7 A: Yes.

8 Q: What was that?

9 A: A handgun and a bag of marijuana.

10 Q: And -- one moment. Do you recognize this?

11 A: Yes.

12 Q: What is that?

13 A: That's a evidence box for a firearm.

14 Q: And is that related to this case?

15 A: Yes.

16 Q: Were you present when -- were you on scene when the
17 vehicle was searched?

18 A: Yes.

19 Q: You previously testified that a firearm was recovered
20 from this vehicle?

21 A: Yes.

22 Q: Can you ---

23 THE BAILIFF: Judge, can we move this so the jurors can
24 see the witness?

25 THE COURT: Yes. Let's move that right there if you

STATE V. BRYANT - 2023-GS-26-01882
ROBERT NICHOLL - DIRECT BY DICHARA

154

1 don't mind.

2 MR. DICHARA: Okay. Sorry.

3 THE COURT: Is that better?

4 THE BAILIFF: It's just so the jurors -- they requested
5 to see the witness as he testifies.

6 MR. DICHARA: Oh, sorry.

7 BY MR. DICHARA:

8 Q: So, I'm showing you what has been marked as State's
9 Exhibit 6. Do you recognize this?

10 A: Yes.

11 Q: How do you recognize this?

12 A: It's the firearm that was recovered from the vehicle.

13 Q: And do you know who ultimately put this into evidence?

14 A: I would as the officer.

15 Q: Okay. So, can you just explain that to us?

16 A: Yeah. So, we collected the firearm. I made sure it
17 unloaded, properly documented, placed into that evidence box,
18 and zip tied and the case number was placed on it, the
19 evidence sheet was filled out and submitted it into a locked
20 evidence locker.

21 Q: Is there any unique identifying information on the same
22 gun?

23 A: Yes.

24 Q: What's that?

25 A: The serial number.

STATE V. BRYANT - 2023-GS-26-01882
ROBERT NICHOLL - DIRECT BY DICHIARA

155

1 Q: Did you have an opportunity to see that serial number
2 around the time that this investigation occurred?

3 A: Yes.

4 Q: And did you have an opportunity to see the serial number
5 before you came here to testify?

6 A: Yes.

7 Q: Is this the same serial number?

8 A: Yes.

9 Q: The same handgun?

10 A: Yes.

11 Q: That was recovered from the defendant's vehicle?

12 A: Yes.

13 MR. DICHIARA: Your Honor, the state moves to have
14 State's Exhibit 6 moved into evidence.

15 THE COURT: We had a pretrial hearing on this. Anything
16 else that you need to add?

17 MR. HILLER: No, sir.

18 THE COURT: All right. State's Number 6 is admitted.

19 STATE'S EXHIBIT NUMBER 6

20 ADMITTED INTO EVIDENCE

21 MR. DICHIARA: Permission to publish?

22 THE COURT: Are you just going to show them it in the
23 box?

24 MR. DICHIARA: Yes, Your Honor.

25 THE COURT: All right. That'd be fine.

STATE V. BRYANT - 2023-GS-26-01882
ROBERT NICHOLL - CROSS BY HILLER

156

1 (REPORTER'S NOTE: State's 6 published to jury.)

2 BY MR. DICHARA:

3 Q: After you had collected this item and put it into
4 evidence, was there -- did you end up making an arrest that
5 night?

6 A: Yes.

7 Q: And who did you arrest?

8 A: Mr. Bryant.

9 Q: And did you have any further involvement in this case?

10 A: After the arrest, no.

11 MR. DICHARA: One moment, Your Honor.

12 THE COURT: All right.

13 MR. DICHARA: Your Honor, I have no further questions
14 for this witness.

15 THE COURT: All right.

16 Counsel, your witness.

17 MR. HILLER: Thank you, Your Honor.

18 CROSS-EXAMINATION OF ROBERT NICHOLL BY MR. HILLER:

19 Q: Officer Nicholl, if my math is correct, you have been an
20 officer for about a year and a half when this -- when you were
21 called to respond -- what was that called then, the Carolina
22 Cove Apartments?

23 A: Coastal Club.

24 Q: Costal Club.

25 A: Yes, sir.

STATE V. BRYANT - 2023-GS-26-01882
ROBERT NICHOLL - CROSS BY HILLER

157

1 Q: About a year and a half?

2 A: (Indicates affirmatively.)

3 Q: And you are not the first officer on scene, were you?

4 A: That I don't recall; I was either the first or the

5 second.

6 Q: Okay. But you were, like you said, the primary officer,

7 and you are the officer who prepared the report of the

8 investigation, correct?

9 A: Yes, sir.

10 Q: Did you do that the night of or the next day, or do you

11 remember?

12 A: It was nightshift, so I mean if we're getting technical,

13 I gash you could potentially call it the next day after

14 midnight. I'd have to look at my records and see.

15 Q: But that report was your best effort to document the work

16 that you did on that case, correct?

17 A: Yes, sir.

18 Q: And that's important, isn't it?

19 A: Yes.

20 Q: Why -- give me an example of why it's important to write

21 a complete and accurate report.

22 A: So, you have the facts of the case and not potentially

23 have a false arrest.

24 Q: And also, here we are on July 15th, 2025 ---

25 A: That's -- yeah; yes, sir.

STATE V. BRYANT - 2023-GS-26-01882
ROBERT NICHOLL - CROSS BY HILLER

158

1 Q: I'm sure I do not remember where I was on February 8th of
2 2023, but obviously the report helps you as you ---
3 A: Yes, sir.
4 Q: --- review your investigative -- and that's why it's so
5 important to keep all the information correct and accurate,
6 and include as much detail as possible, correct?
7 A: Yes, sir.
8 Q: And you believe that your report was your best effort to
9 document the -- your work on this case?
10 A: Yes, sir.
11 Q: So, the call for service was 9:11 that afternoon, or --
12 correct -- or evening ---
13 A: Evening, yes, sir.
14 Q: I'm sorry. And you arrived on scene very shortly after
15 that call, correct?
16 A: Yes, sir.
17 Q: Okay. And you met with Ms. Hyde?
18 A: Yes, sir.
19 Q: Was that upstairs on kind of like the stoop of her -- or
20 just outside of her --
21 A: Like the breezeway if you want to call it -- yeah.
22 Q: That's a good word for it; yes, sir. And you basically
23 were fact-finding, trying to figure out, you know, tell me
24 what happened, and I think we've -- you've already documented
25 well some of your efforts.

STATE V. BRYANT - 2023-GS-26-01882
ROBERT NICHOLL - CROSS BY HILLER

159

1 A: Yes, sir.

2 Q: And the pictures of Snapchat, things like that. Did you
3 also obtain or attempt to obtain a physical description of the
4 person who she says robbed her?

5 A: Yes, sir.

6 Q: Okay. Obviously, I don't want you to say what she said,
7 but did you develop a general description of the person she
8 described?

9 A: Yes, sir.

10 Q: Do you recall calling that description out over radio?

11 A: Yes.

12 Q: Is it true that you called out skinny Bravo Mike, about
13 shorter length dreads?

14 A: Yes.

15 Q: And I know that's some police jargon in there. Could you
16 just tell the jury what Bravo Mike is?

17 A: Black male, yes, sir.

18 Q: And that's a standard, I guess, officer speak, correct?

19 A: Yes, sir.

20 Q: Do you recall asking Ms. Hyde whether the person who she
21 -- in an effort to further describe this person, do you recall
22 asking her whether or not the person had any piercings?

23 A: I don't recall without having to go back and watch the
24 body camera. I don't want to give you a wrong answer if I did
25 or didn't say it.

STATE V. BRYANT - 2023-GS-26-01882
ROBERT NICHOLL - CROSS BY HILLER

160

- 1 Q: Speaking of bodycam, you have had it -- you have it
2 still, correct?
- 3 A: Yes, sir.
- 4 Q: And you've had an opportunity to review it prior to
5 trial?
- 6 A: Yes, sir.
- 7 Q: But you just don't remember whether or not you asked her
8 about piercings?
- 9 A: I don't recall.
- 10 Q: Did you get a description of what the person that you --
11 your person of interest, I guess you could say, was wearing?
- 12 A: I believe she stated he was in all black.
- 13 Q: Do you remember anything about gloves being mentioned?
- 14 A: I do not.
- 15 Q: Does your incident report contain the description that
16 you just told the jury -- I'm sorry. Let me rephrase that.
17 Does your incident report contain the description of the
18 profile of the appearance and demeanor -- or not demeanor -- I
19 guess, profile -- I'm losing my words here. I apologize.
20 Does your report contain a description of the profile you
21 developed from your conversation with Ms. Hyde?
- 22 A: My report just states black male.
- 23 Q: So, no more details beyond that?
- 24 A: No, sir.
- 25 Q: Okay. You testified that you were the first officer to

STATE V. BRYANT - 2023-GS-26-01882
ROBERT NICHOLL - CROSS BY HILLER

161

1 encounter Mr. Bryant at the EME Apartments, right?

2 A: Yes, sir.

3 Q: Do you remember what he was wearing at that time?

4 A: I do not; no, sir.

5 Q: Was that all black?

6 A: I don't recall.

7 Q: Would it refresh your recollection if I were to show you
8 a still image from your bodycam footage ---

9 A: Yes, sir.

10 Q: --- what he was wearing?

11 A: Yes, sir.

12 MR. DICHIARA: Your Honor, may we approach?

13 THE COURT: You may.

14 (REPORTER'S NOTE: Bench conference is held off the record in
15 the presence but outside the hearing of the jury.)

16 MR. HILLER: Madame Reporter, could you just mark this as
17 Defense 1 only for purpose of identification.

18 DEFENDANT'S EXHIBIT NUMBER 1

19 MARKED FOR IDENTIFICATION

20 BY MR. HILLER:

21 Q: Officer, before I ask to see if you can identify this,
22 I'm not trying to get in the weeds of bodycam, but could you
23 just kind of, for the jury's edification, just kind of explain
24 what body cameras are?

25 A: It's a recording device that we wear on our vest and

STATE V. BRYANT - 2023-GS-26-01882
ROBERT NICHOLL - CROSS BY HILLER

162

1 helps us document the incident or any interactions we have
2 with the public.

3 Q: Now, you and other officers -- you know, is it standard
4 issue for ---

5 A: For our department, yes.

6 Q: Now, you may or may not know the -- you've seen bodycam
7 footage before, right?

8 A: Yes, sir.

9 Q: There's a timestamp -- date and timestamp on it?

10 A: Yes, sir.

11 Q: And it's -- all right -- I suppose -- I guess there's
12 like different bodycam manufacturers, but Conway PD still uses
13 Axon; is that correct?

14 A: Yes, sir.

15 Q: Okay. And isn't it true that Axon has a unique kind of
16 code identifier for each officer?

17 A: I believe so.

18 Q: And you probably don't know your code off the top of your
19 head, I wouldn't think.

20 A: I don't.

21 MR. DICHARA: Objection, Your Honor. He has to
22 authenticate the item of evidence.

23 THE COURT: Let's just move on to the identification.

24 BY MR. HILLER:

25 Q: I'm going to just show you an image from that date and

STATE V. BRYANT - 2023-GS-26-01882
ROBERT NICHOLL - CROSS BY HILLER

163

1 ask to see if you can identify it.

2 A: I mean, it's a body camera from the incident. Without

3 having the officer's name on it, I wouldn't know whose it is.

4 Q: Well, body cameras don't have the officer's name on it,

5 right?

6 A: It'll show whose camera it comes back to.

7 Q: Right, with that unique code I was asking you about that

8 you don't know.

9 A: I don't know about the code; it'll have their name on it,

10 though.

11 Q: Okay. So, you cannot tell me if this is your body camera

12 or not?

13 A: I cannot.

14 Q: How many officers were on scene?

15 A: I believe six.

16 Q: So, it is still your position that you cannot recall what

17 Mr. Bryant was wearing that night?

18 A: Not without looking at the bodycam footage; no, sir.

19 Q: But you have access to and presumably have reviewed to

20 some extent in preparation for your ---

21 A: Yes, sir.

22 Q: --- testimony here today. You just can't recall that

23 detail?

24 A: Yes, sir.

25 Q: Do you recall saying on bodycam that she, meaning Ms.

STATE V. BRYANT - 2023-GS-26-01882
ROBERT NICHOLL - CROSS BY HILLER

164

1 Hyde, said dreads, and he does not have dreads? Do you recall
2 saying that?
3 A: Yes, sir.
4 Q: Do you recall saying based off her, and again Ms. Hyde's
5 description, it's not gonna be him, referring to Mr. Bryant?
6 A: Yes, sir.
7 Q: Do you remember saying, she said all black and shorter
8 length dreads, and he is not in all black and doesn't have
9 shorter length dreads?
10 A: Yes, sir.
11 Q: Do you recall saying the concern I have is she said
12 dreads?
13 A: Yes, sir.
14 Q: And again, the incident report written the next day
15 doesn't include a physical description. I'm not gonna try the
16 image from bodycam again, but I'm just gonna ask you to recall
17 as best you can. There was a -- in the parking lot is where
18 Mr. Bryant was pretty much detained while the investigation
19 was proceeding, correct?
20 A: Yes, sir.
21 Q: Just to kind of orient, there's -- if this is the
22 entrance to the parking lot, there's a office to the left.
23 A: Yes, sir.
24 Q: And kind of opposite that there's the A building to the
25 right?

STATE V. BRYANT - 2023-GS-26-01882
ROBERT NICHOLL - CROSS BY HILLER

165

- 1 A: Yes, sir.
- 2 Q: And Ms. Smalls, while she was being questioned, was she
3 inside her apartment or outside; do you remember?
- 4 A: Outside of her apartment.
- 5 Q: Sitting on the steps?
- 6 A: At the bottom of the steps; yes, sir.
- 7 Q: And you were kind of between -- as you were
8 investigating, which is understandable, you were kind of --
9 you have them separated for obvious reasons.
- 10 A: Yes, sir.
- 11 Q: And you're sort of between the parking lot and where Ms.
12 Smalls was sitting?
- 13 A: Yes, sir.
- 14 Q: Do you recall on the corner of the A building, that would
15 be facing the road, a camera, a surveillance camera?
- 16 A: I don't -- at the moment, I don't recall.
- 17 Q: Have you been to the EME Apartments for other calls for
18 service through the years?
- 19 A: Yes, sir.
- 20 Q: At any of those times did you -- have you recall noticing
21 a surveillance camera on the A building of ---
- 22 A: No, sir.
- 23 Q: And so, there's the building and there's a walkway, and
24 there's a little bit more yard, and then there's a fence?
- 25 A: Yes, sir.

STATE V. BRYANT - 2023-GS-26-01882
ROBERT NICHOLL - CROSS BY HILLER

166

1 Q: Do you recall a pole with a camera on it that would be
2 facing towards the A building?

3 A: No, sir.

4 Q: Okay. So, no recollection of any surveillance footage?
5 Not for footage, I'm sorry. No recollection of any
6 surveillance cameras on site?

7 A: That's correct.

8 Q: Okay. Is surveillance footage, if it's able to be
9 pooled, generally helpful in an investigation?

10 A: Yes, sir.

11 Q: For example, surveillance footage could establish a
12 timeline?

13 A: Yes, sir.

14 Q: And many other useful things. In this case, was any
15 surveillance footage attempted to be pulled by you?

16 A: My me, no, sir.

17 Q: You said something in direct. We're gonna have to see if
18 you still stand by that. You testified that Mr. Bryant was
19 the only suspect.

20 A: No.

21 Q: You didn't say that on direct?

22 A: When he'd ask if we had thought Ms. Smalls could've been
23 a suspect?

24 Q: Right. In addition -- but in addition to her, and
25 obviously this is -- to be clear, she was not arrested ---

STATE V. BRYANT - 2023-GS-26-01882
ROBERT NICHOLL - CROSS BY HILLER

167

1 A: Right.

2 Q: --- unfortunately, right? So, you did clear her at some
3 point?

4 A: Yes, sir.

5 Q: And I believe the question was, was there any suspect
6 other than ---

7 A: Okay. Sorry about that.

8 Q: Well, I -- you remember it as you remember it. I think
9 your response to my question was very fair. But assuming
10 she's excluded ---

11 A: He was our only suspect; yes, sir.

12 Q: Isn't it true that you knocked on the door of A3?

13 A: I don't know if I personally did.

14 Q: Do you recall ---

15 A: I don't recall if anyone knocked on A3, sir.

16 Q: Understood. One second.

17 So, you -- at this point, you don't have any memory of
18 another known associate of Ms. Smalls' name in this
19 investigation?

20 A: No, sir.

21 Q: Now, you made another statement on direct that you became
22 of the opinion that the only person with access to that Dodge
23 Avenger, the 2021, registered to Ms. Smalls would've been Mr.
24 Bryant, correct?

25 A: Yes, sir.

STATE V. BRYANT - 2023-GS-26-01882
ROBERT NICHOLL - CROSS BY HILLER

168

1 Q: But, there's really no way to know that for sure, right?
2 A: Me being able to know, I would have no clue
3 Q: I mean ---
4 A: Just based off of what Ms. Smalls advised us.
5 Q: So, that was the basis of your information that you have
6 no further information to know what would've happened or
7 could've happened?
8 A: Yes, sir.
9 Q: Okay. Did you, as the lead -- strike that.
10 What time -- so, we're clear when you arrived at the
11 Coastal Club Apartments ---
12 A: Yes, sir.
13 Q: What time did you depart -- and I'm assuming once you
14 departed Coastal Club, you then went to the EME Apartments?
15 A: Yes, sir.
16 Q: What time was that?
17 A: I don't have it documented in my report without going
18 back and looking at the bodycam I started when ---
19 Q: Are you familiar with what a CAD report is?
20 A: Yes, sir.
21 Q: Would a CAD report help refresh your recollection of when
22 you transitioned from one scene to the other?
23 A: Yes, sir.
24 Q: It's 13 pages long, I just don't want to have you
25 flipping through it, but, if it would refresh your

STATE V. BRYANT - 2023-GS-26-01882
ROBERT NICHOLL - CROSS BY HILLER

169

1 recollection, I'll will just stand by for a minute while you
2 look.
3 A: From the looks of this, if I'm reading this correctly, it
4 looks to be 10:16 p.m.
5 Q: So, that's roughly ---
6 A: Roughly, an hour after the call for service dropped.
7 Q: Can I just grab that back from you.
8 A: I assume the time above it is the -- it looks like that's
9 ---
10 Q: That tracks.
11 A: Yes, sir.
12 Q: So, about an hour after, and it's fair you said it was
13 some time on scene at the original scene, investigating,
14 figuring it out, doing the investigative work that you've
15 already detailed.
16 A: Yes, sir.
17 Q: About an hour later is when you were at the EME
18 Apartments?
19 A: Yes, sir.
20 Q: Were there -- did you have any luck identifying or
21 locating any cameras at the Coastal Club Apartments?
22 A: I knew they had one there. I just didn't -- I don't know
23 if we had a detective go out there, and if they were still
24 under maintenance, because I know sometimes those cameras are
25 a little finicky over there, if they're working or not.

STATE V. BRYANT - 2023-GS-26-01882
ROBERT NICHOLL - REDIRECT BY DICHARA

170

1 Q: I think those are my questions. Thank you.

2 THE COURT: Any redirect?

3 MR. DICHARA: Briefly, Your Honor.

4 REDIRECT EXAMINATION OF ROBERT NICHOLL BY MR. DICHARA:

5 Q: Officer, what time was that call for service again?

6 A: I came out at 9:11 p.m.

7 Q: And what time was the arrest made?

8 A: I'd have to look at the CAD notes.

9 Q: Do you still have those in front of you or ---

10 A: Did you take CAD notes back?

11 MR. DICHARA: Your Honor, I can rephrase.

12 BY MR. DICHARA:

13 Q: Was it about an hour after the call for service that the
14 arrest was made?

15 A: Yes, sir.

16 Q: Did you find a car matching the vehicle described by the
17 victim?

18 A: Yes.

19 Q: Did you find a gun matching the gun described by the
20 victim?

21 A: Yes.

22 Q: Did you do your due diligence in this case?

23 A: Yes, sir.

24 Q: Were you aware that the defendant was the only one
25 authorized to drive that vehicle that night?

STATE V. BRYANT - 2023-GS-26-01882
ROBERT NICHOLL - REDIRECT BY DICHARA

171

1 MR. HILLER: Objection. There's no way to know that.

2 THE COURT: Well, let's see if he does have a way to know
3 that.

4 MR. DICHARA: I'll rephrase it.

5 BY MR. DICHARA:

6 Q: During your investigation, did the -- during the
7 investigation, did you find out the owner of the registered
8 vehicle was the one driving it?

9 A: The owner of the registered vehicle was not the one
10 driving it.

11 Q: Who was driving the vehicle that night?

12 A: Mr. Bryant.

13 Q: And did -- the defendant was in Ms. Smalls' vehicle?

14 A: Yes, sir.

15 Q: Do you know who Ms. Smalls is to the defendant?

16 A: Yes, sir.

17 Q: Who is she to the defendant?

18 A: Girlfriend/child's mother.

19 Q: Thank you, Officer. I have no further questions.

20 THE COURT: Officer you may step down.

21 A: Thank you.

22 THE COURT: May this officer be released?

23 MR. DICHARA: Yes, Your Honor.

24 THE COURT: Any objection?

25 MR. HILLER: None at all.

STATE V. BRYANT - 2023-GS-26-01882
BRE'ANNA HYDE - CROSS BY HILLER

172

1 MR. OSKIN: May we approach real quick?

2 THE COURT: You may.

3 (REPORTER'S NOTE: Bench conference is held off the record in
4 the presence but outside the hearing of the jury.)

5 MR. OSKIN: Your Honor, the state would next call
6 Bre'Anna Hyde.

7 BRE'ANNA HYDE, HAVING BEEN SWORN,
8 TESTIFIED AS FOLLOWS:

9 THE CLERK: Please state your name and spell your last
10 name for the Court.

11 MS. HYDE: Bre'Anna Hyde, H-Y-D-E.

12 MR. OSKIN: Court's indulgence, Your Honor. May I just
13 get my exhibits straight real quick?

14 THE COURT: Sure.

15 DIRECT EXAMINATION OF BRE'ANNA HYDE BY MR. OSKIN:

16 Q: Good morning, Ms. Hyde. How are you doing?

17 A: Okay.

18 Q: Nervous to be here?

19 A: Yeah.

20 Q: All right. Make sure you speak into the microphone so
21 this jury in the court reporter can hear you. Okay?

22 Are you currently -- what's your current occupation?

23 A: I am a student now at Horry-Georgetown.

24 Q: Okay. And what were you -- were you a student back in
25 February 2023?

STATE V. BRYANT - 2023-GS-26-01882
BRE'ANNA HYDE - CROSS BY HILLER

173

1 A: Yes.

2 Q: Where were you a student at then?

3 A: At Coastal.

4 Q: Okay. Were you at some apartments on the night of

5 February 8th?

6 A: Yes.

7 Q: Why were you there?

8 A: I lived there.

9 Q: Okay. I'll show you what's been marked as State's

10 Exhibit Number 10, and I'll just ask -- I've got to show you

11 before I showed them, that's why my back is to them. But, are

12 you able to recognize this exhibit?

13 A: Yes.

14 Q: All right. What is this a -- what is this?

15 A: It's my apartment building.

16 Q: Okay. Is that an aerial photo of your apartment

17 building?

18 A: Yes.

19 Q: And that's -- this is where you lived the night this

20 incident occurred?

21 A: Yes.

22 Q: Nothing has been changed, altered, deleted, or edited or

23 added to this photo?

24 A: No.

25 MR. OSKIN: Your Honor, the state would seek to move into

STATE V. BRYANT - 2023-GS-26-01882
BRE'ANNA HYDE - CROSS BY HILLER

174

1 evidence State's Exhibit Number 9, please.

2 THE COURT: Is it 9 or 10?

3 MR. OSKIN: It's 9; yes, sir.

4 THE COURT: Any objection?

5 MR. HILLER: I'd like a little more foundation, Your
6 Honor. It's an aerial overhead. I don't know that she's ever
7 seen her apartment from that angle before.

8 BY MR. OSKIN:

9 Q: Have you seen this exact exhibit before?

10 A: Yes. It's on Apple Maps.

11 Q: Is this an accurate reflection of where you were living?

12 A: Yes.

13 Q: Is it the correct address?

14 A: Yes.

15 THE COURT: Any other foundation that she needs to lay?

16 MR. HILLER: I guess not.

17 THE COURT: All right. State's Number 9 is admitted.

18 STATE'S EXHIBIT NUMBER 9

19 ADMITTED INTO EVIDENCE

20 BY MR. OSKIN:

21 Q: Okay. And on this exhibit, can you point out about where
22 you were parked when all this happened?

23 A: Yes. It's right there (indicating).

24 Q: Is that a red dot where it shows it?

25 A: Yes.

STATE V. BRYANT - 2023-GS-26-01882
BRE'ANNA HYDE - CROSS BY HILLER

175

1 Q: Right here.

2 All right. What were you doing when you first noticed
3 this defendant?

4 A: I was in my car. I was getting ready to go to the gym,
5 and I was just sitting in my car getting ready. I was putting
6 on my Chapstick. And I looked over and there was a car like
7 coming in, but I didn't think anything of it because there's a
8 lot of people that live there.

9 Q: Okay. What happened next?

10 A: He backed up the car so that his driver's side was facing
11 my driver's side.

12 Q: Okay. Did that get your attention?

13 A: A little bit, just because there was a car pulling in
14 beside me.

15 Q: Okay. Did anything happen next they got your attention?

16 A: Yes.

17 Q: What was that?

18 A: There was a knock on my window.

19 Q: What did the person knocking on the window -- did they
20 have anything in their hand?

21 A: He knocked with the gun.

22 Q: What did he say at that point? Did he say anything?

23 A: Yes.

24 Q: What did he say?

25 A: I tried to go forward -- well, no, I tried to back my car

STATE V. BRYANT - 2023-GS-26-01882
BRE'ANNA HYDE - CROSS BY HILLER

176

1 up. I couldn't go forward because there was a curb. And he
2 told me if I backed my car up, that he would shoot.
3 Q: So, you stayed still at that time?
4 A: Yes.
5 Q: Okay. Did he ask you for money?
6 A: Yes.
7 Q: What did you tell him at that point?
8 A: I told him I had no cash on me, and I asked if I could go
9 to my apartment to get my debit card to get some.
10 Q: All right. And what did he say to that?
11 A: He said no. So, I just -- I thought of Cash App or
12 Venmo.
13 Q: Okay. Did he agree to receive the money?
14 A: He agreed to Cash App.
15 Q: Okay. For how much money?
16 A: I showed him my bank account. He told me he didn't want
17 to take all my money, and he'd accept \$200.
18 Q: Well, that was nice of him, while he had a gun pointed at
19 you.
20 A: Uh-huh, (affirmative response).
21 Q: So, he wanted \$200. Do remember your -- do you remember
22 your Cash App name at the time?
23 A: It was BreHyde and a number.
24 Q: I'm showing you what's been entered into evidence as
25 State's Exhibit Number 5. It's a two-page thing. Does that

STATE V. BRYANT - 2023-GS-26-01882
BRE'ANNA HYDE - CROSS BY HILLER

177

1 accurately reflect your Cash App name?
2 A: Yes.
3 Q: That's what you just said -- is that \$BreHyde12?
4 A: Yes.
5 Q: Did you give him -- at first, did you give them your
6 phone to send the money?
7 A: I tried to type it on my phone, and I couldn't because my
8 hands were too shaky. So, I handed him the phone to type it.
9 Q: Were you scared at that point?
10 A: Yes.
11 Q: Okay. Did you end up getting the phone back?
12 A: Yes. He couldn't type it in.
13 Q: Do you remember who you sent the money to?
14 A: The Smalls.
15 Q: Smalls. Was anyone else with this defendant at that
16 time?
17 A: No.
18 Q: Was a female with him at that time?
19 A: No.
20 Q: Okay. Did he give you any reason why to send it to Ms.
21 Smalls, or did ---
22 A: He said it was for his son.
23 Q: Okay. What happened after you sent him the money on Cash
24 App?
25 A: After he stayed for 30 seconds to a minute, and then he

STATE V. BRYANT - 2023-GS-26-01882
BRE'ANNA HYDE - CROSS BY HILLER

178

1 backed up into his car still holding the gun at me, and then
2 he got in and sped off pretty fast.

3 Q: Okay. So, there was no more communication after the
4 money was sent?

5 A: Not really.

6 Q: Were you just kind of frozen in your car?

7 A: I moved my car.

8 Q: Okay.

9 A: So, if he came back, I wouldn't be there.

10 Q: Okay. The best you can -- so, you were parked here?

11 A: Uh-huh, (affirmative response).

12 Q: Please show this jury about where he pulled in for the
13 first part of your interaction with him.

14 A: He came in from over here, and then he backed up into
15 this park.

16 Q: I know it's hard to point and talk in the mic. I'll move
17 it closer to you.

18 So, you said he comes in from here and backs into here?

19 A: Yeah, from this way, and then he backed into the spot
20 right next to the red dot, my car.

21 Q: Okay. And help me and this jury out, where is 544 in
22 relation to where you were parked?

23 A: It's at the top of the ---

24 Q: Which way did he leave? Do you know?

25 A: He went back out the way he came in.

STATE V. BRYANT - 2023-GS-26-01882
BRE'ANNA HYDE - CROSS BY HILLER

179

- 1 Q: Okay. Towards 544?
- 2 A: Yes.
- 3 Q: Best guess. What did you do after he left your condo?
- 4 A: I drove to a different spot, so if he came back I
- 5 wouldn't be there. And then I called my boyfriend to come
- 6 down, because he has an apartment upstairs. And I called my
- 7 Aunt Daphne, and then I called 911.
- 8 Q: Okay. So, your boyfriend lived in the same condo
- 9 complex?
- 10 A: Yes.
- 11 Q: And then your aunt, is that your closest family member
- 12 you have here?
- 13 A: Yeah.
- 14 Q: After -- and then you called police next?
- 15 A: Yes. She told me to call them right away.
- 16 Q: Okay. Can you remember about how long it took police to
- 17 respond?
- 18 A: I can't -- they were there pretty fast; I can't remember.
- 19 Q: Did you tell them everything that happened that night?
- 20 A: Yes.
- 21 Q: Okay. Did you give a description of the defendant at
- 22 that time?
- 23 A: Yes.
- 24 Q: What do you remember about the defendant at that time?
- 25 A: I remember he was a black male. He wasn't like tall; he

STATE V. BRYANT - 2023-GS-26-01882
BRE'ANNA HYDE - CROSS BY HILLER

180

1 wasn't short.

2 Q: And were you seated in your car the entire time during
3 this robbery?

4 A: Yes, yes.

5 Q: Okay. Was he presenting a gun at you the whole time?

6 A: The whole time he had the gun in his hand.

7 Q: Do you remember anything about his face at the time that
8 he was robbing you?

9 A: I remember his nose.

10 Q: Anything else about his face at that time?

11 A: His facial hair.

12 Q: Okay.

13 A: His face wasn't covered.

14 Q: Do you remember exactly what he was wearing or not?

15 A: I just remember the gloves; that's why he couldn't type
16 on my phone.

17 Q: Safe to say he was wearing dark clothing that night?

18 A: Yes.

19 Q: You don't know if that shirt was a hoodie or anything
20 else?

21 A: Just covered his arms from what I remember.

22 Q: It was February. People can wear about anything around
23 here in February; would you agree with that?

24 A: (Indicates affirmatively.)

25 Q: So, after police responded, what happened? Where did you

STATE V. BRYANT - 2023-GS-26-01882
BRE'ANNA HYDE - CROSS BY HILLER

181

1 -- you don't have to tell me the exact address, but where did
2 you stay that night?
3 A: In my boyfriend's apartment.
4 Q: Okay. When -- were you made aware of anything -- what
5 was your next involvement with law enforcement?
6 A: I had to do a identification.
7 Q: Okay. Was that a day or two after the night this
8 happened?
9 A: Yeah.
10 Q: And where did that occur?
11 A: At the Conway police station.
12 Q: Were you -- was it just you and an officer that looked
13 over the photos?
14 A: It was just us in the room.
15 Q: I'm gonna show you what's been marked as State's Exhibit
16 Number 7 and ask if you recognize that?
17 A: Yes.
18 Q: What is that?
19 A: That's the photo lineup I did.
20 Q: Okay. Anything been -- that's an exact copy of the photo
21 lineup that you looked at with law enforcement?
22 A: Yes.
23 Q: Nothing has been added, altered, deleted, edited, changed
24 or anything?
25 A: No.

STATE V. BRYANT - 2023-GS-26-01882
BRE'ANNA HYDE - CROSS BY HILLER

182

1 Q: Are your initials or signature on that photo?

2 A: Yes.

3 MR. OSKIN: Your Honor, at this time, the state would
4 seek to move into evidence State's Exhibit Number 7.

5 THE COURT: Any objection?

6 MR. HILLER: Yes, Your Honor. Renew the objections
7 raised yesterday at pretrial.

8 THE COURT: All right. State's Number 7 is admitted over
9 objection.

10 STATE'S EXHIBIT NUMBER 7

11 ADMITTED INTO EVIDENCE

12 BY MR. OSKIN:

13 Q: Let's talk about this lineup a little bit. So, you
14 selected a defendant on that lineup?

15 A: Yes.

16 Q: How are you able to select that defendant?

17 A: Because I just saw him. He was in my face the other
18 night.

19 Q: So, is that the same nose, eyes, facial hair ---

20 A: Yes.

21 Q: --- that you remembered?

22 A: Yes.

23 Q: Okay. About how long did it take you to pick that photo
24 out?

25 A: Within 15 seconds, I'd say, right away after I looked at

STATE V. BRYANT - 2023-GS-26-01882
BRE'ANNA HYDE - CROSS BY HILLER

183

1 all of them.

2 Q: And how sure of you when you picked him?

3 A: I was a hundred percent sure.

4 Q: Okay. I'm going to show you what's been marked as

5 State's Exhibit Number 8. Do you recognize this?

6 A: Yes.

7 Q: What is that?

8 A: That's what I had to sign after we did the lineup.

9 Q: Okay. Is your signature on that form?

10 A: Yes.

11 Q: Okay. It's dated and everything?

12 A: Yes.

13 Q: And nothing has been edited, altered, deleted, or

14 changed?

15 A: No.

16 Q: Nobody has told you to write something down that you

17 wanted to write down. Nobody has said you said something that

18 you didn't?

19 A: No.

20 MR. OSKIN: Your Honor, at this time, the state would

21 seek to move into evidence State's Exhibit Number 8.

22 THE COURT: State's Number 8 is admitted over objection.

23 Anything else you needed to add?

24 MR. HILLER: No, sir.

25 THE COURT: State's 8 is admitted.

STATE V. BRYANT - 2023-GS-26-01882
BRE'ANNA HYDE - CROSS BY HILLER

184

1 STATE'S EXHIBIT NUMBER 8

2 ADMITTED INTO EVIDENCE

3 BY MR. OSKIN:

4 Q: Let's talk about police showing you that lineup. Did
5 they tell you who to pick?

6 A: No.

7 Q: You picked this person that that's who robbed you?

8 A: Yes.

9 Q: You didn't see anything else before you saw these photos?

10 A: No.

11 Q: They didn't drive you up to him beforehand and say, is
12 this the guy, and then show you the photos?

13 A: No.

14 Q: You didn't see anything on the news or TV or been made
15 aware of anything else by Conway Police?

16 A: No.

17 Q: You were just told to come to the police station and see
18 if you could identify the photos once you got there?

19 A: Yes.

20 Q: So, this selection is purely of your own memory and
21 volition?

22 A: Yes.

23 MR. OSKIN: Your Honor, I'd ask to publish these exhibits
24 to the jury.

25 THE COURT: You may.

STATE V. BRYANT - 2023-GS-26-01882
BRE'ANNA HYDE - REDIRECT BY OSKIN

185

1 State's Exhibit Number 7. State's Exhibit Number 8.
2 (REPORTER'S NOTE: State's 7 and 8 are published to the jury.)
3 BY MR. OSKIN:
4 Q: Had you ever seen this defendant before in your life
5 before that night?
6 A: No.
7 Q: Had you ever heard or met a Talisha Smalls that night?
8 A: No.
9 Q: Had you ever sent her anything on your phone before, ever
10 heard of her name?
11 A: No.
12 Q: But you sent \$200 to her that night at this defendant's
13 request, and the gun was pointed at you while you did that?
14 A: Yes.
15 Q: Okay.
16 MR. OSKIN: Court's indulgence?
17 BY MR. OSKIN:
18 Q: Nothing further from me at this time, Ms. Hyde. Please
19 answer any questions the defense may have.
20 THE COURT: Mr. Hiller?
21 CROSS-EXAMINATION OF BRE'ANNA HYDE BY MR. HILLER:
22 Q: Good morning, Ms. Hyde.
23 Do you remember about how long you were on scene with
24 officers on the night of February 8th, 2023?
25 A: With the officers?

STATE V. BRYANT - 2023-GS-26-01882
BRE'ANNA HYDE - REDIRECT BY OSKIN

186

- 1 Q: Yes, ma'am.
- 2 A: I don't -- I don't know. I'd say they were there for
- 3 half an hour there.
- 4 Q: Okay. Around half an hour?
- 5 A: (Indicates affirmatively.)
- 6 Q: And during that time, as officers were listening to you,
- 7 asking you questions, trying to figure out what was going on?
- 8 A: Yes.
- 9 Q: Basically, investigating, which is kind of their job.
- 10 But they need you in order to provide, in order to conduct
- 11 their investigation. And obviously, the officers weren't
- 12 there when this happened, right?
- 13 A: Right.
- 14 Q: So, this case and what they did is largely because of
- 15 what you said and what you told them.
- 16 A: Yes.
- 17 Q: One of the -- do you remember -- do you remember talking
- 18 to them about kind of the sequence of events? Basically did
- 19 you -- do you recall laying out for them that not what you
- 20 laid out for this jury here this morning?
- 21 A: What?
- 22 Q: Do you remember telling them what -- your version of what
- 23 happened?
- 24 A: Yeah.
- 25 Q: Do you remember at some point one of the officers -- I

STATE V. BRYANT - 2023-GS-26-01882
BRE'ANNA HYDE - REDIRECT BY OSKIN

187

1 believe it was Officer Nicholl -- asking you to write a
2 statement?

3 A: Yes.

4 Q: And did you in fact write a statement?

5 THE COURT: Ms. Hyde, can you pull the microphone down a
6 little bit just so we can hear you a little better?

7 There you go.

8 Q: Do you recall if that statement included a description of
9 the person that robbed you?

10 A: Yes.

11 Q: It did?

12 A: I gave a description.

13 Q: Of the person?

14 A: Yes.

15 Q: Would it help refresh your recollection if you look
16 briefly at your statement before you make a final decision on
17 that?

18 A: Sure.

19 MR. HILLER: May I approach, Your Honor?

20 THE COURT: You may.

21 BY MR. HILLER:

22 Q: And just to be clear before I hand you this, when I'm
23 talking about -- when I say description, it's a physical
24 description. Did you write out a description of what this guy
25 looked like? Do you understand?

STATE V. BRYANT - 2023-GS-26-01882
BRE'ANNA HYDE - REDIRECT BY OSKIN

188

1 A: Yeah. I think I said; I didn't write. Okay?

2 Q: Okay. So, now -- I'm sorry; maybe my question was
3 unartfully phrased. But, you described a physical description
4 audibly to law enforcement, but you did not write a -- record
5 in writing a physical description?

6 A: I don't think so. I think I just wrote what happened.

7 Q: Yes, ma'am, right. What did you -- I want to try to hear
8 it in your own words first. What did you -- how did you
9 describe this person to the officers?

10 A: I said he was a black male, and I told them his car, and
11 I said in the video that he was wearing dreads.

12 Q: In fact, you said a skinny black male with short dreads,
13 right? Dreads are pretty -- having dreads are a pretty
14 distinctive hair style, right?

15 A: I guess.

16 Q: You know, they kind of stand out. They move a bit with
17 you, you know, when a head moves, they kind of -- it's
18 something that would arrest your attention.

19 Today, your testimony, you focused on the nose and the
20 facial hair. Did you say anything about this person's nose on
21 the night of February 28th or February 8th, 2023?

22 A: I can't recall.

23 Q: What exactly -- similarly, today you also relied on
24 facial hair.

25 A: Yes.

STATE V. BRYANT - 2023-GS-26-01882
BRE'ANNA HYDE - REDIRECT BY OSKIN

189

1 Q: Isn't it true that on the night of February 8, 2023, you
2 told the officer that you could not recall whether he had
3 facial hair?

4 A: I don't remember.

5 Q: Would -- I'd be happy to let you hear the relevant
6 portion, probably outside the presence of the jury, if it
7 would help refresh your recollection as to whether or not you
8 said that. Is that something that would be helpful to you?

9 A: Sure.

10 MR. HILLER: Your Honor, it's a pretty critical issue.
11 We have a matter of law or -- should we approach?

12 THE COURT: Ladies and gentlemen, let me get you to step
13 out just a few minutes to your jury room. We'll be right with
14 you.

15 (REPORTER'S NOTE: Jury exits courtroom @ 11:42 a.m. The
16 following takes place outside the presence of the jury.)

17 MR. HILLER: Your Honor, I guess, just to put this on the
18 record, I asked Ms. Hyde whether or not she could recall that
19 she told the officers that she did not recall -- could not
20 recall if the person had facial hair, and she said she did not
21 recall.

22 THE COURT: Okay.

23 MR. HILLER: At this point, I would ask to refresh her
24 recollection with her own words captured on bodycam.

25 THE COURT: Okay.

STATE V. BRYANT - 2023-GS-26-01882
BRE'ANNA HYDE - REDIRECT BY OSKIN

190

1 MR. HILLER: Now, I don't want to have to play more than
2 is relevant, so I'm gonna try to cut it as soon as I can. I'd
3 like to do a dry run, but I'm just gonna trust my ---

4 THE COURT: All right.

5 MR. OSKIN: You're proceeding under 612 to refresh her
6 memory, not seek to -- if she can't recall now, then it may
7 become a 613 issue under admissibility of an exhibit issue?

8 THE COURT: Right.

9 (REPORTER'S NOTE: Portion of Ms. Hyde's statement published
10 for the Court. Audio not transcribed herein.)

11 BY MR. HILLER:

12 Q: Was that audible to you?

13 A: Yes.

14 Q: Does your response to -- Does he have facial hair? I
15 cannot remember. -- refresh your recollection as to what ---

16 MR. OSKIN: Objection to telling her what to say. I
17 think the question is does she remember or not, not telling
18 her does she remember exactly what was said.

19 THE COURT: Let's see if we can get this unplugged first,
20 so it doesn't -- All right.

21 Mr. Hiller, the question and the playing of it was to see
22 if it refreshed or reflected on her memory, but can you ask
23 her a question as to that?

24 BY MR. HILLER:

25 Q: Do you now recall how you may have answered that question

STATE V. BRYANT - 2023-GS-26-01882
BRE'ANNA HYDE - REDIRECT BY OSKIN

191

1 when posed by law enforcement?

2 A: I said I don't remember; now, I do.

3 Q: Okay.

4 THE COURT: Any other questions that involve that?

5 MR. HILLER: No, sir.

6 MR. OSKIN: Any other statements -- well, I guess we
7 won't know until we get there.

8 MR. HILLER: No. I do not expect any.

9 THE COURT: All right. Let's do this. Since the jury is
10 out, let's take just a two or three-minute break.

11 MR. HILLER: Sounds good.

12 THE COURT: And we'll continue when we get back.

13 MR. HILLER: Yes, sir.

14 THE COURT: As far as the continuing of your cross, I'm
15 just looking at the time, we should have plenty of time.
16 That'll be fine. All right. We'll take a ---

17 MR. OSKIN: Our redirect will be brief, Your Honor.

18 THE COURT: What's that now?

19 MR. OSKIN: My redirect will be very brief.

20 THE COURT: We'll take two or three minutes, then. Okay?

21 **RECESS - 11:47 A.M.**

22 *****OFF THE RECORD*****

23 **ON THE RECORD - 11:53 A.M.**

24 THE COURT: All right. Are we ready to continue?

25 MR. DICHIARA: One moment, Your Honor.

STATE V. BRYANT - 2023-GS-26-01882
BRE'ANNA HYDE - REDIRECT BY OSKIN

192

1 THE COURT: All right.

2 MR. OSKIN: The state is ready, sir.

3 THE COURT: All right. Let's go ahead and bring in the
4 jury.

5 Ms. Hyde, if you'll just remember to try to speak in the
6 mic. I know you're kind of softspoken. Okay?

7 MS. HYDE: Okay.

8 (REPORTER'S NOTE: Jury enters courtroom @ 11:57 a.m.)

9 THE COURT: All right. Mr. Foreman, ladies and
10 gentlemen, we'll go ahead and continue.

11 Mr. Hiller?

12 MR. HILLER: Thank you, Your Honor.

13 CONTINUATION OF CROSS-EXAMINATION OF BRE'ANNA HYDE BY MR.

14 HILLER:

15 Q: Ms. Hyde, I'm gonna ask you the same question I asked you
16 before we took a brief break.

17 Do you recall your answer when officers on scene that
18 night asked you if the person who robbed you had facial hair?

19 A: I said I don't remember.

20 Q: And again, the encounter with them, those officers, was
21 within about 30 minutes or so of the incident was your former
22 testimony, right?

23 A: That's what it felt like.

24 Q: I'm gonna ask you just a couple of questions about that
25 photo lineup process you told us about. Do you recall the

STATE V. BRYANT - 2023-GS-26-01882
BRE'ANNA HYDE - REDIRECT BY OSKIN

193

1 date you went to the Conway Police Department for that lineup?
2 A: The 10th.
3 Q: And it's your testimony that it was the nose and facial
4 hair that's drew your attention to the person you identified.
5 You can see that from here right? I can I'll move closer.
6 I'm not trying to -- which of these individuals is in the
7 brightest colored shirt?
8 A: 3 and 6.
9 Q: So, 3 is who you identified, correct?
10 A: Yes.
11 Q: Would it be fair to call that orange?
12 A: Yes.
13 Q: And then 6 is the other one you identified; is that fair
14 to say that little bit of white showing is pretty neutral?
15 A: It's still in the picture. It's white.
16 Q: And the other four are wearing black?
17 A: Right.
18 Q: I'm handing this to you one more time. How are you to
19 distinguish between the nose and facial hair of 4, who is on
20 the first line of the bottom row, and 3?
21 A: Because they look completely different in the face.
22 Q: 3 and 4's noses look completely different to you?
23 A: They're not the same.
24 Q: Okay. So, is it fair to say that on three separate
25 occasions, when you spoke with law enforcement that night, you

STATE V. BRYANT - 2023-GS-26-01882
NICHOLAS CONTINO - DIRECT BY OSKIN

194

1 told them that the person who robbed you had dreads?

2 A: Yes.

3 Q: I don't have any further questions.

4 REDIRECT EXAMINATION OF BRE'ANNA HYDE BY MR. OSKIN:

5 Q: Very quickly, Ms. Bre. Do you recall telling officers
6 the vehicle that the person was driving?

7 A: Yes.

8 Q: What kind of vehicle was that?

9 A: It was a black Dodge.

10 Q: Do you remember describing the gun?

11 A: Yes.

12 Q: Do you remember seeing the gun?

13 A: Yes.

14 Q: Because it was pretty close to you and you saw it?

15 A: It was close.

16 Q: I'm going to show you what's been marked as State's
17 Exhibit Number 6. I'm not a gun expert; you don't have to be
18 either.

19 A: No.

20 Q: Is that the gun that was pointed at you?

21 A: Yes, it was long and skinny.

22 Q: And that's how you described it to police?

23 A: (Indicates affirmatively.)

24 Q: And you -- I keep wanting to say Snapchat. You Cash
25 App'd Talisha Smalls money?

STATE V. BRYANT - 2023-GS-26-01882
NICHOLAS CONTINO - DIRECT BY OSKIN

195

1 A: Yes.

2 Q: Okay. Is the person who robbed you that night sitting in
3 this courtroom?

4 A: Yes.

5 Q: Can you point him out for this jury, please?

6 A: (Indicating.)

7 MR. OSKIN: Let the record reflect the victim has
8 identified the defendant at the table.

9 THE COURT: The record will reflect.

10 MR. HILLER: Just to -- I would renew my objection.

11 THE COURT: All right.

12 MR. OSKIN: No further questions ---

13 THE COURT: Prior objection is overruled.

14 MR. OSKIN: I am so sorry, Your Honor.

15 THE COURT: That's okay.

16 MR. OSKIN: No further questions from the state, sir.

17 THE COURT: All right. Ms. Hyde, you may step down.

18 MR. OSKIN: I do ask that she be released from her
19 subpoena. Obviously, she is welcome to stay here and see how
20 the trial plays out.

21 THE COURT: All right. No objection.

22 MR. OSKIN: You want us to proceed, Your Honor?

23 THE COURT: Let me get you guys to step up here just a
24 second.

25 MR. OSKIN: Yes, sir.

STATE V. BRYANT - 2023-GS-26-01882
NICHOLAS CONTINO - CROSS BY HILLER

196

1 (REPORTER'S NOAWETE: Bench conference is held off the record
2 in the presence but outside the hearing of the jury.)

3 THE COURT: Thank you, Your Honor. As a matter of
4 scheduling, I believe we have a relatively short witness. The
5 state would next call Nicholas Contino.

6 NICHOLAS CONTINO, HAVING BEEN SWORN,
7 TESTIFIED AS FOLLOWS:

8 THE CLERK: State your name and spell your last name for
9 the Court.

10 MR. CONTINO: Nicholas Contino, C-O-N-T-I-N-O.

11 DIRECT EXAMINATION OF NICHOLAS CONTINO BY MR. OSKIN:

12 Q: Officer Contino, how are you doing, sir?

13 A: Doing well, sir. Thank you.

14 Q: Good. Who is your current employer, sir?

15 A: Horry County Police Department.

16 Q: All right. What's your job description with them?

17 A: I'm on the Horry County Street Crimes Unit.

18 Q: Okay. Who was your employer back in February 2023?

19 A: The Conway Police Department.

20 Q: What was your job title there?

21 A: I was a detective.

22 Q: What type of training or education did you undergo in
23 order to become a police officer at Conway and then now with
24 the Horry County?

25 A: I graduated from the Criminal Justice Department in

STATE V. BRYANT - 2023-GS-26-01882
NICHOLAS CONTINO - CROSS BY HILLER

197

1 Columbia. I've went through numerous advance trainings to
2 further my knowledge, DUI training, CID training, further
3 narcotics training as well.

4 Q: Was Conway Police the first department you were with?

5 A: Yes, sir.

6 Q: And how long were you with them in total?

7 A: Approximately, seven years.

8 Q: Okay. Focusing on the matter at hand, so you were
9 employed in February 2023 with Conway?

10 A: Yes, sir.

11 Q: Did you become involved in an incident that was
12 investigated as an armed robbery in front of some condos near
13 Coastal Carolina?

14 A: That's correct.

15 Q: Okay. Do you recall which -- what was your specific
16 involvement in this case?

17 A: I was made aware of the incident to provide a SLED photo
18 lineup for the victim.

19 Q: Okay. Was that your only involvement in this case?

20 A: That's -- yes, sir.

21 Q: But you made the request -- did you make the request of
22 SLED and get the photos?

23 A: Yes, sir.

24 Q: After you got that, did you present it to the victim
25 witness?

STATE V. BRYANT - 2023-GS-26-01882
NICHOLAS CONTINO - CROSS BY HILLER

198

1 A: Yes, sir.

2 Q: I'm going to show you what's been entered as State's
3 Exhibit Number 7 and ask if you recognize that, sir?

4 A: Yes, sir.

5 Q: Is this the lineup we're talking about?

6 A: Yes, sir.

7 Q: Was the defendant -- is the defendant present in that
8 lineup?

9 A: That's correct.

10 Q: Was this defendant identified by the victim witness?

11 A: Yes, sir.

12 Q: Do you recall about how long it took her to select Number
13 3?

14 A: Almost immediately.

15 Q: Okay. Do you have her do something to indicate that
16 that's her selection, being her initials or her signature?

17 A: Yes, sir. She supposed to sign, initial, and date.

18 Q: Okay. And if a person selects a defendant from a lineup,
19 what's your next step?

20 A: They are provided a Conway Police Department form for a
21 SLED -- photo lineup form. She's to sign with a hundred
22 percent certainty that her decision and the number on the
23 photo lineup that provides that.

24 Q: Okay. I'm showing you what's been entered as State's 8
25 and have you look over that.

STATE V. BRYANT - 2023-GS-26-01882
NICHOLAS CONTINO - CROSS BY HILLER

199

- 1 A: Yes, sir.
- 2 Q: Is that the form you're talking about in describing to
3 this jury?
- 4 A: Yes, sir.
- 5 Q: And again, just to be clear, she wouldn't have seen that
6 form had she not picked somebody; is that correct?
- 7 A: No, sir.
- 8 Q: Okay. So, that is correct?
- 9 A: Yeah, that's correct. She wouldn't be provided this if
10 she didn't make a pick.
- 11 Q: All right. She was at shown any other lineups?
- 12 A: No, sir.
- 13 Q: You didn't tell her who to pick?
- 14 A: No, sir.
- 15 Q: That's your involvement in this case?
- 16 A: Yes, sir.
- 17 Q: So, where exactly did this -- where was this lineup
18 presented at?
- 19 A: Conway Police Department.
- 20 Q: All right. Where at within the Conway Police Department?
- 21 A: The CID interview room.
- 22 Q: Okay. Is that in your -- was this interaction with the
23 victim recorded or not to your knowledge? Do you know?
- 24 A: To my knowledge, yes.
- 25 Q: Do you know for sure or should it have been recorded?

STATE V. BRYANT - 2023-GS-26-01882
NICHOLAS CONTINO - REDIRECT BY OSKIN

200

1 A: It should have been.

2 Q: Please answer any questions from the defense.

3 A: Yes, sir.

4 MR. HILLER: I'm just approaching to grab an exhibit.

5 CROSS-EXAMINATION OF NICHOLAS CONTINO BY MR. HILLER:

6 Q: So, State's Exhibit 8, that is the photo identification
7 lineup form?

8 A: Yes, sir.

9 Q: Okay. There is -- I'm assuming your signature is the one
10 with the badge number next to it?

11 A: Yes, sir.

12 Q: Okay. And then that would be -- Ms. Hyde's is the other
13 signature?

14 A: Yes, sir.

15 Q: There are a total of four signatures on this form,
16 correct? Two for you, two for her?

17 A: Yes, sir.

18 Q: But is it so -- isn't it -- I don't know the answer to
19 this question, but I'm gonna ask it because it seems to me
20 that there's a signature here, and then you would stop and
21 proceed with the identification, and then only sign the second
22 time if the identification is made.

23 A: Are you asking?

24 Q: Yes.

25 A: I don't recall the form itself. It's been a number of

STATE V. BRYANT - 2023-GS-26-01882
NICHOLAS CONTINO - REDIRECT BY OSKIN

201

1 years since I have been with Conway.

2 Q: I mean, wouldn't it make sense that you would want the
3 signature of the person to whom you just read your photo
4 lineup instructions to acknowledge having heard and understood
5 the instructions before proceeding?

6 A: Yeah, that makes sense.

7 Q: Because it sounded like you were telling the state that
8 you only have her look at the form if she makes a 100 percent
9 ID. Is that true or false?

10 A: I would have to read the form itself again. I just don't
11 recall the procedure for that form right now off the top of my
12 head.

13 Q: I'll just hand it to you and if anything rings a bell,
14 because I mean ---

15 A: Sure.

16 Q: --- obviously, a very important proceeding.

17 A: Yeah. Yeah, that makes sense that I would read this to
18 her first, and then she would have a decision after that.

19 Q: Now, so then only if there's an identification which she
20 signed saying that she identified, because obviously, you
21 wouldn't sign if you couldn't pick someone out.

22 A: Correct.

23 Q: But as we stand here today, all we have is this form
24 itself which says, After doing the photo lineup, I'm 100
25 percent positive that the person in the photograph labeled 3

STATE V. BRYANT - 2023-GS-26-01882
NICHOLAS CONTINO - REDIRECT BY OSKIN

202

1 is the person I observed. Now, she didn't write that 100
2 percent positive, right. That was just prewritten on the
3 form?

4 A: Yeah, yeah, sure; it's on there already.

5 Q: Was there at any time during this identification process
6 did you ask her to give an independent verbal statement of
7 confidence?

8 A: What do you mean by independent?

9 Q: Like make it come from her mouth rather than from your
10 form.

11 A: Well, she had to initial, sign, and date the -- the
12 lineup first, and then that would be her indication of a
13 hundred percent certainty.

14 Q: Okay. And you said that you thought that the process
15 should've been recorded.

16 A: Yes, sir.

17 Q: The CID room, does that stand for crime -- CID stands for
18 ...

19 A: Criminal Investigative Department.

20 Q: Okay. So, the CID interview room is a room that you as a
21 detective would have obviously had access to and would have
22 been likely to use for an identification process like this?

23 A: That's correct.

24 Q: And does that room include audio/video recording
25 equipment?

STATE V. BRYANT - 2023-GS-26-01882
NICHOLAS CONTINO - REDIRECT BY OSKIN

203

1 A: It does.

2 Q: And is it the case that when the room isn't in use that
3 the recording device is -- audio and video should actually be
4 recording automatically, or do you have to actually push a
5 button to start them?

6 A: No. Once you walk in, the lights turn on and the
7 recording should take video.

8 Q: Which I guess makes sense with your answer that it
9 should've been recorded.

10 A: Yes, sir.

11 Q: And so -- okay. Are you the officer who -- so, let's
12 just kind of walk through a little bit of how a lineup is
13 created. You didn't actually create that lineup, did you?

14 A: No, SLED provides the lineup.

15 Q: What does Conway provide to SLED?

16 A: We have to send over to SLED a request for a photo
17 lineup. So, we provide photos and their name, and stuff like
18 that.

19 Q: So, Conway is responsible for providing one of the six
20 photos or more?

21 A: We provide all the images we have on a facial image, so
22 wherever we can get that, whether it's the DMV, jail photos,
23 and stuff like that.

24 Q: Maybe I'm not getting my question out right. Did you
25 submit more than -- I don't know -- if you submitted more than

STATE V. BRYANT - 2023-GS-26-01882
NICHOLAS CONTINO - REDIRECT BY OSKIN

204

1 one photo, that's fine, but did you submit photographs of more
2 than one person or just one person?
3 A: No, just one person.
4 Q: So, SLED is responsible for generating ---
5 A: The additional photos, yes.
6 Q: --- the other five. I think they call them fillers.
7 A: I don't know what they call them but yeah; they provide
8 the rest.
9 Q: So, was it you that sent the picture of the guy in orange
10 to SLED, and then they compiled the lineup from there?
11 A: I don't recall the photos that I sent that day, but I did
12 provide a photo of the defendant.
13 Q: But it stands to reason that SLED would've incorporated
14 the photo that was provided to them and not some other photo,
15 right?
16 A: They take the best facial image that they can and provide
17 the rest.
18 Q: So, you sent the photo to SLED. They may or may not use
19 it is your testimony?
20 A: I don't know their process at all. So, if I send
21 multiple photos, they're gonna pick their best one. So, if I
22 sent multiple, they would use one and not the rest.
23 Q: Did you send multiple photos?
24 A: I don't recall.
25 Q: Well, how is it that you recall that she identified him

STATE V. BRYANT - 2023-GS-26-01882
BY THE COURT

205

1 within 15 seconds if you can't recall something basic like
2 that?

3 A: It's just what I remember.

4 Q: Okay. Did you note that in your report anywhere?

5 A: I don't think so.

6 Q: I don't have any other questions.

7 THE COURT: Any redirect?

8 MR. OSKIN: Very briefly.

9 REDIRECT EXAMINATION OF NICHOLAS CONTINO BY MR. OSKIN:

10 Q: Just to clarify, you don't select what pictures -- SLED
11 picks the picture that comes back in the lineup?

12 A: Correct.

13 Q: And that's because SLED's determined that that's the best
14 or the clearest way to present that person's face?

15 A: Correct.

16 Q: And you were present when this victim selected that
17 photo?

18 A: Yes, sir.

19 Q: And what happened simultaneously -- it happened very
20 quickly?

21 A: Very quickly.

22 Q: All right. Nothing further from the state. Thank you.

23 THE COURT: All right. Officer you may step down.

24 A: Thank you, sir.

25 THE COURT: May this officer be released from his

STATE V. BRYANT - 2023-GS-26-01882
SHANEIKQA SMALLS - DIRECT BY OSKIN

206

1 subpoena?

2 MR. OSKIN: Yes, sir, no problem from the state.

3 MR. HILLER: None at all from the defense.

4 THE COURT: You're released from your subpoena.

5 Thank you, sir.

6 A: Thank you, sir.

7 BY THE COURT:

8 THE COURT: All right. Ladies and gentlemen, it's 12:15.
9 We're gonna go ahead and break for lunch. I'm gonna ask that
10 you be back at 1:30.

11 Please do not discuss anything that you've already seen
12 on the witness stand. It is not time to deliberate or speak
13 with your fellow jurors about anything. They'll be a time for
14 that, but it will be at the very end of this case.

15 Thank you.

16 (REPORTER'S NOTE: Jury exits courtroom @ 12:14 p.m. The
17 following takes place outside the presence of the jury.)

18 THE COURT: All right. Anything from the state before we
19 break for lunch?

20 MR. OSKIN: I just have you'll remind the defendant's
21 family in the gallery not to make audio comments or responses
22 when defense questions are asked or answered.

23 THE COURT: Okay.

24 MR. OSKIN: But nothing -- the state will be ready to
25 proceed this afternoon.

STATE V. BRYANT - 2023-GS-26-01882
SHANEIKQA SMALLS - DIRECT BY OSKIN

207

1 THE COURT: All right. Mr. Hiller, anything?

2 MR. HILLER: No, Your Honor. I was a little bit curious
3 about scheduling and how we anticipate this case playing out
4 in terms of timeline.

5 MR. OSKIN: I have two witnesses left, Your Honor.

6 THE COURT: I'm sorry?

7 MR. OSKIN: We approximate two witnesses left this
8 afternoon.

9 THE COURT: Okay.

10 And your witness, if you do call her will be tomorrow; is
11 that ---

12 MR. HILLER: She is unavailable today. And I'm still
13 kind of -- you know, so...

14 THE COURT: Okay. We'll work through the next two
15 witnesses then, and so that will be the state's case?

16 MR. OSKIN: I believe so, Your Honor; yes, sir. We're
17 ready to do whatever the Court wants to do.

18 THE COURT: All right. We'll do that, and if we need to
19 break and come back tomorrow for the witness or not. I guess,
20 let's just go to lunch and see how those two witnesses go. If
21 you decide not to, then we can go ahead and move forward, but
22 ---

23 MR. HILLER: It seems like there is time to -- I don't
24 anticipate those being overly lengthy witnesses.

25 MR. OSKIN: I would not expect; no, sir. If you want to

STATE V. BRYANT - 2023-GS-26-01882
SHANEIKQA SMALLS - DIRECT BY OSKIN

208

1 resume -- it's 12:15 now. We'll do whatever the Court wants
2 to do. If you want to resume at 1:30, we'll have our people
3 ready.

4 THE COURT: Let's do that. That sound good?

5 MR. HILLER: Sounds good.

6 **RECESS - 12:16 P.M.**

7 *****OFF THE RECORD*****

8 **ON THE RECORD - 1:39 P.M.**

9 THE COURT: Okay. Is the state ready to proceed?

10 MR. OSKIN: Yes, sir, Your Honor.

11 THE COURT: Is the defense?

12 MR. HILLER: Yes, sir.

13 THE COURT: All right. Let's go ahead and bring in the
14 jury.

15 (REPORTER'S NOTE: Jury enters courtroom @ 1:41 p.m.)

16 THE COURT: All right. Thank you, ladies and gentlemen.
17 I hope that y'all had a good lunch.

18 Counsel, you can call your next witness.

19 MR. OSKIN: Yes, sir. Thank you Your Honor.

20 The state would next call Ms. Shaneikqa Smalls.

21 SHANEIKQA SMALLS, HAVING BEEN SWORN,

22 TESTIFIED AS FOLLOWS:

23 THE CLERK: Please state your name and spell your last
24 for the Court.

25 MS. SMALLS: Shaneikqa Smalls, S-M-A-L-L-S.

STATE V. BRYANT - 2023-GS-26-01882
SHANEIKQA SMALLS - CROSS BY HILLER

209

1 THE COURT REPORTER: Can you spell your first name, too,
2 please?

3 MS. SMALLS: S-H-A-N-E-I-K-Q-A.

4 DIRECT EXAMINATION OF SHANEIKQA SMALLS BY MR. OSKIN:

5 Q: Ms. Smalls, good afternoon, ma'am.

6 You don't want to be here today, do you?

7 A: No.

8 Q: Why are you here this afternoon?

9 A: I was subpoenaed.

10 Q: All right. In February of 2023, were you in a
11 relationship with the defendant, Mr. Bryant?

12 A: Yes.

13 Q: Are you still in a relationship with him?

14 A: Yes.

15 Q: On the night of February 8th, 2023, did you let him use
16 your vehicle?

17 A: Yes.

18 Q: What type of vehicle was that?

19 A: A Dodge Avenger.

20 Q: What color is it?

21 A: Black.

22 Q: On that night, did you have \$200 sent to your Cash App?

23 A: Yes.

24 Q: Were you expecting that \$200?

25 A: No.

STATE V. BRYANT - 2023-GS-26-01882
SHANEIKQA SMALLS - CROSS BY HILLER

210

1 Q: Did this defendant tell you anything about that money
2 coming your way?

3 A: He just asked did it come.

4 Q: He asked if you'd received it yet?

5 A: (Indicates affirmatively.)

6 THE COURT: Ms. Smalls, if you can say yes or no for the
7 court reporter.

8 A: Yes.

9 THE COURT: All right. Thank you.

10 BY MR. OSKIN:

11 Q: Shortly after that, did police come to your residence?

12 A: Yes.

13 Q: Did you interact with them?

14 A: Yes.

15 Q: Okay. Did they take a look at your phone? Did you let
16 them look at your phone that night?

17 A: Yes. They took it.

18 Q: Okay. I want to show you what's been entered into
19 evidence as State's Exhibit Number 5. It's got two different
20 photos on it. Are you able to see that?

21 A: Yes.

22 Q: Is that a picture of your phone?

23 A: Yes.

24 Q: And then this second picture, is that another picture
25 from your phone?

STATE V. BRYANT - 2023-GS-26-01882
SHANEIKQA SMALLS - REDIRECT BY OSKIN

211

1 A: Yes.

2 Q: Is that a copy of the transaction receipt?

3 A: Yes.

4 Q: How much money was that for?

5 A: Two hundred.

6 Q: And do you see who that's from?

7 A: Yes.

8 Q: What's the name say?

9 A: Bre.

10 Q: Had you ever -- did you ever know of Bre before you got

11 this \$200?

12 A: No.

13 Q: Ms. Smalls, that's it for me. Please answer any

14 questions the defense may have for you.

15 CROSS-EXAMINATION OF SHANEIKQA SMALLS BY MR. HILLER:

16 Q: Ms. Smalls, I believe the solicitor just asked you

17 whether or not Mr. Bryant had your car that night?

18 A: Yes.

19 Q: Did he in fact have your car that night?

20 A: Yes.

21 Q: Do you know about what time your car left that apartment

22 complex?

23 A: No.

24 Q: Is that -- why is that?

25 A: I was doing hair; I was busy.

STATE V. BRYANT - 2023-GS-26-01882
SHANEIKQA SMALLS - REDIRECT BY OSKIN

212

1 Q: Focused on other stuff?

2 A: Uh-huh, (affirmative response).

3 Q: Do you know -- do you have a step-by-step accounting of
4 what -- do you have any way to know what Mr. Bryant did that
5 night?

6 A: No.

7 Q: Do you have -- do you know whether or not he kept your
8 car the entire night?

9 A: No.

10 Q: Now, you mentioned that some money came to your account
11 from Cash App.

12 A: Yes.

13 Q: And we know that that came from that user name of Bre.
14 And then you didn't -- I think you testified to this already
15 but you didn't know Bre before?

16 A: No.

17 Q: And police didn't -- did you end up getting arrested in
18 connection with this case?

19 A: No.

20 Q: Just one moment. Is that Dodge Avenger still around?

21 A: No.

22 Q: Is it true that -- this is my last question, let me make
23 sure I try to phrase it as fairly and as well as possible. Is
24 it true that while that car was around that you at times would
25 be willing to let other people borrow it?

STATE V. BRYANT - 2023-GS-26-01882
MOTIONS

213

1 A: No.

2 Q: No? So, you would never let someone borrow it?

3 A: Not -- a family member if they need to use it, but not
4 ---

5 Q: Well, I don't mean like a stranger down the road; I
6 didn't mean ---

7 A: Oh yeah.

8 Q: Like people that you knew and were familiar with, trust,
9 you'd let them use your car.

10 A: Yeah; uh-huh, (affirmative response).

11 Q: Nothing further.

12 THE COURT: Any redirect?

13 MR. OSKIN: Just briefly.

14 REDIRECT EXAMINATION OF SHANEIKQA SMALLS BY MR. OSKIN:

15 Q: Mr. Bryant was the only person that you let use the car
16 that night; is that correct?

17 A: Yes.

18 MR. OSKIN: That's it from the state, Your Honor. I do
19 ask that Ms. Smalls be released from her subpoena.

20 THE COURT: Any objection?

21 MR. HILLER: No, sir.

22 THE COURT: All right. Ms. Smalls, you are excused and
23 you are released from your subpoena. Thank you for being
24 here.

25 If the state would call its next witness.

STATE V. BRYANT - 2023-GS-26-01882
BY THE COURT

214

1 MR. OSKIN: Your Honor, at this time, the state rests
2 their case in chief.

3 THE COURT: Okay. Ladies and gentlemen, if you will step
4 out to your jury room. We have a few matters of law to take
5 up, and we'll bring you back in. Okay?

6 Just as a reminder, please do not discuss anything. It's
7 not the time to begin deliberating. That will be after
8 closing arguments and after I charge you on the law.

9 (REPORTER'S NOTE: Jury exits courtroom @ 1:48 p.m. The
10 following takes place outside the presence of the jury.)

11 THE COURT: All right. Any motions from the defense?

12 MR. HILLER: Yes, Your Honor.

13 MOTIONS:

14 MR. HILLER: At this time, the defense would respectfully
15 ask this Court to direct a verdict of not guilty pursuant to
16 Rule 19 of the South Carolina Rules of Criminal Procedure. I
17 would argue that even in the light most favorable to the
18 state, the evidence presented thus far in this trial, and this
19 is all the evidence presented this far in this trial is
20 insufficient to bring the case to a jury verdict.
21 Specifically, Your Honor, the record does contain law
22 enforcement statements that the physical appearance of Mr.
23 Bryant that night was inconsistent with the initial
24 description provided by Ms. Hyde.

25 In connection with that, I would renew the motion

STATE V. BRYANT - 2023-GS-26-01882
CLOSING BY DICHIARA

226

1 MR. OSKIN: I just wanted to get the podium ready before
2 we start, Your Honor.

3 THE COURT: Okay, yeah. Just give us a couple of
4 minutes. Once he gets that set up; we'll go from there.

5 (REPORTER'S NOTE: Brief break in record to set up podium.)

6 THE COURT: Let's go ahead and bring them out.

7 (REPORTER'S NOTE: Jury enters courtroom @ 2:29 p.m.)

8 BY THE COURT:

9 THE COURT: All right, ladies and gentlemen. As you
10 heard previously before you were excused, the state has rested
11 in this case. So, now, we'll go to the defense.

12 Mr. Hiller, you can call your first witness.

13 MR. HILLER: Your Honor, at this time, the defense does
14 rest.

15 THE COURT: All right. Ladies and gentlemen, the state
16 has rested, and the defense has rested as well, which
17 indicates that all of the evidence that both parties intend to
18 introduce before you through testimony and other means has
19 been introduced. We will now begin what we commonly call
20 closing arguments. And just as I instructed you at the
21 beginning of this trial, what the attorneys say during closing
22 arguments is not evidence in this case. Now, they may refer
23 to things that are considered evidence in this case, but their
24 statements and what they say during closing arguments are not
25 evidence. You will have a chance after closing and after I

STATE V. BRYANT - 2023-GS-26-01882
CLOSING BY HILLER

227

1 charge you on what the law is, you will have an opportunity to
2 view all of the evidence that's been submitted that will be
3 taken back to your jury room and you will have an ample
4 opportunity to go through all of that together. I will tell
5 you, I have paid attention during the day, and I have noticed
6 that all of you have paid great attention to each one of the
7 witnesses and to the attorneys as they ask questions, and I
8 just want to say I appreciate that. Unfortunately, that is
9 not always the case. Sometimes, we find jurors daydreaming
10 and looking up, and even on the occasion falling asleep, and
11 that certainly wasn't the case today. So, I just want to
12 thank you for that.

13 I do hope that we're gonna be able to finish this case
14 today, but I want you to give the attorneys the same attention
15 that you have given the witnesses, because what they say while
16 it's not evidence it is important. It is certainly important
17 to their respective parties.

18 So, we'll begin with the state giving their closing
19 arguments.

20 Counsel?

21 MR. DICHIARA: May it please the Court, Your Honor?

22 THE COURT: Yes, sir.

23 CLOSING BY MR. DICHIARA:

24 MR. DICHIARA: At the beginning of this trial, my
25 colleague told you that we wouldn't take all week. My

STATE V. BRYANT - 2023-GS-26-01882
CLOSING BY HILLER

228

1 colleague also told you that this isn't the type of case that
2 you would see on Netflix. You guys watched this trial. You
3 saw that there's no do-not-cross yellow tape, no fingerprint
4 evidence, no DNA evidence, nothing like that. This is an old
5 school, crime was committed, got the guy on the night of. So,
6 while we don't have that, but we have our receipts. We have
7 the victim's Cash App receipt, the \$200 that she sent to the
8 defendant's girlfriend as the defendant demanded it from her
9 while he held her at gunpoint. The Cash App receipt told law
10 enforcement where the victim, Ms. Bre'Anna Hyde, where the
11 \$200 went after that armed robbery. The victim's Cash App
12 receipt led law enforcement to locate Ms. Smalls, her black
13 Dodge Avenger, as well as her address. We have a receipt of
14 the vehicle that the defendant drove that night. The victim
15 described it to law enforcement, and it matched the vehicle
16 registered to Ms. Smalls. We have a receipt of that vehicle
17 traveling from the armed robbery location to Ms. Smalls' home
18 minutes after the armed robbery. You heard from Ms. Smalls,
19 and you heard her say that she was home when this armed
20 robbery occurred. Ms. Smalls testified from right there that
21 the defendant, Chriwanta Bryant, was the only person using her
22 vehicle that night.

23 We have a receipt of Ms. Smalls unexpectantly receiving
24 \$200 from the victim in this case. We had an officer tell you
25 how the defendant drove up to Ms. Smalls' house in the black

STATE V. BRYANT - 2023-GS-26-01882
CLOSING BY HILLER

229

1 Dodge Avenger that night. We even have a receipt of the
2 firearm that the defendant used to rob the victim, it was
3 recovered from that black Dodge Avenger he drove on the night
4 in question.

5 Now, the Judge is gonna charge you on the law. He's
6 gonna explain what the elements are for armed robbery and
7 possession of a weapon during a violent crime. But I just
8 want to break it down for you just so when I explain what you
9 had seen, the testimony, the photos, the documents, how I
10 propose to you how that satisfies each of the elements
11 required to prove armed robbery and possession of a weapon
12 during a violent crime beyond a reasonable doubt.

13 Starting with armed robbery, armed robbery can be boiled
14 down to four things. It's the unlawful taking of another
15 person's property by use, by force or threat of force, or
16 possessing of displaying a dangerous weapon with the intent to
17 eternally deprive the owner of their property. So, armed
18 robbery, you've got four elements.

19 And the defendant is also charged with possessing a
20 weapon during a violent crime. That's a little more
21 straightforward. The Judge will instruct you on how these two
22 charges go together, but for now I just say that if you find
23 that an armed robbery was committed, then to prove possession
24 of weapon during a violent crime you just need to find that
25 the defendant was in possession of a weapon during the

STATE V. BRYANT - 2023-GS-26-01882
CLOSING BY HILLER

230

1 commission of a violent crime.

2 Now, in proving this case beyond a reasonable doubt, the
3 state, myself, Senior Prosecutor Seth Oskin, we have the
4 burden of proof. And as you already heard, the burden of
5 proof is beyond a reasonable doubt. That is the highest
6 evidentiary standard in the law, but it is not an
7 insurmountable one. Essentially think of it this way, in a
8 nutshell, I have to leave you firmly convinced that this
9 defendant, Chriwanta Bryant, committed armed robbery and
10 possession of a weapon during a violent crime.

11 So, how do we prove this beyond a reasonable doubt? We
12 put up witnesses and, as the trier of fact, you guys get to
13 determine whether you believe those witnesses, and you guys
14 get to assign weight to the evidence that gets admitted
15 through those witnesses.

16 So, back to how do we prove this case beyond a reasonable
17 doubt? I'm gonna start with the victim in this case, Ms.
18 Bre'Anna Hyde. She told you about the night in question. She
19 told you about how she was in her car about to take off when
20 the defendant had pulled up on her in a black Dodge car. She
21 told you about the defendant walking up to her vehicle
22 (indicates by knocking), saying move and I'll shoot you.
23 Well, Bre'Anna did just that. She stayed still, she hung in
24 there. And in that moment, she didn't have any cash, and she
25 testified she even said, Can I go up to my apartment to get

STATE V. BRYANT - 2023-GS-26-01882
CLOSING BY HILLER

231

1 cash? Luckily, that didn't happen, and the defendant and Bre,
2 they ultimately worked it out on Cash App. The defendant held
3 her at gunpoint while he had Bre'Anna Hyde sent his
4 girlfriend, Ms. Smalls, \$200 in Cash App.

5 So, Ms. Bre'Anna Hyde -- I'm just gonna call her Bre --
6 Bre told us about the vehicle she saw that night. She told us
7 that it was a black car, and she told us about the firearm the
8 defendant had that held her at gunpoint with. She described
9 it as a black skinny long gun, and she described the vehicle
10 as just as such, a black car. The victim also told you about
11 her initial description of the defendant, which was the black
12 male. She described his facial features. She indicated what
13 really stood out to her was his nose, his mouth, his facial
14 hair.

15 Now, there is an aspect of that testimony that I don't
16 want to leave unsettled. The victim testified initially that
17 she had told police that her assailant had short dreads.
18 Don't let that distract you. Ms. Hyde got everything else
19 right even if her description wasn't to the T on point. She
20 got the vehicle, she got the gun. And you heard her talk
21 about the lineup process that she had gone through about 36
22 hours after this incident had occurred. You heard it right
23 there from that witness stand. That victim does not have any
24 skin in the game, and she came in here testified to tell you
25 that she picked this person out with a hundred percent

STATE V. BRYANT - 2023-GS-26-01882
CLOSING BY HILLER

232

1 positivity. It didn't take her longer than 10, 15 seconds.
2 And you also heard from the officer who conducted that sixpack
3 interview with her.

4 Defense counsel may make an issue about there not being
5 any video, but again these things happen in cases, that's why
6 we have these people come and testify. So, if there is a
7 video missing, they come and -- just like Officer Contino did.
8 He put himself on the stand, he made himself ready, willing,
9 and able to answer any questions that defense counsel may have
10 had under cross-examination.

11 I just want to hone in on the victim's identification and
12 how it's reliable because of what she had seen that night.
13 When she was held at gunpoint, she could not have been more
14 than arm's length away from the defendant. She was held at
15 gunpoint for minutes. I believe that her testimony may have
16 been up to 10 minutes that she was under the situation. And
17 when she went to go do that sixpack ID, it wasn't even a full
18 two days after this incident had occurred.

19 You also heard from Officer Robbie Nicholl from Conway
20 Police Department who responded to this armed robbery call.
21 He told you about a meeting with the victim, Ms. Bre'Anna
22 Hyde, about how he obtained it and called out the suspect's
23 description and the vehicle used in the armed robbery, as well
24 as the gun. Officer Nicholl told us how he located Ms.
25 Smalls. He saw, he met with Ms. Bre the victim. He saw her

STATE V. BRYANT - 2023-GS-26-01882
CLOSING BY HILLER

233

1 Cash App. He saw Ms. Smalls' receipt for \$200. And he
2 obtained Ms. Smalls' info through the South Carolina DMV. He
3 also told us how he used an ALPR camera system that tracked
4 that vehicle traveling westbound on 501 toward Ms. Smalls'
5 address 1911 9th Avenue in Conway. He told us about his
6 meeting with Ms. Smalls, and he told us about how he saw her
7 Cash App, how she has -- Ms. Smalls has a Cash App receipt of
8 receiving \$200 for Ms. Bre'Anna Hyde.

9 We also heard how that black Dodge Avenger was searched.
10 When Officer Nicholl testified, he told us that a firearm was
11 recovered from this vehicle. That firearm that was retrieved
12 from the vehicle the defendant drove up to Ms. Smalls'
13 apartment, when police had already been there, matched the
14 description of the gun that the victim had told law
15 enforcement about only minutes beforehand.

16 Finally, you heard from Ms. Smalls. You heard that she
17 was in a relationship with the defendant when this happened,
18 and you heard that she is in a relationship with the defendant
19 right now. Despite that, she still came here and testified
20 that the defendant was the only person using her car that
21 night, and that she unexpectedly received \$200 from someone
22 whom she had never known before. And finally, she testified
23 before you that the defendant asked Ms. Smalls if she got the
24 \$200.

25 As the trier of fact, it is up to you to determine

STATE V. BRYANT - 2023-GS-26-01882
CHARGE TO JURY

234

1 whether or not you find that our witness is credible. It is
2 up to you to determine whether or not you find her evidence
3 credible. You have to determine whether or not you believe
4 the victim, Bre'Anna Hyde. You get to determine whether or
5 not you believe the police officer, Robbie Nicholl. You get
6 to determine whether you believe Ms. Smalls. And you get to
7 determine whether law enforcement got the right guy when they
8 had receipts for almost every aspect of this armed robbery.

9 Ultimately, we're asking you to find Chriwanta Bryant
10 guilty of armed robbery and possession of a weapon during a
11 violent crime, because he held Bre'Anna Hyde up at gunpoint
12 and took \$200 from her.

13 Thank you.

14 THE COURT: Thank you, counsel.

15 Mr. Hiller?

16 MR. HILLER: May it please the Court?

17 THE COURT: Yes, sir.

18 CLOSING BY HILLER:

19 MR. HILLER: Ladies and gentlemen, this should not take
20 too long. To me, it's almost amazing to have a trial so
21 serious with such great stakes for both the state and,
22 obviously, my client, who has everything to lose here today
23 can be over so quickly. But this is the evidence we have.
24 There's not more to present to you. We don't need to just lay
25 the same evidence over and over and over again out. So, if

STATE V. BRYANT - 2023-GS-26-01882
CHARGE TO JURY

235

1 you heard it, we believe you paid attention. I agree with
2 Judge Hyman's assessment that this has been a very attentive
3 jury, and you will very, very soon have this case.

4 What I want to stress to you is that, in all walks of
5 life, details matter. But when we are in General Sessions
6 Court with future and freedom on the line, details are of
7 utmost importance. And the details and the lack -- the un-
8 ability to resolve the disparity in these details is the
9 reason that you must vote not guilty here today.

10 We have a 911 call initiated around 9:11 that night. You
11 heard that from Officer Nicholl. And what -- in real time --
12 we'll just kind of walk through the case sequentially, but in
13 real time, what we learned from that with law enforcement
14 speaking with Ms. Hyde is that a black Dodge Avenger showed up
15 and a skinny black male with dreads got out and presented a
16 long skinny handgun. State's fine with you believe that Ms.
17 Hude was right on the handgun, cause it's here, and the
18 vehicle, cause it's here. They just want you to kind of
19 ignore the elephant in the room that the shorter length
20 dreads, dreads that were actually moving that you could see
21 were a part of the description. Fast forward about a little
22 over an hour, maybe about an hour and 10 minutes I believe was
23 Officer Nicholls testimony that he got to the other apartment
24 complex about 10:16 that evening. So, it was right around an
25 hour later. A vehicle pulls in similar or the same, sure, I

STATE V. BRYANT - 2023-GS-26-01882
CHARGE TO JURY

236

1 mean the license plate is a license plate, right. But what is
2 completely different, the driver. Now, how is he completely
3 different you might wonder? Well, sometimes the absence of
4 evidence is what we have. But we don't have no evidence, and
5 I'm gonna get to remind of what Officer Nicholls said in a
6 minute. But what did you not see today? A photograph of a
7 skinny black male in dreads being detained and arrested that
8 night. The reason you didn't see that is because that is not
9 what Mr. Bryant looked like that night. That would be -- we
10 probably wouldn't be here today if the state had that picture,
11 but they don't. So, even though Officer Nicholl would not
12 concede, I suppose, that his bodycam was the bodycam I was
13 hoping I could show him, and I'm not saying other than that --
14 I couldn't obviously get that before you, but I do believe
15 it's fair for you to infer that Mr. Nicholl is not in all
16 black -- I'm sorry -- Mr. Bryant, excuse me, was not in all
17 black and was not wearing his hair in dreads that night.

18 Now, let's talk about the evidence that we did get out
19 four times. And I asked Officer Nicholl, she said dreads? He
20 does not have dreads. He admitted that -- something he said
21 on bodycam based off her description, it's not going to be
22 him. He admitted he said that on bodycam. She said all black
23 and shoulder' length dreads. He's not in all black, and
24 doesn't have shorter length dreads. Now, the next day when he
25 writes his report, the dreads are just kind of omitted. They

STATE V. BRYANT - 2023-GS-26-01882
CHARGE TO JURY

237

1 don't support the theory that it's Mr. Bryant. It's not a
2 helpful fact anymore. But when the investigation was ongoing,
3 it was a focus. That should give you doubt. And I believe
4 and would submit to you that that doubt remains.

5 Similarly, Ms. Hyde told you on three separate occasions
6 that night, that she described the person who she encountered
7 as wearing his hair in dreads. That doubt still remains, I
8 would submit to you. We also covered the fact that she told
9 law enforcement that night that she could not recall facial
10 hair. And then two days later, the facial hair is a large
11 focus, that and the nose is the focus for why she made an
12 identification within 15 seconds, which the officer of course
13 could remember two-and-a-half years later, but couldn't
14 remember other details that I asked him. And I do want to --
15 I don't want to harp on that, but one of the things that
16 you're allowed to consider in this is bias. I mean,
17 obviously, I don't have the ability -- or you may or may not
18 know this. But in my -- it might not come as a surprise to
19 you that law enforcement doesn't exactly come to my office and
20 sit down with me and help me, you know, prepare a case and
21 review their testimony. It's -- the state preps them, they
22 get what they want out of them. Then I say, and officer, what
23 about this? Oh, I can't recall that. How many times did the
24 officer say I can't recall that to me, how many times did they
25 say I can't recall that to the state?

STATE V. BRYANT - 2023-GS-26-01882
CHARGE TO JURY

238

1 You've got evidence and bias, that's for you to
2 determine. But bias, it does exist, and I would ask that you
3 consider that as you deliberate. I'm not accusing anyone of
4 being unfair, but just think about how many times I can't
5 recall was asked of the defense -- was told to the defense and
6 how many times was it told to the state?

7 I just want to briefly hit on something. Obviously,
8 tracking a vehicle does not equate to tracking a defendant.
9 We can assume, and the state would maybe hope you assume that
10 Mr. Bryant was driving the vehicle at 9 o'clock, even though
11 he doesn't match the description of the person who left that
12 apartment complex at 9 o'clock. According to Mr. Hyde, that
13 person had dreads. But tracking a vehicle does not equal
14 tracking of the defendant. Similarly, Ms. Smalls did not tell
15 you on direct or cross that she knew that Bryant was the only
16 person in her vehicle. In fact, she told me under -- on cross
17 that she couldn't possibly know who else might've been in that
18 vehicle once Mr. Bryant left in that vehicle sometime later
19 that night. She didn't even have a timeline because she was
20 busy cutting hair.

21 So, that leaves us -- getting closer to the end. And
22 that leaves us talking about the major event on February 10th
23 of 2023. Specifically, the photograph lineup that the state
24 wants to seal home a conviction in this case. You guys can
25 take it back to the jury room with you. You will. But this,

STATE V. BRYANT - 2023-GS-26-01882
CHARGE TO JURY

239

1 guys, is fundamentally unfair. The person of interest, the
2 only person of interest is in orange. How is that fair? Now,
3 Mr. Bryant had no ability to control that lineup. He didn't
4 even know it was happening, I would argue. But the state had
5 ultimate control. The state could've -- the state picked the
6 photo they wanted, the state sent the photo they wanted to
7 SLED. The state got the photo they wanted back, and it
8 suggests one of those men does not look like the other in a
9 very fundamental way. And you guys can consider that. You
10 have to be firmly convinced that the identification was
11 proper, whether it's the dreads, whether it's Mr. Bryant
12 sticking out in terms of being the only one clad in brightly-
13 colored outfit. I would say there is one person that has a
14 little bit of white showing; the other four are in black.
15 You've already heard that testimony, but orange stands out
16 more than white would be my position on that. And that, that
17 should lead to reasonable doubt.

18 You're gonna hear that -- of course, the Judge will tell
19 you that Mr. Bryant does not have to testify. He is
20 absolutely protected as an American citizen from testifying.
21 He also has every right to testify. Those are very personal
22 decisions and they're not to be considered.

23 So, here we are at the end of the case. The state has
24 done its best to take that robe of righteousness -- this is
25 what sometimes the burden of -- or the presumption of

STATE V. BRYANT - 2023-GS-26-01882
BY THE COURT

240

1 innocence is known, just a robe of righteousness that we all
2 have. The only way it can be taken off the person sitting in
3 the defendant's chair is by proof beyond a reasonable doubt
4 that a crime occurred. And not only that, that Mr. Chriwanta
5 Bryant is the one who committed it. I believe that there is
6 plenty of evidence presented here today that should cause you
7 to hesitate to act before you could possibly take that robe of
8 righteousness off of him. I would respectfully ask you guys
9 to go back and deliberate fully and find Mr. Bryant not
10 guilty.

11 Thank you.

12 THE COURT: Thank you, Mr. Hiller.

13 CHARGE TO THE JURY:

14 THE COURT: All right, ladies and gentlemen, you have
15 heard closing arguments made by the state and the defense in
16 this case. And now, it is my duty to charge you on what the
17 law is that this case. And I'll remind you that during the
18 trial that you and I do have certain duties to perform. And
19 as the Trial Judge, it's my responsibility to preside over the
20 trial of this case, and I also have the duty to rule on the
21 admissibility of evidence that's been offered during this
22 trial. Now you are to only consider the evidence that's been
23 put before you. If there was any testimony that I ordered
24 stricken from the record, then you must disregard it. You are
25 to consider only the testimony which is been presented from

STATE V. BRYANT - 2023-GS-26-01882
BY THE COURT

241

1 the witness stand, any exhibits which have been made a part of
2 the record in this case, and any stipulations that may have
3 been made by counsel.

4 I also have the additional duty to charge you the law
5 applicable to this case. And as the Presiding Judge, I am the
6 sole judge of the law of this case. And it's your duty as
7 jurors to accept and apply the law as I now state it to you.
8 I will tell you that I wish there was an exciting way to tell
9 you what the law of this case is but unfortunately laws are
10 not written by the legislature to be entertaining. They are
11 written with purpose. So, if you have any idea as to what you
12 believe that the law is or what the law ought to be, and it
13 doesn't agree with what I now tell you the law is, you've got
14 to abandon this idea because you are sworn to accept the law
15 that I apply, and apply the law exactly as I stated to you.
16 That was part of your oath.

17 Now, again, it's -- I am the Judge of the Law. You are
18 the finders of the facts. Now, you have heard testimony,
19 you've seen evidence that's been presented. And it's your
20 duty now to use that evidence to determine what you believe
21 are the facts of this case. And you'll then apply the facts
22 to the law as I know tell you what it is.

23 THE COURT: Now, I told you at the very beginning that in
24 this case, Mr. Chriwanta Cyntonio Bryant had been indicted for
25 two charges, armed robbery and possession of a weapon during

STATE V. BRYANT - 2023-GS-26-01882
BY THE COURT

242

1 the commission of a violent crime. Now, I tell you though
2 that the indictments in this case are not evidence, and I
3 remind you that the fact that the defendant was arrested,
4 charged and indicted in this case, but that's not evidence
5 either, nor does it create any presumption of innocence or of
6 guilt. This document is simply the formal written instrument,
7 which contains the charges.

8 Now, this -- in this case, the defendant has been charged
9 with two separate indictments. And I charge you that each
10 indictment charges a separate and distinct charge. And you
11 must decide each indictment separately based on the evidence
12 as it's been presented to you and apply it to the law as I
13 charge it. But each of them are, again, separately decided.

14 Now I charge you and you heard from both parties on the
15 presumption of innocence. Now, the defendant has pled not
16 guilty in this indictment. And that plea puts the burden on
17 the state to prove the defendant guilty. A person charged
18 with committing a criminal offense in South Carolina is
19 absolutely never required to prove himself innocent. He is
20 always presumed innocent.

21 I charge you that it is an important rule of law that the
22 defendant in a criminal trial, no matter what, and no matter
23 the severity of the charge will always be presumed innocent.
24 They will be presumed innocent until guilt has been proven by
25 evidence satisfying you of that guilt beyond a reasonable

STATE V. BRYANT - 2023-GS-26-01882
BY THE COURT

243

1 doubt. This presumption of innocence does not end when you
2 begin your deliberation, but it accompanies the defendant
3 throughout the trial until you reach a unanimous verdict of
4 guilt based on evidence satisfying you of that guilt beyond a
5 reasonable doubt. I tell you that the presumption of
6 innocence is not merely a legal theory. It's not just a legal
7 phrase. It is a substantial right to which every defendant is
8 entitled unless you, the jury, are satisfied from the evidence
9 of the defendant's guilt beyond a reasonable doubt.

10 Now, I will next charge you as to reasonable doubt.
11 Reasonable doubt is the kind of doubt that would cause a
12 reasonable person to hesitate to act. The state, again, has
13 the burden of proving the defendant guilty beyond a reasonable
14 doubt. Now, some of you may have served as jurors in civil
15 cases where you were told that it is only necessary to prove
16 that a fact is more likely true than not, such as by the
17 greater weight or by the preponderance of the evidence. Now,
18 in criminal cases, the state's proof must be much more
19 powerful than that. It must be beyond a reasonable doubt.
20 Now, proof beyond a reasonable doubt is proof that leaves you
21 firmly convinced of the defendant's guilt. There are very,
22 very few things in life and in this world that we know with
23 absolute certainty. And in criminal cases, the law does not
24 require proof that overcomes every possible doubt. If based
25 on your consideration of the evidence, you are firmly

STATE V. BRYANT - 2023-GS-26-01882
BY THE COURT

244

1 convinced that the defendant is guilty of the crime charged,
2 then you must find the defendant guilty. If on the other hand
3 you think there is a real possibility that the defendant is
4 not guilty, then you must give the defendant the benefit of
5 the doubt and find him not guilty.

6 I next charge you as to direct and circumstantial
7 evidence. Now, there are two different types of evidence,
8 those being direct and circumstantial. Direct evidence is the
9 testimony of a person who claims to have actual knowledge of a
10 fact. This is commonly seen in the form of an eyewitness.
11 Now, circumstantial evidence is proof of a chain of facts and
12 circumstances indicating the existence of a fact. The law
13 makes absolutely no distinction between the weight or value to
14 be given to either direct or circumstantial evidence. Nor is
15 a greater degree of certainty required of circumstantial
16 evidence than of direct. You should weigh all of the evidence
17 of this case. After weighing all of the evidence, if you are
18 not convinced of the guilt of the defendant beyond a
19 reasonable doubt, then you must find the defendant not guilty.
20 Now, crimes may be proven by circumstantial evidence. The law
21 makes no distinction between the weight or value to be given
22 to either direct or circumstantial. However, to the extent
23 that the state relies on circumstantial evidence, the
24 circumstances must be consistent with each other, and when
25 taken together point conclusively to the guilt of the accused

STATE V. BRYANT - 2023-GS-26-01882
BY THE COURT

245

1 beyond a reasonable doubt. If these circumstances merely
2 portray the defendant's behavior as suspicious, then that
3 proof has failed. Again, the state has the burden of proving
4 the defendant guilty beyond a reasonable doubt. This burden
5 rests with the state regardless of whether the state relies on
6 direct evidence, circumstantial evidence or some combination
7 of both.

8 I next charge you on credibility of witnesses. You must
9 determine the credibility of the witnesses who have testified
10 in this case. Credibility simply means believability. It
11 becomes your duty as jurors to analyze and to evaluate the
12 evidence and determine which evidence convinces you that it is
13 true. In determining the believability of witnesses who have
14 testified in this case, you may believe one witness over
15 several witnesses, or several witnesses over one witness. You
16 may believe a part of the testimony of a witness and reject
17 the remaining part of that same witness. You may believe the
18 testimony of a witness in its entirety or reject the testimony
19 of a witness in its entirety. You may consider whether any
20 witness has exhibited to you any interest, bias, prejudice, or
21 other motive in the case. You must also consider the
22 appearance and manner of a witness while on the witness stand.

23 I next instruct you and emphasize the fact that the
24 defendant did not testify in this case. I will tell you that
25 that factor is not something to be considered by you in any

STATE V. BRYANT - 2023-GS-26-01882
BY THE COURT

246

1 way in your deliberation and in your consideration of the
2 questions of the guilt or innocence of the defendant. It must
3 not be considered by you in any manner whatsoever. A
4 defendant has the constitutional right to remain silent, and
5 the assertion of this right must not be considered by you in
6 your deliberations. I repeat under your oath you are to draw
7 no conclusion whatsoever from the fact that the defendant in
8 this case did not testify. The fact that this defendant did
9 not testify should not even be discussed in the jury room.
10 The burden of proof, as I've stated to you, is on the state.
11 The defendant is not required to prove his innocence. The
12 burden of proof remains on the state to prove guilt beyond a
13 reasonable doubt.

14 I next charge you that in any case involving a crime that
15 in order to -- you have to establish criminal liability and
16 that criminal intent is required. For example, the mental
17 state required to be proven by the state for a particular
18 crime must be -- might be purpose, intent, knowledge,
19 recklessness, or criminal negligence. Criminal intent must be
20 proven by the state beyond a reasonable doubt. Criminal
21 intent is always a matter that must be determined by the jury
22 from the circumstances surrounding the situation. There is no
23 way to prove intent to a mathematical certainty. There is no
24 way medical science can dissect a person's brain and determine
25 what the person had in mind. So, the law says that the

STATE V. BRYANT - 2023-GS-26-01882
BY THE COURT

247

1 criminal intent may be inferred from the circumstances shown
2 to have existed. This is how you make a determination of
3 whether or not the element required of intent was present.
4 It's not necessary to establish intent by direct and positive
5 evidence, but intent may be established by inference in the
6 same way as any other fact, by taking into consideration the
7 acts and the evidence that is been presented.

8 An issue in this case is the identification of the
9 defendant as the person who committed this crime. The state
10 has the burden of proving identity beyond a reasonable doubt.
11 You must be satisfied beyond a reasonable doubt and firmly
12 convinced of the identification of the defendant before you
13 may convict the defendant. Identification testimony is an
14 expression or belief, or impression by witness. You must
15 determine the accuracy of the identification of the defendant.
16 You must consider the believability of each identification
17 witness in the same way as any other witness. You may
18 consider whether the witness had an adequate opportunity to
19 observe the offender at the time of the offense. This will be
20 affected by things like how long or how short of a time was
21 available, how far or how close the witness was, the lighting
22 conditions, and whether the witness had a chance to see or
23 know the person in the past.

24 Once again, I instruct you that the burden of proof is on
25 the state, and it extends to every element of the crime

STATE V. BRYANT - 2023-GS-26-01882
BY THE COURT

248

1 charged. And this specifically includes the burden of proving
2 beyond a reasonable doubt the identity of the defendant as the
3 person who committed the crime. If after examining all the
4 testimony and all of the evidence, you have a reasonable doubt
5 as to the accuracy of the identification then you must find
6 the defendant not guilty.

7 I next charge you as to the law armed robbery. The
8 defendant is charged with armed robbery. And in order to
9 prove this event, the state must first prove, again, beyond a
10 reasonable doubt that the defendant took personal property
11 from the person or presence of another person. Property is in
12 the presence of a person if it is within the person's reach,
13 inspection, observation, or control so that the person could,
14 if not overcome with violence or prevented by fear, keep the
15 possession of the property. The state must also prove beyond
16 a reasonable doubt that the defendant carried the property
17 away and kept the property of the defendant for the
18 defendant's on use. The slightest removal of the property or
19 the complete possession of the property, even for an instance
20 by the defendant is sufficient to show a taking and carrying
21 away of the property. The taking and carrying away of the
22 property must have been done with violence or by putting the
23 owner of the property in fear of violence.

24 Finally, the state must prove beyond reasonable doubt
25 that the defendant was armed with a deadly weapon during the

STATE V. BRYANT - 2023-GS-26-01882
BY THE COURT

249

1 robbery. A deadly weapon is any article, instrument, or
2 substance which is likely to cause death or great bodily harm.
3 Whether an instrument has been used as a deadly weapon depends
4 on the facts and circumstances of each case. The following
5 are examples of instruments which may be deadly weapons: a
6 pistol, a shotgun, a rifle, a dirk, a dagger, a knife, a
7 slingshot, metal knuckles, a razor, gasoline, a firebomb or
8 Molotov cocktail, and lighter fluid.

9 I next charge you as to possession of a weapon during the
10 commission or attempt to commit a violent crime. The
11 defendant is charged with possession of weapon during the
12 commission of a violent crime. The state must prove beyond a
13 reasonable doubt that the defendant was in possession of a
14 firearm, and that he displayed the firearm during the
15 commission of a violent crime. A firearm means any machine
16 gun, automatic rifle, revolver, pistol, or any weapon which is
17 designed to or readily converted to expel a projectile. In
18 order to find the defendant guilty of possession of a weapon
19 during the commission of a violent crime, you must first find
20 the defendant guilty of either committing a violent crime or
21 attempting to commit a violent crime. I will tell you that
22 armed robbery in the state of South Carolina is a violent
23 crime. The state must prove beyond a reasonable doubt that
24 the weapon furthered, advanced, or helped in the commission of
25 the crime.

STATE V. BRYANT - 2023-GS-26-01882
BY THE COURT

250

1 Now, ladies and gentlemen, I have your jury verdict form
2 here, and there are essentially two questions on the jury
3 verdict form. The verdict simply states: As to the charge of
4 armed robbery, we, the jury, unanimously find the defendant --
5 and then there's two areas. There's one that has guilty and
6 one that has not guilty. You will circle what you're finding
7 is. And again, that finding has to be unanimous. If you find
8 him guilty of armed robbery, you will then go to the second
9 question which is: As to the possession of weapon during the
10 commission of a violent crime, we, the jury, unanimously find
11 the defendant guilty or not guilty. I tell you that if you
12 find the defendant not guilty of armed robbery, you are not to
13 consider the second charge.

14 After deliberation and once you reach a unanimous
15 verdict, the foreperson will sign the bottom of the jury --
16 excuse me -- sign the bottom of the verdict form and let the
17 bailiff know.

18 Now, ladies and gentlemen, I will tell you that in just a
19 moment I'm going to excuse you to go back to the jury room and
20 we're gonna make sure that we can gather all of the evidence
21 and take it back to you, but you're not to begin deliberating
22 until you've received the evidence and also received the
23 verdict form.

24 Mr. Foreman, I'll tell you, and I mentioned this at the
25 beginning of the trial, you are the foreman for this case and

STATE V. BRYANT - 2023-GS-26-01882
VERDICT OF JURY

251

1 ultimately it will be your duty when you begin deliberating to
2 make sure that everybody has an opportunity to be heard.
3 Everybody should be given the opportunity to say their piece
4 and to say what they believe the facts in this case are, to
5 indicate whether or not they believe somebody is guilty or
6 not. If they don't have a decision yet, maybe through talk
7 amongst yourselves, y'all can reach a decision. But the
8 verdict of this jury must be unanimous. This is not a
9 majority; it means that all 12 of you must unanimously find
10 this defendant either guilty or not guilty.

11 Again, I want to thank you for your time. I understand
12 that jury charges are not the most exciting things in the
13 world, but I appreciate your attentiveness. I am going to
14 excuse you now to your jury room while we get the evidence
15 together.

16 To the two alternates, I'm gonna ask that you stay out in
17 the hall, and I meet with you guys in just a second. Okay?

18 (REPORTER'S NOTE: Jury exits courtroom @ 3:11 p.m. The
19 following takes place outside the presence of the jury.)

20 BY THE COURT:

21 THE COURT: Any objection to the charge by the state?

22 MR. OSKIN: No, sir, Your Honor.

23 THE COURT: Anything from the defense?

24 MR. HILLER: No, sir.

25 THE COURT: All right. If I can get you guys, and Ms.

STATE V. BRYANT - 2023-GS-26-01882
VERDICT OF JURY

252

1 Dietle as well, y'all to come up and go over the evidence,
2 make sure that somebody hasn't walked back to the table was
3 something. Once y'all agree on that, I'll have the clerk to
4 go ahead and take all of it back to the jury.

5 Do y'all want to keep the firearm in here and allow them
6 to come back in if they wish to view it?

7 MR. OSKIN: I believe that's up to the sheriff. I'm fine
8 to leave it in here. It's not loaded.

9 THE COURT: Whatever you decide as far as that.

10 All right. We'll be at ease.

11 (REPORTER'S NOTE: Exhibits reviewed and stipulated to by
12 counsel.)

13 **RECESS - 3:14 P.M.**

14 *****OFF THE RECORD*****

15 (REPORTER'S NOTE: Deliberations commence at 3:16 p.m.)

16 **ON THE RECORD - 4:03 P.M.**

17 THE COURT: All right. I've been informed that the jury
18 has reached a verdict. Anything before we bring the jury in?
19 From the state?

20 MR. OSKIN: Nothing from the state, Your Honor.

21 THE COURT: Anything from the defense?

22 MR. HILLER: No, Your Honor.

23 THE COURT: All right. Let's go ahead and bring them in.

24 (REPORTER'S NOTE: Jury enters courtroom @ 4:05 p.m.)

25 THE COURT: All right. Ladies and gentlemen, I

STATE V. BRYANT - 2023-GS-26-01882
POLLING OF JURY

253

1 understand that we have verdict.

2 Is that correct, Mr. Foreman?

3 JUROR 331: Yes, sir.

4 THE COURT: If you'll hand the verdict to the deputy and
5 she'll bring it up to me.

6 THE COURT: All right. Madame Clerk, you may publish the
7 verdict.

8 VERDICT OF THE JURY:

9 THE CLERK: Indictment Number 2023-GS-26-01882 and
10 Indictment Number 2023-GS-26-01883, the State of South
11 Carolina, County of Horry versus Chriwanta Bryant, when it
12 comes to the charge of armed robbery, we, the jury, by
13 unanimous consent find the defendant guilty. As to the charge
14 of possession of a weapon during of a crime, we, the jury,
15 find the defendant guilty. Signed by your foreperson William
16 Seddinger, marked or dated July 15th, 2025.

17 BY THE COURT:

18 THE COURT: All right. Ladies and gentlemen, is that
19 your verdict? Signify by raising your right hand, please.
20 (REPORTER'S NOTE: Jury unanimous complies.)

21 THE COURT: Does the defense wish for the jury to be
22 individually polled?

23 MR. HILLER: In this instance, yes, Your Honor.

24 THE COURT: All right.

25 Madame Clerk, if you'll individually poll the jury,

STATE V. BRYANT - 2023-GS-26-01882
CERTIFICATE OF COURT REPORTER

263

1 Mr. Bryant, as the state indicated and as your attorney
2 indicated, my hands are somewhat tied. Generally speaking,
3 when I have an armed robbery case, there is a sentencing range
4 of 10 to 30 years. In a case where the defendant has been put
5 on notice of the intention to seek life without parole,
6 pursuant to 17-25-45 of the South Carolina Code, it says that
7 I must sentence you to life without parole. So, I can't
8 sentence you to anything less than that.

9 Mr. Bryant, I don't know what was occurring that night
10 and what made you feel that you had to do this, but it has
11 obviously put yourself and your family in a bad position.

12 The sentence of this Court as to the armed robbery,
13 pursuant to statute, is life without parole.

14 As for the possession of a weapon during the commission
15 of a violent crime, the sentence will be five years to run
16 concurrent with your life without parole.

17 Mr. Bryant, good luck to you, sir.

18 Does the five have to be ---

19 MR. HILLER: I think it just kind of goes down as a
20 condition, but as a zero.

21 THE COURT: I think it is because it's ---

22 MR. HILLER: There is some weird -- I just don't have it
23 off the top of my head, but I ---

24 THE COURT: There is. You can't -- it can't run
25 consecutive to a life, but we'll just have the conviction

STATE V. BRYANT - 2023-GS-26-01882
CERTIFICATE OF COURT REPORTER

264

1 then, and we'll do it as a time served then, because it's --
2 all right.

3 And Mr. Hiller, do you happen to know for the record how
4 many days he has?

5 MR. HILLER: No, Your Honor. There's the whole issue
6 with being out on bond and as you heard the new offenses. So,
7 in those situations, it's -- I really don't know.

8 THE COURT: Okay. I'm going to give him any credit for
9 the time that he has, if there is any, pursuant to our bond
10 code. But that will be the sentence of the Court.

11 Thank you, sir.

12 **ADJOURNED @ 4:20 P.M.**

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Conway Police Department

1600 9th Ave
Conway, S.C. 29526
843-248-1790



Photo Line-up Form

I am going to show you a group of photographs. This group may or may not contain a picture of a person who committed a crime now being investigated. Keep in mind that hairstyles, beards, mustaches may be easily changed. Also, photographs may not always depict the true complexion of a person. When you have looked at all the photos, tell me if you recognize any individual in this line-up. Do not discuss this line-up with any other witnesses.

Signature of person viewing Line-up: Bruce D. Byrd

Officer/ Detective: J. C. Star 919

After viewing the Photo Line-up, I am 100% positive that the person in photograph, labeled as # 3, is the person I observed involved in a crime in the City Limits of Conway, South Carolina on 2/8/23.

I have indicated that I am 100% positive that this is the person responsible for a crime in the City Limits of Conway. I have indicated this by selecting the number as shown above. I have also initialed a copy of the original line-up presented to me on 2/10/23.

Signature of person viewing Line-up: Bruce D. Byrd

Officer/ Detective: J. C. Star 919

The photo line-up viewed will be attached to this form.

Case Number: 2023002756

Date/ Time: 2/10/23 10:59 AM

WITNESSES

2017 Robert P Nicholl Conway Police Department

Josh Scott

DOCKET NO. 2023GS2601882

The State of South Carolina

County of Horry

George H. DeBusk, Jr.
23H00777

COURT OF GENERAL SESSIONS

APRIL, 2023 TERM

FILED
HORRY COUNTY

2023 APR 20 P 2:34

RENEE N. ELVIS
CLERK OF COURT
HORRY COUNTY, SC

ARREST WARRANT NUMBER

2023A2620400114

CDR: 0139 16-11-0330(A)

DOA: 2/9/2023

THE STATE

vs.

Chriwanta Cyntonio Bryant
B/ M

DOB: [REDACTED]
SSN: [REDACTED]

ATTORNEY: J. Eric Fox

Indictment for

ARMED ROBBERY

Jimmy A. Richardson, II, Solicitor

ORIGINAL

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury
Date:

APR 19 2023

VERDICT

Foreperson of Petit Jury
Date:

STATE OF SOUTH CAROLINA)
)
COUNTY OF HORRY)

INDICTMENT

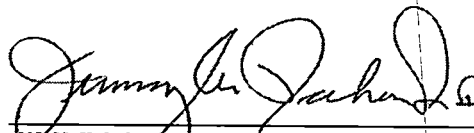
At a Court of General Sessions, convened on April 19, 2023, the Grand Jurors of Horry County present upon their oath:

ARMED ROBBERY

CDR: 0139 16-11-0330(A)

That Chriwanta Cyntonio Bryant did in Horry County on or about February 8, 2023, while armed with a deadly weapon and/or while alleging, either by action or words, was armed while using a representative of a deadly weapon or any object which a person present during the commission of the robbery reasonably believed to be a deadly weapon, take and carry away personal property of Bre'Anna Hyde from or in the immediate presence of Bre'Anna Hyde with intent to deprive Bre'Anna Hyde of possession by use of force, threats or intimidation, in violation of Section 16-11-0330(A), S. C. Code of Laws, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



JIMMY A. RICHARDSON, II
FIFTEENTH CIRCUIT SOLICITOR

WITNESSES

Robert P Nicholl Conway Police Department

Sash Scott

209

ARREST WARRANT NUMBER

2023A2620400115

CDR: 0549 16-23-0490

DOA: 2/9/2023

ACTION OF GRAND JURY

TRUE BILL

[Signature]
Foreperson of Grand Jury
Date:

APR 19 2023

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2023GS2601883

The State of South Carolina

County of Horry

George H. DeBusk, Jr.
23H00777

COURT OF GENERAL SESSIONS

APRIL, 2023 TERM

THE STATE

vs.

Chriwanta Cyntonio Bryant

B/ M

DOB:

SSN:

ATTORNEY: J. Eric Fox

Indictment for

**POSSESSION OF WEAPON DURING
COMMISSION OF VIOLENT CRIME**

Jimmy A. Richardson, II, Solicitor

ORIGINAL

**FILED
HORRY COUNTY**

2023 APR 20 P 2:34

**RENEE N. ELVIS
CLERK OF COURT
HORRY COUNTY, SC**

DATE RECEIVED FROM

GRAND JURY

STATE OF SOUTH CAROLINA)
)
COUNTY OF HORRY)

INDICTMENT

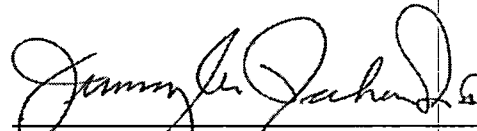
At a Court of General Sessions, convened on April 19, 2023, the Grand Jurors of Horry County present upon their oath:

**POSSESSION OF A WEAPON DURING THE COMMISSION
OF A VIOLENT CRIME**

CDR: 0549 16-23-0490

That Chriwanta Cyntonio Bryant did in Horry County, on or about February 8, 2023, possess a firearm, or visibly display what appeared to be a firearm, or visibly displayed a knife, during the commission or attempted commission of a violent crime, in violation of Section 16-23-0490, S. C. Code of Laws, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



JIMMY A. RICHARDSON, II
FIFTEENTH CIRCUIT SOLICITOR

STATE OF SOUTH CAROLINA
COUNTY OF HORRY

SENTENCE ORDER

IN THE COURT OF GENERAL SESSIONS

211

STATE vs.

Chriwanta Cyntonio Bryant

AKA: Chriwanta
Cyntonio/MINOR Bryant
Chriwanta Bryant

SSN: [REDACTED]

RACE: B SEX: M

DOB: [REDACTED]

) INDICTMENT/CASE#: 2023GS2601882

) AW#: 2023A2620400114

) Date of Offense: 02/08/2023

) S.C Code§: 16-11-0330(A)

) CDR Code #: 0139

) Range of Offense: Armed Robbery (NLT 10 years to 30 years)

In disposition of the above indictment comes now the Defendant who was CONVICTED OF ☒ or ☐ PLEADS

TO: Armed Robbery

Range of Offense Pled: (NLT 10 years to 30 years)

In violation of § 16-11-0330(A) of the S.C. Code of Laws, bearing CDR Code # 0139

☐ NON-VIOLENT

☒ VIOLENT

☐ SERIOUS

☒ MOST SERIOUS

☐ MANDATORY GPS

☐ § 17-25-45

(CSC w/minor 1st or CSC w/minor 3rd)

The charge is: ☒ As indicted

☐ Lesser Included Offense

☐ Defendant Waives Presentment to Grand Jury

The plea is: ☐ w/o Rec/Negotiations ☐ Negotiated

☐ Recommendation

Anthony J. DiChiara
Solicitor

105966

SC Bar #

Jonathan Hiller, Attorney
for Defendant

76482

SC Bar #

The Defendant is committed to the ☒ **SCDC** ☐ **County Detention Center** ☐ **Home Incarceration Program**

for a determinate term of LIFE days/months/years/Time Served ☐ YOANTE _____ years and/or shall pay a fine

of \$ _____; provided that upon the service of _____ days/months/years/Time Served and or payment

of \$ _____ plus costs and assessments as applicable*; balance is suspended with **probation** for _____ months/years

and subject to SCDPPPS standard conditions of probation, which are incorporated by reference.

The sentence shall run ☐ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____

☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by SCDC

_____ days/months ☐ To include time spent on monitored house arrest prior to trial and sentencing

SPECIAL CONDITIONS:

☐ PTUP _____

☐ No Contact with Victim

☐ Domestic Violence Intervention Program

☐ Hold for Inpatient Treatment

☐ Sex Offender Registry pursuant to S.C. Code § 23-3-430

☐ SAC/MHC if necessary

☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135

☐ Other: _____

☐ **RESTITUTION See Separate Order (20% per S.C. Code §24-21-490(B))**

§14-1-206 (Assessments 107.5%)

§14-1-211 (A)(1) Conv. Surcharge)

§14-1-211 (A)(2)(DUI Surcharge)

§56-5-1995 (DUI Assessment)

§56-1-286 (DUI Breath Test)

§14-1-212 (Law Enforcement Funding)

§14-1-213 (Drug Court Surcharge)

§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)

§50-21-114 (BUI Breath Test Fee)

§56-5-2942(J) (Vehicle Assessment)

3% to County (if paid in installments)

☐ Appointed PD or appointed other counsel. Provisio requires \$500 to be paid to Clerk during probation and shall be collected before any other fees

☐ §17-3-45(B) Unpaid Application Fee to be paid to the Public Defender Fund

Restitution

FINE:

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Renee Elwis

Clerk of Court/Deputy Clerk

Karl Richardson 2776

Court Reporter

Judge Code

Sentence Date

Presiding Judge

SCCA217B
01/27/2025

IN THE COURT OF GENERAL SESSIONS

SCCA217B
01/27/2025

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,

RECEIVED

Aug 03 2026

SC Court of Appeals



Lara M. Caudy
Senior Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

ATTORNEY FOR APPELLANT

This 3rd day of August, 2026.