

 ORIGINAL

STATE OF SOUTH CAROLINA

In The Court of Appeals

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APPEAL FROM CHARLESTON COUNTY

SC Court of Appeals

Roger M. Young, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

LATRONE TERRELL BUTLER,

APPELLANT

APPELLATE CASE # 2014-000189

RECORD ON APPEAL

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STATE OF SOUTH CAROLINA	COURT OF GENERAL SESSIONS
COUNTY OF CHARLESTON	2012-GS-10-03303
	2012-GS-10-03304
	2012-GS-10-03305

STATE OF SOUTH CAROLINA)	
)	TRANSCRIPT OF RECORD
-vs-)	
)	January 15-17, 2014
LATRONE BUTLER,)	
)	Charleston, South Carolina
Defendant.)	

B E F O R E:

The Honorable Roger M. Young, Sr., Judge and a Jury.

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Circuit Court Reporter

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	E X H I B I T S			
	NO.	DESCRIPTION	ID.	EV.
1				
2				
3	State's 1	Aerial view of trailer park	90	90
4	State's 2	Photograph	90	90
5	State's 3	Photograph	90	90
6	State's 4	Photograph	90	90
7	State's 5	Photograph	90	90
8	State's 6	Photograph	90	90
9	State's 7	Photograph	90	90
10	State's 8	Photograph	90	90
11	State's 9	Photograph	90	90
12	State's 10	Photograph	90	90
13	State's 11	Photograph	90	90
14	State's 12	Photograph	90	90
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19	State's 17	Photograph	90	90
20	State's 18	Photograph	90	90
21	State's 19	Photograph	90	90
22	State's 20	Photograph	90	90
23	State's 21	Photograph	90	90
24	State's 22	Photograph	90	90
25				

1	E X H I B I T S .			
2	NO.	DESCRIPTION	ID.	EV.
3	State's 24	Photograph	90	90
4	State's 25	Photograph	90	90
5	State's 26	Photograph	90	90
6	State's 27	Photograph	90	90
7	State's 28	Photograph	90	90
8	State's 29	Photograph	90	90
9	State's 30	Photograph	90	90
10	State's 31	Photograph	90	90
11	State's 32	Photograph	90	90
12	State's 33	Photograph	90	90
13	State's 34	Photograph	90	90
14	State's 35	Photograph	90	90
15	State's 36	Photograph	90	90
16	State's 37	Photograph	90	90
17	State's 38	Photograph	90	90
18	State's 39	Photograph	220	220
19	State's 40	Photograph	220	220
20	State's 41	Photograph	202	202
21	State's 42	Photograph	202	202
22	State's 43	Photograph	90	90
23	State's 44	Photograph	90	90
24	State's 45	Photograph	90	90
25	State's 46	Photograph	90	90

1	E X H I B I T S			
2	NO.	DESCRIPTION	ID.	EV.
3	State's 47	Photograph	90	90
4	State's 48	Photograph	90	90
5	State's 49	Photograph	90	90
6	State's 50	Photograph	90	90
7	State's 51	Photograph	90	90
8	State's 52	Photograph	90	90
9	State's 53	Photograph	90	90
10	State's 54	Photograph	90	90
11	State's 55	Photograph	90	90
12	State's 56	Photograph	226	226
13	State's 57	Photograph	90	90
14	State's 58	Photograph	90	90
15	State's 59	Photograph	90	90
16	State's 60	Photograph	226	226
17	State's 61	Photograph	90	90
18	State's 62	Photograph	90	90
19	State's 63	Photograph	90	90
20	State's 64	Photograph	90	90
21	State's 65	Photograph	90	90
22	State's 66	Photograph	90	90
23	State's 67	Photograph	90	90
24	State's 71	Photograph	90	90
25	State's 72	Photograph	90	90

1	E X H I B I T S			
2	NO.	DESCRIPTION	ID.	EV.
3	State's 73	Photograph	90	90
4	State's 74	Photograph	90	90
5	State's 75	Photograph	90	90
6	State's 76	Photograph	90	90
7	State's 77	Photograph	90	90
8	State's 78	Blue jean jacket	228	228
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E X H I B I T S

NO.	DESCRIPTION	ID.	EV.
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LETTY MARTIN - DIRECT BY MS. SHEALY

1 your witness?

2 MS. SHEALY: Your Honor, we're ready to
3 proceed.

4 THE COURT: All right. Call your witness.

5 MS. SHEALY: Letty Martin.

6 LETTY MARTIN,

7 having been first duly sworn,
8 was examined and testified as follows:

9 DIRECT EXAMINATION

10 BY MS. SHEALY:

11 Q. Ms. Martin, if you would, for purposes of this
12 hearing, tell the judge how old you are.

13 A. Sixty-nine.

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

15 A. High school graduate and business school.

16 Q. Focussing your attention back to December 5th of
17 2011, could you tell the Court whether or not you were
18 the victim of a carjacking and attempted murder and
19 kidnapping.

20 A. Yes, I was.

21 Q. And without the detail of the actual crime at that
22 point, could you tell the Court whether or not you called
23 911 that evening or had someone else call 911 for you?

24 A. Someone else called for me.

25 Q. And do you recall what kind of description you

LETTY MARTIN - DIRECT BY MS. SHEALY

1 gave of the person who attacked you that evening?

2 A. Yes.

3 Q. Could you tell the Court what description you
4 gave.

5 A. A black male, maybe five-ten to six feet tall. I
6 guessed weight at 180 pounds.

7 Q. And did you know who the individual was?

8 A. No.

9 Q. That evening, did you hear any officer mention a
10 name of a possible suspect based on your description?

11 A. Yes.

12 Q. And what name was mentioned?

13 A. Latrone Butler.

14 Q. When you heard the name Latrone Butler, did that
15 mean anything to you?

16 A. No.

17 Q. Did you at that point know who Latrone Butler was?

18 A. No.

19 Q. Two days later were you asked to go to the
20 sheriff's department for purposes of looking at a lineup?

21 A. Yes.

22 Q. And when you got there, could you tell the judge,
23 if you would, did they also take some photographs of your
24 injuries while you were there?

25 A. Yes, they did.

LETTY MARTIN - DIRECT BY MS. SHEALY

1 Q. Showing you --

2 MS. SHEALY: Your Honor, for purposes of this
3 hearing, I would like to have the admonition sheet and
4 the actual lineup marked as a Court's exhibit, if that's
5 okay.

6 THE COURT: Okay.

7 BY MS. SHEALY:

8 Q. Ms. Martin I'm going to show you what's been
9 marked as Court's Exhibit No. 1, and first, if you could
10 tell the Court, please, do you remember who asked you to
11 come down to the sheriff's office?

12 A. Detective Smith.

13 Q. And Detective Smith is a female?

14 A. Yes.

15 Q. When you got there, did she go over some aspects
16 of the lineup reflected on the form in front of you?

17 A. Yes.

18 Q. And could you advise the Court whether or not
19 those are your initials by items number one through
20 seven.

21 A. Yes, they are.

22 MS. SHEALY: And, Judge, I think for purposes
23 of this hearing, I can hand you a copy.

24 BY MS. SHEALY:

25 Q. I don't think I need go through each of those, but

LETTY MARTIN - DIRECT BY MS. SHEALY

1 did you read them or have them read to you before
2 initialling?

3 A. I read them.

4 Q. What was your understanding of the lineup that you
5 would be shown? Were you told the person was definitely
6 in there?

7 A. No.

8 Q. Were you told the name of any of the people in the
9 lineup?

10 A. No.

11 Q. Was the name Latrone Butler mentioned in your
12 presence at that time?

13 A. No.

14 Q. Did Ms. Smith, in fact, show you the lineup and
15 give you an opportunity to evaluate them?

16 A. Yes.

17 Q. After having done so, did you, in fact, identify
18 anyone?

19 A. I did.

20 Q. And looking at Court's Exhibit No. 1 on the second
21 page, could you tell us whether or not you initialed a
22 person identified in that lineup?

23 A. Yes.

24 Q. After having done so -- well, prior to that, did
25 Detective Smith at in any manner suggest to you that the

LETTY MARTIN - DIRECT BY MS. SHEALY

1 person who did this to you was in the lineup?

2 A. No.

3 Q. Did she suggest to you which one might be the
4 person who did this to you?

5 A. No.

6 Q. Did she attempt to lead you in any fashion to
7 choose one of the people in the lineup?

8 A. No.

9 Q. After having put your initials by one of the
10 photographs, did you, in fact, enter a statement on the
11 cover of Court's Exhibit 1?

12 A. Yes.

13 Q. And is that listed under witness identification
14 statements?

15 A. Yes, it is.

16 Q. Would you tell the Court, please, what you said?

17 A. He looks most like a person that car jacked me and
18 tried to kill me.

19 Q. Okay. You're going to have to speak up for us
20 just a little bit.

21 A. He looks most like the person that car jacked me
22 and tried to kill me.

23 Q. And did you, in fact, sign that document?

24 A. I did.

25 Q. And is your name reflected under the witness

LETTY MARTIN - DIRECT BY MS. SHEALY

1 signature?

2 A. Yes, it is.

3 Q. And did you print on the line beneath your
4 signature your name?

5 A. Yes, I did.

6 Q. Who all was present with you when this
7 identification was made?

8 A. Just Detective Smith.

9 Q. And at some point did you see Detective Perkins on
10 that same evening?

11 A. I did.

12 Q. And did he, in fact, come in and also witness
13 beneath Detective Smith's signature?

14 A. Yes.

15 Q. Would you tell the Court whether any member of law
16 enforcement suggested to you -- first of all, what
17 Latrone Butler looked like?

18 A. No, no one did.

19 Q. And anyone suggest to you when you're shown the
20 lineup the person is definitely going to be in there?

21 A. No one said that, no.

22 Q. Did anyone in law enforcement indicate to you
23 which one you should choose?

24 A. No.

25 MS. SHEALY: I have no further questions

1 regarding this with Ms. Martin. Please answer any the
2 defense may have.

3 THE COURT: Cross?

4 CROSS-EXAMINATION

5 BY MS. FORD:

6 Q. Hello, Ms. Martin.

7 A. Hello.

8 Q. So at the time the police came out, they were
9 interested in getting a description of the person from
10 you, correct?

11 A. Yes.

12 Q. And the description you gave was male, black male,
13 correct?

14 A. Yes.

15 Q. In his 20's?

16 A. I thought late 20's maybe.

17 Q. And as far as him being black, you gave no further
18 details if he was light, dark, or medium black?

19 A. No.

20 Q. And you say the guy was wearing jeans?

21 A. Yes.

22 Q. But you never said if he was wearing light or dark
23 jeans?

24 A. No.

25 Q. And you said he was wearing a dark jacket?

LETTY MARTIN - CROSS BY MS. FORD

1 A. Yes.

2 Q. And you never say what color jacket, just dark?

3 A. No, but I know it was a puffy jacket. I don't
4 know if I said that to them.

5 Q. You didn't mention that to anybody at the time?

6 A. No.

7 Q. And you didn't give a description of his shirt?

8 A. I didn't see the shirt.

9 Q. Okay. You didn't give a description of shoes,
10 correct?

11 A. No. I'm sorry.

12 Q. And the guy wasn't wearing gloves or anything like
13 that?

14 A. No, I don't think so.

15 Q. And you didn't see any identifying marks on the
16 man?

17 A. No.

18 Q. You didn't give a description about the man's
19 eyes?

20 A. No.

21 Q. You didn't give a description about the man's --
22 any facial hair? You didn't see facial hair?

23 A. I don't think so. I don't remember saying
24 anything.

25 Q. You never mentioned what kind of hair the man had?

LETTY MARTIN - CROSS BY MS. FORD

1 A. No.

2 Q. All right.

3 MS. SHEALY: I'm going to object to the
4 relevancy as to suggestiveness for the purposes of this
5 hearing.

6 MS. FORD: Your Honor, I think we can go into
7 a Neil vs. Biggers hearing relating to everything about
8 reliability. I think that's appropriate to do it all at
9 one time.

10 THE COURT: The liability?

11 MS. FORD: Reliability. You know, the
12 factors -- her ability to see him, the description, and
13 if they match the defendant.

14 THE COURT: Go ahead.

15 BY MS. FORD:

16 Q. And as Ms. Shealy had asked you, you indicated you
17 had never seen the man, the man who took you that day,
18 you had never seen him before?

19 A. Not that I know of, no.

20 Q. Did you see him that morning?

21 A. I'm sorry. Yes, I did see him that morning.

22 Q. Okay. And that was at your neighbor's house --

23 A. Yes. He was knocking on my neighbor's back door.
24 I was standing at my kitchen window and saw him then.

25 Q. But you hadn't seen him before that day?

LETTY MARTIN - CROSS BY MS. FORD

1 A. Not that I'm aware of.

2 Q. And the mobile home park where you live, that's
3 Jericho trailer park, mobile --

4 A. Jericho mobile home park, yes.

5 Q. And there is about 40 trailers out there; is that
6 fair to say?

7 A. I think so.

8 Q. Just a couple of roads around there, right? It's
9 not too big of a place?

10 A. That's correct.

11 Q. The person -- or when Detective Smith showed you
12 the lineup, she gave you the instructions that Ms. Shealy
13 went over. And she told you that the person may appear
14 different in their tone, their skin coloring, things like
15 that?

16 A. She did not.

17 Q. She did not? And you ended up saying the picture
18 you chose, you said he looks most like the guy?

19 A. Yes.

20 Q. You --

21 A. Compared to the other pictures, yes.

22 Q. You didn't say anything like he looks most like
23 the guy but the hair is different or the skin coloring
24 looks different?

25 A. No.

LETTY MARTIN - CROSS BY MS. FORD

1 Q. This incident happened at about 5 in the
2 afternoon?

3 A. That's correct.

4 Q. And this was December?

5 A. December 5th, yes.

6 Q. So it was light outside still?

7 A. Yes.

8 Q. Kind of getting dark?

9 A. It was still light, yes.

10 Q. And how long did the incident take, from the time
11 that he made you get in the car to the time that he left?

12 A. I have no real sense of the time while it was
13 going on. I wasn't -- I was in fear of my life, and I
14 wasn't paying any attention to the time, quite frankly.

15 Q. And in your car, the gear shifter is in between
16 the driver and the passenger?

17 A. It's in the console, yes.

18 Q. So somebody would have had to use their hand to
19 move around the gear shifter?

20 A. Yes.

21 Q. And you never saw any marks on the man's hands?

22 A. I didn't -- I really didn't notice his hand. He
23 told me to keep my eyes straight ahead on the road or he
24 would shoot me.

25 Q. Okay. So were you able to look at the man?

LETTY MARTIN - CROSS BY MS. FORD

1 A. Out of the corner of my eye a little bit, but he
2 told me not to look at him and to keep my eyes ahead or
3 he would shoot me.

4 Q. And when the two of y'all were outside of the car
5 afterwards, this is when the man put his hands around
6 your throat? Is that --

7 A. He put his one hand on my forehead and one on my
8 chin and started jerking my head like he was trying to
9 break my neck.

10 Q. Okay.

11 A. Later, I don't know how many times he did that,
12 but then I -- he choked me.

13 Q. Were you -- and the man was taller than you?

14 A. Yes.

15 Q. About six feet?

16 A. I would think so, yes.

17 Q. Okay. And he didn't have gloves on when this was
18 happening?

19 A. No.

20 Q. And so at this point the two of you were facing
21 each other?

22 A. No. He was behind me.

23 Q. He was behind you?

24 A. Yes.

25 Q. Did you tell us that you had never -- to your

LETTY MARTIN - CROSS BY MS. FORD

1 knowledge, you had never seen this man before this day,
2 correct?

3 A. To my knowledge, that is correct.

4 Q. Right. But it's true that you had given a man in
5 the trailer park a ride to Harvest Moon Grill?

6 A. That is true.

7 Q. At some point?

8 A. Yes.

9 Q. Do you remember when that was?

10 A. I don't remember specifically, no.

11 Q. It was before this incident?

12 A. Yes, and some time before, I just don't remember
13 how long.

14 Q. And was that once or more than one time?

15 A. Just once.

16 MS. FORD: Beg the Court's indulgence. May I
17 approach, Your Honor?

18 THE COURT: You may.

19 MS. FORD: I apologize, Your Honor. I'm
20 trying to find my copy of the one -- no further
21 questions, Your Honor.

22 THE COURT: Do you have any redirect?

23 REDIRECT EXAMINATION

24 BY MS. SHEALY:

25 Q. Ms. Martin, let's back up just a little bit. When

LETTY MARTIN - REDIRECT BY MS. SHEALY

1 you were shown a lineup, second page of Court's Exhibit 2
2 is folded in that manner.

3 A. It was.

4 Q. It was folded that way when you were shown it?
5 Okay. And then in looking at the items that you say you
6 read and then initialed, looking at item number six,
7 could you tell the Court what that says.

8 A. People may not appear exactly as they did at the
9 time of the event because features such as clothing
10 style, hair color, hairstyle, et cetera, may change even
11 in a short period of time.

12 Q. So when Ms. Ford asked you whether or not
13 Detective Smith had told you that, you had read that and
14 initialed it?

15 A. Yes.

16 Q. And Ms. Ford asked you some questions about
17 earlier that morning?

18 A. Yeah.

19 MS. SHEALY: And if I at this time could have
20 these three items marked as Court's exhibits, three
21 photographs.

22 THE COURT: All right.

23 BY MS. SHEALY:

24 Q. Okay. In showing you State's Exhibit No. 3, could
25 you tell the Court what is depicted in that photograph.

LETTY MARTIN - REDIRECT BY MS. SHEALY

1 A. The back of my house and the spot where my carport
2 was that night.

3 Q. And looking at this area that does not have the
4 same grass as the other does, is that where your carport
5 was?

6 A. Yes, the kind of lighter brownish area right
7 behind the house.

8 Q. Showing you State's Exhibit 2, is your neighbor's
9 mobile home depicted in that photograph?

10 A. Yes, it is.

11 Q. And when you saw the same individual that
12 approached you later that day, where had you seen him
13 earlier that morning?

14 A. At her back door on the steps.

15 Q. Okay. And a closer up photograph of that is
16 Court's Exhibit 4; is that correct?

17 A. Yes.

18 Q. Now, Ms. Ford was asking you approximately what
19 time did this take place, and you indicated it was some
20 time after 5:00?

21 A. Yes, just a little bit after 5:00.

22 Q. Could you -- do we have a pointer? While they're
23 looking for a pointer, could you describe to the judge
24 that evening, that late afternoon, where did you first
25 see the person who kidnapped you?

LETTY MARTIN - REDIRECT BY MS. SHEALY

1 A. Coming around the end corner of my house.

2 Q. Okay.

3 A. From between my house and the neighbor's house.

4 Q. So when you're saying the end corner, you mean
5 this way?

6 A. Closer to the house, actually.

7 Q. Closer here?

8 A. Yes.

9 Q. Coming that way?

10 A. Yes.

11 Q. And what were you, in fact, doing at your car at
12 that point?

13 A. I was locking the doors and getting ready to go
14 into the house.

15 Q. Would you describe to the judge your ability to
16 see him at the point that he was approaching you, before
17 he got to you?

18 A. I could see him very clearly. It wasn't -- it was
19 not yet dark, so I could see him.

20 Q. And His Honor is not aware of all the facts in the
21 case, but just to summarize, you are initially put in
22 what side of the vehicle by him?

23 A. The driver's side, to start the car.

24 Q. And does that change at some point?

25 A. Yes.

LETTY MARTIN - REDIRECT BY MS. SHEALY

1 Q. And prior to it changing, did he say anything to
2 you about whether or not he had a weapon?

3 A. He told me he had a gun and not to fight or scream
4 or he would shoot me.

5 Q. At that point after you got the vehicle started,
6 what happened?

7 A. He took my arm again and pulled me out of the car
8 and walked me around to the passenger seat and put me in
9 the passenger seat.

10 Q. And when he put you in the passenger seat, where
11 did he go?

12 A. Back around to the driver's side and got in the
13 car.

14 Q. And at that point does he drive off?

15 A. Yes.

16 Q. And you described to us when you were trying to
17 look over at him, what would he say to you?

18 A. He would say, Keep your eyes on the road ahead.
19 Don't look at me or I will shoot you.

20 Q. And prior to his saying that to you, did you have
21 a chance to look over at him until he says that?

22 A. Not -- just barely a glance, in the car.

23 Q. And after y'all had driven around -- and you
24 indicated to the Court you're not sure how long that
25 process took; is that correct?

LETTY MARTIN - REDIRECT BY MS. SHEALY

1 A. Yes.

2 Q. But at some point he stops the vehicle?

3 A. Yes, yeah.

4 Q. And describe to the judge what happens when he
5 stops the vehicle.

6 A. He got out and came around to the passenger side
7 and pulled me out, walked me to the back of the car, told
8 me to put my purse on trunk, and that's when he started
9 to trying to break my neck.

10 Q. And during that time of his opening the door and
11 getting you out and taking you back to the back of the
12 car, did you have the opportunity to see him at that
13 point?

14 A. No.

15 Q. Okay. So focussing your attention then on the
16 initial time with the person who abducted you that day,
17 you got the best look at him while he was walking towards
18 you.

19 A. Correct.

20 Q. And when you saw him walking towards you, you
21 realized you had seen him earlier that morning?

22 A. Yes.

23 Q. Is that correct? And then in the vehicle before
24 he would shout at you not to look at him, you would see
25 him again, see his face again?

1 A. Yes.

2 Q. Is that correct?

3 A. Yes.

4 MS. SHEALY: I have no further questions at
5 this time, Your Honor.

6 THE COURT: Recross?

7 MS. FORD: Yes, Your Honor.

8 RE-CROSS-EXAMINATION

9 BY MS. FORD:

10 Q. Earlier in the morning when you saw the man, you
11 had been inside your house?

12 A. I was in my kitchen, standing at my sink, which
13 is -- has the window over it, yes.

14 Q. Okay. So you just saw the man, and did you get a
15 good look at the man at that point?

16 A. Yes.

17 Q. Or just look at his clothing?

18 A. No, I saw him because he turned away from the
19 door, my neighbor's door.

20 Q. How long did this last? Did you stare at him for
21 a long amount of time?

22 A. A few seconds. I don't know how long.

23 Q. A few seconds. You never told anyone -- when you
24 spoke to the police that day, you never indicated to them
25 you had seen a man earlier that day?

CHRIS SMITH - DIRECT BY MS. SHEALY

1 A. I don't remember if I did or not.

2 Q. Okay.

3 MS. FORD: No further questions.

4 MS. SHEALY: I have no further questions at
5 this point.

6 THE COURT: You may step down. Do you have
7 another witness?

8 MS. SHEALY: Yes, Chris Smith.

9 CHRISTINA SMITH,
10 having been first duly sworn,
11 was examined and testified as follows:

12 DIRECT EXAMINATION

13 THE WITNESS: Christina Smith, S-m-i-t-h.

14 BY MS. SHEALY:

15 Q. Detective Smith, how long have you been working
16 with the Charleston County sheriff's office?

17 A. Nineteen years.

18 Q. And focussing your attention back to December 7 of
19 2011, could you advise the Court whether or not you
20 administered a photographic lineup to Letty Martin.

21 A. Yes, I did.

22 Q. Were you actively participating in the
23 investigation of the case at that point?

24 A. No, ma'am, I was not.

25 Q. Who asked you to show her the lineup?

CHRIS SMITH - DIRECT BY MS. SHEALY

1 A. Detective Perkins.

2 Q. And are you aware of what agency compiled the
3 lineup?

4 A. I believe it was the detention center.

5 Q. Okay. If you were to look at it, would it help
6 you in answering that?

7 A. Yes.

8 Q. Showing you Court's Exhibit 1.

9 A. Yes. It's a detention center lineup.

10 Q. Prior to showing Ms. Martin the lineup itself, did
11 you allow her the opportunity to read the -- I guess we
12 usually call it an admonition form for a line-up?

13 A. Actually, I read the form to her, and as I read
14 the form, after each one, I would have her initial next
15 to it, to make sure she understood what I was reading.

16 Q. And did you have any discussion with Ms. Martin
17 whatsoever about the name Latrone or Latrone Butler?

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

19 Q. When you presented her with the actual array
20 itself, did you indicate to her whether or not the person
21 who you believed or the agency believed had committed the
22 act was in the lineup?

23 A. No, I did not.

24 Q. And did you at any point suggest to her which one
25 she should identify as being the perpetrator?

CHRIS SMITH - DIRECT BY MS. SHEALY

1 A. No, ma'am.

2 Q. When you showed it to her, you had already gone
3 through -- you say you had read them to her, all seven
4 items?

5 A. Yes, ma'am.

6 Q. And do you recall whether or not she had any
7 difficulty once she was looking at the photographic array
8 itself?

9 A. I don't believe she had any difficulty.

10 Q. I notice that the page itself is folded back with
11 the identifying information concealed. Could you advise
12 the Court whether or not that's the way in which you
13 presented the document to her?

14 A. Yes, it is.

15 Q. Did any other law enforcement officer or anyone
16 involved with your agency at any point suggest to her
17 which one she should identify in the lineup?

18 A. No, ma'am.

19 MS. SHEALY: I have no further questions.
20 Please answer any the defense may have.

21 THE COURT: Cross?

22 MS. FORD: Yes, Your Honor. May it please
23 the Court:

24 CROSS-EXAMINATION

25 BY MS. FORD:

CHRIS SMITH - CROSS BY MS. FORD

1 Q. So you would be considered an independent
2 administrator?

3 A. That's correct.

4 Q. And that just means that you're not aware who the
5 target person is in the lineup?

6 A. Exactly.

7 Q. And that's because you don't want to in any way,
8 even unconsciously, indicate who the person is, or who
9 you think the person is?

10 A. Yes, ma'am.

11 Q. And one reason y'all do this is based on -- it's
12 an actual policy of the sheriff's department; isn't that
13 correct?

14 A. Yes, ma'am.

15 Q. And you have a whole policy and procedure manual
16 covering identifications.

17 A. Yes, yes, we do.

18 Q. And you go over the different types of
19 identifications? Sometimes there are show-up IDs,
20 correct?

21 A. That's correct.

22 Q. But a lot of times you'll do the six pack?

23 A. Either the six individual photographs or the array
24 of six, like this.

25 Q. Okay. And according to the policy of the

CHRIS SMITH - CROSS BY MS. FORD

1 sheriff's department, there was an identification here?

2 A. Yes, there was.

3 Q. Okay. According to the policy, if someone makes
4 an identification, aren't you supposed to ask them to
5 state their level of competence regarding the
6 identification?

7 A. Yes. We ask them to write a statement, and that
8 would be the witness identification statement that's on
9 our form.

10 Q. Okay. But in this case, she didn't say, I'm 100
11 percent sure, 50 percent sure, she said, He looks most
12 like the guy.

13 A. That's correct.

14 Q. And you were there and you indicated today that
15 you didn't think she had any difficulty, but you didn't
16 actually write a report for this, or did you?

17 A. No, I did not.

18 Q. Okay. So this is based on your memory from over
19 two years ago?

20 A. Yes, ma'am.

21 Q. And according to policy, you are supposed to
22 document the witness's responses for the investigative
23 file?

24 A. Yes, but I believe Detective Perkins may have done
25 that in his report.

CHRIS SMITH - CROSS BY MS. FORD

1 Q. Okay. And he was or was not with the two of you
2 when she actually circled the picture, or did he come
3 afterwards?

4 A. We were in the interview room together, just
5 Ms. Martin and I, and then he came in afterwards.

6 Q. Was he able to see this, like, from outside, like
7 on monitor or --

8 A. I don't know if he may have been looking. I can't
9 answer that.

10 Q. Okay. So he was not there when she actually --

11 A. No.

12 Q. -- identified someone. The policy also states the
13 lineup is to be conducted using video and/or audio
14 recording and conducted in a location when equipped with
15 it; is that correct?

16 A. That's correct.

17 Q. And the sheriff's department is equipped with
18 recording devices, correct?

19 A. We are now. At the time, at this particular time,
20 I'm not sure -- we were, like, changing from no audio and
21 video recording to audio and video reporting. It was
22 being put in place, so we were having some, like,
23 technical difficulties so I'm not sure if that was used
24 at this time.

25 Q. So you don't recall if it was available or not.

1 A. Yeah.

2 Q. And so you do not compile the lineup, correct?

3 You said that --

4 A. That's correct.

5 Q. SLED did?

6 A. No. It came from the Charleston County Detention
7 Center.

8 Q. Okay.

9 A. Our ID section.

10 Q. And did they indicate -- did they include the
11 names of the persons involved but was not included on the
12 lineup given to Ms. Martin?

13 A. Yeah. The way that the this is folded is exactly
14 how it I showed it to her.

15 Q. But you do not have another lineup involving the
16 names and everything on people in there?

17 A. No. What do you mean? I don't understand what
18 you mean.

19 Q. The policy states that you're supposed to include
20 the source of the photo used, so that's from the
21 detention center, correct?

22 A. Yes.

23 Q. The date and time?

24 A. Yes.

25 Q. And the names of all persons present during the

CHRIS SMITH - REDIRECT BY MS. SHEALY

1 line -- so that is Mr. -- you were there and Detective
2 Perkins came later -- never mind.

3 A. Okay.

4 Q. You do not know where these people live, correct?
5 The people in the lineup, you have no knowledge if any of
6 them live in Ravenel, correct?

7 A. No, I have no idea.

8 Q. Is that usually a basis for a lineup where
9 somebody is from or is it based just on their physical
10 descriptions?

11 A. I believe it's just going to be on their physical
12 descriptors. I've never created lineup. We usually ask
13 SLED or the detention center to create a lineup for us.

14 Q. And you had no part of putting in the factors to
15 determine --

16 A. No, ma'am.

17 Q. -- the description?

18 A. No, ma'am.

19 MS. FORD: No further questions.

20 THE COURT: Any further questions?

21 MS. SHEALY: Judge, I would like to have this
22 marked as Court's Exhibit 5.

23 REDIRECT EXAMINATION

24 BY MS. SHEALY:

25 Q. Detective Smith, you're familiar with mugshots

CHRIS SMITH - RECROSS BY MS. FORD

1 that are taking during the booking process?

2 A. Yes.

3 Q. Showing you State's Exhibit 6 -- I'm sorry, 5.

4 Could you tell the Court, please, whether or not that's
5 the mugshot of Latrone Butler?

6 A. On this paper, yes, correct.

7 Q. And what was that booking date?

8 A. This booking date was December the 8th, 2011.

9 Q. What does it depict is his height?

10 A. Five-eleven.

11 MS. SHEALY: I have no further questions.

12 RECROSS-EXAMINATION

13 BY MS. FORD:

14 Q. To your knowledge, the height on a booking
15 photo -- the inmates at the Charleston County detention
16 center, are they actually measured or is it just based on
17 what somebody says?

18 A. Probably wasted upon what they say as they are
19 being booked in.

20 Q. So --

21 A. So they'll be asked, How tall are you and what is
22 your weight, and this is a description that they would
23 give of themselves.

24 Q. And would you say -- can you tell if Mr. Butler
25 looks to be five-eleven from where you are? I'm

LATRONE BUTLER - DIRECT BY MS. FORD

1 five-eight. I am wearing heels.

2 A. I would say average height, maybe five-ten,
3 five-eleven. It would be difficult for me to say.

4 Q. Okay. So you can't say --

5 A. Yeah.

6 Q. But the height on the booking record is based what
7 people are told --

8 A. By the -- by the prisoner that is brought in.
9 They are the ones that tell the detention officers how
10 tall they are.

11 Q. Okay.

12 MS. FORD: No further questions.

13 THE COURT: You can step down. Anything
14 further?

15 MS. SHEALY: I have no further witnesses,
16 Your Honor.

17 THE COURT: Ms. Ford, do you need to call
18 anybody?

19 MS. FORD: The defense calls Latrone Butler.

20 LATRONE BUTLER,

21 having been first duly sworn,

22 was examined and testified as follows:

23 DIRECT EXAMINATION

24 THE WITNESS: My name is Latrone Butler,

25 B-u-t-l-e-r.

LATRONE BUTLER - DIRECT BY MS. FORD

1 BY MS. FORD:

2 Q. Hi, Mr. Butler. Just a few questions. Do you
3 have any tattoos, Mr. Butler?

4 A. Yes, ma'am.

5 Q. And do you know how many tattoos you have?

6 A. A total of about 17.

7 Q. And do you have any tattoos on your hands?

8 A. Yes, ma'am.

9 Q. And where are they located on your hands, on the
10 inside or the outside?

11 A. On the top part of my hands.

12 Q. And do you have any tattoos on your neck?

13 A. Yes, ma'am.

14 Q. Is that to the right or left side of your neck?

15 A. To the left side of my neck.

16 Q. I'm going to show you some photos in a moment, if
17 I could have them marked first.

18 I'm showing you what I've marked as Court's
19 Exhibit No. 6. Do you recognize what's in that photo?

20 A. Yes.

21 Q. Is it fair to say that's a tattoo on your left
22 arm?

23 A. Yes, ma'am.

24 Q. Does it accurately reflect the tattoos on your
25 arm?

LATRONE BUTLER - DIRECT BY MS. FORD

1 A. Yes, ma'am.

2 Q. Does it include a tattoo on your hand?

3 A. Yes, ma'am.

4 Q. And how long have you had that tattoo on your
5 hand?

6 A. Between 2002 and 2007..

7 Q. So since then?

8 A. Yes, ma'am.

9 Q. So you have a tattoo in 2011?

10 A. Yes, ma'am.

11 Q. I'm now showing you what's been marked as Court's
12 Exhibit No. 7. Do you recognize what's in that photo?

13 A. Yes, ma'am.

14 Q. Is that a photo of the tattoos on your right arm?

15 A. Yes, ma'am.

16 Q. Including a tattoo on your right hand?

17 A. Yes, ma'am.

18 Q. Okay. And did you have that in 2011?

19 A. Yes, ma'am.

20 Q. Now I'm showing you what has been marked as
21 Court's Exhibit No. 8. And is that a photo of a
22 tattoo -- or do you recognize what's in that photo?

23 A. Yes, ma'am.

24 Q. Is that a tattoo, picture of a tattoo on your
25 neck?

LATRONE BUTLER - CROSS BY MS. SHEALY

1 A. Yes, ma'am.

2 Q. And did you have that in 2011?

3 A. Yes, ma'am.

4 Q. Were all of these photos taken during your
5 incarceration period for the current charges you're in
6 jail on now?

7 A. Yes, ma'am.

8 Q. And had Ms. Martin -- you've seen Ms. Martin here
9 today. At some point did Ms. Martin -- did you work for
10 Harvest Moon Grill?

11 A. Yes, ma'am.

12 Q. And at some point did you come in contact with Ms.
13 Martin as she gave you a ride there?

14 A. Yes, ma'am.

15 MS. FORD: No further questions.

16 CROSS-EXAMINATION

17 BY MS. SHEALY:

18 Q. Do you remember when it was you said Ms. Martin
19 took you to Harvest Moon?

20 A. It was around -- I want to say around June,
21 summertime of 2011.

22 Q. June of 2011. How do you remember that?

23 A. Because I was running a little late, and then I
24 turn around, and when I saw her, I flagged her down and
25 she gave me a ride to work.

1 Q. It wasn't one of your family members or your
2 girlfriend that asked if she would take you for a ride?

3 A. It was who?

4 Q. It wasn't someone in your family that asked you if
5 she would take you for a ride?

6 A. Yes, ma'am.

7 Q. It was somebody in your family. Who would what
8 that?

9 A. That would be my girlfriend, Tiara Gardner.

10 Q. And is Tiara Gardner still your girlfriend?

11 A. No, ma'am.

12 MS. SHEALY: I have nothing further.

13 THE COURT: Redirect?

14 MS. FORD: No, Your Honor.

15 THE COURT: You can step down. You got
16 anything else?

17 MS. FORD: No, Your Honor.

18 THE COURT: Argument?

19 MS. FORD: Yes, Your Honor. We realize,
20 first the Court must determine if the identification
21 process was unduly suggestive. We realize there is no
22 indication that anyone specifically pointed Mr. Butler
23 out. We would draw the Court's attention to the actual
24 lineup itself.

25 Mr. Butler, his photo is the last photo in

1 the lineup. His picture appears to be highlighted more
2 so as of the skin coloring, the lighting conditions. It
3 looks like there is a glare, so we would argue that is
4 somewhat suggestive, Your Honor, especially since it's
5 the last picture. We think it would stand out.

6 Also, we would say, Your Honor, that Ms.
7 Martin never really did identify anyone. She said -- she
8 didn't say that looks like him, the hair is different or
9 facial hair is different. She said that looks most like
10 the guy.

11 According to the Neil vs. Biggers factors,
12 Your Honor, she stated multiple times that she was too
13 scared to look at the man. Many of the times she didn't
14 get to look at them. She gave a very, very generic
15 description, black male, in his 20s, about five-eleven.
16 That's the whole of her description.

17 She doesn't say anything about if he's light
18 or dark skinned. She doesn't mention anything about
19 facial hair. On his booking photo, you can see he has
20 facial hair. That was, you know, two and a half days
21 later. She doesn't say anything about tattoos.
22 He has very identifiable tattoos on both of his hands and
23 on his neck. The neck may have been covered by his
24 jacket, but he was not wearing gloves. So the very
25 generic description she gave, even though it roughly may

1 fit Mr. Butler, it doesn't fit him -- it's too generic.
2 It doesn't -- she didn't say anything about the man's
3 hair --

4 THE COURT: Isn't that an argument you can
5 make to the jury? The whole point of Biggers is was the
6 process unduly suggestive, anything about their process
7 that suggests that it was unduly suggestive, other than
8 saying that the defendant's picture was highlighted more
9 than the others?

10 MS. FORD: No, Your Honor, not from the
11 testimony.

12 THE COURT: All right. Madame solicitor?

13 MS. SHEALY: Your Honor, I think that
14 obviously there is nothing suggestive about the lineup
15 except Mr. Butler is lighter and perhaps grabs the
16 attention more greatly. I think it's interesting to look
17 at the language of Ms. Martin under statement and then
18 look at the booking report the day after when she notes
19 he looks most like the person that carjacked me and tried
20 to kill me, that's because the clean-cut picture in the
21 lineup, she obviously was examining it closely.

22 She identified his face, and she qualifies it
23 only to say that he looks the most like him. It's
24 interesting that his looks were different in the actual
25 mugshot, but his face is the same, so he didn't have this

1 clean-cut look, so any type of qualified language, even
2 if it's determined to be that way, certainly is
3 understandable given the change since the original time
4 the mugshot was taken.

5 She's indicated to the Court that she got a
6 look at him that morning, she got a look at him as he
7 approached, and she got a look at him each time before he
8 yelled, Stop looking at me or I'll shoot, or I have a
9 gun.

10 So I understand the Court's comments. Those
11 are arguments Ms. Ford can make in front of the jury, but
12 for purposes of the Biggers hearing, I believe it has
13 been satisfied that it was not a suggestive lineup
14 process.

15 THE COURT: All right. Well, I find there is
16 nothing suggestive at all about the process, much less
17 unduly suggestive. It's a textbook procedure outlined.
18 Went over the questions with her with a disinterested
19 person, someone who is not involved in the investigation
20 at all so she wouldn't have any way of tipping the victim
21 of looking at any particular one of the photos.

22 And as far as the argument that his picture
23 has more of a highlight or a glare, I mean, I just don't
24 see it. All of these gentlemen have a little bit of a
25 glare to their picture. I mean, it's a flash, is what

1 we're talking about, and I don't see where that draws any
2 attention to the defendant's picture over any of the
3 others such that it would make it an unduly suggestive
4 process.

5 So I'll let that in, and we will make the
6 argument to the jury as to whether or not her
7 identification was, in fact, of the defendant.

8 Anything further?

9 MS. SHEALY: I approached the court reporter.
10 If you would allow us a quick rest room break, we can
11 mark some photographs. That will make everything go more
12 quickly.

13 (Recess taken.)

14 (In open court, jury present.)

15 THE COURT: Did y'all pick a jury foreperson?

16 You'll find you don't get any extra pay for
17 the job. You'll just handle the jury form at the end.

18 Thank you so much for your patience with us,
19 folks. It's just been one of those days where about four
20 different things came up while you guys were out. Had to
21 handle some stuff on a couple other cases, and then we
22 got word that the jury we had charged this morning had
23 reached a verdict, so we had to come in and receive that
24 verdict, but we are about an hour behind where I wanted
25 to be at this point, but we are going to get back on

1 keep talking, so the State, having the burden of proof,
2 you'll hear from the solicitor first and then from the
3 defense on an opening statement.

4 So, Ms. Shealy, you may begin.

5 MS. SHEALY: May it please the Court,
6 counselors: Good afternoon. On December 5th of 2011,
7 Letty Martin, who was 67 at the time, spent the afternoon
8 like she planned. She teaches line dancing at the senior
9 center in Mount Pleasant, but she lived in Ravenel, out
10 17, going towards Edisto, in a mobile home park.

11 She went and taught her class in Mount
12 Pleasant. She left there and went up Rivers Avenue and
13 stopped at Michael's craft shop. Ran in and got
14 something, then went to Northwoods Mall and picked up a
15 camera she had ordered and went home. When she got home,
16 she started unloading her car.

17 Now, one difficulty with a mobile home park
18 where she lives is you don't have a whole bunch of
19 private space. People will cut through your yard, maybe
20 walk a little too close to your house than you care for,
21 but there is not much you can do about it. The mobile
22 homes, there is not a whole lot of green area separating
23 them.

24 Letty Martin saw a man. She had noticed him
25 earlier that day when he was at her neighbor's door. He

1 caught her attention then.

2 She drove a burgundy Accura, and she was
3 unloading the items that she takes to go teach dancing
4 and the camera, and as she got those items out, she sees
5 that guy coming towards her. Well, at first she thought,
6 well, maybe he's just cutting through. But she saw him,
7 like she had seen him earlier that day, said, That's the
8 guy who was over at my neighbor's house.

9 Next thing she knew, he came up behind her,
10 twisted her arm back, and told her to get back in the car
11 and start it. She did. She started the vehicle. Then
12 he said, Okay. Get out.

13 And pulls her out and walks her around her
14 own car and puts her in the passenger seat. Out of
15 nowhere this happens to her.

16 He carjacked her. He demanded that she start
17 that car, and he put something up in her rib area and
18 told her it was a gun. She could feel it in her ribs,
19 and when he walked her around the vehicle to get in the
20 passenger side, he was talking about the gun some more.
21 He puts her in the car and he starts driving, told her,
22 Do not scream. He reminded her, I've got a gun.

23 He drove and drove and he drove, and every
24 time as she sat in that passenger seat to look over at
25 him, Don't look at me. Look straight ahead.

1 She was scared to death. He would not let
2 her out of that vehicle. Ms. Martin will do the best she
3 can to tell you what roads he was taking, but he thought
4 he was being smart, but as cars came up behind him, he
5 wanted to get off that road.

6 He kidnapped her. She's in her own vehicle,
7 unable to leave. He kept that vehicle. He kept her in
8 that car. He abducted her and carried her away. Then,
9 when they get -- and this is in Charleston County -- out
10 to an intersection where High Park Road is, on one side
11 it's paved. On the other side, it's gravel and dirt.

12 He took her down that country road and made
13 her get out of the car. He pulls her out of the vehicle,
14 takes her to the back of the car, and what does he do
15 then? Not one time, not two times, but several times
16 tries to break her neck.

17 Ms. Martin will describe to you and show you
18 how he put her head and her neck in his hands and tried
19 to twist her, hoping to leave her behind on a dark
20 country gravel road.

21 Thank God that another car came down that
22 road. He wasn't expecting it, but when another car came,
23 he left Ms. Martin, got in that vehicle and fled. Now,
24 as he was maneuvering her neck and trying to crack it and
25 break it and kill her, she goes to the ground one time

1 and passes out. He pulls her up and tries it again. And
2 that car that came down the road, frankly, saved Ms.
3 Martin's life.

4 Left on that dark road, after what all had
5 happened to her, she walked to the home of Penny Jo
6 Mizell who gets this random knocking on her door,
7 frantic, that evening. She asked Ms. Mizell, Would you
8 please call 911 for me?

9 Ms. Mizell will describe how Ms. Martin was
10 behaving, and you'll hear the 911 report, and the
11 operator keeps asking Ms. Mizell questions, and so
12 finally Ms. Martin gets on the phone with the 911
13 dispatcher. She describes the man, had on a jacket, had
14 on jeans, was black, five eleven, six feet. She tells
15 that immediately after all of this happens.

16 Officers come. First officer that came was
17 Don Kjellman with the county. He had a camera in his car
18 and took pictures of how she looked that night. He asked
19 her what happened, and as the protocol goes, he calls his
20 supervisor and his supervisor sends out a detective to
21 talk to her that evening while she's still in Ms.
22 Mizell's house. She gives a written statement about what
23 happened that evening, right after it happened.

24 The detective comes and he's the one who
25 takes the written statement. Ms. Martin's sister,

1 brother-in-law come over. Well, the next day, you know
2 how it is after you've injured yourself, the next day
3 you're sorer, and you start seeing the bruises. And then
4 the next day, the police call Ms. Martin and ask her to
5 come to the station. They want to take photographs of
6 her again, and they want to see if she can identify
7 anyone from the lineup.

8 And she does, Latrone Butler. So that was
9 two days after the incident, and the incident happened on
10 the 5th. On the 7th the police call her back in. The
11 8th, the police go to a bar, a club, called Hamm's, I
12 think is the name of it, a little club out that way,
13 because they've gotten a tip that Latrone Butler is
14 there. Officers get there, and they see the vehicle,
15 they see Ms. Martin's vehicle outside the club.

16 Check the license tag. So you can kind of
17 imagine a club out in the country. They've got to be
18 careful when they go in there to see if Latrone Butler
19 is, in fact, in there, and he was, but they have to take
20 the people out one by one.

21 Guess what's in his shoe? The key to her
22 car. Guess what is in her car? Puffy jacket, blue
23 jeans, a wallet with Latrone Butler's social security
24 card, Latrone Butler's IDs, Latrone Butler's work
25 receipts, all in Letty Martin's vehicle.

1 Ms. Martin got her car back. You've seen the
2 photographs of what it looked like when she got it.
3 She'll tell you what was different, of what was in there
4 before she got carjacked, before she was kidnapped,
5 before he tried to break her neck, how it was different
6 once she got it back.

7 Ladies and gentlemen: On December 5th, 2011,
8 Latrone Butler carjacked Letty Martin, kidnapped Letty
9 Martin, and tried to leave her dead on a gravel road.

10 THE COURT: Ms. Ford?

11 MS. FORD: Thank you, Your Honor. May it
12 please the Court: Fifty-five hours. That is the time
13 frame we're talking about here, and so much can happen in
14 55 hours.

15 Back in December of 2011, Letty Martin was
16 approached by a black man, and she and her car were
17 taken, and it was a terrible thing. The solicitor went
18 into great detail. It was an awful experience for her,
19 and that's not in dispute, but what is in dispute is who
20 did it.

21 The State has accused my client, Latrone
22 Butler, and Latrone is not guilty. Now, when Ms. Martin
23 first reported this incident, the police were very
24 interested in getting a description. Why? Because
25 that's how they catch the guy, a description.

1 So she gives a description. She gives a
2 very, very generic description, black male, in his 20's,
3 late 20's, about six feet tall. That's the physical
4 description she gives, jeans, a dark jacket, nothing more
5 particular than that, just jeans, dark jacket.

6 Now, Latrone, he's a Ravenel boy. He's
7 always lived in Ravenel. He lives in that same exact
8 area, and Latrone, like many, many others, he fits that
9 very generic description.

10 And then over two days later, 55 hours later,
11 he is arrested. He's near the car, and some of his
12 property is, in fact, in that car.

13 But you can't ignore those 55 hours. You
14 can't ignore all the things that could have taken place
15 during that time. So that is what we're going to ask you
16 to consider during this trial.

17 Also, we're going to ask you to consider the
18 location. This is out in Ravenel, as the solicitor said,
19 and this isn't -- Jericho mobile home park is where Ms.
20 Martin lived, and this is off of Savannah Highway, but
21 it's not close to West Ashley. It's still a little drive
22 out there, and this mobile home park, it's actually a
23 pretty small area, maybe 40 trailers out there, and just
24 a couple of roads.

25 So it's not too big of an area, and so we

1 would ask you to think about what makes sense, what would
2 make sense for someone to do or not to do during a time
3 period of 55 hours.

4 And so when you think about all of those
5 things and you hear all the evidence, we're going to ask
6 you to seriously think about if the State has really
7 proven their case beyond a reasonable doubt, and the
8 answer is going to be no.

9 It's going to be no because Latrone did not
10 do these things because Latrone is not guilty, and that
11 what we are going to ask you to find at the end of this
12 trial -- because, yes, a terrible thing happened to Ms.
13 Martin, a terrible thing, but that doesn't mean that
14 Mr. Butler did it.

15 Thank you.

16 THE COURT: Okay. Folks, before we have the
17 State call their first witness, I want to remind you that
18 when the lawyers are up talking like they are now,
19 they're not testifying. They're not witnesses to the
20 case. The evidence is the only thing that you use to
21 base your decision on, and evidence is witnesses getting
22 up, testifying, telling you what they heard, they
23 touched, they felt, they smelt, that sort of thing.

24 It might be photographs. It might be
25 documents. It might be articles of clothing, weapons

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1 things like that. That's evidence, but the lawyers are
2 not witnesses. They can't testify. So whenever they're
3 talking, don't consider that as evidence. When they ask
4 a question of a witness, that's not evidence, but the
5 answer to their question is evidence. Okay?

6 So just keep that in mind. That is usually
7 part of my standard instruction when I first talk to you
8 about what we do, but I just forgot about it and I
9 remembered it while they were talking.

10 So if you're ready, Madame Solicitor, call
11 your first witness.

12 MS. SHEALY: Thank you, Your Honor. Letty
13 Martin.

14 LETTY MARTIN,
15 having been first duly sworn,
16 was examined and testified as follows:

17 DIRECT EXAMINATION

18 THE WITNESS: My name is Letty Martin,
19 L-e-t-t-y, M-a-r-t-i-n.

20 MS. SHEALY: Your Honor, just for
21 housekeeping purposes, without objection, and I've given
22 these numbers to your court reporter, State's Exhibits 1
23 through 22, 24 through 38, 43 through 55, 57 through 59,
24 61 through 67, and 70 through 74 we'll be moving into
25 evidence at this point, Your Honor, without objection.

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1 THE COURT: All right. Very good.

2 (State's Exhibit Nos. 1-22, 24-38, 43-55,
3 57-59, 61-67, 70-74 and 75 were marked for identification
4 and admitted into evidence.)

5 BY MS. SHEALY:

6 Q. Ms. Martin, tell us, if you would, please, how old
7 are you?

8 A. Sixty-nine.

9 Q. So back on December 5th, 2011 you were --

10 A. Sixty-seven.

11 Q. Okay. And tell us a little bit about your
12 background. Where did you grow up and where have you
13 lived?

14 A. I was born and raised in Dorchester Terrace, North
15 Charleston, and when I was 20, I moved to Omaha and lived
16 there for five years, and then I moved to Los Angeles and
17 I lived there for 37 years. I retired in 2007 and moved
18 back here so I could be near family.

19 Q. And when you say near family, what family do you
20 have in the Charleston area?

21 A. A sister and a brother-in-law.

22 Q. And during part of that travel, did your husband,
23 in fact, die?

24 A. He -- in 2003, yes, my husband died.

25 Q. Where did you reside? Where do you reside now?

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1 In 2011, December the 5th, where did you reside and are
2 you currently still there?

3 A. Yes. I moved into the mobile home park in 2007,
4 and I've been there ever since.

5 Q. And what is, in fact, the name of that mobile home
6 park?

7 A. Jericho mobile home park.

8 Q. And is that in Charleston County?

9 A. Yes.

10 Q. And what area of Charleston County is it?

11 A. Ravenel.

12 Q. Let me show you some photographs, and you can just
13 kind of orient us about your home. Showing you State's
14 Exhibit 3, is that a picture of home?

15 A. Yes. That's the south side of my house.

16 Q. And this picture was taken more recently; is that
17 correct?

18 A. Yes.

19 Q. The carport area that you have, was it located
20 there in 2011?

21 A. No.

22 Q. And showing you -- before we get there, let me
23 show you State's Exhibit 1. Can you see that?

24 A. Yes.

25 Q. Can you -- you can actually point on here. Can

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1 you show us on this screen, please, where your mobile
2 home is located.

3 A. It's this one. Can you see that?

4 Q. Yes. Okay. And are there a variety of ways you
5 can enter and exit the mobile home park?

6 A. There are two.

7 Q. Can you point those out to us and describe them.

8 A. One is here off of Savannah Highway, and the other
9 comes in off Old Jacksonboro Road.

10 Q. Which one would come into the mobile home park,
11 the Old Jacksonboro?

12 A. Right here.

13 Q. And do you, in fact, use different entrances based
14 on where you're coming from?

15 A. Not where I'm coming from so much, but maybe,
16 like, the time of day I would come in off of Savannah
17 Highway so I could check my mail. The mailboxes are up
18 closer to the front. My usual route would be off of Old
19 Jacksonboro Road, though.

20 Q. Now, focussing your attention back to December 5,
21 2011, could you tell the jury what you did earlier that
22 day.

23 A. I taught my line dance classes at the senior
24 center in Mount Pleasant. I had two classes that day.
25 When I left there, I went down Rivers Avenue and went to

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1 Michael's. I went to buy paint for a Christmas present
2 for my brother-in-law, actually, and then I went across
3 the highway, or Rivers Avenue, to Northwoods Mall to the
4 Sears store to pick up a camera I had ordered online.

5 Q. You may need to speak up just a little bit for us.
6 I'm having a little difficulty hearing you, okay? The
7 microphone is right in front of you.

8 How long have you been teaching line dancing over
9 at the senior center?

10 A. I think I started in the summer of 2011.

11 Q. And you're still currently doing that?

12 A. I am.

13 Q. What type of vehicle did you have?

14 A. A 1996 Accura 3.2 TL.

15 Q. And showing you State's Exhibit 2, is this a
16 photograph of your vehicle?

17 A. Yes, it is.

18 Q. Now, you told us that your last stop was at
19 Northwoods Mall, and you headed back. Showing you
20 State's Exhibit 1 again, which way would you have entered
21 the mobile home park?

22 A. I came in on Savannah Highway that day, here.

23 Q. Okay. Now, showing you State's Exhibits -- let me
24 show you State's Exhibit 76. Can you describe to the
25 jury what that photograph depicts.

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1 A. That is the back of my mobile home park.

2 Q. And are you able to see it on that frame there?

3 A. Yes, yes.

4 Q. When you say the back, draw for us where the
5 entrance to your home is.

6 A. This is the front door, and the back door is right
7 here (indicating).

8 Q. And the area that's depicted just before the
9 mobile home, it looks like there is some grass that's
10 missing.

11 A. Yes.

12 Q. What was located in that area back in December of
13 2011?

14 A. That's where the park was.

15 Q. And did it have the type of awning that you have
16 now moved to another side?

17 A. Yes.

18 Q. On that morning, before you even left to go to
19 line dancing, did anything draw your attention over at
20 your neighbor's house?

21 A. Yes. I saw the defendant standing on her back
22 steps, knocking on the door.

23 Q. And showing you State's Exhibit 75 --

24 A. Yes.

25 Q. -- tell us what is depicted in that photograph.

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1 A. This is the neighbor's house who was at that door.

2 Q. And show us where your home is in relationship.

3 A. This is my house, and I was at my kitchen window.

4 Q. Okay.

5 A. Which is practically just opposite those stairs.

6 Q. When you saw him earlier that morning, tell the
7 jury, if you would, what kind of look you got at him.

8 Did you see his face or just the back of him or what?

9 A. No, I saw his face. He turned away from the door
10 while I was looking out the window.

11 Q. Did you see your neighbor answer the door?

12 A. No one answered the door.

13 Q. And showing you State's Exhibit 77, that's just a
14 closer view of your neighbor's door?

15 A. Yes, and that's the view I would have had from my
16 kitchen window.

17 Q. Now, when you got home that afternoon, where did
18 you pull up in your vehicle?

19 A. Into the carport.

20 Q. And, again, showing you State's 75, could you mark
21 with an X where you would have pulled up, or
22 approximately where you would have pulled up?

23 A. In there.

24 Q. When you got out of the vehicle, did you have
25 anything that you needed to unload from the vehicle?

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1 A. I did. I take my dance stuff in a black case that
2 has wheels, and I took that out of the trunk.

3 Q. And when you got out of your vehicle, or even
4 before you got out of your vehicle, did anybody draw your
5 attention?

6 A. Not while I was still in the car, no.

7 Q. Okay. Describe for us what happened there.

8 A. Well, I pulled the case out, put it on the ground,
9 and I saw the defendant coming around the end of my
10 house, and I, you know, felt a little annoyed that he was
11 there, between the house and the carport, but -- and I
12 turned to the car door to lock the door, and I had to
13 actually insert the key because the remote wasn't
14 working.

15 Q. To lock the door, so you already had what you
16 needed?

17 A. Yes, to lock the doors.

18 Q. When you saw the man walk around the front of your
19 trailer towards where you were standing, were you able to
20 see his face at that point?

21 A. Yes.

22 Q. What happened as you turned back to lock your
23 vehicle?

24 A. He came up behind me. He grabbed my left arm, put
25 something in my ribs he said was a gun, told me not to

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1 scream or fight or he would shoot me and demanded my car
2 keys.

3 MS. SHEALY: Your Honor, if I may ask her to
4 step down, please.

5 THE COURT: Certainly.

6 MS. SHEALY: May I ask Mr. Evans to stand for
7 demonstration purposes?

8 THE COURT: Sure.

9 BY MS. SHEALY:

10 Q. If you could play the role and show the jury, the
11 court reporter is going to have to hear you, you're good
12 that way, kind of turn sideways, and if Mr. Evans is at
13 your vehicle?

14 A. So as he came around, I had my back turned toward
15 him. He grabbed my left arm and put something in my ribs
16 up here, like this, and said it was a gun and not to
17 fight or scream or he would shoot me, and then the man
18 took my car keys which I held out for him.

19 Q. You can go back to your chair now.

20 After that happened, what was the next thing that
21 happened?

22 A. He told me to open -- unlock the car, which I did.
23 Then he told me to start to get in and start the car,
24 which I did. He wanted me to climb across the console
25 into the passenger seat, but I told him I couldn't do

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1 that, so he pulled me out of the car, walked me around,
2 still holding my arm, opened the passenger door and put
3 me in the seat.

4 Q. And while he did that, were you able to see
5 whether or not he had a gun?

6 A. I was not.

7 Q. Once you were seated in the passenger seat, was
8 your door closed?

9 A. Yes.

10 Q. What was the next thing that happened?

11 A. He walked around the car and got in the driver's
12 seat, and he drove off between the two end trailers, my
13 next door neighbor and the one on the end. He drove and
14 went out onto the road in the mobile home park and then
15 went to Old Jacksonboro Road and turned right toward
16 Highway 165.

17 Q. And let me ask you this: When you saw him, were
18 you able to get an idea of how tall he was?

19 A. Yes.

20 Q. How tall would you say that he was?

21 A. Five-ten to six feet or something.

22 Q. In that range?

23 A. Uh-huh.

24 Q. How tall are you?

25 A. Five-four.

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1 Q. And how was the person's build? Was it slim or do
2 you know?

3 A. I really don't know. He had on a quilted jacket.

4 Q. So you couldn't tell how much he weighed?

5 A. Yes, that's correct.

6 Q. And when you saw the clothing when he came up
7 behind you, was that the same clothing that he had had on
8 earlier that day?

9 A. Yes.

10 Q. Did you recognize him from anywhere other than
11 seeing him earlier that day?

12 A. No.

13 Q. So as y'all are driving and you say you went down
14 Old Jacksonboro and then he turned and went down where?

15 A. To Highway 165. I would like to back up and add
16 something. He asked for my cell phone and asked for the
17 cash in my purse, which I gave him.

18 Q. You did that while you were in the vehicle?

19 A. I think before we got in the car, before I
20 started, he asked for that and I gave it to him.

21 Q. Did you see where he put them?

22 A. No.

23 Q. So when you're in the car with him, did you make
24 an effort to look over at him?

25 A. Yes.

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1 Q. And if you would, please, describe to the jury,
2 when you would look at him, what would he say to you?

3 A. Well, I was trying to kind of look out of the
4 corner of my eye, and every time he sensed that, he would
5 say, Keep your eyes on the road. Don't look at me or I
6 will shoot you.

7 Q. And did you, in fact, try several times to look
8 over at him while he was driving?

9 A. Yes.

10 Q. Did he say anything to you about what to do with
11 your hands?

12 A. Well, he told me not to fidget. He asked -- I was
13 holding my purse on my lap, and I'm fidgeting a little
14 bit with my hands, and one time he asked me, why are you
15 fidgeting like this?

16 And I said this is really kind of nerve wracking,
17 and several times he said stop fidgeting or he would
18 shoot me.

19 Q. Is your car an automatic or do you have to shift
20 gears?

21 A. It's automatic.

22 Q. And was there any time that the car seemed to be
23 driving in the wrong gear?

24 A. Yes.

25 Q. Describe what happened.

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1 A. When he turned onto Highway 165, we got to Hyde
2 Park Road and at that point several cars had come up
3 behind us, and he turned on to Hyde Park Road, turned
4 right on to Hyde Park Road, pulled into a driveway, and
5 turned around. He didn't like, I don't think, those cars
6 behind him.

7 And he turned around, and as he was going back to
8 Highway 165, I realized that the car was in the wrong
9 gear, so I asked him to change gears and he did. He put
10 it in the correct gear.

11 Q. When you say he turned right on Hyde Park Road,
12 when you're at that intersection, is part of it paved and
13 part of it unpaved on one side?

14 A. Yes, and this was the paved side.

15 Q. So showing you State's Exhibit -- let's see, 6,
16 can you orient yourself to that photograph?

17 A. Uh-huh.

18 Q. Do you see Ms. Mizell's house?

19 A. I see this house. If this is 165, then this would
20 be the unpaved part.

21 Q. Can you actually draw on there so we can see what
22 you're talking about.

23 A. If this is Highway 165, then the painted part is
24 over here, and this is the unpaved part and Ms. Mizell's
25 house is on the unpaved side.

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1 Q. You turned around in that driveway. Did y'all
2 continue to drive?

3 A. We did.

4 Q. Can you describe to the jury -- I'm just going to
5 clear those marks. Can you describe to the jury, please,
6 what are you thinking as you're in that vehicle?

7 A. Well, I was in fear for my life and disbelief that
8 this was happening to me, and, in a way, kind of
9 paralyzed with fear, quite frankly. I feel like I was in
10 kind of a state of shock because it was sudden and so
11 unexpected.

12 Q. And as you were driving, were you able to tell the
13 jury how long you were in the vehicle with him?

14 A. No, not really.

15 Q. Why is that?

16 A. Well, because of all the above stated reasons. I
17 really wasn't noticing the time.

18 Q. At some point do you all get back to the in
19 intersection of Highway 165 and Hyde Park Road?

20 A. Yes.

21 Q. And which way did he turn at that point?

22 A. From this point on Hyde Park he turned right on to
23 165?

24 Q. You're talking about after he --

25 A. After he turned around in the driveway and changed

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1 gears, yes.

2 Q. Do you remember where you went once you went down
3 165 that day?

4 A. Yes. He drove to County Line Road and turned
5 right again and went to a street that started with a C.
6 I couldn't see the name of it, and he told me that that
7 street would loop around and come back out on 165. He
8 wanted -- one of the other things he said several times
9 was he was just going to drop himself off up there
10 somewhere and I could have the car and that would be
11 fine.

12 But then he would say, Don't look at me. Don't
13 fidget or I'll shoot you.

14 So it did look like it came around on 165. At
15 that intersection, he turned left, which brought us back
16 down this way to Hyde Park Road.

17 Q. When you got back down to Hyde Park Road, at what
18 point which way did y'all turn?

19 A. Down the unpaved part.

20 Q. Tell us if you would, please, what happened when
21 you got on the unpaved part.

22 A. He drove down the road for some distance. I
23 really don't know how far. He turned the car around and
24 came back toward 165 but stopped where there was no
25 houses or anything around. It was wooded on both sides.

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1 It's Westvaco property, so there's not a lot of houses
2 along there.

3 He stopped the car and got out and came around and
4 took my arm and pulled me out of the car, walked me to
5 the trunk, to the back of the car, told me to put my
6 purse on the trunk, and then he put his hand on my
7 forehead and one on my chin and started jerking my head.

8 Q. So let me slow that down just a little bit. When
9 he came back over to the passenger side, did he tell you
10 to get out of the car or did he pull you out?

11 A. He pulled me out. I don't remember that he said
12 anything at that point.

13 Q. Were you able to see him when he pulled you out of
14 the car?

15 A. Not well. It was full dark by then.

16 Q. And then you walked to the back of the vehicle?

17 A. Yes.

18 Q. So describe for us again how he had your head
19 positioned and what he did.

20 A. He was behind me, and he put one hand on my
21 forehead and one on my chin and kept just jerking my head
22 very hard.

23 Q. And when you're demonstrating that for us, are you
24 showing how hard he did it to you?

25 A. No. I had whiplash from that. I don't want to do

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1 that.

2 Q. Do you know how many times he did that?

3 A. I don't. It was -- I don't really know, but it
4 was certainly more than two or three.

5 Q. At some point do you find yourself on the ground?

6 A. I do.

7 Q. Describe that to the jury, please.

8 A. I remember feeling his arm across my neck, and the
9 next thing I know I'm waking up on the ground.

10 Q. What happens at that point?

11 A. He jerked me up off the ground and started trying
12 to break my neck again.

13 Q. And then what happened?

14 A. A car came down 165, the direction we had
15 originally gone. I could see the headlights because I
16 was facing that direction at the trunk of the car, and he
17 pushed me down to the side of the road, got in the car,
18 and drove off.

19 Q. When you advised us at some point you passed out
20 from the actions he's doing with your neck, when you come
21 to, are you saying anything to him when he started doing
22 it again?

23 A. I just started saying, no, no, no.

24 Q. Now, today you're pretty composed. Could you
25 describe to the jury whether or not you were this

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1 composed that evening.

2 A. No.

3 Q. So as the car approaches, he gets back in your
4 vehicle?

5 A. And drives off.

6 Q. You have told us that you put your pocketbook on
7 the back of the car when he pulled you to the back of the
8 vehicle?

9 A. Yes, that's true.

10 Q. Did you have your pocketbook after he drove off?

11 A. No.

12 Q. What did you do once he drove off?

13 A. I waited, actually, until that car had come along
14 past me. Then I got up and I walked to the house. I
15 remembered passing this house on the corner there. I
16 remembered passing that house, and I walked back there.

17 Q. Did you know who lived there?

18 A. No.

19 Q. And what did you do when you got to the house?

20 A. I walked up on the porch and knocked on the door,
21 and when Ms. Mizell answered, I said I've been carjacked.
22 Can you help me?

23 Q. And did she, in fact, help you?

24 A. Absolutely. She took me in the house, and I asked
25 her to call 911, which she did.

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1 Q. Was her husband present at the home?

2 A. Her husband was present and several other people,
3 I think her son and her father, I think.

4 Q. Do you at some point get on the phone with the 911
5 dispatcher?

6 A. Yes.

7 Q. And was that during the conversation that Ms.
8 Mizell initiated?

9 A. Yes.

10 Q. And have you had the opportunity to listen to the
11 911 tape?

12 A. Yes.

13 MS. SHEALY: Your Honor, at this time, we
14 would enter State's Exhibit 104 and ask to publish it to
15 the jury.

16 THE COURT: Without objection?

17 MS. FORD: No objection.

18 THE COURT: Admitted. You can publish it.

19 (State's Exhibit No. 104 marked for
20 identification and admitted into evidence.)

21 BY MS. SHEALY:

22 Q. Ms. Martin, are these your initials on this disk?

23 A. Oh, yes.

24 Q. So the beginning part of the 911 tape will be Ms.
25 Mizell speaking with the dispatcher.

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1 A. Yes.

2 Q. And was she trying to ask you questions as they
3 were asking her questions?

4 A. Yes.

5 (Whereupon, State's Exhibit No. 104 was
6 played for the jury.)

7 BY MS. SHEALY:

8 Q. Did an officer actually come over to Ms. Mizell's
9 house?

10 A. Actually, three deputies came in at various times,
11 but yes.

12 Q. And did one of them take photographs of you from
13 that night?

14 A. Yes.

15 Q. While you were at Ms. Mizell's house?

16 A. Yes.

17 Q. Later did your sister and brother-in-law come
18 over?

19 A. Yes.

20 Q. And that was still at Ms. Mizell's?

21 A. Yes.

22 Q. I'm not sure you remember their names. Do you
23 know the names of first officers? Do you remember a
24 detective coming and your giving a statement?

25 A. Yes.

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1 Q. Now, you mentioned on the 911 tape that your car
2 has a LoJack security feature?

3 A. Yes.

4 Q. Can you describe that for the jury?

5 A. LoJack is a device that is hidden someplace in the
6 wiring of the car that is a vehicle recovery device. If
7 your car is stolen, they can activate the device and send
8 out a signal, and I think most police departments can
9 pick up.

10 Q. At the time this occurred, you're not familiar
11 with whether they were able to use the LoJack system?

12 A. No.

13 Q. And code for that was in your home --

14 A. Well, I had one in my wallet, and I had one at
15 home, a copy of it at home.

16 Q. You also said you were worried about his having
17 your house keys.

18 A. Absolutely.

19 Q. Showing you what's been previously marked as
20 State's Exhibit 9, is that a photograph of you from that
21 evening?

22 A. Yes.

23 Q. That's after you've been through everything you've
24 been through?

25 A. Yes.

LETTY MARTIN - DIRECT BY MS. SHEALY

1 Q. And showing State's Exhibit 10.

2 A. Yes.

3 Q. Can you point out to the jury what your appearance
4 reflects in that photograph that wasn't there before you
5 got carjacked.

6 A. I lost an earring.

7 Q. During the assault?

8 A. Yes. During the assault. This abrasion up here,
9 the spot on my nose, this bruising down here. There is a
10 certain amount of redness that is normal for me on my
11 neck, but not quite that much. My nose is -- I'm not
12 sure what's going on there, but my chin, as it turned
13 out, the next day showed up bruising here and inside my
14 lips.

15 Q. Okay. Showing you State's Exhibit 11?

16 A. Yes.

17 Q. Can you show some other areas -- let me clear
18 those other ones.

19 A. This spot on my cheek and this area across my
20 collarbone and again the tip of my nose there. You could
21 see that.

22 Q. And those were not there --

23 A. No, they were not there. They were not there
24 before. This part is pretty normal, but this looks like
25 it's ready to bruise, and that wasn't there before.

LETTY MARTIN - DIRECT BY MS. SHEALY

1 Q. And what about the red in your hair, by your ear?

2 A. Right here?

3 Q. Yes.

4 A. I think that might be a little blood, probably.

5 Q. State's Exhibit 13?

6 A. This side of the face didn't get quite as much
7 damage.

8 Q. And it shows the other earring being in?

9 A. Yes.

10 Q. When you met with the detectives that evening at
11 Ms. Mizell's house and gave your written statement, that
12 would have been not too terribly long after the incident
13 occurred; is that correct?

14 A. That's correct.

15 Q. And you were doing your best to give as much
16 descriptive information as you could at the time.

17 A. Correct.

18 Q. Do you remember how you were feeling when the
19 detective was questioning you and when you were talking
20 to the officers? Had you regained your composure or were
21 you still in a shock-like state?

22 A. I was still in shock, very upset. I wanted to go
23 home.

24 Q. Now, did EMS actually come?

25 A. They did.

LETTY MARTIN - DIRECT BY MS. SHEALY

1 Q. Did they check you out?

2 A. Yes.

3 Q. And did they ask you --

4 A. They asked if I wanted to go to the hospital, but
5 I said no.

6 Q. Did you feel like at that point you needed to go
7 to the hospital?

8 A. No.

9 Q. Now, could you describe for the jury, if that were
10 on the 5th and on the 6th, how did you feel the next day
11 when you woke up?

12 A. I was pretty sore. My neck was hurting quite a
13 lot because I had whiplash and I was beginning to show a
14 lot of bruising.

15 Q. On the following day, that being December 7th,
16 were you called back to the sheriff's department?

17 A. Yes.

18 Q. And who called you?

19 A. Detective Smith.

20 Q. And what did she want you to do?

21 A. To look at a photo lineup to see if I could
22 identify anyone.

23 Q. When you got to the sheriff's department, did they
24 also take photographs of you?

25 A. They did.

LETTY MARTIN - DIRECT BY MS. SHEALY

1 Q. Do you remember whether or not you took the
2 pictures first or looked at the lineup first?

3 A. I believe I looked at the lineup first.

4 Q. Let's go back for a moment, if we could, to when
5 the three officers were at Ms. Mizell's house. When you
6 were describing what the person looked like, did anybody
7 indicate to you who that sounded like?

8 MS. FORD: Objection. Hearsay.

9 MS. SHEALY: That's okay.

10 BY MS. SHEALY:

11 Q. When you get to the sheriff's office and meet with
12 Detective Smith, had you ever met her before?

13 A. No.

14 Q. And what does she explain to you about the
15 photographic lineup process?

16 A. She explained the process and read a series of
17 statements that I initialed in stating that I understood
18 them, and I read them along with her and she showed me a
19 sheet with six photographs on it, and I looked at the
20 photographs and picked one of them.

21 MS. SHEALY: Your Honor, at this time I would
22 offer into evidence State's Exhibit 14, and I
23 understand --

24 MS. FORD: Yes, Your Honor. I would renew my
25 objection at this time.

LETTY MARTIN - DIRECT BY MS. SHEALY

1 THE COURT: All right. Subject to your
2 earlier objection, it is overruled.

3 MS. SHEALY: And, actually, it's State's
4 Exhibit 14 and 15.

5 THE COURT: All right.

6 BY MS. SHEALY:

7 Q. Ms. Martin, you've described that there was a form
8 that had different entries on it and that you initialed
9 by them.

10 A. Yes.

11 Q. Showing you State's -- those two State's Exhibits,
12 could you tell me whether or not that is the form you're
13 referring to?

14 A. Yes.

15 Q. Okay. And if you would, please, would you
16 indicate to the jury and could you pull up -- you may not
17 be able to see that very well, so just look at the
18 document itself, but that does refresh -- just point on
19 that form as to where your initials are.

20 A. My initials are beside each item here.

21 Q. And would you read into the record what those
22 statements state, starting with number one.

23 A. One, I'm going to show you a series of
24 photographs, a physical lineup of individuals for an
25 array of six photographs of individuals. The photographs

LETTY MARTIN - DIRECT BY MS. SHEALY

1 that I am about to show you are placed in no special
2 order. These photographs may or may not be the person
3 who committed the crime. It is just as important to
4 clear innocent people as it is to identify possible
5 suspects. Whether or not you identify someone, the
6 police will continue to investigate it.

7 Q. And, Ms. Martin, that was actually item two.

8 A. Yes.

9 Q. And you initialed by that as well?

10 A. I did.

11 Q. And did you understand that it would be important
12 to clear someone?

13 A. Oh, yes.

14 Q. And that if you couldn't identify anyone, they
15 would continue to investigate?

16 A. Yes.

17 Q. And number three?

18 A. Three is after you were done, I will not be able
19 to provide you with any feedback or comment on the
20 results of the process.

21 Q. Did you initial there?

22 A. I did. Four, do not discuss this identification
23 or procedure or the results with other witnesses in this
24 case, and I initialed that.

25 Five: Focus on the event, the place, view,

LETTY MARTIN - DIRECT BY MS. SHEALY

1 lighting, your frame of mind, et cetera. Take as much
2 time as you need. I initialed that.

3 Six: People may or may not appear exactly as they
4 did at the time of the event because features such as
5 clothing style, hair color, hairstyle, et cetera may
6 change even in a short period of time. I initialed it.

7 Seven: As you look at the photographs, tell me if
8 you recognize the person in them. If you do, please tell
9 me how you know the person and, in your own words, how
10 sure you are of the identification.

11 And I initialed that.

12 Q. And all of that was done prior to your being shown
13 the lineup?

14 A. Yes.

15 Q. Was it your understanding that the lineup may or
16 may not have the person in it?

17 A. Yes.

18 Q. And could you describe to the jury what level of
19 care you took in looking at the photographs?

20 A. I took several minutes looking at them and
21 studying the faces.

22 Q. Now, looking at State's Exhibit 15 -- and I'm
23 going to go ahead and separate these. When Detective
24 Smith showed you this document, was it folded like that?

25 A. Yes.

LETTY MARTIN - DIRECT BY MS. SHEALY

1 Q. Okay. So you never saw what was on the flip --

2 A. No.

3 Q. -- of this page.

4 A. I did not.

5 Q. And when you looked at each of the photographs
6 there, did you conclude that the person who had abducted
7 you that evening was one of the six pictures?

8 A. Yes.

9 Q. And could you point at that person for the jury?

10 A. (Indicating.)

11 Q. Now, at any time did Detective Smith tell you who
12 she wanted you to pick?

13 A. No.

14 Q. Did she suggest to you at all that the person they
15 thought did it was in the lineup?

16 A. No.

17 Q. Did she or any law enforcement officer encourage
18 you to choose a specific person in that lineup?

19 A. No.

20 Q. After you did that, is that your circling of the
21 identifying number underneath?

22 A. Yes.

23 Q. And are your initials on that document as well?

24 A. Yes.

25 Q. Did Detective Smith then ask you, looking back at

LETTY MARTIN - DIRECT BY MS. SHEALY

1 the previous document, to make a statement as to who you
2 identified?

3 A. Yes.

4 Q. And what did you, in fact, write?

5 A. He looks most like the person that carjacked me
6 and tried to kill me.

7 Q. Do you see the person in the courtroom who
8 abducted you that day?

9 A. Yes.

10 Q. And could you point to him, please.

11 MS. FORD: Objection, based on my prior
12 motion.

13 THE COURT: Overruled. You can identify if
14 you can.

15 BY MS. SHEALY:

16 Q. I'm sorry?

17 A. Yes, the defendant.

18 Q. Seated between his lawyers?

19 A. Yes.

20 Q. And you signed that evening this document?

21 A. Yes.

22 Q. Now, you've told us that obviously your car key
23 was gone.

24 A. Yes.

25 Q. And your house keys were gone.

LETTY MARTIN - DIRECT BY MS. SHEALY

1 A. Yes.

2 Q. Let's look at the photographs that were taken of
3 you that evening at the sheriff's department.

4 A. Okay.

5 Q. And, again, this would have been two days later,
6 is that correct?

7 A. Yes.

8 Q. Showing you State's 16, that's just at a little
9 bit of a distance, 17, from the profile. Looking at
10 State's 19, can you point to areas that were not on your
11 face in that photograph prior to being abducted that
12 evening?

13 A. Yes. This on my cheek, this on my neck, and
14 bruising across here.

15 Q. Okay. And is there anything different about your
16 nose in that picture, that you can see?

17 A. Well, it was kind of on the other side. I don't
18 see it on this picture.

19 Q. That's fine. Showing you State's Exhibit 20.

20 A. That's across my collarbone and my neck because it
21 was getting bruised in here, bruising in here and all
22 across here.

23 Q. And what caused that bruising? What action by the
24 defendant caused that bruising?

25 A. This across here. I'm really not sure.

LETTY MARTIN - DIRECT BY MS. SHEALY

1 Q. You don't remember?

2 A. I don't remember.

3 Q. But did you have it prior to that day?

4 A. No.

5 Q. Showing you State's 21, could you focus on your
6 lip area and tell us what was appearing on your lip.

7 A. It was bruised right here.

8 Q. State's 22.

9 A. This is the inside of my lips and my gums. Like
10 this hematoma or bruise there and here, and my gums were
11 all bruised, upper and lower.

12 Q. Showing you State's 24.

13 A. I had developed a big bruise. Almost my whole
14 tongue was bruised, and this is a big lump on it. I
15 don't know how it got there, but it wasn't there prior.

16 Q. State's Exhibit 25.

17 A. Broken blood vessels in my eyes.

18 Q. State's Exhibit 26?

19 A. The bruise on my arm that was --

20 Q. It's a little hard to tell?

21 A. It's a little hard to tell, but it was the shape
22 of fingers on my arm.

23 Q. Did you look on that photograph and see that to
24 point it out to the jury?

25 A. This is one of it, yeah. It's a little hard to

LETTY MARTIN - DIRECT BY MS. SHEALY

1 tell on that.

2 Q. State's Exhibit 27.

3 A. This is the other side of my arms. There is a
4 bruise there.

5 Q. 28.

6 A. More bruising there.

7 Q. 29.

8 A. I had a bruise, a big bruise, on my knee, my right
9 knee.

10 Q. And then State's 30.

11 A. That's a close up of the bruise on my knee.

12 Q. And do you know when that occurred that evening?

13 A. I don't know.

14 Q. Did you get the key back to your car eventually?

15 A. I did.

16 Q. And did someone from law enforcement give it back
17 to you?

18 A. Yes.

19 Q. What about your pocketbook?

20 A. I was teaching a class, and I got a phone call
21 from a Westvaco employee, a man named Tim. I don't
22 remember his last name, and he said he had found my purse
23 in the woods on Westvaco property. And I asked him did
24 you touch it? And he said no, that my business cards had
25 fallen out and he had got my phone number from that.

LETTY MARTIN - DIRECT BY MS. SHEALY

1 So I asked him if he would please stay there and
2 call the sheriff's department and have them pick it up
3 and he said he would.

4 Q. Did you get it back?

5 A. I did get it back later that day, I believe it was
6 later that day.

7 Q. Did you seek any medical attention after the
8 incident based on your injuries?

9 A. Yes. I went to see a chiropractor.

10 Q. Is that someone you had seen previously?

11 A. Yes.

12 Q. And what was his name?

13 A. Marcus Hostetler. He specializes in sports
14 medicine, which is why I wanted to go with him.

15 Q. And did he, in fact, see you and try to provide
16 you with some relief?

17 A. Yes, he did.

18 Q. Now, eventually you got your car back, correct?

19 A. I did.

20 Q. And could you tell the jury whether or not the car
21 was in the same position as you left it when you got it
22 back?

23 A. No, it was not.

24 Q. Okay. Showing you State's Exhibit 31.

25 A. Yes.

LETTY MARTIN - DIRECT BY MS. SHEALY

1 Q. Is there anything depicted in this photograph that
2 was different from when you came home that day from
3 running your errands?

4 A. The coin tray, it's not an ashtray, was full of
5 cigarette ashes. This is not mine.

6 Q. Let me show you State's 32. That might show that
7 area a little more clearly.

8 A. So the cigarette ashes, I never smoke cigarettes,
9 so that's not mine. This wallet is not mine. This car
10 charger is not mine.

11 Q. And State's Exhibit 35, had anything moved places
12 from when you had left it earlier?

13 A. In the console, no, I don't think so. All that is
14 mine.

15 Q. What about the feather with the cup? Had it been
16 located in that area of the vehicle?

17 A. Yes.

18 Q. State's Exhibit 36, is that you blue bowl?

19 A. No.

20 Q. State's Exhibit -- beg the Court's indulgence just
21 one moment. State's Exhibit 37, do you typically ride
22 with your car seats in that position in the front?

23 A. Never.

24 Q. In the back seat, the dark towel looking item, can
25 you point to that? Is that yours?

LETTY MARTIN - DIRECT BY MS. SHEALY

1 A. That was mine. It was up in the back deck to
2 protect it from the sun.

3 Q. Okay. The dark jacket next to is, is that yours?

4 A. No.

5 Q. Showing State's Exhibit 38, are those jeans yours?

6 A. No. Just for the record, whatever this is, is not
7 mine either.

8 Q. Okay.

9 MS. SHEALY: Your Honor, may we approach for
10 a moment?

11 THE COURT: Sure.

12 MS. SHEALY: Your Honor, at this time we
13 would move State's Exhibit 40, 41, and 42 into evidence.

14 THE COURT: Well, you need to ask her --

15 MS. SHEALY: She's not going to be able to --

16 THE COURT: All right. Well, you can't put
17 it in through her, but you can ask her if she can
18 identify it, and if she can't, she can't, but you could
19 ask her if it was something in her car, and then you can
20 put it in through another witness.

21 MS. SHEALY: So I'm going to have these
22 marked as ID for now.

23 BY MS. SHEALY:

24 Q. I'm going to show you State's 40, 41, and 42 and
25 ask you whether or not that item is yours and whether or

1 not it was in your car before you were abducted.

2 A. It is not mine and it was not in the car.

3 Q. And it was not in the car before?

4 A. No, I never had anything like that.

5 Q. Do you remember ever meeting Latrone Butler that
6 evening?

7 A. No.

8 MS. SHEALY: I beg the Court's indulgence
9 just a moment. I have no further questions for you right
10 now. Please answer any questions the defense may have.

11 THE COURT: All right. Folks, this is where
12 we will break for today, and we'll have defense begin
13 their cross-examination in the morning since it's getting
14 a little bit late.

15 I'm going to send you home now. Please don't
16 talk to anybody about the case. Obviously, the first
17 thing that's going to happen is you're going to walk
18 through the door and somebody is going to ask you if you
19 got picked for a jury.

20 If you haven't told them already, you can
21 tell them yeah, I got picked for a jury; however, the
22 judge says I'm not allowed to talk about the case and
23 please, respect that, because -- understand the basis for
24 that rule is real simple. It's fairness to the parties,
25 both sides.

1 your patience today.

2 (In open court, jury not present.)

3 THE COURT: Now you're on the witness stand,
4 you're not allowed to talk anybody about your testimony.
5 That would include Ms. Shealy or anybody else.

6 You can talk about scheduling or something if
7 you have transportation needs, but you're not allowed to
8 talk to her or the defense lawyer or anybody about the
9 case, and if anybody does approach you to talk about the
10 case, tomorrow please report that to me first thing in
11 the morning. Okay?

12 THE WITNESS: Yes, sir.

13 THE COURT: We'll see you in the morning.
14 Anything from the State?

15 MS. SHEALY: Yes, judge. Ms. Ford and I have
16 spoken about this. Here is a jail phone call that I
17 intend to offer.

18 THE COURT: Okay.

19 MS. SHEALY: I have a disk for you -- I don't
20 know if you want to look at it overnight or listen to it,
21 I'm sorry, but I also have a transcript that may assist
22 you.

23 THE COURT: Is there something unusual about
24 it as opposed to every other jail phone call?

25 MS. SHEALY: No. I think she objects to it.

1 THE COURT: What would be your objection?

2 MS. FORD: My objection is that I don't think
3 it's clear enough and that it's misleading. You know,
4 it's part one of the jail conversation, and I just don't
5 think the context is there to -- I just think it's
6 misleading. It's very difficult to follow without the
7 other person to explain.

8 THE COURT: It's only one side of a phone
9 call?

10 MS. FORD: Well, it is both parties. I'm
11 just talking about all the of their conversations, Your
12 Honor.

13 THE COURT: Well, if you've got some other
14 ones that you want to play, you can play it, but if he
15 said something and it's against his interest to have him
16 said it, it's fair game.

17 You know, if he's not got enough sense to not
18 talk on the telephone with a sign in front of him that
19 says this phone call is being recorded, the law says it
20 can come in. As to whether or not it's intelligible,
21 well, you know, if the jury can hear it and make sense of
22 it, that's fine. I'll take the transcript, but I'm not
23 going to probably let the jury see that transcript
24 because I don't know what -- if it's one of those that is
25 so difficult to hear like last week where I don't

1 understand how anybody could hear what was said and we
2 got people talking street language and stuff like that,
3 we will -- I'll just let the jury hear it, make of it
4 what they will.

5 Okay? Anything else?

6 MS. FORD: No, Your Honor. I don't think so
7 right now.

8 THE COURT: All right. See y'all at 9:30.
9 (Recess taken.)

10 (January 16, 2014.)

11 (In open court, jury not present.)

12 THE COURT: All right. Are we ready to go
13 forward?

14 MS. FORD: Yes, Your Honor.

15 THE COURT: Okay.

16 MS. FORD: There is an issue. Basically, in
17 the car, when it's found several days later, there is a
18 jacket and a pair of jeans in there, and the pair of
19 jeans have a few spots of blood on it. The blood was
20 analyzed. It's not Ms. Martin's blood. The blood
21 actually belongs to Mr. Butler.

22 THE COURT: Okay.

23 MS. FORD: But we do not think it's relevant
24 at all and it's prejudicial to bring any of that in.

25 THE COURT: Well, it's definitely

1 prejudicial. It proves his guilt. It is prejudicial to
2 him. Why wouldn't that be relevant?

3 MS. FORD: It's not Ms. Martin's blood, it's
4 his own, but there is no allegation --

5 THE COURT: But it's in her car.

6 MS. FORD: Right. It's two days later.

7 THE COURT: Okay.

8 MS. FORD: But, Your Honor, the jeans -- the
9 State wants to bring in the jeans to show, Oh, there was
10 a pair of jeans in there. The carjacker was wearing
11 jeans.

12 Ms. Martin never gave a specific description
13 of the jeans. We already have pictures of the jeans.
14 It's not that we object to the jeans coming in. Jeans
15 with his blood on it serves no relevance. There is no
16 allegations that the carjacker cut himself, and it's also
17 cumulative because the jeans are also traced to him
18 through his DNA because they take from the pocket. So
19 the DNA person will be able to say that his DNA was found
20 in the pocket.

21 There's no reason to say his DNA was found in
22 the pocket and also blood found in the jeans. There is
23 no allegation that the carjacker cut himself. There is
24 just no reason to bring his blood in. It just is
25 misleading, confusing to the jury, because it serves no

1 purpose.

2 THE COURT: What's the State's position on
3 this?

4 MR. EVANS: Well, Your Honor touched on the
5 probative value. The jeans belonged to the defendant and
6 were found in Ms. Martin's car. There was extensive lab
7 work on the jeans, not only on the blood, but on the
8 jeans in general, at SLED and the State wanted to
9 introduce the entire jeans just to tie everything
10 together. As Your Honor said, it's probative. It's his
11 clothes in the back seat of the car.

12 MS. FORD: And the jeans can already be tied
13 to him through the pockets, so it's cumulative, and
14 especially there is the jeans themselves, but also there
15 is pictures of the jeans themselves with blood spots on
16 them. We already have pictures of the jeans without the
17 blood spots.

18 I don't see any need to put pictures into
19 evidence the cops holding up jeans with blood spots on
20 them. It serves no purpose.

21 THE COURT: Well, the jury needs to know that
22 the DNA is on there and how it got found. The fact that
23 there was blood is how they happened to come about
24 finding that DNA and was found on him is necessary to
25 prove that.

LETTY MARTIN - CROSS-EXAMINATION BY MS. FORD

1 A. That's correct.

2 Q. And that was at your neighbor's house?

3 A. Correct.

4 Q. You spoke to the police the day of the incident,
5 correct?

6 A. Correct.

7 Q. And you spoke to several police officers?

8 A. Yes.

9 Q. And they were very interested if you had ever
10 seen the man before?

11 A. They asked me if I had.

12 Q. And you told them no?

13 A. I don't remember.

14 Q. You don't remember what you told them? You gave a
15 written statement, correct?

16 A. Yes.

17 MS. FORD: May I approach, Your Honor?

18 THE COURT: Yes.

19 BY MS. FORD:

20 Q. You agree you told the police you don't know the
21 black man, correct?

22 A. That's correct.

23 Q. You talked to the 911 operator that day, correct?

24 A. Yes.

25 Q. And you talked to Deputy Kjellman?

LETTY MARTIN - CROSS-EXAMINATION BY MS. FORD

1 A. I talked to three deputies and a detective. I
2 don't remember the names.

3 Q. Detective Perkins is one of the officers?

4 A. Not that night.

5 Q. Not that night? You talked to Detective Herriott?

6 A. Whoever signed that written statement. I really
7 don't remember the name who gave them.

8 Q. You told them all you had never seen the man
9 before?

10 A. I don't remember. I don't remember saying that.

11 Q. So you never told the police you had seen the guy
12 earlier that day.

13 A. I don't remember.

14 Q. You don't remember that either?

15 A. If I said that.

16 Q. You've lived the Jericho mobile home park since
17 2006?

18 A. 2007.

19 Q. 2007? At some point when you were living there,
20 you gave a black man a ride to his job at Harvest Grill;
21 is that correct?

22 A. That's correct.

23 Q. You don't really remember what that man looked
24 like?

25 A. He was -- I don't. He came and knocked on my door

1 and said his girlfriend had sent him over. I had given
2 him a ride at some point in the past, and he asked if I
3 would take him to work. He stated that he needed that
4 job. He had a child support, and he couldn't be late
5 again, but I didn't know who he was, so I gave him a
6 ride, based on the fact that I had taken his girlfriend
7 before.

8 Q. And Harvest Moon Grill, is that about a ten to
9 fifteen minute drive from where you live?

10 A. Probably not. It's about three miles, maybe.

11 Q. Three miles?

12 A. Uh-huh.

13 Q. The police were very interested in a description
14 of the suspect, correct?

15 A. Of course.

16 Q. And so you gave a description.

17 A. Yes.

18 Q. The 911 operator asked for a description?

19 A. Yes, I think so.

20 Q. And the responding deputy, Deputy Kjellman?

21 A. Whoever it was, the deputies asked.

22 Q. The deputies who took the written statement that
23 night?

24 A. Probably. I'm thinking he did.

25 Q. You did -- you wrote a statement, correct?

LETTY MARTIN - CROSS-EXAMINATION BY MS. FORD

1 A. Yes.

2 Q. And in that statement, you gave a description of
3 the man.

4 A. I did.

5 Q. And you wrote the statement that night?

6 A. Yes.

7 Q. And Detective Perkins, when you met with him, he
8 asked for a description?

9 A. I don't remember. Probably, but I don't remember
10 for sure.

11 Q. The description you gave was male?

12 A. Yes.

13 Q. In his late 20's?

14 A. Yes.

15 Q. And now you're saying the man was about five-ten
16 to six feet?

17 A. Yes.

18 Q. In your written statement, you just said he was
19 about six feet; correct?

20 A. That's what it says, yes.

21 MS. FORD: May I approach, Your Honor?

22 THE COURT: You may.

23 BY MS. FORD:

24 Q. I'm handing you what's been marked as Defendant's
25 Exhibit 1. Does this look to be your statement that you

1 wrote?

2 A. Yes.

3 Q. And on the third page when it asked for a
4 description, you said the man was about six feet,
5 correct?

6 A. Yes.

7 Q. In the 911 call, you said the man was about six
8 feet that we listened to yesterday, correct?

9 A. Yes.

10 Q. You also said the man was black?

11 A. Correct.

12 Q. But you didn't indicate if he was light, medium,
13 or dark skinned, correct?

14 A. Correct.

15 Q. You said the black man was wearing jeans?

16 A. Yes.

17 Q. But you didn't indicate if the jeans were dark,
18 medium, or light colored?

19 A. I didn't think so.

20 Q. You didn't note any labels or designs or patches
21 of any kind on the jeans?

22 A. That would have been covered by the jacket, but
23 no.

24 Q. So you said he was wearing a jacket?

25 A. Yes.

LETTY MARTIN - CROSS-EXAMINATION BY MS. FORD

1 Q. You said the jacket was dark?

2 A. Correct.

3 Q. Never told the police what color the jacket was,
4 though?

5 A. I don't believe so.

6 Q. You did not describe the man's shirt?

7 A. Didn't see it.

8 Q. You didn't describe the man's shoes?

9 A. Don't think I noticed.

10 Q. You didn't note any facial hair?

11 A. No.

12 Q. You didn't note what hair length the man had?

13 A. I don't remember seeing it. I thought he might be
14 wearing a cap, but I never told anyone.

15 Q. Never told anyone he was wearing a cap?

16 A. No.

17 Q. You didn't notice any birthmarks or anything like
18 that?

19 A. No.

20 Q. The man was not wearing gloves?

21 A. I don't think so.

22 Q. You never told anybody he was wearing gloves?

23 A. He didn't have gloves on when he had his hands on
24 my face.

25 Q. You didn't note any tattoos on the man at all?

1 A. No.

2 Q. When the police first talked to you, when you were
3 asked for a description, they asked if you would be able
4 to identify the man when you saw him?

5 A. Yes.

6 Q. And you told them that you didn't know?

7 A. That's correct.

8 Q. And when Detective Smith showed you the lineup
9 that you pointed out yesterday, she asked you about the
10 six men in the lineup, correct, or she asked you who, if
11 anyone, was responsible, correct?

12 A. I don't remember how she phrased it or if she just
13 said, Look at the pictures and see if anyone --

14 Q. And you told us yesterday it took you several
15 minutes to make that identification?

16 A. I might have said that yesterday. It wasn't a
17 long time, but it wasn't like -- I studied the
18 photographs for a little bit.

19 Q. And you indicate the man looked most like the guy?

20 A. Yes.

21 Q. You didn't say he looked most like the guy except
22 for the hair, correct?

23 A. No, I didn't.

24 Q. So all you said is he looks most like the guy?

25 A. Yes.

LETTY MARTIN - CROSS-EXAMINATION BY MS. FORD

1 Q. And you didn't recognize any of the other males in
2 the lineup as being residents of Ravenel or Jericho
3 mobile home park, correct?

4 A. That's correct.

5 Q. You talked to most of the police at Ms. Mizell's
6 house, correct?

7 A. Correct.

8 Q. And they were there about two hours?

9 A. I don't really know.

10 Q. So you spoke to the three police officers there?

11 A. Three deputies.

12 Q. And you gave a written statement?

13 A. And a written statement to the detective. I gave
14 the statement verbally to the three deputies at different
15 times. They were not all there at the same time, and to
16 the detective I gave the written statement.

17 Q. But that detective is not Detective Perkins,
18 right?

19 A. That's correct.

20 Q. And you talked to Detective Perkins when, do you
21 know? Was it later that night for the first time?

22 A. I think the first time I talked to him -- I don't
23 think it was that night. I can't remember if it was the
24 next day or the day after.

25 Q. You did -- we know you talked to him when you went

1 in for photo lineup, correct?

2 A. Correct, and that's the first time I met him.

3 Q. Okay. And that was two days later?

4 A. Yes.

5 Q. And you also spoke to Detective Smith that day
6 too?

7 A. Yes.

8 Q. I just want to clarify a few things about the
9 incident, okay? So you're telling us that the man is the
10 one who drove the car?

11 A. Yes.

12 Q. So you never told Detective Perkins that you were
13 the one driving the car?

14 A. No.

15 Q. And you told us that the man, he had some type of
16 object, but you never saw it, correct?

17 A. That's correct.

18 Q. He said it was a gun?

19 A. He said it was a gun.

20 Q. So you never told Detective Perkins that the man
21 had a knife at your throat while you were driving?

22 A. No.

23 Q. After the car was stopped --

24 A. Yes.

25 Q. -- when the man got you out, did you try to flee

LETTY MARTIN - CROSS-EXAMINATION BY MS. FORD

1 at that point?

2 A. No. As I said yesterday, I was in such, really, a
3 state of shock. I felt paralyzed by fear.

4 Q. So you never told Detective Perkins that you tried
5 to flee?

6 A. That's correct, and he had hold of my arm when I
7 was out of the car. He wouldn't turn me loose.

8 Q. Did you tell Detective Perkins that the man was
9 holding your arm inside the car?

10 A. The only time I think that he had hold of my arm
11 is when I first got in the car to start it, and he was
12 standing in the driver's door. I think he had my arm and
13 he still had whatever that object was that he said was a
14 gun in my ribs.

15 Q. So you never told Detective Perkins that he was
16 holding your arm in the car, though, when y'all were
17 driving?

18 A. When he was driving, no.

19 Q. Your car, it has -- the gear shifter and the
20 console area, correct?

21 A. Correct.

22 Q. And that's between the driver and the passenger
23 seat?

24 A. Yes.

25 Q. So in order to change the gear, somebody would

1 have had to put his hand down in between the two seats,
2 correct?

3 A. Yes.

4 Q. And you noticed that the car was in the wrong gear
5 at some point, didn't you?

6 A. The first time he turned on Hyde Park Road and
7 turned around in the driveway, I glanced down and noticed
8 that it was in the wrong gear, yes.

9 Q. So you indicated to the man they should change it?

10 A. Yes.

11 Q. He did?

12 A. He did.

13 Q. And the man was also turning around a few times,
14 correct?

15 A. He made several turns, yes.

16 Q. Right. He had to go into reverse at some time?

17 A. Yes.

18 Q. And during all this, you never noticed any tattoos
19 on the man's hands?

20 A. No, I didn't.

21 Q. And the man also, he had had his hands at your
22 head?

23 A. Yes.

24 Q. Okay. And you never noticed any tattoos on his
25 hands at that point?

LETTY MARTIN - REDIRECT BY MS. SHEALY

1 A. When he was behind me, his hands were back here.
2 I didn't see.

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

4 No further questions, Your Honor.

5 THE COURT: Redirect?

6 MS. SHEALY: Thank you, Your Honor.

7 REDIRECT EXAMINATION

8 BY MS. SHEALY:

9 Q. Ms. Martin, Ms. Ford had asked you whether or not
10 your statement said that you had never seen him before.
11 Would it be helpful to look at a copy of your statement?

12 A. Yes.

13 Q. And focussing your attention to the last page of
14 that statement, what, in fact, were you asked?

15 A. Do you know the black male?

16 Q. And did you know the black male?

17 A. No.

18 Q. You had not been asked whether or not you had seen
19 him before; is that correct?

20 A. That's correct.

21 Q. And the Harvest Grill is on Highway 17?

22 A. That's correct.

23 Q. And that's a local -- they serve lunch and they
24 serve supper?

25 A. Yes.

LETTY MARTIN - REDIRECT BY MS. SHEALY

1 Q. You do recall taking a man one time to a job at
2 Harvest Grill?

3 A. Correct.

4 Q. Do you know whether or not it was Latrone Butler?

5 A. No.

6 Q. Do you remember what that guy even looks like?

7 A. Not really.

8 Q. And do you remember when that was in comparison to
9 when this occurred?

10 A. I don't, and that day, he was wearing work
11 clothes, white pants and a white shirt and some kind of a
12 white head covering, I guess, restaurant workers kind of
13 covering, so I didn't see his hair that day.

14 Q. So you don't know whether that was Latrone Butler
15 or not?

16 A. That's correct, I do not.

17 Q. You just remember giving a guy a ride one time?

18 A. Right.

19 Q. And Ms. Ford asked you, did you see the shirt that
20 the guy was wearing that night?

21 A. Correct.

22 Q. Did you see the shirt, though?

23 A. No.

24 Q. And describe that jacket to us again.

25 A. It was a dark color and a quilted jacket so it was

LETTY MARTIN - REDIRECT BY MS. SHEALY

1 puffy.

2 Q. And you indicated it was dark?

3 A. It was dark.

4 Q. You don't know whether it was dark blue, a dark
5 black, a dark brown?

6 A. No, I don't.

7 Q. You indicated today that he may have been wearing
8 a cap.

9 A. Yes.

10 Q. Do you recall whether specifically he was wearing
11 a cap?

12 A. I don't. I just know -- I don't remember seeing
13 his hair, so I just think he might have been, but I don't
14 know for sure.

15 Q. And Ms. Ford asked you whether or not you know if
16 he were wearing gloves, and you indicated that you know
17 he wasn't when he was trying to snap your neck?

18 A. That's correct, yes.

19 Q. Is that because you couldn't feel the gloves on
20 your face when that happened?

21 A. Yes.

22 Q. When you tell the detective who took your written
23 statement that you're not -- when they asked if you would
24 be able to recognize him and you said you don't know --

25 A. Uh-huh.

1 Q. -- when you later go back to look at the one
2 lineup they had, the police already knew you may not be
3 able to recognize him, right?

4 A. That's correct.

5 Q. Did you feel any pressure to identify anybody on
6 that lineup?

7 A. Absolutely not.

8 Q. And when you told the Court that you studied the
9 photographs, was it important to you to make sure?

10 A. Oh, yes.

11 Q. Did you have any interest in just getting somebody
12 arrested?

13 A. No.

14 Q. Ms. Ford also asked you whether or not you ever
15 indicated he had a knife on him and a knife on you?

16 A. Yes.

17 Q. Did you ever indicate that to anyone?

18 A. No.

19 Q. What do you recall describing to the police about
20 whether or not there was a weapon or whether he said
21 there was a weapon?

22 A. I told him he said several times that he had a gun
23 and he would shoot me. I never saw it. The jacket I had
24 on was a windbreaker type and it came over like this and
25 covered whatever was here, so I didn't see what it was.

LETTY MARTIN - REDIRECT BY MS. SHEALY

1 I don't have experience with guns, but it felt like what
2 I imagine one would feel like.

3 Q. And that was in your rib area?

4 A. In my ribs, yes.

5 Q. After Mr. Butler was arrested, did you attend the
6 bond hearing?

7 A. I did.

8 Q. Were you able to see Mr. Butler at the bond
9 hearing?

10 A. He was. He was on video in the detention center,
11 and we were in a courtroom across the road, I think, from
12 there.

13 Q. When you had the opportunity to see him that day,
14 were you concerned whether you got the right guy or did
15 it appear to be the person that abducted you that
16 evening?

17 A. It was the one who had abducted me.

18 Q. In December 2012 did a crime scene technician come
19 and take a buccal swab of you?

20 A. Yes.

21 Q. And when doing so did they give you a Q-tip to
22 hold or did they rub it in your jaw area?

23 MS. FORD: Your Honor, this is outside the
24 scope of my cross.

25 THE COURT: Sustained. No new matter.

LETTY MARTIN - RECROSS BY MS. FORD

1 BY MS. FORD:

2 Q. When Ms. Ford was asking you about whether or not
3 Mr. Butler held your arm while y'all were in the car,
4 you've indicated -- did you indicate that it was
5 initially when he asked you to start your vehicle?

6 A. Yes.

7 Q. And the remainder of the time he was not holding
8 your arm while you were in the car?

9 A. That's correct.

10 MS. SHEALY: Beg the Court's indulgence just
11 a moment. I have no further questions.

12 MS. FORD: I have a few questions.

13 THE COURT: Go ahead.

14 RECROSS-EXAMINATION

15 BY MS. FORD:

16 Q. When you gave your written statement, nowhere did
17 you indicate that you had seen the man earlier that day,
18 correct?

19 A. I guess. I would have to read it again. I have a
20 copy here. I'm sorry. Would you repeat your question?

21 Q. Nowhere in your statement do you indicate you had
22 seen the man earlier that day?

23 A. That's correct.

24 Q. Now, you indicated when y'all got out of the car,
25 it was dark, correct?

PENNY MIZELL - DIRECT BY MR. EVANS

1 A. Yes.

2 Q. But when everything started, it was around 5:00 in
3 the afternoon, right?

4 A. That's correct.

5 Q. So it was still light at that time.

6 A. Yes.

7 Q. Now, the jacket, you described it today as quilted
8 and puffy, correct?

9 A. Yes, yes.

10 Q. But you never at any time told any police officer
11 that?

12 A. No, I didn't, but I knew that at the time, but I
13 -- that's correct.

14 MS. FORD: Beg Court's indulgence. No
15 further questions..

16 THE COURT: You may step down.

17 THE WITNESS: Thank you.

18 THE COURT: All right. Next witness.

19 MR. EVANS: State calls Penny Jo Mizell.

20 PENNY MIZELL,

21 having been first duly sworn,

22 was examined and testified as follows:

23 DIRECT EXAMINATION

24 BY MR. EVANS:

25 Q. Good morning, Ms. Mizell. How are you?

PENNY MIZELL - DIRECT BY MR. EVANS

1 A. Good. How are you?

2 Q. Where do you live?

3 A. [REDACTED] in Ravenel, South Carolina.

4 Q. Is there a road that intersects with that right
5 where you live?

6 A. Yes, sir, Hyde Park Road.

7 Q. I'm showing you State's Exhibit 5. Would you tell
8 me if you recognize what's depicted in this picture. Do
9 you recognize that?

10 A. I do.

11 Q. Can you kind of orient us to what we're looking
12 at?

13 A. It looks like --

14 Q. And you can actually draw on that, if you like.

15 A. Yeah, it's Hyde Park Road. My house is right here
16 in the middle, so where this tree's at, you're coming up
17 High Park Road to 165, and there is a dirt road that runs
18 in front of my house, and then 165 is also to the left of
19 my house here.

20 Q. You can actually literally draw on the thing in
21 front of you. Can you draw and trace High Park Road for
22 us.

23 A. Okay. I live right there -- and let's see. This
24 right here is Hyde Park Road, the paved road side of Hyde
25 Park Road, and this is the dirt road of High Park Road,

1 and I live right there where the X is at.

2 Q. And that is 165?

3 A. Yeah. This is 165 right there.

4 Q. Do you recall night of December 5, 2011?

5 A. I do.

6 Q. Were you at your house?

7 A. Yes.

8 Q. Was there anybody else with you?

9 A. My husband and my 16-year-old son.

10 Q. What happened that night?

11 A. We had a knock on the door, and I looked out the
12 window and I saw a white female standing on my porch. I
13 opened the door, because we don't usually get visitors
14 out there, and we yelled at John, my husband, and asked
15 the lady, you know, what was the matter.

16 And she said she had been carjacked and would I
17 please call the police for her, and then after I did
18 that, she asked me to call her sister.

19 Q. Had you ever seen her before?

20 A. No, sir.

21 Q. You didn't know her?

22 A. No, sir.

23 Q. What did she look like?

24 A. Older lady, gray hair, short.

25 Q. How was she acting?

PENNY MIZELL - DIRECT BY MR. EVANS

1 A. Very distraught, upset, scared. Terrified,
2 actually. I didn't know what was going on until she
3 explained to us exactly what had taken place.

4 Q. Did she have any physical injuries that you could
5 see?

6 A. She was red around her neck and face, visibly.

7 Q. Did she say anything else about what had happened?

8 A. Yes, sir. She said that she was getting into her
9 vehicle, I guess when she was at home or something, and
10 that someone had approached her from behind, put
11 something in her side, forced her --

12 MS. FORD: Objection. This is going into
13 hearsay, Your Honor.

14 THE COURT: What is the objection?

15 MS. FORD: Hearsay.

16 THE COURT: 803(2), excited utterance.

17 BY MR. EVANS:

18 Q. You can continue.

19 A. She said she was getting into her car. Somebody
20 approached her from behind, put something in her ribs.
21 She thought it was a gun. Forced her into the car, kept
22 screaming at her not to look at him and choked her out.
23 You know, this was daytime. When she got to my house it
24 was at night, so it had been a few hours, I'm guessing.

25 Q. And did she ask you to call 911?

PENNY MIZELL - DIRECT BY MR. EVANS

1 A. She did.

2 Q. And did you?

3 A. I did.

4 Q. And did law enforcement respond to your house that
5 night?

6 A. Yes, they did.

7 Q. Do you recall what time they came or --

8 A. I do not.

9 Q. And did you call any of her family members?

10 A. I did. I called her sister.

11 Q. And they came to your house as well?

12 A. Yes, sir.

13 MR. EVANS: Beg the Court's indulgence.

14 BY MR. EVANS:

15 Q. Did you physically dial 911?

16 A. Yes.

17 Q. Did you speak to them?

18 A. Yes.

19 Q. And at some point did you hand the phone over?

20 A. I did. We were going back and forth -- I was
21 going back and forth with her and the 911' operator, and
22 then she calmed down enough to where she could talk to
23 the 911 operator.

24 MR. EVANS: Beg the Court's indulgence.

25 Nothing further right now. Please answer any

DON KJELLMAN - DIRECT BY MS. SHEALY

1 questions Ms. Ford may have. Thank you.

2 THE COURT: Cross?

3 MS. FORD: I have no questions for this
4 witness, Your Honor.

5 THE COURT: You may step down. Thank you.

6 Next witness?

7 DON KJELLMAN,

8 having been first duly sworn,

9 was examined and testified as follows:

10 DIRECT EXAMINATION

11 BY MS. SHEALY:

12 Q. Officer Kjellman, if you would please tell the
13 jury where you're employed.

14 A. Charleston County sheriff's office. I'm a deputy
15 sheriff.

16 Q. How long have you been a deputy sheriff?

17 A. Since 1989.

18 Q. And on the evening of December 5, 2011, did you
19 answer a call to penny Joe Mizell's house?

20 A. Yes, ma'am, I did.

21 Q. Do you remember the location of that?

22 A. I don't remember the street address but, I can
23 tell you exactly where the residence is located.

24 Q. Tell us where it's -- the crossroads of what two
25 roads?

DON KJELLMAN - DIRECT BY MS. SHEALY

1 A. Highway 165 and Hyde Park Road.

2 Q. When you got there, did you have the opportunity
3 to meet with Ms. Letty Martin?

4 A. Yes, ma'am, I did.

5 Q. Let me ask you a little bit about that area. Is
6 that the area you typically patrol?

7 A. Yes, ma'am, it is.

8 Q. And as a part of your duties, do you answer calls
9 when someone is called into 911?

10 A. Yes, ma'am.

11 Q. The area that Ms. Mizell lived in, that Hyde Park
12 Road area with 165, is that in Charleston County?

13 A. Yes, it is.

14 Q. And what about Jericho mobile home park? Are you
15 familiar with whether or not that's in Charleston County?

16 A. Yes, ma'am, I am, and it is. It's on Savannah
17 Highway.

18 Q. At that intersection with Hyde park and 165, part
19 of Hyde park is paved and the other side is gravel; is
20 that correct?

21 A. Yes, ma'am, that's correct.

22 Q. When you first met with Ms. Martin, could you
23 describe her demeanor?

24 A. She was quiet. She had very little in the way of
25 facial expressions. I would describe her as being in

DON KJELLMAN - DIRECT BY MS. SHEALY.

1 shock.

2 Q. And being a patrol officer, have you seen other
3 people react similarly to violent crimes?

4 A. Yes, ma'am, I have.

5 Q. While there, did you ask her what, in fact, had
6 happened earlier in the evening?

7 A. Yes, I did.

8 Q. And did you later fill out a supplemental report,
9 noting what she had told you?

10 A. I wrote the initial report describing in detail
11 what she had told me at that date and time.

12 Q. And while there, did you, in fact, take
13 photographs of her?

14 A. Yes, I did.

15 Q. Showing you State's Exhibit 6 -- I'm sorry. Well,
16 go ahead and orient us there. That's the gravel road?

17 A. It's a little bit too close, but I believe that's
18 going to be the gravel portion of Hyde Park Road taken
19 from the intersection of Highway 165. The gravel portion
20 would be to the left here and the painted portion would
21 be behind the scene that you can't see going the opposite
22 direction.

23 Q. Showing you State's Exhibit No. 9, the series of
24 photographs when she is clothed that way are the ones you
25 took that evening?

DON KJELLMAN - DIRECT BY MS. SHEALY

1 A. Yes, ma'am.

2 Q. And while there, is part of your role to contact
3 the supervisor about what should be the next step in the
4 investigation?

5 A. Yes, ma'am.

6 Q. And did you, in fact, talk to your supervisor
7 about whether or not a detective needed to come to the
8 scene?

9 A. Yes, sir. I notified my supervisor as to what had
10 happened and he summoned a detective to report it.

11 Q. Do you remember which detective reported?

12 A. Give me just a minute to check my report. It was
13 Detective Herriott.

14 Q. That's Keith Herriott from the sheriff's office?

15 A. Yes, ma'am.

16 Q. Were there other patrol officers that also
17 reported to Ms. Mizell's house?

18 A. There was one other, but I don't recall who it
19 was.

20 Q. And based on the description that Ms. Martin had
21 given of her vehicle, did you relay that information to
22 your supervisor?

23 A. Yes, I did, and it was subsequently listed in the
24 report and entered into the computer NCIS having been
25 stolen from the victim.

—DON KJELLMAN - CROSS BY MS. FORD—

1 Q. The gravel part of Hyde Park Road, could you
2 describe to the jury whether or not there were any houses
3 or buildings on that road?

4 A. There are not a lot in the way of houses. I would
5 call it very sparsely populated. You can go for a
6 lengthy period of time before you come across another
7 building or another residence.

8 Q. And while you were still at Ms. Mizell's house,
9 did family members of Ms. Martin come to that home?

10 A. Yes, ma'am.

11 MS. SHEALY: Beg the Court's indulgence just
12 a moment.

13 I have no further questions. Please answer
14 any that the defendant may have.

15 CROSS-EXAMINATION

16 BY MS. FORD:

17 Q. Jericho mobile home park, so you are familiar with
18 that area?

19 A. Yes, ma'am, I am.

20 Q. And that is a fairly small mobile home park,
21 correct, about maybe 40 trailers, maybe?

22 A. That sounds about right.

23 Q. And so you were the first officer to respond?

24 A. To where?

25 Q. To Ms. Mizell's, to Hyde Park?

DON KJELLMAN - CROSS BY MS. FORD

1 A. Yes, ma'am.

2 Q. And as the first officer there, it's important for
3 you to find out information about a suspect, correct?

4 A. Yes, ma'am, and what had happened to the victim
5 and any assistance the victim might need.

6 Q. And so you did all you could to find out as much
7 information about this suspect as you could, correct?

8 A. Yes, ma'am.

9 Q. Because that's important so y'all can try to
10 arrest someone, correct?

11 A. Correct.

12 Q. And it's important to know if the person knows the
13 person, correct, because that would make a difference in
14 your investigation. If they know the person who did
15 something to them, that makes a difference in your
16 investigation, correct?

17 A. I'm not -- I don't quite understand the question.

18 Q. If someone tells you that they know the person or
19 they've seen them before, that would be an important
20 fact, correct? It would help you find a person more
21 easily?

22 A. Yes, it would. That, it would.

23 Q. And you told us that you wrote a detailed report,
24 as detailed as you could, correct?

25 A. Yes, ma'am.

—DON KJELLMAN - CROSS BY MS. FORD—

1 Q. So you included everything that Ms. Martin gave
2 you, correct?

3 A. Yes, ma'am.

4 Q. And so had she told you anything, you know, about
5 the suspect, you would have made sure to include that in
6 your report, correct?

7 A. Yes, ma'am.

8 Q. And Ms. Martin had never indicated to you that she
9 had seen the person earlier that day, correct?

10 A. She was in shock. I don't know if she would have
11 been able to had she known him.

12 Q. Well, you were there about two hours, correct?

13 A. Approximately, yes.

14 MS. FORD: Beg the Court's indulgence.

15 BY MS. FORD:

16 Q. Deputy Kjellman, you did note a description in
17 your report, correct?

18 A. Yes, I did.

19 Q. And the description was a black male?

20 A. Yes, ma'am.

21 Q. About five-eleven?

22 A. Yes, ma'am.

23 Q. Twenty-four to thirty?

24 A. Yes, ma'am.

25 Q. And 170 pounds?

DON KJELLMAN - REDIRECT BY MS. SHEALY

1 A. Yes, ma'am.

2 Q. So that weight, you wouldn't have just made up a
3 weight, correct? That would have been based on something
4 that Ms. Martin told you about the man's size?

5 A. Yes, ma'am, yes, ma'am.

6 MS. FORD: No further questions.

7 REDIRECT EXAMINATION

8 BY MS. SHEALY:

9 Q. Officer Kjellman, I wanted to make sure I
10 understand. On the same form you that you've indicated
11 you was your initial incident report, you did give the
12 information five-eleven, 170, black individual, and the
13 range of 27 to 30 years old?

14 A. Yes, ma'am.

15 Q. And that was the information that Ms. Martin had
16 given you that evening?

17 A. Yes, it was.

18 Q. She didn't know his name?

19 A. No, she did not.

20 Q. But five-eleven?

21 A. Yes, ma'am.

22 Q. Black?

23 A. Yes, ma'am.

24 Q. Late 20's?

25 A. Yes, ma'am.

JAMES PERKINS - DIRECT BY MS. SHEALY

1 MS. SHEALY: Thank you. I have nothing
2 further.

3 THE COURT: Recross?

4 MS. FORD: No, Your Honor.

5 THE COURT: You may step down. Thank you.

6 MS. SHEALY: May he be excused, Your Honor?

7 THE COURT: Certainly. Next witness?

8 MS. SHEALY: James Perkins.

9 JAMES PERKINS

10 having been first duly sworn,
11 was examined and testified as follows:

12 DIRECT EXAMINATION

13 THE WITNESS: James Perkins, P-e-r-k-i-n-s.

14 BY MS. SHEALY:

15 Q. Detective Perkins, if you would, please, tell the
16 jury where you're currently employed.

17 A. Charleston County sheriff's office, investigation
18 division.

19 Q. I'm sorry. I interrupted. Investigations
20 division?

21 A. Yes, ma'am.

22 Q. You're a detective there?

23 A. Yes, ma'am.

24 Q. How long have you served as a detective for the
25 county?

JAMES PERKINS - DIRECT BY MS. SHEALY

1 A. Approximately eight years.

2 Q. And involving in incident, that being the case
3 against Latrone Butler, were you assigned as the lead
4 detective?

5 A. Yes, ma'am.

6 Q. However, were you present on the 5th at Ms.
7 Mizell's house?

8 A. No, I wasn't.

9 Q. Are you aware of who took Ms. Martin's statement?

10 A. Yes.

11 Q. And who was that?

12 A. Keith Herriott, Detective Keith Herriott.

13 Q. When you were assigned as the lead investigator,
14 would you then have been provided with a copy of the
15 statement he got from Ms. Martin?

16 A. That's correct, yes, ma'am.

17 Q. Now, based on her statement that evening, what
18 type of car were y'all looking for?

19 A. Maroon burgundy type Accura sedan, TL.

20 Q. And, in fact, did you learn the license tag number
21 to that vehicle?

22 A. Yes, ma'am.

23 Q. Once you had that vehicle, what's the next step in
24 the investigation? How do you communicate that to other
25 law enforcement?

JAMES PERKINS - DIRECT BY MS. SHEALY

1 A. Well, there is a couple techniques that we use.
2 One of them is called -- is where we let neighboring
3 agencies know, detectives, supervisors, everybody in
4 neighboring agencies, North Charleston, Mount Pleasant,
5 neighboring agencies in Berkeley, Dorchester County, of
6 the incident that's been reported as well as the
7 description of the vehicle.

8 We also do something called LPR, which is the
9 license plate reader, that will read the license plate
10 and alert us, and we also use something called -- I'm
11 trying to think of the name of it. There is another
12 method that we use, but I'm -- it's gone from me now.

13 Q. You're trying to remember the method. Okay.
14 Well, regarding the license plate reader that you were
15 telling us about, how, in fact, does that work?

16 A. What happens is if the vehicle comes by, it would
17 alert you that this vehicle has been reported stolen or
18 report in reference to any kind of an incident to where
19 we are looking for the vehicle, somebody that is driving
20 it, and it's wanted and we have the vehicle's
21 information.

22 Q. And when you are indicating that is used, you
23 place some kind of device in a given area to see if it
24 registers that tag?

25 A. Well, the LPR -- the LoJack is the other device

JAMES PERKINS - DIRECT BY MS. SHEALY

1 that we use, and it is similar to the LPR where it reads
2 the vehicle, but in order for that LoJack to read it, it
3 has to be inside the vehicle where the LPR reads it off
4 of the tag.

5 Q. So after learning what type of vehicle was
6 involved, could you tell the jury what efforts you made
7 in this specific case to try to locate the vehicle.
8 Which of those methods?

9 A. We used all three of those methods.

10 Q. And did you get any type of hit off any of those
11 items?

12 A. No, ma'am, not initially.

13 Q. Okay. What is the next thing that you do after
14 entering the information about the vehicle regarding the
15 investigation of this case?

16 A. Well, we kept investigating the case, but we was
17 receiving tips, and we received a tip --

18 MS. FORD: Objection. Hearsay.

19 MS. SHEALY: He's not going to go into the
20 nature of the tip.

21 THE COURT: All right.

22 BY MS. SHEALY:

23 Q. You received a tip. Are you talking about the
24 Crime Stoppers tip?

25 A. Yes, ma'am.

JAMES PERKINS - DIRECT BY MS. SHEALY

1 Q. And based on that tip, what did you then do?

2 A. Based on that tip, I did an array of six pictures,
3 photographs, wherein you have a sheet of paper where you
4 have six pictures, including the individual that is
5 reportedly a suspect in the crime. I had that comprised.

6 I notified the South Carolina Law Enforcement
7 Division along with the Charleston County sheriff's
8 office, detention center.

9 Q. Okay. And just so the jury understands, you're
10 not the person that is picking out the photographs?

11 A. No.

12 Q. You ask other law enforcement agencies to do that
13 for you?

14 A. Yes, ma'am.

15 Q. And you ask they include the name that you have
16 gotten from a tip?

17 A. That's correct.

18 Q. And in this case, what name did you ask to be
19 included in the lineup?

20 A. Latrone Butler.

21 Q. After you requested that that be compiled, what
22 did you then do in relationship to Ms. Martin?

23 A. We received that tip. I had Detective Smith
24 notify Ms. Martin and ask her if she could come and meet
25 with us at the sheriff's office. She agreed, and when

JAMES PERKINS - DIRECT BY MS. SHEALY

1 she came to the sheriff's office, I had Detective Smith
2 show her the photographic lineup.

3 Q. And that is Detective Christine Smith?

4 A. Yes, ma'am.

5 Q. Now, when you asked Detective Smith to show the
6 lineup to Ms. Martin, did you ask her to alert Ms. Martin
7 to any specific photograph on that lineup?

8 A. No.

9 Q. And did you discuss any name with Ms. Martin as a
10 possible suspect?

11 A. No.

12 Q. Were you present at the sheriff's office when the
13 identification process took place?

14 A. I wasn't in the room. I wasn't near her. I was
15 outside of the room.

16 Q. They were in a room and you were --

17 A. I was outside of the room.

18 Q. And at some point after Ms. Martin looks at the
19 lineup, do you, in fact, sign as a witness?

20 A. I do.

21 Q. And at that point you're witnessing her signature?

22 A. That's what I'm witnessing.

23 Q. Showing you State's Exhibit 14, is this the
24 document that you're reflecting that you signed?

25 A. Yes, ma'am.

JAMES PERKINS - DIRECT BY MS. SHEALY

1 Q. And that would have been after Ms. Martin made the
2 identification?

3 A. Yes, ma'am.

4 Q. Did Detective Smith know anything about the
5 investigation? Was she kept up-to-date about the
6 investigation at that point?

7 A. No, ma'am. That's the reason that we use -- we
8 have a policy where we use somebody that is independent
9 from the case so Detective Smith had no knowledge of
10 anything as it relates to the case. She didn't know who
11 the suspect was, so that's why I used her instead of
12 myself or someone else who was familiar with the case for
13 the photo lineup.

14 Q. So after the identification had been completed and
15 Ms. Martin, in fact, identified whom? Who is that
16 photograph that she circled?

17 A. That is Latrone Butler.

18 Q. Once you had the name Latrone Butler and you had
19 the description of her vehicle, what did you then do?

20 A. I secured warrants for Mr. Butler.

21 Q. And do you put out any type of BOLO, to be looking
22 for him?

23 A. Yes. I put a BOLO, notified the same neighboring
24 agencies of the fact that the victim had identified this
25 guy as the person who committed the act along with the

JAMES PERKINS - DIRECT BY MS. SHEALY

1 description.

2 Q. So at that point in the investigation you're just
3 looking for him?

4 A. Yes, ma'am.

5 Q. The lineup itself was actually done on December
6 7th; is that correct? Do you want to look at that?

7 A. Yes, it was.

8 Q. And could you tell the jury what happened on
9 December 8th.

10 A. Mr. Butler was located in the rest room.

11 Q. Where was he located?

12 A. It's a small club in the Hollywood Ravenel area.
13 It's called the Grant, Hamm Grant.

14 Q. Hamm Grant's?

15 A. Yes, ma'am.

16 Q. Were you present for his arrest?

17 A. No, I wasn't.

18 Q. Later in this investigation, did you get a buccal
19 swab from Mr. Butler?

20 A. Yes.

21 Q. And could you tell the jury what date that was?
22 Do you remember?

23 A. August the 1st.

24 Q. Of what year?

25 A. 2012.

JAMES PERKINS - DIRECT BY MS. SHEALY

1 Q. And would you describe for the jury, what is the
2 purpose of getting a buccal swab from someone?

3 A. That's when you're trying to collect information
4 as relates to DNA. Pretty much everything we do has
5 something that is DNA. Like now, my DNA is up here.

6 Q. Detective, I need you to speak up a little bit.
7 I'm struggling to hear you. Speak a little louder for
8 me.

9 A. We do it in order to collect DNA, and we do it in
10 the form of a buccal swab wherein you collect your swab
11 where your DNA is, and that was the method we used as
12 relates to this.

13 Q. And the purpose would be for the swab to then go
14 to SLED?

15 A. That's correct, to be analyzed.

16 Q. Showing you what has been previously marked as
17 State's Exhibit 101 --

18 MS. SHEALY: And I would like to move this
19 into evidence without objection.

20 MS. FORD: Yes, Your Honor, without
21 objection.

22 (State's Exhibit No. 101 was marked for
23 identification and admitted into evidence.)

24 BY MS. SHEALY:

25 Q. Looking at this, could you tell the jury whether

JAMES PERKINS - DIRECT BY MS. SHEALY

1 or not that envelope contains the buccal swab?

2 A. Yes, it does.

3 Q. And how can you tell that from the envelope?

4 A. Well, that's definitely my handwriting.

5 Q. Okay. Now, how do you accomplish the actual
6 swabbing of the mouth area of the defendant? How did
7 that occur?

8 A. The swab that we use is similar to a Q-tip, but
9 it's a little bit longer and it's in a package, sealed
10 package. You unseal the package and you take the swab
11 and you swab their gums and mouth, where the DNA is.

12 After you do that, you place it in a sterile
13 tube. It's completely sterile, unused, and you package
14 it up and we sent it off to SLED where they do -- where
15 they analyze it.

16 MS. SHEALY: Beg the Court's indulgence just
17 a second. Your Honor, we have a matter.

18 MS. FORD: May we approach?

19 THE COURT: Let's go ahead and take a
20 ten-minute break. Don't begin discussions about the
21 case.

22 (In open court, jury not present.)

23 THE COURT: All right. What's the problem?

24 MS. SHEALY: I'd like to admit that with the
25 identifying information at the top, Judge. It reflects

JAMES PERKINS - DIRECT BY MS. SHEALY

1 his date of birth, it reflects the date that the
2 photograph was taken. It reflects his height, and it's
3 something, obviously, that Detective Perkins was familiar
4 with in his booking photo in this case. I believe
5 Ms. Ford objects to the identifying information.

6 MS. FORD: In addition, Your Honor, I believe
7 there might be a foundation issue. Detective Perkins did
8 not take those photos. He's not a records custodian at
9 the jail, so especially -- I think even if the pictures
10 were allowed to show that's what he looked like, the
11 identifying information is a jail record.

12 As you heard from Detective Smith yesterday,
13 I do not believe it's reliable because it's just -- the
14 height, for example, is just based on what anyone could
15 say. It's not actually based on an actual measurement.

16 THE COURT: Well, it can come in under the
17 public records exception. If you insist on having a
18 custodian over to get it in, you can call somebody and
19 get him in here, but it's coming in, so if you want to
20 have her lay that foundation, it will just come in
21 through another witness.

22 MS. FORD: I think -- otherwise, I believe I
23 would waive my objection, Your Honor.

24 THE COURT: What was that?

25 MS. FORD: Yes, Your Honor, just because I

JAMES PERKINS - DIRECT BY MS. SHEALY

1 believe I would probably waive my objection if I do
2 not -- I agree with that.

3 THE COURT: All right. Well, have somebody
4 come over to authenticate it.

5 MS. SHEALY: Okay.

6 THE COURT: All right. Let's take ten
7 minutes.

8 (Recess taken.)

9 THE COURT: Let the record reflect the
10 defendant is in the courtroom. Bring the jury back.

11 (In open court, jury present.)

12 Okay, folks. We will resume with the direct
13 of this witness.

14 BY MS. SHEALY:

15 Q. Detective Perkins, I just have a couple more
16 questions.

17 Regarding the buccal swab, once you obtained it,
18 who did you turn that in to?

19 A. I turned it in to the lab, forensic lab services,
20 forensic lab services, the lab technicians. When I
21 collect the buccal swab or any evidence, it's turned in
22 to them.

23 Q. And when were you telling us earlier about the
24 different ways in which you try to locate a car once a
25 car has been identified, could you describe to the jury

JAMES PERKINS - DIRECT BY MS. SHEALY

1 the LoJack system, was that something that y'all were
2 using very often?

3 A. LoJack system is something that we use on a
4 regular basis. Patrol units are typically the ones that
5 have them, the patrol vehicles, and it's inside your
6 vehicle, but they also have stationary ones.

7 They have some where you can move them and
8 others where you can't; you can't move them. This
9 particular incident, we had a couple of LoJacks when we
10 was made aware by the victim that she had a LoJack system
11 installed on her vehicle, so that was one of the methods
12 that we used in an attempt to locate the vehicle as well.

13 Q. And you indicated that Mr. Butler was arrested on
14 December 8 at Hamm Grant's club; is that correct?

15 A. Yes, ma'am.

16 Q. Were you aware of whether or not any of the
17 officers' LoJacks went off when at the club?

18 A. Yes, ma'am. We were notified to go to the club,
19 'cause we received information that the defendant was
20 there. While en route, one of the deputy's LoJacks went
21 off which confirmed that that vehicle is within a three-
22 to five-mile radius.

23 Q. And prior to that, though, had you had any success
24 with any of the other -- either the LoJack or the other
25 ways in which to locate a vehicle? Had y'all had any

JAMES PERKINS - CROSS BY MS. FORD

1 other hits prior to that?

2 A. No, ma'am.

3 Q. So three days afterwards is when y'all were able
4 to arrest him?

5 A. Yes, ma'am.

6 MS. SHEALY: I have no further questions.

7 Please answer any Ms. Ford has.

8 THE COURT: Cross?

9 CROSS-EXAMINATION

10 BY MS. FORD:

11 Q. Hello, Detective?

12 A. Good morning.

13 Q. Detective Perkins, you're the case agent for this
14 case, correct?

15 A. Correct.

16 Q. But you weren't the responding officer?

17 A. No, I wasn't.

18 Q. So you didn't speak to Ms. Perkins that day?

19 A. I'm Perkins.

20 Q. I'm sorry. Ms. Martin, Ms. Martin that day?

21 A. Of --

22 Q. The day of the incident. When did you first speak
23 with her?

24 A. I spoke with her the next day, is when I spoke
25 with her, but that night, Detective Herriott was the

JAMES PERKINS - CROSS BY MS. FORD

1 responding detective because he was on call, like he
2 earlier stated.

3 Q. So you spoke to Ms. Martin the next day?

4 A. Correct.

5 Q. And you spoke to her again on the 7th when the
6 photo lineup was done?

7 A. Correct.

8 Q. And as part of your investigation, did you talk to
9 her about what had happened as well, in addition to what
10 responding officers had talked to her about?

11 A. When I was notified, I was notified that night by
12 Detective Herriott. Because of the nature of the
13 incident, we try not to engage the victims to kind of
14 relate that incident again when we collect information,
15 so I didn't speak to her necessarily about the incident
16 when I spoke with her. It was more about how was she
17 doing.

18 Q. But you didn't prevent her from talking to you,
19 did you?

20 A. No, of course not.

21 Q. Okay. So you wrote a report in this case,
22 correct?

23 A. Correct.

24 Q. And that was based on your investigation?

25 A. Based on a couple things, the investigation, the

JAMES PERKINS -- CROSS BY MS. FORD

1 information we received from fellow officers, fellow
2 deputies, fellow detectives.

3 Q. And when you write reports, reports are a big part
4 of your job, correct?

5 A. It's a part of the job.

6 Q. Well, you learn how to write reports when you go
7 to the academy, correct?

8 A. Learn a procedure in writing reports. A lot of it
9 is learned by experience.

10 Q. When you have a case, often it doesn't go to trial
11 for a while, correct, like in this case, two years later?

12 A. Some.

13 Q. But in the meantime, you have a lot of cases,
14 correct?

15 A. I do.

16 Q. So in order -- there are a lot of reasons you
17 write a report, basically, correct?

18 A. Yes, ma'am.

19 Q. One reason is so that you make sure to remember
20 things two years later, for example, correct?

21 A. That's correct.

22 Q. And also other people rely on those reports,
23 correct? Your supervisor, for example?

24 A. Yes, ma'am.

25 Q. And the solicitor would rely on your report?

JAMES PERKINS - CROSS BY MS. FORD

1 A. Correct.

2 Q. And it's important to make sure that your report
3 is accurate?

4 A. Yes, as accurate as possibly could be.

5 Q. Well, accurate based on what other people have
6 told you, correct?

7 A. Yes, ma'am.

8 Q. And fair?

9 A. Yes, ma'am.

10 Q. And true, to the best of your knowledge?

11 A. That's correct.

12 Q. Mr. -- Detective Perkins, did Ms. Martin tell you
13 that the man made her drive the car?

14 A. I don't recall her telling me that.

15 Q. Okay. But it's in your report, isn't it?

16 A. It is.

17 Q. And what about -- did she tell you that the man
18 had a knife to her throat while she was made to drive?

19 A. When I was notified, they advised that a weapon,
20 knife, gun -- there was a weapon that he had when he
21 forced her into the vehicle.

22 Q. So you just assumed it was a knife?

23 A. I just said knife or gun.

24 Q. Okay.

25 A. I was advised knife or a gun, a weapon, a knife or

1 a gun.

2 Q. And that you indicated in your report that the man
3 held a knife to her throat, though?

4 A. Yes. If that's in the report, then that's what I
5 was advised.

6 Q. Okay. Your report actually wasn't completed until
7 February, correct?

8 A. Sorry?

9 Q. Your report, it was not completed until February
10 of 2012, correct?

11 A. Yes, ma'am. It was -- well, I don't know exactly
12 when it was completed. Does it have a stamp date on it?

13 Q. Yes. Would it help you to see your report?

14 A. Please.

15 Q. One moment. I'm handing you what's been marked as
16 Defense Exhibit 2 for ID purposes.

17 A. What this is, is a stamp date. So it doesn't
18 necessarily mean or reflect this is when this report is
19 completed, it just means that is when this report is
20 entered into a system, i.e., my supervisor going through
21 it and completing everything that he has to do.

22 Q. Well, by that time, by February, Mr. Butler had
23 already been arrested, correct?

24 A. Correct.

25 Q. And you had had an opportunity to review all of

JAMES PERKINS - CROSS BY MS. FORD

1 the reports from the other officers, correct?

2 A. Some of them.

3 Q. But in your report, you indicate there was a knife
4 held to Ms. Martin's throat, correct?

5 A. Correct.

6 Q. And you've also indicated in your report that
7 after the car stopped, Ms. Martin tried to flee, but then
8 the man caught her, correct?

9 A. Did I indicate that in the report?

10 Q. Yes.

11 A. Okay. Well, if that's what I indicated, that's
12 what I was advised.

13 Q. But you don't remember where you got that
14 information from?

15 A. The only people I spoke with were maybe Detective
16 Keith, along with the investigators and Detective Smith.

17 Q. You had a copy of Ms. Martin's statement at that
18 point?

19 A. Correct, uh-huh.

20 Q. And you had a copy of Deputy Kjellman's report?

21 A. I did.

22 Q. And Detective Herriott's report?

23 A. Yes.

24 Q. As the case agent, Detective Perkins, you're aware
25 that some fingerprints were taken during the

JAMES PERKINS - CROSS BY MS. FORD

1 investigation from the car?

2 A. Yes.

3 Q. And do you remember testifying at a preliminary
4 hearing in March of 2012?

5 A. Yes, I do.

6 Q. And you indicated at that time that the
7 fingerprints had matched Latrone Butler, correct?

8 A. What I was indicating is that we had positively
9 collected fingerprints that would be tested to indicate
10 if it was Latrone Butler versus a partial print, which is
11 sometimes collected.

12 Q. So you don't recall testifying that the prints
13 actually matched Mr. Butler at that point?

14 A. It may have been said in error, but the prints was
15 collected from the vehicle.

16 Q. Would it help you to see a copy of the transcript
17 from the preliminary hearing?

18 A. I am pretty aware of it. That's what I'm saying
19 is it was done in error, but if it was said, it was said
20 in error.

21 Q. So you said it at a preliminary hearing?

22 A. I may have said it, but it was said in error.
23 What is meant is instead of a partial print, sometimes
24 you collect partial prints in vehicles or anything that
25 you're actually going through as relates to evidence. We

1 collected a full print wherein we could be able to use it
2 to make an identification, if it was anybody that had
3 been arrested or anybody that's in the system, and that's
4 what was indicated in the preliminary hearing.

5 Q. Detective Perkins, does this sound familiar: As
6 we search the vehicle, we received numerous hits through
7 SLED matching the fingerprints located inside of the
8 vehicle to the defendant, Mr. Butler.

9 A. It was done in error.

10 Q. Okay. But you did say it?

11 A. Yes, ma'am.

12 Q. And that preliminary hearing, just as of today,
13 you testified under oath, correct?

14 A. Correct.

15 Q. So you testified that you were the one who
16 compiled the lineup pictures, correct, or --

17 A. I'm the one that requested the lineup. I had
18 nothing to do with anything as relates to the lineup,
19 other than requesting it from the -- from SLED and from
20 the sheriff's office.

21 Q. And that lineup, when a lineup is done, they try
22 to find people who look somewhat similar, correct?

23 A. I would assume.

24 Q. Right. They're not going to have one guy with
25 long dreads and another guy who's bald, correct?

JAMES PERKINS - CROSS BY MS. FORD

1 A. I wouldn't think they would.

2 Q. They base those pictures base on descriptors that
3 are given based on the target?

4 A. That's incorrect. As it relates to this lineup,
5 the only thing that was given as it relates to Mr. Butler
6 was his name. They are able to get all of the other
7 information and comprise a lineup.

8 Q. But they would have picked the other pictures,
9 based on Mr. Butler's --

10 A. I would assume they would have.

11 Q. Okay. And from your knowledge as the case agent,
12 you know that Mr. Butler is from the Ravenel area?

13 A. I was advised of that, he was from that area, yes,
14 ma'am.

15 Q. And is connected to mobile homes in the Jericho
16 mobile home park as well?

17 A. I wasn't aware of that, no, ma'am.

18 Q. Again, I'm going to take you back to the
19 preliminary hearing. Do you remember testifying there
20 that he had family members --

21 A. Yeah. He has family members there. That doesn't
22 mean that he lives there. I have family members in North
23 Carolina, but I don't live in North Carolina.

24 Q. Well, as the case agent, you know that an ID was
25 collected with that address?

JAMES PERKINS - CROSS BY MS. FORD

1 A. I'm sorry?

2 Q. An ID -- an identification card, a South Carolina
3 ID, was collected with that address on it.

4 A. Okay.

5 Q. Okay. To your knowledge, do you know if anyone
6 else in the lineup -- because you've seen the lineup,
7 correct?

8 A. That's right.

9 Q. Do you know if anyone else in the lineup lived in
10 the Ravenel area?

11 A. No. When they do a lineup, we -- when I got the
12 lineup, pretty much anything I did -- I don't go through
13 and look at everybody else that was in the lineup. I
14 took the lineup and I gave it to Detective Smith who
15 didn't -- like I earlier stated, didn't know anything
16 about the case, and that's when the lineup was shown, but
17 I did not know that.

18 Q. Okay. So to your knowledge, no one else lived in
19 Ravenel?

20 A. Not to my knowledge, no, ma'am.

21 MS. FORD: No further questions, Your Honor.

22 THE COURT: Redirect?

23 REDIRECT EXAMINATION

24 BY MS. SHEALY:

25 Q. Detective Perkins, as the lead detective, you

JAMES PERKINS - REDIRECT BY MS. SHEALY

1 could have gotten a copy of the statement Letty Martin
2 would have given to Keith Herriott, correct?

3 A. Correct.

4 Q. And you would have gotten a copy of Officer
5 Kjellman's report, correct?

6 A. Correct.

7 Q. I'm going to hand those to you so you have the
8 opportunity to review them. You would have gotten -- and
9 tell the jury, if you would, whether the detective who
10 interviewed her that night and the first responder ever
11 indicated that she said anything about a knife.

12 A. There is nothing indicated about a knife in the
13 report or in the statement she wrote.

14 Q. What about her being forced into the car and told
15 where to drive? Could you tell the jury whether
16 Detective Herriott or responding Officer Kjellman's
17 report indicate anything about her being the driver?

18 A. Nothing indicates that in this report.

19 Q. And then the other question that Ms. Ford asked
20 you, is there anything in those two reports indicating
21 that she attempted to flee from that vehicle?

22 A. Nothing indicating in these reports.

23 Q. And you told us that when she came back in to do
24 the lineup, you did not go back through the whole crime
25 with her.

JAMES PERKINS - REDIRECT BY MS. SHEALY

1 A. No, ma'am.

2 Q. Okay. So is it fair to say that if your report
3 reflects those things about her being forced to drive and
4 a knife that it's an error?

5 A. Yes, ma'am.

6 Q. Now, regarding fingerprints, you are aware, as the
7 lead detective, that fingerprints were analyzed in this
8 case; is that correct?

9 A. Correct.

10 Q. And that they do match Mr. Butler?

11 A. That's correct.

12 MS. FORD: Objection. Hearsay.

13 THE COURT: Objection what?

14 MS. FORD: Hearsay. Foundation.

15 MS. SHEALY: She's asked him questions on
16 cross about what he stated at a preliminary hearing
17 regarding fingerprints.

18 MS. FORD: About the existence at a single
19 time.

20 THE COURT: It was a door that got opened on
21 cross, so you can call it up.

22 MS. SHEALY: Detective Perkins, I have no
23 further questions. Thank you.

24 THE WITNESS: Thank you.

25 MS. FORD: Yes, Your Honor.

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RECROSS-EXAMINATION

BY MS. FORD:

Q. Yes, Your Honor. The fingerprint reports didn't come out until last week, correct?

A. Correct.

Q. Okay.

A. Positively.

Q. Right, but you had indicated back in 2012, in March, at the preliminary hearing, that they were positive at that point, correct?

A. Again, indicating that it's a positive full print versus a partial print.

Q. In your cross that we just did, when I read to you the part from the transcript, you admitted that you had said, even though you said it was error, that you had testified under oath that the prints at that time period matched the prints of Latrone Butler?

A. Yes, ma'am. It was done in error, like I earlier stated.

MS. FORD: Thank you.

THE WITNESS: Thank you.

THE COURT: You can step down. Next witness?

MS. SHEALY: Chris Smith.

CHRISTINA SMITH,

having been first duly sworn,

CHRIS SMITH - DIRECT BY MS. SHEALY

1 was examined and testified as follows:

2 DIRECT EXAMINATION

3 THE WITNESS: Christina Smith, S-m-i-t-h.

4 BY MS. SHEALY:

5 Q. Detective Smith, tell the jury where you're
6 employed and how long you've been employed there.

7 A. With the Charleston County sheriff's office, and
8 I've about with them for 19 years.

9 Q. And you're serving in what capacity there now?

10 A. I do investigations, major violent crimes.

11 Q. And back in December of 2011, what position were
12 you in?

13 A. I just moved into the major crimes and also
14 working the sex offender registry.

15 Q. Looking back to December 7th of 2011, could you
16 tell the jury whether you were actively involved in the
17 investigation of Latrone Butler at that time?

18 A. Yes, I was.

19 Q. And that was when you were asked to do what by
20 Detective Perkins?

21 A. To present a photographic lineup of -- to the
22 victim.

23 Q. And prior to being asked to do that, had you had
24 any involvement with the investigation?

25 A. No, I did not.

CHRIS SMITH - DIRECT BY MS. SHEALY

1 Q. You were present when Ms. Martin came to the
2 sheriff's office?

3 A. Yes, ma'am.

4 Q. Could you describe to the jury how that process
5 played out that evening? I have State's Exhibits 14 and
6 15 that I can hand you.

7 A. Thank you. Ms. Martin, the victim in the case
8 came in, and I was given a photo lineup. It was six
9 photographs of subjects, and what I do is I present that
10 lineup to her after I read from our form, our
11 photographic lineup form, to explain to her what I'm
12 about to do.

13 Q. Okay. And in looking at State's Exhibit 15 --
14 could I hold that for a second? This document is folded
15 over.

16 A. Yes.

17 Q. Could you describe to the jury why it's done that
18 way?

19 A. We fold it over, one, just to show the individual
20 photographs. On the back side of this document is dates,
21 times, subjects, and we would also have possibly the
22 subject that we're looking at. His name would be on the
23 back along with the other five individuals.

24 Q. And so why is it that you don't want the person
25 looking at the lineup to have that information?

CHRIS SMITH - DIRECT BY MS. SHEALY

1 A. In case they may know the subject by name, it
2 doesn't -- I don't believe it shows where they are
3 located on the lineup, but you just don't want them to
4 have the name.

5 Q. Now, prior to showing her the lineup, do you go
6 over a litany of questions with her?

7 A. Yes, ma'am, I do.

8 Q. And showing you State's Exhibit 14, could you tell
9 me whether or not that's the form you used in showing
10 her --

11 A. Yes.

12 Q. -- the lineup? Looking at State's Exhibit 14
13 on -- just for the jury's benefit, that's the form; is
14 that correct?

15 A. That's correct.

16 Q. Now, when you are showing a line up to someone,
17 did you in any fashion on this occasion indicate to
18 Ms. Martin who you wanted her to ID?

19 A. No, I did not.

20 Q. Was anyone around her that suggested anybody was
21 in this lineup?

22 A. No, I did not. Actually, I didn't even know who
23 this subject was in the lineup, so I don't even know who
24 that person is when I present it because I'm considered
25 an independent -- kind of like an independent witness as

CHRIS SMITH - DIRECT BY MS. SHEALY

1 well to the lineup.

2 Q. Let me see that for just a second. Is that a
3 policy of the sheriff's department, to make sure you
4 don't even know who a possible suspect is in a lineup?

5 A. That's correct.

6 Q. And as part of the items that you read to her, do
7 you advise her the person may not be in this lineup?

8 A. That's correct.

9 Q. When showing this to Ms. Martin, could you
10 describe to the jury what level of care she seemed to be
11 giving the photographs? How did she appear when she was
12 looking at them?

13 A. She studied the photographs, making sure that
14 each -- you can see as just her and other folks that have
15 seen photo lineups, they look at each individual picture
16 to see if they can pick out whoever is in that photo.

17 Q. And while Ms. Martin was there -- I'll get to that
18 in just a second.

19 So how did she indicate to you that she, in fact,
20 identified someone?

21 A. She pointed to the picture that she thought was
22 the person that had carjacked her.

23 Q. Okay. And it's showing you on your screen there,
24 State's Exhibit 15?

25 A. Yes.

CHRIS SMITH - DIRECT BY MS. SHEALY

1 Q. Could you explain to the jury in what way she
2 reflected that on the sheet itself.

3 A. After she pointed to the individual photo that she
4 identified as the person who possibly carjacked her, I
5 had her circle that and initial her name, her initials
6 next to the photograph.

7 Q. After that is accomplished, do you go back to that
8 initial form?

9 A. I'll go back to the initial form and ask her --
10 there is a line there to ask her how does she now
11 consider -- or basically describe who this person is or
12 how she knows that is the person that she believes is the
13 person that carjacked her.

14 Q. And what she wrote is, in fact -- what she wrote
15 is, in fact, on that form; is that correct?

16 A. Yes.

17 Q. At any time did she indicate to you that she
18 didn't notice anybody on the lineup, that she couldn't
19 recognize anyone?

20 A. No, she did not.

21 Q. And after she accomplished the lineup procedure,
22 did you -- were you present when some photographs were
23 taken of her?

24 A. I believe I was present during the photograph.

25 Q. Okay.

CHRIS SMITH - CROSS BY MS. FORD

1 MS. SHEALY: Beg the Court's indulgence, just
2 a moment.

3 I have no further questions. Please answer
4 any that the defense may have.

5 THE COURT: Cross?

6 MS. FORD: Yes, Your Honor.

7 CROSS-EXAMINATION

8 BY MS. FORD:

9 Q. You mentioned policy before, that it's policy to
10 have an independent administrator do the lineup, correct?

11 A. That's correct.

12 Q. And that's so someone doesn't either consciously
13 or unconsciously point out to someone who they think it
14 is, is that correct?

15 A. That's correct.

16 Q. If a witness identifies someone, the policy also
17 states that the witness is to be asked their level of
18 competence, correct?

19 A. Yes, it does.

20 Q. And that's supposed to be documented, correct?

21 A. That's correct.

22 Q. And in this case, in particular Ms. Martin
23 indicated that this looks most like the guy, correct?

24 A. Yes, she did.

25 Q. There is never anything more than 100 percent sure

CHRIS SMITH - CROSS BY MS. FORD

1 or anything like that noted?

2 A. No, not documented. Normally we would allow the
3 witness to write whatever they feel of how they are able
4 to identify this person. I'm not asking her a
5 percentage, just how do you know that this is the person
6 that committed the crime.

7 Q. But the policy does state that the witness is
8 supposed to be asked the level of competence.

9 A. Yes.

10 Q. The manual also states that the lineup is to be
11 conducted using video or audio recording if the location
12 is equipped to do so, correct?

13 A. I don't believe that's in the policy. I'm -- not
14 that the photo lineup, the interview needs to be audio
15 and video recorded if we are equipped, but we may present
16 a photo lineup at someone's residence, so we would not be
17 able to always audio and video record a photo lineup.

18 Q. So to your recollection, the policy does not state
19 that the photographic lineup may be conducted using video
20 and/or audio if available?

21 A. It may be if it's available, yes.

22 Q. That was not so in this case, correct?

23 A. No, it was not. We didn't have a policy, I don't
24 believe, at that time for audio and video recording
25 because all of our audio and video recording was not in

1 place during the time of this photographic lineup being
2 presented.

3 Q. But you're not sure of that, correct?

4 A. Of --

5 Q. The timing?

6 A. I believe the policy that was written was probably
7 in January of 2012, and this would have happened prior to
8 that.

9 Q. Would it help you to see the policy?

10 A. Yeah, yeah.

11 Q. Handing you what has been marked as Defendant's
12 Exhibit 3 for ID purposes, does that look like a copy of
13 the manual for the policy?

14 A. Yes.

15 Q. And it's dated 2009?

16 A. Yes.

17 Q. And I would direct your attention to page six.

18 A. Yes.

19 Q. And it indicates that the photographic lineup may
20 be conducted using video and/or audio, if the location
21 has that ability.

22 A. Yes.

23 Q. Okay. Part of your job is writing reports,
24 correct?

25 A. That's correct.

CHRIS SMITH - CROSS BY MS. FORD

1 Q. Okay. In this case you were a witness to the
2 identification, correct?

3 A. Yes.

4 Q. But you didn't write another -- you didn't write a
5 report involving the identification or anything that you
6 did, correct?

7 A. No. Basically the documentation is your short
8 form that we have, and then the detective that's handling
9 the case would document his report or her report.

10 Q. So you yourself never did a report indicating what
11 you saw or did or anything like that, correct?

12 A. No.

13 MS. FORD: No further questions.

14 THE COURT: Redirect?

15 MS. SHEALY: I have nothing further.

16 THE COURT: You may step down. Thank you.

17 MS. SHEALY: May she be excused, Your Honor?

18 THE COURT: Certainly. Next witness?

19 MS. SHEALY: Shaun James.

20 SHAUN JAMES,

21 having been first duly sworn,

22 was examined and testified as follows:

23 DIRECT EXAMINATION

24 BY MS. SHEALY:

25 Q. If you would tell the jury, where are you

SHAUN JAMES - DIRECT BY MS. SHEALY

1 employed?

2 A. Charleston County sheriff's office.

3 Q. If you would tell the jury how long you've been
4 employed with the county.

5 A. Since December 1998.

6 Q. And in what capacity are you working now there
7 now?

8 A. I'm a night shift patrol supervisor.

9 Q. And back in December 2011, in what capacity were
10 you working there?

11 A. I was a K-9 handler with the Charleston County
12 sheriff's unit.

13 Q. With the dogs?

14 A. Yes, ma'am.

15 Q. Focussing your attention to December 8, 2011,
16 could you tell the jury whether or not you reported to --
17 is it Hamm Grant's?

18 A. Hamm Grant's club. Yes, ma'am, that's correct.

19 Q. What was your reason for answering to that club
20 area?

21 A. Dispatch put out a call in reference to a possible
22 subject that was involved in a carjacking with an Accura,
23 gave out a tag that was supposed to be parked there and
24 the subject was supposed to be inside the club.

25 Q. And when you arrived at Hamm Grant's, were there

1 other officers there as well?

2 A. Yes, ma'am.

3 Q. Showing you what has been previously marked as
4 State's Exhibit 46, and it's going to show you on your
5 screen, what is that a photograph of?

6 A. That is the outside.

7 Q. And showing you State's Exhibit 49, that's just
8 another angle?

9 A. Front view, yes, ma'am.

10 Q. And then we have one other, State's Exhibit 50.

11 A. Yes, ma'am, that's the other view. Matter of
12 fact, his car would be over there.

13 Q. Let's talk about that. When you arrived, did you,
14 in fact, see a car with a license tag that had been
15 called out?

16 A. That's correct, yes, ma'am.

17 Q. And if you would, on that photograph, mark on the
18 screen, if you would show us where the vehicle was.

19 A. Right around that area right there, backed in.

20 Q. And do you recall about how many other officers
21 were there?

22 A. After everyone arrived, there was probably about
23 seven or eight of us out there, yes, ma'am.

24 Q. And was a decision made after locating the vehicle
25 as to how y'all would handle looking for Mr. Butler?

SHAUN JAMES - DIRECT BY MS. SHEALY

1 A. Yes, ma'am.

2 Q. Were you given his name?

3 A. Yes, ma'am.

4 Q. And what was the plan as to how to try to locate
5 him?

6 A. We probably had about 150 to 200 patrons that we
7 knew that were inside, just by looking at the amount of
8 vehicles that were outside, and also what we knew from
9 past experiences there. So we knew that it wasn't going
10 to be safe just to walk in and attempt to locate Mr.
11 Butler, so what we decided to do is have one deputy stay
12 with the vehicle and then to have vehicles -- excuse me,
13 deputies around the perimeter.

14 And at that time, after I verified on the radio
15 his tattoos on the arms, we knew that that right there
16 was going to be easy to identify the subjects coming out
17 along with his picture that we had. So at that time we
18 stood at the front door and we started having people
19 leave one by one.

20 Q. So before we go over that process a little bit
21 more fully, when you located the vehicle, did you look
22 inside the vehicle?

23 A. Yes, ma'am.

24 Q. And did you have any type of -- did you have a
25 flashlight with you?

1 A. Yes, ma'am, I did.

2 Q. And did you look inside the vehicle with the
3 flashlight?

4 A. Yes, ma'am.

5 Q. Showing you what has been marked as State's
6 Exhibits 41 and 42 for identification, I ask you whether
7 when you looked in the driver's side, did something draw
8 your attention?

9 A. Yes, ma'am.

10 Q. Showing you these two exhibits, can you tell me
11 whether or not you can identify those?

12 A. Yes, ma'am.

13 MS. SHEALY: Your Honor, at this time I would
14 move both of these exhibits into evidence, State's 41 and
15 42.

16 MS. FORD: And, Your Honor, I object based on
17 my objection yesterday.

18 THE COURT: All right. Overruled. They're
19 admitted.

20 (State's Exhibit Nos. 41 and 42 were marked
21 for identification and admitted into evidence.)

22 BY MS. SHEALY:

23 Q. Tell the jury what you saw when you looked in the
24 driver's side.

25 A. Well, we knew from what the dispatch had stated

1 that he was supposed to be armed. From the carjacking,
2 he was supposed to be armed, so with that being said, of
3 course, knowing that there was always the potential that
4 he may get back to the car somehow, sliding through, you
5 know, maybe not be in the club, maybe on the outside of
6 the club somewhere, I looked in there to see if I could
7 see a gun that was in plain view, and with the
8 flashlight, it was very apparent that I could see the red
9 duct tape.

10 That stuck out, and of course I saw the remote
11 control, and at that time I could see probably
12 three-quarters of what you could tell was made into a
13 makeshift weapon underneath the seat.

14 Q. Let me pull that up for the benefit of the jury.
15 What floorboard area are we looking at in that picture?

16 A. This is the driver's floorboard, and I'm only
17 telling you that because I see the trunk shown there.
18 It's hard to see from this angle.

19 Q. Where did you see the item?

20 A. I assumed that the vehicle was towed or something,
21 but the item was a little further in.

22 Q. Draw on our screen for us.

23 A. It was probably right in here, right in that area.

24 Q. And then showing you State's Exhibit 42, that's
25 just the flip side of the same?

—SHAUN JAMES - DIRECT BY MS. SHEALY—

1 A. Yes, ma'am. That's not how it was. The bottom
2 sign was actually up.

3 Q. So when you saw it on 41 -- go back to 41. You
4 saw that item, but it was further back towards the seat
5 at the time that you saw it?

6 A. That's correct.

7 Q. And you had said something about maybe it had been
8 towed. Is it customary for vehicles involved in criminal
9 acts to be towed, to be processed?

10 A. That's correct, yes, ma'am.

11 Q. So focussing your attention then back on what was
12 going on in the club, you indicate that y'all had a
13 photograph of Mr. Butler?

14 A. That's correct.

15 Q. Were you concerned about whether or not that was
16 enough information given the scene that evening?

17 A. Well, people change their look everyday. You
18 never know what the picture is going to look like or when
19 it was taken, so that was just one identifier in order to
20 locate Mr. Butler.

21 Q. How did y'all gain information about the tattoos?

22 A. Through dispatch.

23 Q. And did you make that phone call?

24 A. Over the radio, yes, ma'am.

25 Q. So back -- looking again then at the club itself,

SHAUN JAMES - DIRECT BY MS. SHEALY

1 on photograph 48, you have indicated that some officers
2 were around the perimeter of the club?

3 A. Yes, ma'am is.

4 Q. Is that right?

5 A. Yes, ma'am.

6 Q. Describe to the jury what you mean by that.

7 A. There's a rear door that didn't look like it was
8 utilized very much. We couldn't really tell so we had
9 two officers back there which would be on this side over
10 here, around the back. On the right side, there was
11 nothing -- we ended up having a deputy over here, but
12 there was actually no doors or no exits through there
13 that we could tell, so obviously we had one stay with the
14 vehicle and we had a couple on the back side and one over
15 here and maybe had one of the K-9 -- one of my partners
16 who was there with his dog probably about 20 yards back
17 and then myself, supervisor, and then another deputy at
18 the door.

19 Q. And describe then, once you began looking for
20 patrons, how did you have them come out of the facility?

21 A. One by one. I mean, obviously we knew we weren't
22 looking for a female, so that was pretty easy. We kind
23 of shuffled them out and had them kind of move out of the
24 way and went one by one.

25 Q. How were you able to determine whether or not they

1 had tattoos?

2 A. I had them pull up their sleeves if they had long
3 sleeves on because these tattoos were actually on the
4 forearm area.

5 Q. And tell the jury then whether or not you
6 identified the tattoo you had been advised about on
7 Mr. Butler?

8 A. Yes, ma'am. They were identified.

9 Q. Once you identified Mr. Butler by his tattoo and
10 by the photograph, was he put under arrest?

11 A. Yes, ma'am.

12 Q. And could you tell the jury whether or not
13 anything was found on his person while y'all were there?

14 A. Well, specifically, the key -- and it was either
15 his left or right shoe or sock, but it was in that area,
16 and that was very specific and definitely brings
17 attention, and knowing that was an Accura key and
18 obviously the vehicle involved was an Accura.

19 Q. And you say you looked at the tattoo, you looked
20 at the photograph. You arrested him. Why did y'all
21 think to look in the shoes? What was the purpose of
22 that?

23 A. That's a kind of search due to the fact that we're
24 dealing with weapons, the opportunity -- you don't want
25 to put him in the back of a vehicle and you can put a

SHAUN JAMES - CROSS BY MS. FORD

1 small derringer in your sock or your shoe, so that's
2 something that is going to be common practice for law
3 enforcement, to search shoes.

4 MS. SHEALY: I beg the Court's indulgence for
5 just a moment.

6 I have no further questions. Please answer
7 any questions the defense may have.

8 THE COURT: Cross?

9 CROSS-EXAMINATION

10 BY MS. FORD:

11 Q. Just a few questions.

12 This incident was over two years ago now?

13 A. Yes, ma'am.

14 Q. And you've dealt with many cases since then,
15 correct?

16 A. Yes, ma'am.

17 Q. You did not actually write a report for this
18 incident, did you?

19 A. No, ma'am.

20 Q. So this is just based on your memory?

21 A. Yes, ma'am.

22 MS. FORD: No further questions.

23 THE COURT: Redirect?

24 MS. SHEALY: No, Your Honor. We would just
25 ask that he be excused.

1 THE COURT: You're free to go. Thank you.

2 MS. SHEALY: May we approach the bench for
3 just a second?

4 THE COURT: Sure.

5 (Discussion held at sidebar.)

6 THE COURT: All right, folks. We got a
7 number of other witnesses that we're going to get to this
8 afternoon, and they won't all be terribly long, but it
9 would probably be a good place to break for lunch right
10 now.

11 I know it's a little bit early. We'll go
12 ahead and break for lunch till 1:30. If you would,
13 please don't talk about the case with anyone. You can go
14 to lunch with anybody on the jury panel you want to, but
15 don't discuss witness demeanor, don't discuss the case in
16 any way, shape, or form. Don't try to find out anything
17 about the case on social media or anything like that.

18 Please report back to me if anybody does try
19 to approach you about the case. Report back to the jury
20 room just a little bit before 1:30, and we hope to get
21 started right promptly at 1:30.

22 Thank you for your patience.

23 (Jury excused.)

24 THE COURT: All right. Before we break,
25 Mr. Butler, stand up a second. I want to talk to you --

1 we're approaching the end of the State's case here
2 probably a little bit after lunch. You've heard me tell
3 the jury about your rights; that is, to present evidence
4 and to testify or not testify.

5 I want to go over with you specifically your
6 right to testify. You have the constitutional right to
7 get up on the witness stand and tell your side of the
8 story if you want to; however, you also have the right
9 not to testify. If you testify, your lawyer will ask you
10 questions and you have to answer them. The State will
11 also have the opportunity to cross-examine you and ask
12 questions.

13 If you have prior convictions, they may be
14 used to impeach you, and I don't know if you have a prior
15 record, but if you decide you want to testify, we'll get
16 into that. However, if you do not want to testify, I
17 will tell the jury they are not to hold that against you
18 while they are deliberating your verdict.

19 Do you understand that?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: All right. You don't have to
22 tell me now whether or not you want to present any
23 witnesses or testify, but at the end of the State's case,
24 you will have to make a decision as to whether you want
25 to call any witnesses, and before the case is done you

1 will have to make a decision as to whether or not you
2 want to testify.

3 I would suggest to you that you discuss this
4 matter with your lawyers again. I will assume that you
5 have already discussed this with them at some point, but
6 if not, this will be the first time, but if you have,
7 then you need to talk with them about it again.

8 This is ultimately your decision and your
9 decision alone. If you want to get consultation with,
10 you know, a family member or a friend about your decision
11 and they're here and available, you know, you can do
12 that, but I strongly suggest you talk it over with your
13 lawyers, and, again, we will have -- we will revisit this
14 issue before the day's out and before the case is out.

15 Y'all have to let me know what your decision
16 is. You don't have to make a decision now, but I just
17 want to let you know that is a decision that you will
18 have to make.

19 Do you understand that?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: Do you have any questions you
22 want to ask me about that right now?

23 THE DEFENDANT: No, sir.

24 THE COURT: Okay. Got a charge on the
25 attempted murder. Y'all want to look and see what we

1 have? If you have any suggestions or changes, please put
2 it down in writing and bring it back with you when we
3 resume at 1:30. Okay?

4 MS. FORD: Your Honor, I found that sometimes
5 judges -- their general instructions language about
6 seeking the truth and I just wanted -- I would object to
7 any of that language. There is a case I can get from
8 2000 --

9 THE COURT: I have not used that language
10 before.

11 MS. FORD: Okay. I was just making sure.
12 Thank you, Your Honor.

13 THE COURT: You have an objection to seeking
14 the truth? What is the point of that?

15 MS. FORD: In the instructions, it's burden
16 shift. There is a case on that point.

17 THE COURT: I never used that.

18 (Recess taken.)

19 A F T E R N O O N S E S S I O N

20 THE COURT: All right. You got your
21 witnesses ready?

22 MR. EVANS: Yes, Your Honor.

23 THE COURT: Let the record reflect the
24 defendant is in the courtroom.

25 Bring the jury in.

1 MS. SHEALY: I could just tell you this, we
2 have a stipulation that we've agreed to.

3 THE COURT: All right.

4 MS. SHEALY: I don't know how you like to
5 handle that. I usually read it to the jury.

6 (In open court, jury present.)

7 THE COURT: Okay. Welcome back, folks.
8 We're going to resume now with the State calling their
9 next witness. Before I have them call their next
10 witness, I wanted to read to you a stipulation of
11 evidence.

12 Stipulations are simply things that both
13 sides have agreed on. They don't have to then prove a
14 particular thing. It is considered to be adjudicated and
15 doesn't require proof in court, and I'll tell you what it
16 is, explain what it means.

17 It says, Attorneys for the State and the
18 defendant agree that appropriate measures took place in
19 the transporting of the following exhibits while at the
20 South Carolina Law Enforcement Division, SLED. The
21 exhibits were not tampered with at any time. One:
22 State's Exhibit 93, which is SLED item 1.1; State's
23 Exhibit 94, which is SLED's item 1.2; State's Exhibit 95,
24 which is SLED's item number 1.4, and State's Exhibit 96,
25 which is SLED's item number 3.

1 Furthermore, attorneys for the State and the
2 defendant agree that while at SLED the proper chain of
3 custody was followed. The exhibits were kept in a
4 locked, secure facility, and the exhibits were not
5 tampered with.

6 Sometimes in cases you'll hear testimony
7 where one person says, I got this, and then what they did
8 with it, and you have to keep a chain of custody on
9 certain types of evidence from the time the one person
10 picked it up to the time it got analyzed by somebody at a
11 different facility, usually SLED.

12 In this case, the parties have agreed as to
13 these particular incidents, or exhibits, that the chain
14 of custody was properly met. It's not question of fact,
15 and therefore you won't have to have a bunch of witnesses
16 come in and just basically say, I got it from this person
17 and then I put it into evidence and they got it out of
18 that, and so on and so forth.

19 Okay? Madame Solicitor, call your next
20 witness.

21 MR. EVANS: State calls Jason Riley, Your
22 Honor.

23 JASON RILEY,
24 having been first duly sworn,
25 was examined and testified as follows:

1 DIRECT EXAMINATION

2 BY MR. EVANS:

3 Q. Good afternoon, Investigator Riley. How are you?

4 A. I'm good.

5 Q. Where do you work currently?

6 A. Currently, I'm employed with the Charleston County
7 sheriff's office. I work in the forensic service unit.8 Q. How long have you been employed by the sheriff's
9 office?

10 A. Just over 11 years.

11 Q. What about law enforcement in general?

12 A. Thirteen years plus.

13 Q. And what are your duties at the sheriff's office?

14 A. Currently, my duties as a forensic investigator,
15 and also we take care of all the evidence in the
16 sheriff's office, processing scenes, documenting scenes,
17 cataloging, logging evidence, and then also understanding
18 what evidence we need to send to different agencies or
19 different places for further testing.

20 Q. Generally, how do you go collecting evidence?

21 A. We document all evidence to be collected by
22 photography first, and once it's been collected, usually
23 in big stacks, document the date and time of collection,
24 and the collections are sealed and placed in our evidence
25 storage.

1 Q. And do you analyze that evidence inhouse or do you
2 send it out somewhere?

3 A. There are some things that we do analyze inhouse
4 and some things that we just collect, package, preserve
5 and then later are sent somewhere else for testing.

6 Q. Where do you generally send those?

7 A. State Law Enforcement Division.

8 Q. And SLED is the acronym?

9 A. SLED, yes.

10 Q. What does SLED do with them?

11 A. SLED generally does all the DNA testing, general
12 and trace evidence. DNA is the big one.

13 Q. Were you called to process a burgundy Accura on
14 December 14, 2011?

15 A. I was.

16 Q. Do you recall where that was?

17 A. The vehicle was actually towed to our evidence
18 compound which is where I was already located.

19 Q. So it wasn't on the scene when you processed it?

20 A. No, sir, it wasn't.

21 Q. In your experience, do items sometimes shift when
22 the car is being towed?

23 A. They can.

24 Q. What do you typically do when you go about
25 processing a vehicle?

1 A. Once we obtain a search warrant, if a search
2 warrant is needed, in this case it was, we generally
3 photograph the exterior of the vehicle first, and once we
4 have finished with the general photography of the
5 exterior, we move to the interior of the vehicle, same
6 type of situation. You do not move anything. We
7 photograph the inside of the vehicle, each compartment
8 area.

9 I forgot the rest of the question.

10 Q. After you photographed the vehicle, what is your
11 next step, generally?

12 A. DNA collection, touch type swabs.

13 Q. Can you kind of briefly describe what a touch swab
14 is.

15 A. A touch swab is generally going to be skin type
16 DNA left on items. We would use a Q-tip swab and sterile
17 water to collect those.

18 Q. Do you recall if you took any touch swabs in this
19 case?

20 A. I did.

21 Q. Do you recall where?

22 A. From the steering wheel and from the gear shift.

23 Q. And I'm referring now to State's Exhibit No. 31.
24 Does that depict the steering wheel where you took the
25 test touch swab from?

1 A. Yes, it was.

2 Q. What was done with the swab from the steering
3 wheel?

4 A. Packaged in a cardboard box and packaged in an
5 envelope and placed in a refrigerator where it stayed
6 until it was sent to the state laboratory.

7 Q. You sent it to SLED. I know we have been over it.
8 You sent it to SLED for DNA?

9 A. Correct.

10 Q. What is your next step in processing a car after
11 you have done touch swabs for DNA?

12 A. That's when we remove items from the vehicle
13 important to the case the search warrant stipulates.
14 Items can be usually property, that type of thing.

15 Q. Do you take photographs of these items as you're
16 removing them?

17 A. We do.

18 Q. And did you do that in this case?

19 A. I did.

20 Q. I'm referring to State's Exhibit 32. And did you
21 photograph -- you yourself photograph this vehicle, do
22 you recall?

23 A. I did all the photographs on this case.

24 Q. And this is again State's 32. Do you recognize
25 what this is depicting?

1 A. I do.

2 Q. Can you explain?

3 A. It it's a black bi-fold wallet with a cell phone
4 right behind it in the center console.

5 Q. And State's 33, what does this depict?

6 A. Same wallet removed from the single console opened,
7 up on the driver's seat.

8 Q. State's 34, what does that depict?

9 A. Cell phone, center console.

10 Q. And 35, what does that depict?

11 A. That shows -- again, shows the wallet in the
12 console area, in the secondary console area, where the
13 armrest is located. It shows what was inside that.

14 Q. And State's 36, what does that depict?

15 A. That's on the passenger front side looking into
16 the vehicle.

17 Q. State's 37?

18 A. That's the items on the back seat.

19 Q. Do you recall what those items were in the back
20 seat?

21 A. A blue extra large jacket. There was a pair of
22 blue jeans, a gray, I believe, a polo shirt, extra large,
23 and a black towel.

24 Q. And State's 38, is that just a closer view of the
25 back seat there?

1 A. That's a closer view.

2 Q. And now State's 62, what does that depict?

3 A. That's two of the items in the back seat after we
4 had removed the larger jacket and the towel from that.

5 Q. That is just the flip side or the other side of
6 the passenger side, or can you tell?

7 A. It's probably from the driver's side door looking
8 in.

9 Q. State's 58.

10 A. That's depicting the size from the manufacturer of
11 the clothing label.

12 Q. And State's 63? We've already been through --

13 A. That's another photograph of the wallet showing
14 all -- I guess the areas that can be opened.

15 Q. I'm going to hand you a couple exhibits right now.
16 I'm going to show you what has been marked for
17 identification purposes as State's 39 and 40. Do you
18 recognize these?

19 A. I do.

20 Q. Do you -- you can identify those?

21 A. I can.

22 Q. Did you take these pictures?

23 A. I took these pictures, yes.

24 MR. EVANS: Your Honor, I'm going to ask to
25 admit these into evidence. There's an objection.

1 THE COURT: Admitted. There is an objection?

2 MS. FORD: Yes, Your Honor. There is an
3 objection based on the prior objection.

4 THE COURT: Same thing, just from another
5 angle?

6 MR. EVANS: Yes, sir.

7 THE COURT: Overruled.

8 (State's Exhibit Nos. 39 and 40 were marked
9 for identification and admitted into evidence.)

10 BY MR. EVANS:

11 Q. And I'm referring to State's 39. Can you identify
12 that for the jury, please.

13 A. This is a photograph of the driver's side
14 floorboard showing an object that's protruding from
15 underneath the driver's seat.

16 Q. And State's 40?

17 A. This is a lower angle showing the same item.

18 Q. And this is State's 41.

19 A. This is when the item has been pulled out from
20 underneath the seat.

21 Q. Did you know what that was?

22 A. It was identified as a remote control taped to
23 another rectangular object.

24 Q. State's 42, that's the flip side of it?

25 A. That's the reverse side, yes.

1 Q. Investigator Riley, I'm going to hand you what's
2 been marked as State's Exhibit 89.

3 Beg the Court's indulgence. Do you recognize this
4 item?

5 A. I do.

6 Q. Could you identify that for the Court, please.

7 A. This is the --

8 MS. FORD: Objection, Your Honor. Not
9 admitted into evidence yet.

10 BY MR. EVANS:

11 Q. I apologize. Can you identify it for the Court?

12 A. Remote control taped to a different square item.

13 Q. Do you recognize that object?

14 A. I do recognize it.

15 Q. Is this the one depicted in the pictures?

16 A. This is the one from the picture of.

17 MR. EVANS: I seek to admit State's 89.

18 MS. FORD: And I object based on my prior
19 objection.

20 THE COURT: Over objection it is admitted.

21 (State's Exhibit No. 89 was marked for
22 identification and admitted into evidence.)

23 BY MR. EVANS:

24 Q. Would you please identify this for the jury.

25 A. Yes. This is the TV remote. It is taped to a

1 different square rectangular object. It was pulled from
2 the driver's side of the maroon Accura.

3 Q. And I'm referring now to State's Exhibit 43.

4 A. It's a photograph depicting the trunk of the
5 Accura.

6 Q. So generally, after you pull out all the items and
7 photograph them, what's your next step when you process a
8 vehicle?

9 A. We usually move on to the latent fingerprint
10 process.

11 Q. Can you briefly describe that process for the
12 jury, please.

13 A. The process where we use fingerprint powder,
14 generally black fingerprint powders with a brush. We
15 usually start on the exterior of the vehicle, and we call
16 processing or dusting, taking the fingerprint powder on
17 the brush and apply that to the vehicle to attempt to
18 find latent fingerprints. The powder will appear through
19 the fingerprint patterns.

20 Q. What do you do if you find the latent prints?

21 A. When we're finished with the powdering and we
22 identify the prints, we will take fingerprint tape, just
23 clear tape, and place it over the print to lift that
24 print and place it on to a white card.

25 Q. I show you what has been marked for identification

1 purposes as State's 90 and 91. Do you recognize these
2 items?

3 A. I do.

4 Q. What are they?

5 A. These are latent print cards that came from the
6 Accura and one obtained from the remote control device
7 with the red tape.

8 Q. Were those collected by you or in your presence?

9 A. They were.

10 MR. EVANS: Your Honor, I would seek to admit
11 State's 90 and 91.

12 MS. FORD: No objection, Your Honor.

13 THE COURT: Admitted.

14 (State's Exhibit Nos. 90 and 91 were marked
15 for identification and admitted into evidence.)

16 BY MR. EVANS:

17 Q. Investigator, we're going to briefly go over these
18 cards if you don't mind. This is referring to State's
19 90, if you could open those up, and, Investigator Riley,
20 was there another crime scene tech with you?

21 A. There was an Investigator Kjellman.

22 Q. And did you personally witness anything she had
23 processed that day as well?

24 A. Yes, I did.

25 Q. If you could pull out card one, where was that

1 print lifted?

2 A. From the driver's window of the Accura.

3 Q. And was there more than one print that you were
4 able to identify on there?

5 A. Yes, there was.

6 Q. Can you kind of briefly go over when you have a
7 print and then you identify individual prints within that
8 lift. For example, in card one, when you have 1.1 and
9 1.2, what does that refer to?

10 A. There are times when there's more than one print
11 that will be pulled from an area and placed on to a
12 single card. We don't differentiate more than one print.
13 A physical examiner will.

14 Q. So you didn't do that yourself. Okay. Card two,
15 do you recall where that lift was obtained from?

16 A. That was also from the driver's window, on the
17 exterior side of the Accura.

18 Q. And card three, where was that lift taken from?

19 A. It was on also the driver's door window but on the
20 inside.

21 Q. Four, where that was lift taken from?

22 A. It was from the inside of the vehicle on the front
23 passenger armrest, front passenger door's armrest.

24 Q. What about card five?

25 A. Also from inside the car, from the front passenger

1 door's handle.

2 Q. What about card six?

3 A. That's the inside of the driver's window.

4 Q. And card seven?

5 A. It's the inside of the driver's door.

6 Q. And card eight?

7 A. That's the inside driver's door handle.

8 Q. Would you have to use that handle to get out of
9 the vehicle if you were driving?

10 A. I would think so, yes.

11 Q. I'm handing you now State's Exhibit 91. You have
12 previously identified this, but would you identify it
13 once more?

14 A. This is the latent print card that was removed
15 from the remote control.

16 Q. Beg the Court's indulgence.

17 So after you get the fingerprint cards lifted,
18 where do you send those generally?

19 A. To the city of North Charleston's AFIS.

20 Q. I'm showing you now State's Exhibit 60 and 56. Do
21 you recognize these?

22 A. I do.

23 Q. Could you identify them to the Court -- well,
24 could you identify them?

25 A. I can.

1 Q. Did you take these pictures?

2 A. I took these pictures.

3 MR. EVANS: Your Honor, I would seek to admit
4 these into evidence. I believe there is another
5 objection that we covered previously.

6 MS. FORD: Yes, Your Honor. I would object
7 base on my prior motion, particularly 402 and cumulative.

8 THE COURT: All right. Over objection. It's
9 admitted.

10 MR. EVANS: Thank you, Your Honor.

11 (State's Exhibit Nos. 56 and 60 were marked
12 for identification and admitted into evidence.)

13 BY MR. EVANS:

14 Q. Officer Riley, I'm referring to State's Exhibit
15 44 -- let me back up. When you take the items out of the
16 car, do you take them to a lab?

17 A. We have a secure processing bay. Yes, we do.

18 Q. And do you generally photograph them again in that
19 secure processing bay?

20 A. Yes.

21 Q. And you did that in this case?

22 A. I did.

23 Q. I'm referring to State's 44. Do you know what
24 that depicts?

25 A. A tag from a black towel.

1 Q. Do you recall where the towel was located?

2 A. It's in the rear seat of the Accura.

3 Q. State's 45.

4 A. Full view of that same towel from the Accura.

5 Q. And State's 52.

6 A. A photograph again of the tag on the black towel.

7 Q. I'm referring to State's Exhibit 53. Do you
8 recall what that depicts?

9 A. The blue jacket from the back seat of the Accura.

10 Q. And State's 54?

11 A. It's the tag on that same blue jacket.

12 Q. And 55?

13 A. It's the back side camera shot of the jacket.

14 Q. Investigator, I am showing you State's -- what's
15 been marked for identification purposes as State's
16 Exhibit 78, I believe. 78. Do you recognize this item?

17 A. I do.

18 Q. Do you recall where -- where do you recognize it
19 from?

20 A. From the search on the Accura on the rear seat.

21 Q. Do you recall where it was located?

22 A. It was on the rear seat.

23 MR. EVANS: I seek to admit this in as
24 State's 78.

25 MS. FORD: No objection.

1 THE COURT: Admitted.

2 (State's Exhibit No. 78 was marked for
3 identification and admitted into evidence.)

4 BY MR. EVANS:

5 Q. Investigator Riley, I'm referring to State's
6 Exhibit 57 now. What does that depict?

7 A. It's a tag of the polo shirt.

8 Q. And do you recall where that was located?

9 A. The rear seat, again, of the Accura.

10 Q. And 59?

11 A. That's a larger shot of that same polo shirt.

12 Q. State's Exhibit 61, what does that depict?

13 A. Showing the tag on a pair of blue jeans.

14 Q. Do you recall where those blue jeans were located?

15 A. On the rear seat of the Accura.

16 Q. State's 60, what does that depict?

17 A. It's a red stain on one of the pants legs of those
18 blue jeans.

19 Q. And 56?

20 A. That's that same pant leg turned inside to show
21 that red stain.

22 Q. What did you suspect that red stain to be?

23 A. Blood.

24 Q. And did you do any tests to determine whether it
25 what blood?

1 A. I did.

2 Q. Could you generally describe what you do to
3 determine that.

4 A. You take a swabbing and you place that inside a
5 test kit, break the chemical vials in the order it tells
6 you, and if it turns a certain color, then it's telling
7 you that it's blood.

8 Q. And did this stain test presumptive for blood?

9 A. It did.

10 Q. What would you have done with the jeans at that
11 point?

12 A. They were repackaged in a paper bag and placed and
13 secured into evidence.

14 Q. Investigator, I am showing you what's been marked
15 as State's 79. Do you recognize these?

16 A. I do.

17 Q. What do you recognize those as?

18 A. Blue jeans from the Accura.

19 MR. EVANS: Your Honor, I seek to move
20 State's 79 into evidence as well.

21 MS. FORD: Objection. Based on my prior 402,
22 403, and cumulative, Your Honor.

23 THE COURT: Overruled. They're admitted.

24

25 (State's Exhibit No. 79 was marked for

1 identification and admitted into evidence.)

2 BY MR. EVANS:

3 Q. And, again, you would send those off to SLED for
4 analysis?

5 A. Yes.

6 Q. Investigator Riley, do you recall if any other
7 physical evidence was sent to SLED?

8 A. Yes, there was.

9 Q. Do you recall what it was?

10 A. It was the touch swab from the steering wheel, and
11 it was also called buccal swabs -- or buccal swabs from
12 both the defendant and the victim.

13 Q. And did you take those personally to SLED, do you
14 recall?

15 A. I did.

16 Q. Beg the Court's indulgence.

17 Investigator Riley, again, this is State's 79, I
18 believe. Was this cutting there when you pulled them out
19 of the Accura?

20 A. No, sir.

21 Q. Do you know when that would have been done?

22 A. By SLED.

23 Q. To analyze the spot?

24 A. Yes, sir.

25 MR. EVANS: Beg the Court's indulgence.

1 I apologize, Your Honor.

2 BY MR. EVANS:

3 Q. I am now referring to State's 80. Do you
4 recognize this item?

5 A. I do.

6 Q. What is that look like?

7 A. A black bi-fold wallet with papers and
8 identification.

9 Q. Is this the wallet you found in the Accura when
10 you were processing?

11 A. In the center console, yes.

12 MR. EVANS: I seek to admit State's 80 into
13 evidence.

14 MS. FORD: One moment, Your Honor. Without
15 objection, Your Honor.

16 THE COURT: Admitted.

17 (State's Exhibit No. 80 was marked for
18 identification and admitted into evidence.)

19 MR. EVANS: I apologize, Your Honor.

20 BY MR. EVANS:

21 Q. Investigator Riley, I am handing you a pile that's
22 been marked as -- it's been admitted as State's 80, and
23 we're going to briefly go through the contents of this
24 wallet.

25 A. All right.

1 Q. Is there a social security card located in that
2 wallet, or was there when you found it?

3 A. Yes, sir.

4 Q. And I believe that's visible on State's 67. Can
5 you identify the name on that social security card?
6 Actually, that looks like a vehicle.

7 A. It's actually a vital statistics birth
8 certificate.

9 Q. I'm sorry. Could you identify it a little louder
10 for the jury?

11 A. Vital records and a copy of a birth certificate.

12 Q. Could you identify the name on that birth
13 certificate?

14 A. Latrone Terrell Butler.

15 Q. And the birth date, can you see that?

16 A. Can't quite make out the first month, [REDACTED] of
17 [REDACTED].

18 Q. Can you see it on the physical one?

19 A. [REDACTED].

20 Q. Thank you. And referring to State's 64, what are
21 these three items?

22 A. One is a South Carolina beginner's permit.

23 Q. What is the name on that?

24 A. Latrone Terrell Butler.

25 Q. And what date was it issued?

1 A. 3/11 of 2011.

2 Q. And what is the height and the weight on that?

3 A. The height is listed at five-eleven and 190.

4 Q. And what is the things under that?

5 A. That is the South Carolina identification card.

6 Q. And what is the name on that identification card?

7 A. Latrone Terrell Butler.

8 Q. And when was that issued?

9 A. February 10th of 2010.

10 Q. And, again, the height and weight on that card?

11 A. States five-ten and 180.

12 Q. And what is located under that?

13 A. It's a social security card.

14 Q. And whose name is on that social security card?

15 A. Latrone Terrell Butler.

16 Q. Referring to State's Exhibit 65, and,

17 Investigator, I believe those three things are located to
18 your left. Can you identify those three items for us?

19 A. It would be pay stubs from the Harvest Moon
20 Lowcountry Grill.

21 Q. What is the check date on the first one?

22 A. June the 10th, 2011.

23 Q. And the second one, what's the check date on that
24 one?

25 A. July the 8th, 2011.

1 Q. And that is also a pay stub from Harvest Moon?

2 A. It is.

3 Q. And the final document on there, and you can refer
4 to the actual ones, if you want to.

5 A. It's June 24th of 2011.

6 Q. Thank you. Referring to State's Exhibit 66, do
7 you recognize that? Can you identify that?

8 A. It's a Family Dollar payroll account, or pay
9 stubs.

10 Q. What are the dates on those?

11 A. One is from September the 16th of 2011, and the
12 other from September 23rd, 2011.

13 Q. Thank you. Beg the Court's indulgence.

14 Investigator, I'm handing you what has been
15 admitted as State's 100 and State's 101. Could you
16 identify these. Could you identify those for us.

17 A. Yes, I can.

18 Q. What are they?

19 A. They are buccal swabs.

20 Q. And who -- they were taken from whom?

21 A. One was obtained from a Letty Martin and another
22 Latrone Butler.

23 Q. Do you remember if you took those to SLED
24 yourself?

25 A. I did.

JASON RILEY - CROSS BY MS. FORD

1 Q. Thank you.

2 (State's Exhibit No. 100 was marked for
3 identification and admitted into evidence.)

4 MR. EVANS: Investigator Riley, I have no
5 further questions at this time. Please answer any
6 questions Ms. Ford may have.

7 THE COURT: Cross?

8 MS. FORD: Thank you, Your Honor.

9 CROSS-EXAMINATION

10 BY MS. FORD:

11 Q. Hello.

12 A. How are you doing?

13 Q. I would like to direct your attention back to
14 State's No. 64. And can you see the first, the
15 beginner's permit card?

16 A. Yes, ma'am.

17 Q. And the address listed on that is [REDACTED]
18 Highway lot four; is that correct?

19 A. Yes, ma'am.

20 Q. And that's from March of 2011?

21 A. Yes.

22 Q. Also, we saw earlier a picture of the car's trunk
23 with a lot of items in there.

24 A. Yes, ma'am.

25 Q. You took a picture of that.

JASON RILEY - CROSS BY MS. FORD

1 A. I did, yes.

2 Q. But you didn't process anything in it, correct?

3 A. No, ma'am.

4 Q. And in your work, you told us how you processed
5 this car. Do you ever process people, like to look for
6 evidence on people?

7 A. Yes, we do.

8 Q. 'Cause sometimes you can find DNA on people if
9 they scratch one and their nails or something like that?

10 A. Yes, ma'am.

11 Q. In this case, you were never asked to go to Letty
12 Martin and try to find the DNA samples, correct?

13 A. With the exception of the buccal, no, ma'am, I was
14 not.

15 Q. Beg the Court's indulgence.

16 MS. FORD: No further questions, Your Honor.

17 THE COURT: Redirect?

18 MR. EVANS: Nothing further, Your Honor.

19 THE COURT: You may step down.

20 THE WITNESS: Thank you.

21 MR. EVANS: May this witness be excused?

22 THE COURT: Yes.

23 Folks, before we have the next witness, I
24 want to take up a matter on another case for just a few
25 minutes, so let me go ahead and let you go for a bathroom

1 break.

2 Don't begin deliberations or discussions in
3 the case. We'll have you back in about ten minutes.

4 (Recess taken.)

5 THE COURT: All right. You got your other
6 witnesses lined up?

7 MS. SHEALY: We do. I think -- Judge, our
8 next witness, I think I'm going to recall Letty Martin
9 just as to one issue that Ms. Ford brought up. It should
10 take three minutes. I've got everybody else lined up.

11 THE COURT: All right. Give me five minutes.
12 I'll be right back.

13 (Recess taken.)

14 THE COURT: Let the record reflect the
15 defendant is in the courtroom. Just for the record, I
16 got a note, juror 137, that's Ms. -- she's the alternate,
17 Ms. Grimes. Ms. Grimes sent a note saying she had an
18 appointment in the morning at 8:15 in Goose Creek, wanted
19 to know if she needed to reschedule. She said it was
20 work and she didn't have any problem with rescheduling
21 it, so just for the record. She'll be here tomorrow and
22 I told her that it wouldn't be a problem. She said it
23 wouldn't be a problem if we started at 9:30.

24 All right. You ready?

25 MS. SHEALY: I'm ready.

LETTY MARTIN - REDIRECT BY MS. SHEALY

1 THE COURT: Bring the jury in.

2 (In open court, jury present.)

3 THE COURT: Okay. Folks, we're going to
4 resume with the State recalling Ms. Martin briefly. You
5 want Ms. Martin to come back up? I remind you that
6 you're still under oath.

7 THE WITNESS: Yes, sir.

8 LETTY MARTIN,

9 having been previously duly sworn,
10 was examined and testified as follows:

11 REDIRECT EXAMINATION

12 BY MS. SHEALY:

13 Q. Ms. Martin, showing you what's been previously
14 marked as State's Exhibit 43?

15 A. Yes.

16 Q. Is that the trunk of your vehicle?

17 A. Yes, it is.

18 Q. Okay.

19 A. I'm sorry to say.

20 Q. Could you point out -- well, first of all, is
21 there anything in your trunk that wasn't in your trunk on
22 December 5th, before you were abducted?

23 A. I don't think so.

24 Q. Could you point to some of those items and tell us
25 what they are.

LETTY MARTIN - REDIRECT BY MS. SHEALY

1 A. Yes. This is an air compressor that you use to
2 inflate the tires if they are low.

3 Q. You know, the point is not showing up.

4 A. This is the air compressor. This is the box for
5 the air compressor. These two items are little
6 toolboxes. These are window screens to help cut down
7 sunlight coming into the car, and a lot of this is
8 grocery bags that I kept in the car, and this is, I
9 think, a rain poncho. This is like a grocery bag.

10 Q. Very good.

11 MS. SHEALY: I have no further questions.
12 Answer any Ms. Ford may have.

13 THE COURT: Doing you have anything?

14 MS. FORD: No, Your Honor.

15 THE COURT: You may step down.

16 MS. SHEALY: Kathy Kjellman

17 KATHY KJELLMAN,

18 having been first duly sworn,

19 was examined and testified as follows:

20 DIRECT EXAMINATION

21 THE WITNESS: My name is Kathy Kjellman,
22 K-j-e-l-l-m-a-n.

23 BY MS. SHEALY:

24 Q. Investigator Kjellman, would you please tell the
25 jury where you're employed and in what capacity.

KATHY KJELLMAN - DIRECT BY MS. SHEALY

1 A. Im employed by the Charleston County sheriff's
2 office as an investigator.

3 Q. And how long have you been employed there?

4 A. With Charleston County, 12 years.

5 Q. And do you work in the evidence compound?

6 A. Yes.

7 Q. Regarding the investigation against Latrone
8 Butler, would you tell the jury whether or not you, along
9 with Investigator Riley, lifted some latent fingerprints
10 off of the Accura in question?

11 A. Yes, we did.

12 Q. And, in addition to that, did you obtain a buccal
13 swab from Letty Martin?

14 A. Yes, I did.

15 Q. Do you recall when it was that you obtained it?

16 A. It was collected on December 13th, at about 12:16
17 in the afternoon.

18 Q. From which year, December --

19 A. 2012.

20 Q. 2012. Showing you what has been previously marked
21 as State's Exhibit 100, can you tell us whether or not
22 that's the buccal swab?

23 A. Yes, it is.

24 Q. And would you just tell us briefly the process
25 that you underwent with Ms. Martin in an effort to

KATHY KJELLMAN - DIRECT BY MS. SHEALY

1 achieve this.

2 A. First I presented her with a sealed sterile cotton
3 swab, and I explained the procedure to her briefly, and I
4 was wearing gloves through the entire process. I opened
5 the package in front of her, handed one swab to her, and
6 gave her instructions to run the swab around her mouth,
7 similar to the way you would brush your teeth.

8 She did. I had a small long cardboard box. I
9 presented the box to her. She placed the swab in the
10 box, and she did a second swab the same way, placed that
11 swab in the box, and I sealed it up, the box up, in an
12 envelope in front of her.

13 Q. And after you sealed the box up, what did you do
14 with the box when you returned to the evidence compound?

15 A. I entered it into our evidence system and placed
16 it in the refrigerator.

17 Q. And were you aware of whether or not that later
18 went to SLED?

19 A. Yes, it did.

20 MS. SHEALY: I have no further questions.
21 Answer any that Ms. Ford may have.

22 THE WITNESS: Yes.

23 MS. FORD: I have no questions for this
24 witness, Your Honor.

25 THE COURT: You can step down. Thank you.

AL HALLMAN - DIRECT BY MS. SHEALY

1 MS. SHEALY: Al Hallman.

2 AL HALLMAN,

3 having been first duly sworn,

4 was examined and testified as follows:

5 DIRECT EXAMINATION

6 THE WITNESS: Al Hallman, H-a-l-l-m-a-n.

7 BY MS. SHEALY:

8 Q. Officer Hallman, would you please explain to the
9 jury where you're currently employed.

10 A. I'm currently employed with the city of North
11 Charleston police department.

12 Q. And how long have you been employed there?

13 A. Twenty-six years.

14 Q. And in what capacity are you currently employed
15 there?

16 A. I'm assigned to the crime scene unit.

17 Q. And included in your duties in crime scene, do you
18 analyze latent fingerprints?

19 A. Yes, I did.

20 Q. How many years have you been doing that type of
21 work?

22 A. Approximately 18.

23 Q. And where did you receive training for that type
24 of analysis?

25 A. I have attended advanced schools and seminars all

AL HALLMAN - DIRECT BY MS. SHEALY

1 over the country.

2 Q. And are there requirements that you keep up on the
3 newest information regarding latent print analysis?

4 A. Yes. It's called SWGFAST.

5 Q. Have you been keeping up with all the new
6 information about latent print analysis?

7 A. Yes.

8 Q. Okay. Have you testified in court previously?

9 A. I have.

10 Q. And did you know approximately how many times
11 you've testified?

12 A. Hundreds. I don't know.

13 Q. When you testify, were you qualified as an expert
14 in the area of latent print analyst?

15 A. Yes.

16 MS. SHEALY: Your Honor, at this time we
17 would offer Mr. Hallman as an expert in latent print
18 analysis.

19 MS. FORD: No objection, Your Honor.

20 THE COURT: Okay. Folks, when somebody comes
21 and testifies, we normally just let them come in and
22 testify about what they saw, they heard, they touched,
23 they felt, they smelt, that sort of thing. We don't
24 generally allow people to come in and tell us what they
25 think about evidence. However, the law says that when

AL HALLMAN - DIRECT BY MS. SHEALY

1 somebody, because of specialized training or education in
2 some field rises to a level of expertise, the law will
3 allow them to be qualified as an expert, and then they
4 can come into court and give you testimony that is in the
5 form of an opinion. They can also give you the basis of
6 their opinion.

7 The law also says that you are not required
8 to blindly accept any expert's testimony simply because
9 they are an expert. You decide how much weight to give
10 this witness's testimony based on all of the evidence
11 that you will hear throughout the trial.

12 You may resume. He's now been qualified as
13 an expert in the field of --

14 MS. SHEALY: Latent fingerprint analysis.

15 THE COURT: -- latent print analysis. Thank
16 you.

17 BY MS. SHEALY:

18 Q. Would you please describe to the jury what is meant
19 by the term latent print?

20 A. Yes. The word latent means invisible, and a
21 latent print is an image or impression that is placed on
22 a given surface by the palms or the fingers of your hands
23 or even your feet. And since it's latent, since it's
24 invisible, it requires chemical processing or different
25 processing mediums to make it visible, and once you've

AL HALLMAN - DIRECT BY MS. SHEALY

1 processed this, an item with a chemical process or
2 fingerprint powder or something to that effect and you
3 develop this print on that surface, it becomes what is
4 called a latent print, or comparable latent fingerprint,
5 but it has to be processed by some means in order to make
6 visible.

7 Q. Would you advise the jury whether or not every
8 time a potential latent print is lifted whether it is
9 necessarily capable of making a match up?

10 A. No, it's not.

11 Q. Why is that?

12 A. There are numerous reasons. The person that
13 applied that latent print on the surface may not have
14 been identified in our system, you know, previously. We
15 may not have what's called known exemplars, which are the
16 eight finger and palm prints of a person. That's what we
17 use to compare to the latents. If we don't have them and
18 they not in a system of any type, we have no way of
19 knowing.

20 Q. What is meant by the term ridged detail?

21 A. Ridged detail, if you look on your palms or your
22 fingers, the ridge -- friction ridge skin is present
23 there and on the bottoms of your feet. Those are the
24 only two places we have friction ridged skin. Your
25 fingerprint, the top digit of your print contains

1 anywhere from 75 to 250 individual points of
2 identification, just in that one little print.

3 When you look at your entire palm, you're talking
4 about thousands upon thousands of identifiable
5 characteristics, and what makes that important in the
6 field that I'm in is that the possibility of two people
7 living or dead having the exact same print, palm print,
8 fingerprint, doesn't matter, is approximately 10 to the
9 42 power, and that is ten with 42 zeros, so, needless to
10 say, they're unique.

11 Q. Would you explain to us, if someone touches a
12 surface, does it necessarily mean that their fingerprints
13 will be left behind?

14 A. No. They could be wearing gloves or they could
15 have, you know, some type of material between their hands
16 and the surface that's touched.

17 Q. When you touch a surface, if it's an area that's
18 touched repeatedly, could that also affect the ability to
19 be able to lift good prints?

20 A. You could lift them, but whether good or not would
21 be a determination later made. What she's referring to
22 is what we call a double tap, or where the finger or the
23 hand touches numerous times in the same spot, which
24 basically distorts the latent print, and a lot of times,
25 depending on repeated touching, it almost makes it

AL HALLMAN - DIRECT BY MS. SHEALY

1 unidentifiable.

2 Q. In relationship to this investigation, were you
3 asked to compare some latent prints to a ten print card?

4 A. Yes.

5 Q. And the ten print card, was that actually the ten
6 print card of Latrone Butler?

7 A. It as.

8 Q. When we say ten print card, what does that
9 literally mean, ten print?

10 A. That means the individual fingerprints, all ten
11 fingerprints, and then what's called slap images, which
12 are the fingers applied to the card. It gets all digits
13 of each finger.

14 Q. And in this case, in fact, you had the ten print
15 card for Latrone Butler?

16 A. Correct.

17 MS. SHEALY: Beg the Court's indulgence for
18 just a moment. Your Honor, at this time I would like to
19 mark this Exhibit, just for ID, as State's 97.

20 MS. FORD: It's just being marked.

21 THE COURT: Okay. It's marked.

22 BY MS. SHEALY:

23 Q. Officer Hallman, I'm going to show you what's been
24 marked as State's Exhibit 97 just for ID purposes. Could
25 you tell the Court, is that the ten print card of Latrone

1 Butler?

2 A. This is actually a complete set of major case
3 prints, and what major case prints are is basically the
4 ten print card that she's referring to, plus prints of
5 the palms, the entire palm print. So, basically, you got
6 the entire hand of each hand in here, but yes, these are
7 the prints of Latrone Butler.

8 Q. And in addition to that, were you provided with
9 State's Exhibit 91, that being a latent print card from
10 an RCA remote control?

11 A. Yes, I was.

12 Q. And were you provided with State's Exhibit 98,
13 latent print cards from an Accura?

14 A. Yes, I was.

15 Q. And would you describe to the jury, once you
16 received the ten print card or the major case prints and
17 items of latent prints, how could you go about conducting
18 your analysis?

19 A. I conduct what's referred to as a side by side
20 comparison, beginning with the latent print, and what
21 we've been taught is to try and identify what's called a
22 target group of points within that print, something that
23 stands out that just isn't the same as the rest of the
24 normal flow of the fingerprint.

25 Once we've identified something of that nature,

AL HALLMAN - DIRECT BY MS. SHEALY

1 then I go to the inked impressions and start looking and
2 trying and matching or finding a fingerprint that has
3 that kind of target group in it. Once that print is
4 identified, we start going back and forth, back and
5 forth, identifying points within each print until we're
6 comfortable and conclude that it is an identification.

7 Q. Okay. And could you hand me those back just for a
8 second. Just that one, actually?

9 A. This one.

10 Q. Yes. Regarding State's Exhibit 90, there were
11 numerous latent print cards from within that folder, that
12 envelope; is that correct?

13 A. Yes, there were eight.

14 Q. And when there are red markings on those cards,
15 were they done by you?

16 A. Some of them were done by me.

17 Q. Did you break down the print sometimes into, for
18 example, 1.1, 1.2 ?

19 A. Yes.

20 Q. If you would tell the jury in examining the major
21 case prints from Latrone Butler with items in State's
22 Exhibit 90, what your findings were.

23 A. Yes. Latent print card number one that I marked
24 as L-1 was lifted and labelled driver's window of a '96
25 Accura. Latent print 1.1 on that card positively

1 identified to the number seven left index finger of
2 Latrone Butler, and latent print on that card number
3 1.2 was identified as the number eight left middle finger
4 of Latrone Butler.

5 Both of these prints were a result of what was
6 called a simultaneous impression, and what a simultaneous
7 impression is, is an impression left on a surface that
8 involves multiple latent prints that were applied at the
9 exact same time by the same person and are in the
10 anatomically correct position within that surface.

11 So those were simultaneous impressions. No
12 identifications were affected to latent cards two, three,
13 four, five, six, and seven. Latent card number L-8 was
14 identified as the interior front driver's door handle,
15 and latent 8.1 was identified as being positive to the
16 number 9 left ring finger of Latrone Butler.

17 Q. So three positive matches?

18 A. Correct.

19 Q. Now, regarding the ones that were not -- that you
20 were not able to make a positive identification, your
21 language says insufficient for identification. What is
22 meant by that?

23 A. If I've got it marked as insufficient for
24 identification, no analysis performed, that just
25 certainly says that that individual latent impression is

AL HALLMAN - DIRECT BY MS. SHEALY

1 totally unidentifiable. It does not have any detail in
2 it to successfully affect a positive identification.

3 Q. Meaning -- does that mean that you're not able to
4 see the ridged detail to be able to make a comparison, or
5 what does that mean?

6 A. No. Sometimes you can see the ridge detail in
7 some prints that are unidentifiable, but it just does not
8 contain any of the levels of comparison, the ridge flow,
9 the pattern type, or even the poroscopy, which is the
10 sweat pores within each ridge. If we can't see that to
11 make a positive identification, we rule it as
12 unidentifiable.

13 Q. And regarding the other envelope?

14 A. Yes.

15 Q. State's Exhibit 41, coming from the remote
16 control, were you able --

17 MS. FORD: Your Honor, may I approach the
18 solicitor for a matter?

19 BY MS. SHEALY:

20 Q. Regarding State's 91, that being from the remote
21 control, were you able to make any type of identification
22 on that?

23 A. No. The latent print on that card was
24 unidentifiable.

25 Q. And when you say unidentifiable, what does that

1 mean?

2 A. It simply means that there is not enough ridge,
3 characteristics or what we term as level three detail,
4 which is the pores and the measurements of the ridges in
5 order to effect an identification.

6 Q. Showing what's been previously marked as State's
7 Exhibit 103 --

8 MS. SHEALY: Your Honor, without objection,
9 I'll show it to the officer first.

10 THE COURT: Okay.

11 BY MS. SHEALY:

12 Q. Showing you what's been previously marked as
13 State's Exhibit 103, could you describe what that is.

14 A. Yes. That's my latent analysis report.

15 MS. SHEALY: At this time I would offer this
16 into evidence without objection.

17 THE COURT: Admitted.

18 (State's Exhibit No. 103 was marked for
19 identification and admitted into evidence.)

20 BY MS. FORD:

21 Q. So, Officer Hallman, the positive fingerprint
22 matches were to the driver's window of the Accura and to
23 the interior front driver's door handle?

24 A. Correct.

25 MS. SHEALY: I have no further questions.

AL HALLMAN - CROSS BY MS. FORD

1 Please answer any questions that Ms. Ford may have.

2 THE COURT: Cross?

3 MS. FORD: Yes, Your Honor.

4 CROSS-EXAMINATION

5 BY MS. FORD:

6 Q. Hello.

7 A. Hi.

8 Q. So you were able to positively match Mr. Butler's
9 prints to several of the matches on the car, correct?

10 A. Several of the latent prints, yes.

11 Q. And some of the prints you had were not
12 sufficient, correct, that's what you've been telling us,
13 to do any kind of comparison?

14 A. Some of them were, yeah, unidentifiable, yes.

15 Q. But for some of them, you were able to compare
16 them to Mr. Butler's prints, and he was excluded as a
17 contributor?

18 A. Yes, ma'am.

19 Q. So that means they were somebody else's prints?

20 A. That is correct.

21 Q. And you don't know who?

22 A. No, ma'am, I do not.

23 Q. And he was actually excluded as a contributor for
24 two, correct, L-2?

25 A. 2.1, correct.

AL HALLMAN - CROSS BY MS. FORD

1 Q. And he was excluded from 3.1, correct?

2 A. That is correct.

3 Q. He was excluded from 4.1, correct?

4 A. Yes, ma'am.

5 Q. He was excluded from 5.1, correct?

6 A. 5.1, 5.2.

7 Q. He was excluded from 6.1, correct?

8 A. Yes, and 6.2.

9 Q. And he was excluded from 6.2, correct?

10 A. Yes, ma'am.

11 Q. So that was seven prints that he was excluded
12 from.

13 A. Yes.

14 Q. And were those prints from the same person, or you
15 don't know?

16 A. I don't know. The only way to determine that is
17 to find out who they belong to.

18 Q. So it's possible that could be seven other people?

19 A. It could be, or one.

20 Q. One more question, actually. You actually just
21 did your report on this last week, on January 9th.

22 A. That is correct.

23 Q. So this was not done prior to March of 2012,
24 correct?

25 A. It was -- the case was investigated by another

AL HALLMAN - REDIRECT BY MS. SHEALY

1 investigator prior to my looking at it. I received a
2 request to examine the prints against the ink prints of
3 Mr. Butler, and that was done on the 9th.

4 Q. Of this year?

5 A. Yes.

6 MS. FORD: Thank you. No further questions.

7 THE WITNESS: You're welcome.

8 THE COURT: Redirect?

9 MS. SHEALY: Yes, Your Honor.

10 REDIRECT EXAMINATION

11 BY MS. SHEALY:

12 Q. Officer Hallman, in looking at the envelope with
13 the eight latent prints, regarding the items that you
14 excluded Mr. Butler from, you may need to look at your
15 individual cards. Card 2.1, that lift -- that was lifted
16 from where?

17 A. I would have to look at the card, yes. I'm sorry.

18 Q. That's okay.

19 A. Card two was lifted from the exterior side of the
20 driver's window.

21 Q. So you did not have -- I'm sorry. Latrone Butler
22 was excluded from the outside driver's window?

23 A. That is correct.

24 Q. Okay. And then 4.1, he was excluded from the lift
25 taken where?

1 A. 4.1 or 3.1?

2 Q. I'm sorry, 3.1.

3 A. 3.1 was the interior driver's door window.

4 Q. And you did not have Letty Martin's fingerprints;
5 is that correct?

6 A. No.

7 Q. Then regarding 4.1 that he was excluded from --

8 A. That was the interior front passenger door
9 armrest.

10 Q. The passenger door armrest?

11 A. Uh-huh.

12 Q. And 5.1?

13 A. The interior passenger front door handle.

14 Q. So the passenger side again?

15 A. Yes.

16 Q. And then 5.2 was also from --

17 A. Yes, 5.1, 5.2, and 5.3 were all lifted from the
18 same area, from the same handle.

19 Q. And 6.1 and 6.2, he was excluded from the driver's
20 window interior?

21 A. That's correct.

22 Q. And, again, you did not have Letty Martin's
23 fingerprints?

24 A. No, I did not.

25 MS. SHEALY: I have no further questions.

KEVAN SHERBINE - DIRECT BY MR. EVANS

1 Thank you.

2 THE COURT: Recross?

3 MS. FORD: No, Your Honor.

4 THE COURT: You may step down.

5 THE WITNESS: Thank you, Your Honor.

6 THE COURT: Next witness.

7 MR. EVANS: State calls Kevan Sherbine, and
8 we may need to approach the bench about this witness.

9 KEVAN SHERBINE,

10 having been first duly sworn,

11 was examined and testified as follows:

12 DIRECT EXAMINATION

13 THE WITNESS: Kevan Sherbine,

14 S-h-e-r-b-i-n-e.

15 BY MR. EVANS:

16 Q. Private Sherbine?

17 A. Officer Sherbine.

18 Q. How are you this afternoon?

19 A. Fine. How are you?

20 Q. Fine thanks. Officer Sherbine, where do you work?

21 A. I work at the Al Cannon Detention Center.

22 Q. What are your duties at that detention center?

23 A. I am the professional visitation officer, and part
24 of my duties is to be the main point of contact
25 between --

KEVAN SHERBINE - DIRECT BY MR. EVANS

1 Q. Can you speak up a little bit?

2 A. I'm sorry. One of my main duties is to be the
3 main point of contact for the inmates and their
4 attorneys, public defenders, outside agencies, law
5 enforcement agencies. I do three-fourths of the
6 subpoenas that come into the jail, as well as I help with
7 the day-to-day running of front part of the jail, which
8 is the lobby.

9 Q. And do you handle the jail calls there?

10 A. I do, yes.

11 Q. Could you briefly describe how the system there,
12 the call system, is organized?

13 A. The inmates are assigned a PIN when they come in
14 the booking and processing area. This PIN is used for
15 any outgoing calls that they make. This is how the calls
16 are tracked and recorded, and when I get a subpoena, I
17 use their inmate number to track those calls for whatever
18 reason they're required.

19 Q. And is that PIN unique to each --

20 A. It's unique to each individual, yes.

21 Q. And when you get a subpoena for jail calls, how do
22 you usually respond to those subpoenas?

23 A. I respond as quickly as is humanly possible. I
24 make a copy for myself and for our supervisor, and then I
25 look and see the parameters for the subpoenas dates and

KEVAN SHERBINE - DIRECT BY MR. EVANS

1 times. I enter those into the program that we use. I
2 pull the records. I print a hard copy and then make the
3 recordings and put them on disk.

4 Q. And, Officer, I'm handing you what has been marked
5 for identification purposes as State's 92. Do you
6 recognize that?

7 A. I do, yes.

8 Q. And what is that?

9 A. This is a CD of phone recordings for the inmate
10 specified below.

11 Q. Is that how you would respond to a subpoena in the
12 ordinary course of your business?

13 A. It is, yes.

14 Q. Is that your handwriting on that disk?

15 A. It is, yes.

16 Q. Thank you.

17 MR. EVANS: Your Honor, I move to admit
18 State's 92 into evidence.

19 MS. FORD: Your Honor, I would object. I
20 don't think they've established the foundation on how the
21 system -- how the tapes are stored and distributed and
22 received and things of that nature. I also don't think
23 they have authenticated the jail calls.

24 MR. EVANS: I can go into a little more
25 detail with the witness if necessary.

KEVAN SHERBINE - DIRECT BY MR. EVANS

1 THE COURT: That's fine. Go ahead.

2 BY MR. EVANS:

3 Q. Can you briefly describe how the call system --
4 how it's stored and how it works in that regard.

5 A. It's stored in a computer database system. When
6 the calls are made, they're recorded, and they are put in
7 that database system that we maintain in the lobby.
8 There is a few people that have access to it for the
9 purpose of making dual recordings, and once the calls are
10 recorded, they are available for a specified number of
11 years for tracking, for listening, for these purposes.

12 Q. And is it stored by each individual inmate?

13 A. It's stored by each inmate as well as by phone
14 number called.

15 Q. And once they make a call out with their unique
16 PIN, would it go into their database?

17 A. It will, yes.

18 Q. And when you get a subpoena, do you search by that
19 inmate to pull up any calls?

20 A. We do, yes.

21 Q. Would that access only the call that inmate has
22 made?

23 A. With their PIN, yes.

24 Q. So only calls made with that PIN number?

25 A. Yes.

—KEVAN SHERBINE - DIRECT BY MR. EVANS—

1 Q. And, again, when you pull up the information on
2 the computer to respond to a subpoena, does it reflect
3 the date the call was made?

4 A. The date the call was made, the time the call was
5 made, and how many minutes.

6 Q. Could you tell me the date that was made?

7 A. February 9th --

8 MS. FORD: Objection. May we approach?

9 THE COURT: Uh-huh.

10 (Discussion held at sidebar.)

11 BY MR. EVANS:

12 Q. When you respond to the subpoena for this
13 particular defendant, did you place calls on the date
14 range that were requested in there?

15 A. Yes.

16 Q. Thank you.

17 MR. EVANS: Your Honor, I would like to
18 publish the calls to the jury at this time.

19 THE COURT: All right.

20 MS. FORD: Well, Your Honor, it has not been
21 admitted --

22 THE COURT: You want to put in a particular
23 call from a particular date?

24 MR. EVANS: Correct.

25 THE COURT: What is the date of the call that

KEVAN SHERBINE - DIRECT BY MR. EVANS

1 you want to put in?

2 BY MR. EVANS:

3 Q. Officer Sherbine, would one of the dates requested
4 in the subpoena have been December 10th, 2011? And I'm
5 going to hand you the disk.

6 A. December 10, 2011.

7 Q. Yes, sir.

8 A. Yes.

9 MR. EVANS: May I publish this to the jury?

10 MS. FORD: I don't think they've connected
11 the call to my client.

12 THE COURT: How do you know that that is the
13 defendant?

14 MR. EVANS: I apologize, Your Honor.

15 BY MR. EVANS:

16 Q. Can you identify the name on that disk, please.

17 A. It's Latrone Butler.

18 Q. And that would have been placed on there in
19 response to a subpoena from calls to Latrone Butler's
20 PIN?

21 A. Yes.

22 MR. EVANS: Thank you.

23 THE COURT: All right.

24 MR. EVANS: Again, I move to admit.

25 THE COURT: You want him to explain how the

KEVAN SHERBINE - DIRECT BY MR. EVANS

1 PIN system works?

2 MS. FORD: No. It's another matter. I just
3 want to clarify what is being played.

4 THE COURT: Let me send the jury out for just
5 a second. Don't begin deliberations or discussions about
6 the case.

7 (In open court, jury not present.)

8 THE COURT: What's the confusion?

9 MS. FORD: I just wanted to clarify the whole
10 conversation is about 15 minutes long, and I wanted to
11 clarify that they were only playing the part mentioned in
12 the transcript they provided because the other parts of
13 the conversation go into some other bad acts and things
14 like that, so I just wanted to make sure that was all
15 that was being published.

16 MR. EVANS: And, Your Honor, we intended to
17 queue it up at 12:49. We are only going to play the
18 relevant portion of the call.

19 MS. FORD: Just to put my objection on the
20 record, I would move that the contents are not admitted
21 into evidence because I don't think it's an actual
22 confession. He's just talking about getting into a drug
23 program. He's just talking in general, thinks this may
24 help me out, so I don't think it's specific enough to
25 connect it to a crime, and I think it's misleading.

KEVAN SHERBINE - DIRECT BY MR. EVANS

1 THE COURT: All right. Well, that is
2 overruled. The jury can decide how much weight it
3 deserves and what he is, in fact, talking about.

4 MS. SHEALY: And, Your Honor, if you'll allow
5 us. We'll get it queued up right now so we'll have it
6 ready to go.

7 THE COURT: All right.

8 (State's Exhibit No. 92 marked for
9 identification and admitted into evidence.)

10 (In open court, jury present.)

11 THE COURT: We're going to resume now with
12 the playing of this recording. The solicitor will be
13 starting it at a certain point. The entire conversation
14 we're not going to play, but just starting at a
15 particular point, which I have directed them to start at
16 and where to end it. All right?

17 MR. EVANS: And, for the record, there will
18 be a portion of a phone call made on December 10, 2011 at
19 15:06:14, and the recording will begin 12 minutes and 41
20 seconds into the phone call.

21 THE COURT: All right. Go ahead.

22 (Whereupon, the recording was played for the
23 jury.)

24 MR. EVANS: Your Honor, I have no further
25 questions. Please answer any questions Ms. Ford may

—KEVAN SHERBINE - CROSS BY MS. FORD—

1 have.

2 THE COURT: Do you have anything you want to
3 ask this witness?

4 CROSS-EXAMINATION

5 BY MS. FORD:

6 Q. Just -- Officer Sherbine, you're not present when
7 these phone calls are being made, correct?

8 A. That's correct.

9 Q. So you have no clue what is going on around this
10 conversation; is that correct?

11 A. That's correct.

12 MS. FORD: No further questions.

13 THE COURT: Anything further?

14 MS. SHEALY: Nothing further, Your Honor.

15 THE COURT: You may be excused.

16 MS. SHEALY: Catherine Leisy.

17 CATHERINE LEISY,

18 having been first duly sworn,

19 was examined and testified as follows:

20 DIRECT EXAMINATION

21 THE WITNESS: Catherine Leisy, L-e-i-s-y.

22 BY MS. SHEALY:

23 Q. Ms. Leisy, would you please tell the jury where
24 you're currently employed.

25 A. I work for the South Carolina Law Enforcement

CATHERINE LEISY - DIRECT BY MS. SHEALY

1 Division, more commonly referred to as SLED.

2 Q. And would you tell the jury just a little bit what
3 SLED does as a whole.

4 A. SLED provides forensic assistance to law
5 enforcement agencies throughout the State, be it local,
6 state level agencies that want to submit items of
7 evidence for forensic testing.

8 Q. And how long have you been employed with SLED?

9 A. Eight years.

10 Q. And tell us a little bit about your educational
11 background.

12 A. I have a bachelor of science degree in genetic
13 engineering from Cedar Crest College in Allentown,
14 Pennsylvania. I have received training at SLED by other
15 Court-qualified analysts involving all of the different
16 types of tests and analysis I'm required to perform, and
17 I'm also required to do continuing education, which
18 consists of training or seminars related to the forensic
19 DNA field on an annual basis.

20 Q. And tell us also about your previous employment.

21 A. Prior to working at SLED, I spent four years as a
22 DNA analyst at a private testing facility known Orchid
23 Cellmark in Germantown, Maryland where I ran the same
24 types of tests and analysis as I do at SLED.

25 Q. Have you testified in court in connection with

CATHERINE LEISY - DIRECT BY MS. SHEALY

1 your job as a forensic DNA analyst?

2 A. I have.

3 Q. And do you know approximately how many times
4 you've testified?

5 A. Approximately 50 occasions.

6 Q. And on those occasions, were you qualified in the
7 field of forensic analysis of DNA?

8 A. I was.

9 MS. SHEALY: Your Honor, at this time we
10 would offer Ms. Leisy as an expert in the area of
11 forensic analysis of DNA.

12 THE COURT: Any objection, or do you wish to
13 voir dire?

14 MS. FORD: No, Your Honor.

15 THE COURT: All right. Folks, as I told you
16 earlier, an expert witnesses -- this witness is now
17 qualified as an expert in the field of DNA analysis and
18 will be allowed to testify as an expert in that field and
19 give her opinion about the evidence that she has examined
20 and give you the basis of her opinion.

21 Again, you are not required to give her
22 testimony any greater weight than you would any other
23 witnesses simply because she is an expert. You decide
24 how much weight to give her testimony based on all of the
25 evidence that you'll hear throughout the trial.

CATHERINE LEISY - DIRECT BY MS. SHEALY

1 Go ahead.

2 MS. SHEALY: Thank you, Your Honor.

3 BY MS. SHEALY:

4 Q. If you could just start and tell us what DNA is.

5 A. DNA stands for deoxyribonucleic acid. It's the
6 genetic material found in all of our body cells with the
7 exception of our red blood cells. DNA is packaged into
8 structures called chromosomes which contain our genes,
9 and genes are simply strands of DNA that code for our
10 physical characteristics, such as our height or eye
11 color. We inherit one copy of DNA from our mother and
12 one copy our father; therefore, we have two copies of
13 every gene. Approximately 99.9 percent of an
14 individual's DNA is identical to that of everyone else's,
15 and it's the variation in that remaining .1 percent that
16 we test to tell different people apart.

17 Q. And could you describe for us what is involved in
18 the DNA analysis?

19 A. There are several basic steps to DNA analysis, the
20 first being the removal of DNA from a particular item of
21 evidence. Once we have removed the DNA from the
22 evidence, we make copies of the specific locations in the
23 DNA that we want to test. Once we've made those copies,
24 we have what we call a DNA profile. It consists of 15
25 locations in our DNA and is unique to each individual.

CATHERINE LEISY - DIRECT BY MS. SHEALY

1 Once we develop a DNA profile from an item of evidence,
2 we can compare it to the DNA profile of a known
3 individual to determine whether or not that individual
4 could have contributed to DNA found on that evidence.

5 Q. Describe for the jury, please, what is the value
6 of a buccal swab?

7 A. A buccal swab is what we call a known standard.
8 It's a sterile cotton swab, essentially just a Q-tip that
9 we run on the inside of an individual's cheek to collect
10 skin cells. We will then use that known standard to
11 develop a DNA profile for that individual and use that
12 profile in comparison with items that we wish to test.

13 Q. And were you tasked with performing a DNA analysis
14 in the case of the State versus Latrone Butler?

15 A. I was.

16 Q. Showing you what has been previously marked as
17 State's Exhibit 100 and 101, could you advise the Court
18 whether or not you had been provided with these buccal
19 swabs?

20 A. These are the swabs that I tested in this case.

21 Q. And those are swabs for two different individuals?

22 A. That is correct.

23 Q. Then were you also provided with items of
24 evidence?

25 A. Yes, I was.

CATHERINE LEISY - DIRECT BY MS. SHEALY

1 Q. And could you describe to the jury what items of
2 evidence you were provided with.

3 A. The items provided to me were cuttings, swabbings
4 taken from a pair of jeans as well as possible hairs
5 collected from those jeans. I also received a swab as
6 being described as being taken from a steering wheel.

7 Q. In your coming here today from Columbia, did you
8 bring back some items that you had with you from your
9 analysis?

10 A. I did.

11 Q. And what items are those?

12 A. I brought back all the cuttings and swabbings, as
13 well as the possible hair taken from the jeans and the
14 steering wheel. That pouch contains items taken from a
15 pair of jeans.

16 Q. Ms. Leisy, if you could get those cuttings and
17 swabbings for me. Would that include one cutting or two
18 cuttings?

19 A. It would contain three cuttings taken from a pair
20 of jeans, as well as swabbings and scraping taken from
21 the pockets and possible hair.

22 MS. SHEALY: Your Honor, at this time, I
23 would move these into evidence as State's Exhibit 93.

24 MS. FORD: I would just object for the jeans
25 based on the prior motion.

CATHERINE LEISY - DIRECT BY MS. SHEALY

1 THE COURT: Overruled. Admitted.

2 (State's Exhibit No. 93 was marked for
3 identification and admitted into evidence.)

4 THE WITNESS: This pouch contains the pouch
5 that was identified as coming from the steering wheel.

6 MS. SHEALY: At this time I would move this
7 into evidence as State's Exhibit 94.

8 THE COURT: Admitted over defendant's
9 objection.

10 (State's Exhibit No. 94 was marked for
11 identification and admitted into evidence.)

12 BY MS. SHEALY:

13 Q. Okay. So if you could, walk us through the
14 analysis you performed and your findings.

15 A. I started performing DNA testing on the items of
16 evidence that were submitted. I tested SLED item 1.1,
17 which was identified as a cutting of a stain on the
18 inside of the left pant leg of the jeans; SLED item 1.2,
19 a cutting from the outside of the left leg of the jeans;
20 and SLED item 1.3, which was a cutting taken from the
21 outside of the right leg of the jeans.

22 I performed a preliminary test on those items to
23 test for possible presence of blood. On SLED items 1.1
24 and 1.2 from the left leg, I then received a positive
25 result indicating the possible presence of blood.

CATHERINE LEISY - DIRECT BY MS. SHEALY

1 Q. Let me interrupt you there for just a second.
2 Those are cuttings from blue jeans; is that correct?

3 A. That's correct.

4 Q. Now, when you received these, the cuttings had
5 already been made?

6 A. They had.

7 Q. When a pair of jeans is sent to SLED, who actually
8 processes the item of evidence and makes the cuttings?

9 A. For an article of clothing, such as a pair of
10 jeans it, will go through our evidence processing
11 department. There a technician will examine the clothing
12 to look for possible bodily fluids or hairs that may be
13 present as well as take swabbings or scrapings to try and
14 determine ownership of a particular item, and any items
15 they collect are then forwarded to me for DNA testing.

16 Q. And I think I had interrupted you when you had
17 told us there were two cuttings from blue jeans, 1.1 and
18 1.2, where blood was indicated?

19 A. Correct. Again, those items were both identified
20 as being taken from the left leg of the pants. I was
21 able to identify a DNA profile from those items. That
22 profile matches the DNA profile I developed from the
23 swabs from Latrone Butler, and the possibility of the
24 random selecting an unrelated individual having a DNA
25 profile matching these items is approximately 1 in 1.4

1 quintillion.

2 Q. Could you explain to us, when you are indicating
3 it was a match and the 1 in 1.4 quintillion, what are you
4 advising us of?

5 A. What I have is what we call a single source
6 profile, meaning it indicates I have DNA from one person.
7 That profile is a perfect match to the DNA profile I
8 developed from swabs from Mr. Butler.

9 We basically consider this an identification.
10 What it means is if you were to randomly select an
11 unknown individual and test their DNA profile, the
12 probability they would have that particular profile is
13 approximately 1 in 1.4 quintillion.

14 Q. And you can continue with your report.

15 A. I further performed the same preliminary test on
16 item 1.3, which was a cutting taken from the outside of
17 the right leg. The cutting itself, I developed a
18 negative test result for the cutting. The technician
19 also included swabs that she had taken from that stain.

20 I went ahead and processed those swabs for DNA but
21 was not able to develop a DNA profile from that
22 particular item. I also tested a swab that was taken
23 from the inside of the front pockets of the jeans. The
24 DNA profile from the pockets is a mixture of at least two
25 individuals. The DNA profile developed from major

1 contributor to this mixture also matches the DNA profile
2 of Latrone Butler, and Letty Martin is excluded as a
3 possible contributor to this mixture.

4 Q. And when you say that it comes from a mixture of
5 at least two individuals, that again would have been a
6 swabbing from the scrapings inside the pockets?

7 A. That's correct.

8 Q. Could you explain to the jury how sometimes there
9 is a mixture of DNA?

10 A. When we refer to a mixture, it just means there is
11 DNA from more than one individual present. In this
12 instance, I was able to develop what we call a major
13 contributor, which just means one of the contributors
14 left significantly more DNA than the other. That allows
15 us to basically pull their profile out and treat it as a
16 single source profile and make a comparison just as we
17 would with a single source profile.

18 Q. And there he was the major contributor?

19 A. That's correct.

20 Q. If you would continue.

21 A. I performed DNA testing on a possible hair that
22 was collected from the jeans, which is identified as SLED
23 item 1.5.1. No DNA -- no human DNA was identified on
24 that particular item, so no profile was developed.

25 I also performed testing on what was identified as

1 SLED item 3, swab from the steering wheel. The DNA
2 profile developed from this swab from the steering wheel
3 is a mixture of at least two individuals. The DNA
4 profile developed from the major contributor to this
5 mixture also matches the DNA profile of Latrone Butler.

6 The probability ever randomly selecting an
7 unrelated individual having a DNA profile matching the
8 major contributor to this mixture is approximately 1 in
9 110 quadrillion, and Letty Martin is excluded as a
10 possible contributor to this mixture.

11 Q. Regarding your findings, 1 in 1.4 quintillion
12 earlier, and 1 in 110 quadrillion, could you give the
13 jury some understanding of the value of those numbers in
14 analyzing this.

15 A. Numbers are used to give weight to a match
16 statement. If you have a partial profile and you make a
17 match and you said the probability is one in ten, that
18 means if you randomly selected an unrelated individual,
19 the probability they would match is one in ten. In these
20 instances, we're talking about one in several quadrillion
21 or quintillion, which is a much larger number.

22 It helps give weight to how strong a statement
23 we're making when we say someone matches a particular
24 kind of test.

25 Q. And when you perform DNA analyses, do you

CATHERINE LEISY - DIRECT BY MS. SHEALY

1 frequently have one in ten, one in twenty, one in two
2 hundred, some of the lower numbers?

3 A. Not with a full profile single source match
4 statement, as I have in this case.

5 Q. So here the numbers reflect the level of the match
6 that occurred?

7 A. That's correct, and with each particular items --
8 with the cuttings, particularly from the jeans, I would
9 say it's my opinion, from a reasonable degree of
10 scientific certainty, that Mr. Butler is the contributor
11 of the DNA obtained from those cuttings.

12 Q. And as relates to the swab from the steering
13 wheel?

14 A. That particular case again, I have a match
15 statement. The statistic is a little bit different. Not
16 all the locations that I tested qualified to be used in
17 statistics, which is what resulted in that difference,
18 but, again, we do have a match between Mr. Butler's
19 profile and the steering wheel, major contributor, I
20 should say, to the steering wheel.

21 Q. And that figure again is what?

22 A. That particular item is going to be 1 in 110
23 quadrillion.

24 Q. And then did that complete your initial analysis
25 conducted?

—CATHERINE LEISY - DIRECT BY MS. SHEALY—

1 A. It did.

2 Q. Did you also compare those same items to Letty
3 Martin's buccal swab?

4 A. I did. I compared all the evidence profiles I
5 developed to profile develop from Letty Martin's buccal
6 swab and was able to exclude her as a possible
7 contributor to all of these items.

8 Q. To all of these items?

9 A. Yes.

10 Q. And showing you what's been marked as State's 102,
11 could you identify what these two documents are.

12 A. These are reports that I generated documenting the
13 test I performed and the results and conclusions that I
14 drew.

15 MS. SHEALY: Beg the Court's indulgence just
16 a second. Your Honor, at this time we would offer
17 State's Exhibit 102 into evidence.

18 MS. FORD: Your Honor, I would object on the
19 basis for the part that contains information from my
20 prior objection regarding the gene.

21 THE COURT: Based on your prior objection --
22 oh, regarding the blue jeans?

23 MS. FORD: Yes, Your Honor.

24 THE COURT: All right. Overruled. It's
25 admitted.

1 (State's Exhibit No. 102 was marked for
2 identification and admitted into evidence.)

3 MS. SHEALY: Ms. Leisy, please answer any
4 questions that the defense attorneys may have. Thank
5 you.

6 THE COURT: Cross?

7 MS. FORD: Yes, Your Honor.

8 CROSS-EXAMINATION

9 BY MS. FORD:

10 Q. I want to talk a little more about the major
11 contributor issue that you mentioned, how Mr. Butler was
12 found as the major contributor, but there was another
13 person's DNA on the steering wheel, for example, and the
14 jeans, correct?

15 A. That's correct.

16 Q. Being a major contributor could mean that that
17 person just had the item last, correct?

18 A. That's correct. I can't determine necessarily
19 when someone was in contact or when they left their DNA,
20 just that at some point their DNA was deposited on that
21 item.

22 Q. And on the steering wheel, you did not find Ms.
23 Martin's DNA at all, correct?

24 A. Correct. She was excluded as a possible minor to
25 the mixture that I developed.

CATHERINE LEISY - CROSS BY MS. FORD

1 Q. So if she had been driving the car a few days
2 earlier, her DNA was covered up, basically, by whoever
3 drove after her?

4 A. That is a possibility. It may also depend on
5 where she touched the steering wheel versus where it was
6 swabbed. I can't say specifically why her DNA wouldn't
7 be present in this mixture, just that in the profile I
8 developed I was able to exclude her as a possible
9 contributor.

10 Q. And just to make sure this is understood, the
11 blood swabs from the jeans -- that blood belonged to
12 Latrone Butler, correct?

13 A. It's my opinion he was a contributor of the DNA to
14 those items, yes.

15 MS. FORD: Beg the Court's indulgence. No
16 further questions.

17 MS. SHEALY: I have nothing further, Your
18 Honor.

19 THE COURT: You may step down. Thank you.

20 All right. So is the State calling any
21 further witnesses?

22 MS. SHEALY: No. At this time the State
23 would rest.

24 THE COURT: All right. Folks, we got some
25 things we need to take up procedurally at this point

1 before we move on to the next phase of the case, so let
2 me send you to the jury room. Do not begin deliberations
3 or discussions about the case, and we'll have you back in
4 about ten minutes.

5 Thank you.

6 (In open court, jury not present.)

7 THE COURT: Motions?

8 MS. SHEALY: I would put on the record we
9 approached the bench, and we had previously moved into
10 evidence State's Exhibit 70, and when I attempted to get
11 in the mugshot that had identifying information, Ms. Ford
12 made an objection, and so No. 70 has not been testified
13 to by anyone, and we would at this time ask to remove it
14 from evidence.

15 It's my understanding Ms. Ford does not have
16 an objection to that.

17 THE COURT: It was not admitted, correct?

18 MS. SHEALY: It was admitted, but no one has
19 testified to it. The jury has not seen it, and if it's
20 okay I'll go ahead and grab it so we can get it out of
21 the --

22 THE COURT: All right. Ms. Ford?

23 MS. FORD: At this point I would like to
24 renew all of my prior objections, but I would at this
25 time move for a directed verdict, in particular with the

1 attempted murder.

2 I think the law requires an actual specific
3 intent to kill, and I don't think that that specific
4 intent to kill has been proven, Your Honor, and, in
5 addition, I would just like to ask for a directed verdict
6 to all charges.

7 Mr. Butler was found with the car three days
8 later, but there is no other physical evidence tying him
9 to the crime itself.

10 THE COURT: State want to be heard?

11 MS. SHEALY: Your Honor, I think there is
12 ample evidence regarding the attempted murder charge.
13 Ms. Martin has testified that repeatedly he attempted to
14 snap her neck while in a dark country road. She passed
15 out. He grabbed her back up and continued to try to do
16 so and only fled the area when another vehicle
17 approached.

18 I was trying -- the second part of her
19 argument was Ms. Martin has identified him. His items
20 were in the vehicle. Her key is in his shoe. I think we
21 have ample reason to go in front of the jury with this.
22 I think a directed verdict would certainly be
23 inappropriate.

24 THE COURT: I agree. There is ample
25 opportunity to sustain a guilty verdict, so the motion is

1 denied.

2 So what is y'all's plan on the defense? Have
3 you talked about whether or not you're going to call
4 witnesses and is he going to testify?

5 MS. FORD: My client has indicated to me that
6 he does not want to testify. I do have a witness to put
7 up a few pictures. I don't think it will take very long.

8 THE COURT: Okay. Pictures of what?

9 MS. FORD: Tattoos, Your Honor.

10 THE COURT: All right. Let's take a short
11 rest room break. We'll come back. You can call your
12 witness, put that in. Then we will stop for the day and
13 then do the arguing and charging in the morning.

14 You might want to do a little bit of research
15 on this specific intent versus general intent issue that
16 you raised. What's your thoughts on that?

17 MS. SHEALY: I really need to look at it,
18 Judge. I didn't get a chance to look at your charge or
19 what she apparently e-mailed to me, so I don't feel like
20 I can address it this second.

21 THE COURT: I'll give you the evening to look
22 at it and I'll look at it, and we'll talk about it in the
23 morning. All right?

24 Mr. Butler, stand up. The State has now
25 rested; in other words, they called all the witnesses

1 they're going to call. Your lawyer tells me that she
2 wants to call one witness, put in some photographs. At
3 that point you would have to decide if you want to
4 testify.

5 Your lawyer tells me at this point that you
6 indicated to her that you do not want to testify. So
7 when we talked before lunch, I told you you have to make
8 a decision as to whether or not you want to testify.
9 That is your decision, your decision alone. If you do
10 testify, you'll answer the questions, you'll be put under
11 oath, answer the questions that your lawyer asked you.
12 You'll also have the obligation to answer the State's
13 questions, and if there are any prior convictions that
14 you have, we'll discuss whether or not these would be
15 admitted for the sole purpose of impeaching your
16 testimony.

17 However, if you don't want to testify, I will
18 instruct the jury that they are not to hold that against
19 you in any way while they're deliberating. Have you had
20 an opportunity to think about this?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: Have you had an opportunity to
23 discuss it with your lawyers?

24 THE WITNESS: Yes, sir.

25 THE COURT: Have you made a decision?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: What's your decision?

3 THE DEFENDANT: I'm not testifying.

4 THE COURT: You don't want to testify?

5 THE DEFENDANT: No, sir.

6 THE COURT: This is your decision and your
7 decision alone?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: All right. We're going to take a
10 rest room break. When we come back, Ms. Ford will call
11 the witness that you want, and we will break for the day.

12 MS. FORD: Thank you, Your Honor.

13 THE COURT: See you back in ten minutes.

14 (Recess taken.)

15 (In open court, jury present.)

16 THE COURT: Okay, folks. The State has now
17 rested, and so the defense will call their first and only
18 witness.

19 After they call that witness, we will break
20 for today and then come back tomorrow morning and do the
21 closing arguments and the charge on the law and then
22 you'll begin your deliberations. All right?

23 So, Ms. Ford, if you're ready, you may begin.

24 MS. FORD: Thank you, Your Honor. The
25 defense calls Matthew Davis to the stand.

MATTHEW DAVIS - DIRECT BY MS. FORD

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MATTHEW DAVIS,
having been first duly sworn,
was examined and testified as follows:

DIRECT EXAMINATION

THE WITNESS: Matthew Davis, D-a-v-i-s.

BY MS. FORD:

Q. Hello. By whom are you employed, Mr. Davis?

A. With the public defender's office and Charleston
County.

Q. What is your job there?

A. I'm an investigator.

Q. And does part of your job entail taking pictures?

A. Yes.

Q. And did you ever -- have you worked on the case of
State versus Latrone Butler?

A. Yes.

Q. And did you have an opportunity to meet with
Mr. Butler?

A. Yes.

Q. And did you take pictures during that meeting?

A. Yes.

Q. And you're aware of his charges, correct?

A. Yes, ma'am.

Q. And to your knowledge, at the time you met him, he
was incarcerated for the current charges, correct?

1 A. Correct.

2 Q. I'm going to show you some pictures now. First
3 I'm showing you what has been marked as Defendant's
4 Exhibit 4. Do you recognize that picture?

5 A. Yes.

6 Q. Did you take that picture?

7 A. I did.

8 Q. What does that picture show?

9 A. It is a picture of a tattoo on the defendant's
10 neck.

11 Q. Okay. And when you met Latrone Butler, that is
12 the same man who is here in the courtroom today, at the
13 defense table?

14 A. Yes, ma'am.

15 Q. Now, I'm going to show you what's been marked as
16 Defendant's Exhibit 5. Do you recognize what's in that
17 picture?

18 A. Yes.

19 Q. And what is it of?

20 A. It is a tattoo on the defendant's left hand.

21 Q. Okay. And did you take that picture?

22 A. I did.

23 Q. Does that look the same as when you took the
24 picture?

25 A. Yes, ma'am.

MATTHEW DAVIS - DIRECT BY MS. FORD

1 Q. Now, I'm showing you what has been marked as
2 Defendant's Exhibit 6. Did you take that picture as
3 well?

4 A. Yes.

5 Q. And what is that a picture of?

6 A. This is a picture of a tattoo on the defendant's
7 right hand.

8 Q. And does that look the same as when you took the
9 picture?

10 A. Yes, ma'am.

11 MS. FORD: Your Honor, at this time I would
12 like to admit Defendant's Exhibits 4, 5, and 6, Your
13 Honor. I think they would become 1, 2, and 3.

14 MS. SHEALY: No objection.

15 THE COURT: Admitted.

16 (Defendant's Exhibit Nos. 1, 2, and 3 were
17 marked for identification and admitted into evidence.)

18 BY MS. FORD:

19 Q. What is that a picture of?

20 A. That's a picture of the defendant's neck.

21 Q. Okay. And now I'm showing you what has been
22 previously marked as Defendant's Exhibit 5. What is that
23 a picture of?

24 A. That is a picture of the tattoo on the defendant's
25 left hand.

MATTHEW DAVIS - CROSS BY MS. SHEALY

1 Q. And now I'm showing you what has been marked
2 Defendant's Exhibit 6, and what is that a tattoo of?

3 A. That is a tattoo on his right hand.

4 Q. Okay. And during the course of your
5 investigation -- are you also aware of other multiple
6 tattoos on Mr. Butler's arms as well?

7 A. Yes.

8 MS. FORD: I have no further questions, Your
9 Honor.

10 THE COURT: Cross?

11 MS. SHEALY: May it please the Court?

12 CROSS-EXAMINATION

13 BY MS. SHEALY:

14 Q. Mr. Davis, in your role as an investigator at the
15 public defender's office, you also were able to see some
16 photographs of tattoos of Mr. Butler that the jail had
17 taken; is that correct?

18 A. Yes, ma'am.

19 Q. Okay. I'm going to show you a number of those
20 photographs and ask you if you recognize those.

21 A. Yes, ma'am.

22 Q. And you indicated to Ms. Ford that there were
23 tattoos on his arms; is that correct?

24 A. Correct.

25 Q. There were tattoos on the under part of his arm

MATTHEW DAVIS - CROSS BY MS. SHEALY

1 and on the front part of both arms; is that correct?

2 A. Yes, ma'am.

3 Q. And that he had some tattoos on his chest?

4 A. Correct.

5 Q. And tattoos on each leg?

6 A. Yes.

7 Q. And when you went to take photographs of him, you
8 saw the tattoos on his arms; is that correct?

9 A. Correct.

10 MS. SHEALY: Your Honor, at this time I would
11 like to move into evidence State's Exhibit 81, 82, and
12 83.

13 MS. FORD: And I object, Your Honor. May we
14 approach?

15 (Discussion held at sidebar.)

16 MS. SHEALY: Thank you, Your Honor. I was
17 just going to follow up with one question.

18 BY MS. SHEALY:

19 Q. So regarding Mr. Butler and the tattoos on his
20 arms, they were tattoos down both sides, front and back;
21 is that correct?

22 A. Yes, ma'am, from the elbow down, from what I saw.

23 MS. SHEALY: Very good. Thank you.

24 THE COURT: Any redirect?)

25 MS. FORD: No, Your Honor.

1 THE COURT: You may step down. Do you have
2 any other witnesses?

3 MS. FORD: No, Your Honor. At this time the
4 defense rests.

5 THE COURT: Anything in reply?

6 MS. SHEALY: No, Your Honor.

7 THE COURT: Folks, you have now heard all of
8 the evidence in this trial, so we'll break for the day
9 because we have to still have a charge conference and
10 then we would have arguments and begin deliberations.

11 It would be probably closer to 6:00 before
12 you get it. We'll go ahead and work some on what we have
13 to and then have it ready for you to just begin hearing
14 arguments in the morning and begin deliberations, so
15 let's break for the day.

16 So even though you have heard all of the
17 evidence, it's improper for you to begin your
18 deliberations and discussions with each other about the
19 case. It's really improper for you to even start
20 thinking about your verdict. I mean, I know I can't
21 control your mind, but until you hear the arguments, but
22 most importantly until you hear the law that applies to
23 these facts, you really don't know how to go about
24 arriving at a verdict.

25 So please just go home and enjoy your day.

1 Don't try to find out anything on the Internet or
2 anything like that. Don't discuss the case with each
3 other, and just be back in the jury room at 9:30 tomorrow
4 and we will get started with the closing arguments,
5 charge on the law, and then you'll begin your
6 deliberations.

7 Thank you for your patience today.

8 (In open court, jury not present.)

9 All right. Anything else we need to take up
10 before we break? You got your copy of the jury charges
11 to take home. I will think about the specific intent
12 versus general intent question and let you know in the
13 morning.

14 MS. FORD: I didn't know if there was going
15 to be some type of circumstantial evidence charge.

16 THE COURT: There is a direct circumstantial,
17 isn't it? Brand new. Fresh hot off the press. You got
18 it.

19 MS. FORD: At this time, Your Honor, I would
20 just renew all my prior motions for the rest of my case.

21 THE COURT: All right. They are denied. See
22 y'all at 9:00 -- how about y'all get here about 9:15 so
23 we can kind of finalize the jury charges.

24 MS. FORD: Yes, sir. I am also requesting
25 the lesser included.

1 THE COURT: We'll talk about it tomorrow.

2 MS. FORD: Yes, sir.

3 (Recess taken.)

4 (January 17, 2014.)

5 THE COURT: You'll see on page four I put in
6 the changes that the State had recommended in that first
7 sentence, and then on page five, on the last bulleted
8 paragraph above -- it is the at the beginning of the
9 charge on kidnapping, I made a change in what the State
10 wanted me to take out, the entire sentence that said a
11 specific intent is not required.

12 Well, the statute says it's with an intent to
13 kill. I'm putting in the language that says an intent to
14 kill is an element of attempted murder, and then I'm
15 putting in the sentence intending a result which actually
16 occurs, not accidentally or involuntarily, and the rest
17 of it I believe was already there.

18 I think that is correct. I'll hear any
19 objections if anybody wants to make any.

20 MS. SHEALY: I do, Your Honor. Regarding the
21 entry you're making about, page five, I don't have a
22 problem with your putting in an intent to kill as an
23 element of attempted murder, but the next sentence
24 doesn't make sense to me: Intent means intending the
25 result which actually occurs. He wasn't attempting -- he

1 was intending to kill her, so the result was not
2 achieved. See what I'm saying?

3 So for it to say intent means intending the
4 result which actually occurs. I think the remainder of
5 the paragraph fully explains intent to kill, but to say
6 intent means intending the result which actually occurred
7 seems difficult for me.

8 THE COURT: Well, I see your point. I see
9 your point. I would counter with well, it's always been
10 in an intent charge, and you would always have that
11 problem, either with attempted murder or the old ABWIK.
12 Nobody ever attempts murder or attempts, under the old
13 ABWIK statute, to almost kill them.

14 MS. SHEALY: Right. Well, let me ask you
15 this: If it would be okay with the Court, what if you
16 were to take out intent meaning intending the result
17 which actually occurs and instead saying intent means
18 that it was not accidental or involuntary?

19 THE COURT: Or how about intent means not
20 accidentally or involuntarily.

21 MS. SHEALY: That would be fine with the
22 State.

23 THE COURT: Ms. Ford, do you want to be heard
24 on that? I'm just looking at some of the case law when
25 they define specific intent. I don't know if that

1 language would be more helpful. Well, I don't know of
2 any case law that says specific intent language on
3 attempted murder statute. It's so new.

4 MS. FORD: I mean in general.

5 THE COURT: So the magic of the word specific
6 escapes me when I have an intent to kill is an element of
7 attempted murder. You've got the language there that you
8 want.

9 MS. FORD: Well, just as the solicitor and I
10 were talking about, the definition, they don't go into
11 for attempted murder since there is no case law on that
12 but just specific intent in general is defined in the
13 South Carolina case law to prove attempt, the State must
14 prove that the defendant had the specific intent to
15 commit the underlying offense, along with some overt act
16 beyond mere preparation in furtherance of the intent, or,
17 in the alternative, the defendant consciously intended
18 the completion act comprising the inchoate offense.

19 MS. SHEALY: Well, I think each of those
20 definitions do remedy the problem that I was asserting
21 with that second sentence, because they're saying what he
22 intended was -- how is it phrased again, Mary? The
23 underlying offense.

24 THE COURT: Let me see. I would say instead
25 of comprising the inchoate offense, how about charged

1 offense, which I think is really what it's saying.

2 MS. SHEALY: It's not even the charged
3 offense, is it? Is it referencing an attempt when it is
4 using that?

5 THE COURT: Why don't we look it up, since
6 nobody knows. Inchoate: Finished, replete. It says
7 completed. The completion of acts comprising --

8 MS. SHEALY: Sort of -- I'm not sure which
9 one you're looking at, completed this, a more
10 comprehensible role. Judge, one other -- Ms. Ford's
11 e-mail that she sent you, I don't know if you have that
12 before you --

13 THE COURT: Yes.

14 MS. SHEALY: This sentence might make it as
15 clear it as needs to be: Specific intent means the
16 defendant intended to complete the acts comprising the
17 underlying offense.

18 THE COURT: That the works for me if that
19 works for you. Does that work for you?

20 MS. FORD: Yes, Your Honor.

21 THE COURT: I will leave in the changes I
22 said I would leave in. While she's doing that, let's
23 talk about lesser included. She wants ABHAN and all the
24 A and B charges. What is the evidence that entitles you
25 to those charges, entitles your client to those charges?

1 MS. FORD: I think the evidence is Ms. Martin
2 testified the man's hands were around her mouth and her
3 forehead and everything.

4 THE COURT: And the jerking --

5 MS. FORD: Yes, but I think it's possible the
6 jury comes to the interpretation that the man does not
7 intend to actually kill her, but, rather, trying to get
8 her to --

9 THE COURT: A chiropractic adjust or what? I
10 mean, we don't understand it. The only evidence we have
11 is he not only put his hand over her forehead and chin
12 but he was jerking her head to the side. You can't just
13 say one thing. There's no evidence other than that.

14 MS. FORD: I just think the jury could come
15 to the conclusion that there was not an intent to kill,
16 Your Honor.

17 THE COURT: How?

18 MS. FORD: Just because the circumstances she
19 was in a is very stressful situation, obviously. She
20 doesn't remember all of the details and everything that
21 was occurring. She passed out, and so I just think --

22 THE COURT: And then he resumed the exact
23 same attack. That is uncontroverted evidence. Now, they
24 can believe it or not, but it is uncontroverted that that
25 is what happened. He took his hands, put it over her

1 head and her chin, and snapped her neck to the side till
2 she passed out. All right? And then he did it again
3 when she came out.

4 So if you were to say his intent was not to
5 kill her but to cause her to just pass out, well, he
6 accomplished that, so to do it again makes no sense. If
7 you want to say, well, all he wanted to do was cause her
8 to pass out so that he could rob her and take her stuff,
9 he had the opportunity to do that.

10 I'm just trying to think, how is there any
11 view of the evidence that we have that he had anything
12 other than the intent to kill her?

13 MS. FORD: She passed out but then she came
14 to so the man did it again and got her to pass out again.
15 It didn't work the first time. That's why he had to do
16 it again.

17 THE COURT: And what?

18 MS. FORD: I understand that's the only
19 evidence about what happened that evening. We just think
20 the jury could come to the conclusion there was not a
21 specific intent to kill, so in that case, an ABHAN charge
22 and assault and battery first charge and the others would
23 be appropriate, Your Honor. Just cause of the various
24 assaults there is great bodily injury, moderate bodily
25 injury.

1 THE COURT: You would be entitled to those
2 charges if there was some way to construe the evidence as
3 fitting all those elements without intent to kill, but
4 there is no way to view this evidence, as I see it, other
5 than with an intent to kill, because he did it until she
6 passed out and then he started to do it again and then
7 another car came along. A car came along and spooked him
8 and he dropped her and ran off. I don't know how you
9 construe that as other than an intent to kill, and I've
10 thought about it.

11 Ms. Shealy, what are your thoughts on it?

12 MS. SHEALY: I don't think there is anything
13 in the record that warrants inclusion of lesser
14 includeds.

15 THE COURT: I agree with you. I just don't
16 see how you can have the uncontroverted evidence that we
17 have and not view that evidence as not having an intent
18 to kill, and that's the only way you get the lesser
19 included.

20 I agree, they are lesser includeds but the
21 facts have to support them, and there is no way to view
22 the uncontroverted evidence as whoever did it. She says
23 it was him, had the intent to kill her at that time. So
24 I'm not going to allow lesser included. It's is straight
25 up attempted murder, kidnapping, carjacking.

1 MS. SHEALY: Regarding your carjacking
2 charge, Ms. Ford and I noticed that the second paragraph
3 under carjacking deals with great bodily injury, and I
4 don't believe we need to have that charge.

5 THE COURT: All right. Do you agree?

6 MS. FORD: Yes, Your Honor, I agree.

7 THE COURT: All right. We'll take it out.
8 What else?

9 MS. FORD: I would request an identity
10 charge. I think that would be appropriate in this case
11 considering the identification.

12 THE COURT: Do you have an identity charge?

13 MS. FORD: Yes, Your Honor.

14 THE COURT: Let me see what you have.

15 MS. FORD: This is from the -- I think it may
16 be one of the judges.

17 MS. SHEALY: Your Honor, I object to this
18 charge for this reason.

19 THE COURT: Let me see it. All right.

20 MS. SHEALY: What I'm concerned about
21 regarding that charge, Judge, I think that the jury is
22 entitled in this case -- obviously, we've got to prove
23 that he did it. I'm not arguing that it's not our burden
24 to prove that he did it, I think that that is confusing
25 in that it suggests that it has to be narrowed to the

1 identification process.

2 I think the jury in this case can take that
3 process along with his being found at the club, with the
4 key in his shoe, with his items in her car in assessing
5 whether or not we've proven it beyond a reasonable doubt.

6 I'm afraid that isolates the identification
7 process and tells this jury, we have to prove to you
8 beyond a reasonable doubt that when she identifies him in
9 the lineup that it's him. I think what we're allowed to
10 do is that's part of it, and then we can combine it with
11 his being found at the club with his key and her car.

12 MS. FORD: And I don't think anything
13 suggests that they're to disregard all the other
14 evidence, Your Honor, just with the identity in
15 particular, I think the case law is clear --

16 THE COURT: I agree with you. It will come
17 in. That's an argument you can make, but I don't read
18 this language as in any way referred to her -- it's just
19 a lineup process, or the six-pack process. To talk about
20 things like how long she saw him, time of day, all those
21 things could refer just as easily to the actual incident
22 earlier in the day when she saw him as opposed to just
23 identifying him as part of a photo lineup, so -- is this
24 out of the charge book?

25 MS. FORD: Yes, Your Honor.

1 THE COURT: All right. Anything else?

2 MS. SHEALY: Would it be possible for me to
3 get a copy --

4 THE COURT: You can have that one.

5 MS. SHEALY: Okay.

6 THE COURT: Anybody have any issues with
7 these charges other than you still, of course, want ABHAN
8 and the other lesser includeds but other than that?

9 MS. FORD: No, Your Honor, not other than
10 that.

11 MS. SHEALY: No, sir.

12 THE COURT: Okay. Is everybody ready to go
13 then? Bring the jury in.

14 (In open court, jury present.)

15 THE COURT: Welcome back, folks. We're now
16 going to the final phase of the trial where we have the
17 closing arguments by the parties, and then I will charge
18 you on the law. Then you will retire to consider your
19 verdict.

20 In this final part where we have the closing
21 arguments, I'll remind you that the lawyers are getting
22 up now, reviewing the evidence in the record, making
23 arguments based on that evidence and the law as I will
24 charge it to you.

25 They are not testifying, so don't consider

1 what they're saying as evidence. You have heard all of
2 the evidence, or seen all of the evidence, that has come
3 in during this trial.

4 Now, the burden of proof remains on the
5 State, so under our rules, the State gets to close, and
6 so you will hear first from the defense lawyer and then
7 from the solicitor. Ms. Ford, if you're ready, you may
8 begin.

9 MS. FORD: Thank you, Your Honor. Black
10 male, late 20's, about six feet tall, jeans, dark jacket.
11 That's a description given of the male. That's the only
12 description given of the man.

13 The State would have it both ways: They want
14 to say that Ms. Martin that day got such a great look at
15 the guy because earlier in the day she had seen him when
16 she was in her house. She had seen him through a window,
17 across the way at her neighbor's door for a short amount
18 of time, and then later, as the man, before he approached
19 her, he walked through her yard, and basically she was a
20 little annoyed that he was walking through the yard.

21 But then they would like you to accept that,
22 well, she really didn't get a great look at him in other
23 ways because she was too scared. And so they want to say
24 she wouldn't recognize obvious things and she wouldn't be
25 able to give any more of a detailed description than what

1 she did.

2 It doesn't work like that. Ms. Martin spoke
3 to numerous people that evening. She spoke to the 911
4 operator, to Deputy Kjellman, to Detective Herriott. You
5 didn't see him but you heard of him. That day she didn't
6 give him any more description. The next day she met with
7 Detective Perkins.

8 Yes, she was in shock, understandably, but
9 the next day, she didn't mention anything more, and then
10 the following day she met with Detective Perkins and with
11 Detective Smith and still nothing more, no more details.

12 She didn't even remember what the guy's hair
13 looked like. She told us on the stand that she never
14 gave a description of the hair, that she couldn't
15 remember, and she tried to fill in the gaps, and that's
16 normal. Humans do that, but she said he was maybe
17 wearing a cap, but she admitted she didn't actually
18 remember that. She just knows that she didn't remember
19 his hair, even though hair is the easiest thing to
20 describe about a person, if it's dark, short, medium,
21 curly, straight. It's generally the easiest thing to
22 pick up on.

23 Instead, what she has done is the most
24 obvious thing possible, and, in court, she identified
25 Mr. Butler as being the man, but what else could she do?

1 He's the only man sitting at the defense table. Of
2 course, she would identify him here in court over two
3 years later. She has acted in the trial confident about
4 her identification of Mr. Butler. However, that
5 confidence was not exhibited at the time over two years
6 ago.

7 When the police asked her, when they spoke to
8 her after they responded, they asked her, in her written
9 statement you heard about, would you be able to identify
10 the guy? And she told them, I don't know. And then,
11 when Detective Smith showed her the lineup, it took her a
12 while to pick out someone. She told us several minutes,
13 and she didn't say, yes, that's the man right there.
14 That's the man who did it.

15 No. She said, He looks most like the guy.
16 He looks most like the guy, not, He looks most like the
17 guy but I'm not quite sure about the hair or the skin
18 tone because there are little notes saying that the guy's
19 hair or skin tone whatever may be different. She didn't
20 say anything like that. He just looks most like the guy.

21 Well, he's also very likely the only one in
22 the lineup from Ravenel. Ravenel is not this huge town.
23 It's a small area, so many of you are probably familiar
24 with it in some way, and Jericho mobile home park is
25 where this incident began. It's where Ms. Martin lived,

1 and you heard it's a pretty small area. You saw the
2 Google overhead map, and you heard from Deputy Kjellman,
3 I believe. There's only about 40 homes there, only a
4 couple of roads. It's not too big.

5 Ms. Martin had lived there since 2007, and we
6 know Latrone Butler had lived there too because you saw
7 his ID in evidence, and it's the same exact address as
8 Ms. Martin except a different lot, of course.

9 We also know that at some point Ms. Martin
10 took a black man to work at Harvest Moon Grill. We know
11 from the evidence that Latrone worked at Harvest Moon
12 Grill at some point because those pay stubs were in his
13 wallet.

14 So who did it? Well, it probably was that
15 man that Ms. Martin had seen earlier that day, the man
16 who was at the neighbor's door and maybe saw her and
17 thought maybe she might be an easy target. Does it make
18 sense that Latrone Butler took the car of a lady who
19 lived in his very same small neighborhood and that he
20 didn't try to get rid of the car, but instead held on to
21 it for several days?

22 The State may say, well, that's why he tried
23 to kill her, but whoever did this act, they knew that
24 Ms. Martin was not dead when they left. And when Latrone
25 Butler was found, 55 hours later, at the club, he was

1 still in the same area, the Ravenel Hollywood area. He
2 wasn't across the county in North Charleston or wherever
3 else. He was in a small area, a small area in which the
4 police would obviously be looking for this car. So it
5 doesn't make sense that the person who ultimately did
6 have the car, which was Latrone, that he had the car if
7 he had known the circumstances of how that car was
8 gotten.

9 It doesn't make sense, but he did have the
10 car. The State is likely going to stress that because he
11 did. It was in his possession. He was in the club, but
12 he had the key on him and some of his belongings were in
13 the car. But this was 55 hours later, and no one put
14 Latrone Butler in that car before then. So much can
15 happen in 55 hours.

16 What does the evidence show? Well, the
17 evidence shows that Latrone's fingerprints are on the
18 car. Again, he did have possession of the car at some
19 point, but the evidence also shows that there are prints
20 on the car, seven other prints, and it could be as many
21 as seven other people. Officer Hallman said he didn't
22 know, but he just knew that those prints did not belong
23 to Latrone Butler, and then there is the DNA.

24 The DNA on the steering wheel is tied to
25 Latrone Butler. Again, he was in the car, but there also

1 is the DNA on the steering wheel of another person, and
2 we know for certain that that other person was not
3 Ms. Martin.

4 So what that means is that there had been a
5 third person at some point driving that car. Mr. Butler
6 was the major contributor, so as the DNA person told us,
7 that could mean that he was just the one who had it last,
8 but there was DNA from a third person on the steering
9 wheel as well. So what makes sense is that someone else
10 gave the car to Latrone during those 55 hours, and
11 Latrone had the car because he didn't know better. He
12 didn't know that that car was gotten from a carjacking.
13 That's why he didn't -- he had no reason to think that he
14 shouldn't be hanging around this small area.

15 There's physical evidence tying Latrone to
16 the car, but there's no physical evidence tying him to
17 the actual incident, the actual carjacking. You heard
18 that they could have gotten DNA off Ms. Martin, but
19 there's no DNA that was found or whatever. There's no
20 DNA on her.

21 There's the jeans. You saw the blood spots,
22 and of course you were thinking, oh, maybe that's Ms.
23 Martin's blood, but that is his own blood. Ms. Martin's
24 DNA is not on his jeans at all, and there is no
25 indication that the carjacker had cut himself or anything

1 like that, just a pair of pants with his blood on it.

2 There's that object, which the State will
3 likely say is probably the gun, the pretend gun, the
4 object taped up. Ms. Martin had never gotten a chance to
5 see the object. She just felt something at some point.
6 The man said he had an object, but that object was up
7 under the driver's seat, and Mr. Butler's fingerprints
8 were not on that object.

9 When Ms. Martin got her purse back,
10 thankfully, she made sure the sheriff's deputies could go
11 pick it up because that way they could look through it
12 and see if they could find any physical evidence in
13 there, but nothing was ever done or anything to tie
14 Mr. Butler to that purse.

15 And so now we come to the clothes. The State
16 showed you pictures of the jeans, and they showed you the
17 jeans. Ms. Martin, after all, had said the carjacker was
18 wearing jeans, but she didn't say dark jeans or light
19 jeans or medium jeans. She didn't say the genes had a
20 big 79 on them like Mr. Butler's jeans do or a patch on
21 them. She just said jeans. She didn't identify these
22 jeans.

23 Every man probably owns a pair of jeans.
24 There is a jacket, which there is no DNA tying the jacket
25 to Mr. Butler, but it's a dark jacket. Ms. Martin had

1 said the jacket was dark. She never before had mentioned
2 that it was quilted. She did in court after seeing
3 pictures, but it was a dark jacket. Ms. Martin never
4 identified color; she never identified the jacket in
5 court as being the jacket of Mr. Butler.

6 Many men own a dark jackets, and, also, this
7 is 55 hours later. Obviously, Mr. Butler was in a
8 different set of clothing when he was arrested, and so
9 does it make sense that he would somehow go and change
10 clothes but keep the clothes that he had supposedly used
11 in a carjacking in a car just for some reason he didn't
12 have other clothes in, that he just really wanted to have
13 those clothes in the car for 55 hours? That doesn't make
14 any sense.

15 And, yes, there is the conversation from the
16 jail. What does that conversation reveal? Mr. Butler
17 says, Yeah, I did it. He doesn't say that. Instead, he
18 tells us why he was asking the lady to go to -- the lady
19 to say those things about him being on crack because
20 Detective Perkins came to him and convinced him, man --

21 MS. SHEALY: Objection, Your Honor.

22 THE COURT: What's the objection?

23 MS. SHEALY: Asserting facts not in the
24 record.

25 MS. FORD: It's from the transcript, Your

1 Honor, or from the tape. The tape mentioned Detective
2 Perkins.

3 THE COURT: Step up.

4 (Discussion held at sidebar.)

5 MS. SHEALY: She was talking about what
6 Perkins did.

7 MS. FORD: It was in the tape.

8 We don't know if it was Detective Perkins.
9 It was the back detective who came to Mr. Butler and
10 indicated to him -- and it's hard to make out exactly
11 what's said, but, Those white people hate you. Man, you
12 must have been on drugs.

13 And so that is what was in his mind, you can
14 tell from the tapes, of Latrone Butler when he's
15 realizing there's this car he was arrested in, there was
16 the car involved in the carjacking, and he had to do
17 something to help himself because things just don't work
18 out when the truth comes out.

19 Or the black detective that Mr. Butler refers
20 to in the jail conversation, he had put it in his head,
21 can you tell that's the mindset of Latrone when he's
22 speaking on these jail tapes, trying to do whatever he
23 can, because, again, things don't always work out as they
24 should, or as they're supposed to.

25 After all the police -- you saw that the

1 police, after maybe that first day, didn't give much of a
2 care to this case. Detective Perkins, the case agent,
3 when he wrote his report, he didn't even bother to look
4 at the evidence, or we can assume that because the
5 information in his report was completely wrong. He
6 indicated that Ms. Martin had been driving the car with a
7 knife held to her throat.

8 Now, I wasn't pointing out those things to
9 show that Ms. Martin had changed her story or anything
10 like that, but to show that Detective Perkins apparently
11 couldn't have been bothered to review the reports before
12 writing his reports. And then, at a preliminary hearing,
13 under oath, he swore that the prints found in the car
14 matched Latrone Butler, but we heard that those findings
15 did not exist until last week.

16 So, clearly, Latrone Butler was not going to
17 get a fair chance. Latrone is a Ravenel boy. Latrone is
18 a Jericho mobile home park boy, and that is why he was
19 picked out in that lineup, because he looked familiar.
20 And that is why, in this small town, he was able to come
21 into possession of that car.

22 The evidence does not support that he did
23 these things. He has numerous characteristics that
24 Ms. Martin never identified or never described on the
25 man. Ms. Martin told us how she realized at some point

1 the man was driving in the wrong gear shift, and she told
2 him, Hey, you might want to change that, and the man did.
3 The man turned around numerous times, went in reverse,
4 changed his direction. All of that time while he wasn't
5 wearing gloves his hand would have had to have been down
6 at the gear shifter between the driver and Ms. Martin.

7 Latrone, as you saw, has very noticeable
8 tattoos on his hands, on both, and they pretty much cover
9 the whole hand. If the person, the driver, had been
10 Mr. Butler, then Ms. Martin would have noticed those
11 tattoos.

12 Also, the guy, at several points he grabs Ms.
13 Martin and drags her around. If somebody grabs you,
14 usually your first reaction just not thinking is to look
15 down at where that person, you know, where you're being
16 grabbed. At no point does she see big tattoos on the
17 person's hands.

18 She wasn't able to describe facial features
19 in any way. She did mention height, but she said around
20 six feet initially. At one point there's five-eleven out
21 there. She said five-ten to six feet now. Mr. Butler's
22 ID does say five-eleven. You may have seen him when he
23 stood at the beginning of this trial. He's not --
24 doesn't seem five-eleven. Many people exaggerate on
25 their IDs. But regardless, I mean, height is an easy

1 thing to get mistaken. That's fair enough to say.

2 But the State stressed that because there
3 really are no details, there never were any details given
4 of the man. Ms. Martin was right: She was right when
5 she said she had never seen the man before that day.

6 The man who did this, she had never seen
7 before that day, and the evidence would indicate that the
8 chances are that she had seen Latrone Butler before that
9 day, in that neighborhood, that small neighborhood, and
10 we can come to the conclusion that since Latrone worked
11 at Harvest Moon Grill and she gave a man a ride to
12 Harvest Moon Grill, which I would think would be a pretty
13 memorable thing -- it sounds like she was very nice and
14 gave this man she didn't know a ride.

15 That was a very nice thing to do, but I'm
16 assuming it wasn't something she did on a regular basis,
17 take strangers to work, so that would be memorable, but
18 she didn't recognize the man who had robbed her as being
19 a man that she had seen before or given a ride to before.

20 Ms. Martin went through a terrible ordeal.
21 Again, that is absolutely not in dispute. It was
22 horrific, but you are not here to determine if she went
23 through this terrible ordeal. You're here to determine
24 if the State has proven beyond a reasonable doubt, which
25 is a very high burden, that it was Latrone that did these

1 things.

2 While Latrone had the car, that was 55 hours
3 later , 55 hours that are unaccounted for, 55 hours of
4 doubt. Latrone Butler is not guilty, and we would ask
5 you to come back with verdicts of not guilty.

6 Thank you.

7 THE COURT: Ms. Shealy?

8 MS. SHEALY: May it please the Court: Good
9 morning. Latrone Butler, he didn't have a gun, but he
10 came up with this. Can't you just see him, taping it
11 together? Did he have it earlier when he was knocking on
12 the neighbor's door to see if someone was there? He
13 wanted who he used it on to believe it was a gun.

14 He wanted a car, and then he had to get rid
15 of her, kill her. There is someone out there who drove
16 down Hyde Park Road and saved her life. They have no
17 idea, because he wasn't going to stop until he killed
18 her. It spooked him and he fled like a coward. Let's
19 talk about Letty Martin for a minute.

20 His Honor will instruct you on the law, and
21 part of that is that you, each of you, determine the
22 believability, the credibility, the reliability of the
23 witnesses. You saw her demeanor. You saw her testify;
24 you heard her testify. She did not come in here and
25 exaggerate anything. She didn't take this stand and make

1 up that she knew at the time who it was. She didn't come
2 in here and tell you she knew it was a guy she had given
3 a ride before. She didn't come in here and tell you she
4 was looking at him the whole time. She did absolutely
5 nothing to exaggerate this.

6 She is believable. Very exact. When she
7 answers questions, she took care any in making sure that
8 she was answering it as accurately as she could.

9 Now, she was composed in the courtroom, and
10 sometimes that concerns us when a victim of this type of
11 horrendous act takes the stand and doesn't break down.
12 Well, everybody has a different way of reacting, and she
13 told you, she wasn't as composed that night as she was in
14 here.

15 What did Penny Jo Mizell -- the woman who
16 thankfully answered the door when Ms. Martin had to walk
17 down that gravel road to seek help? She told you how
18 upset Ms. Martin was. Look at the pictures taken of
19 Ms. Martin that evening. She had just gone through the
20 worst event in her life, and she recalled everything that
21 she could recall about the event.

22 She told the 911 operator, black male, dark
23 jacket, jeans, about six feet tall, late 20's. She saw
24 Officer Kjellman. Then she sees officer Keith Herriott
25 that same evening, and this is what's interesting. When

1 she was asked by Detective Keith Herriott, Will you be
2 able to recognize him? She said, honestly, I don't know.

3 She didn't know. She never tried to inflate
4 this in any way. She was speaking from the heart. The
5 police knew that she said I may not be able to recognize
6 him.

7 When she gets called into the sheriff's
8 office and Chris Smith tells her, now, the perpetrator
9 may not be in this picture, you saw Ms. Martin testify.
10 She is no one's fool. She realized, well, they may show
11 me something, and the guy may not be in here. She had no
12 pressure to identify someone. She told them she may not
13 be able to do it, and they told her he may not be in
14 there. But she does. She circles the number, she
15 initials it, and she states, he looks most like the
16 person that carjacked me and tried to kill me.

17 But what else does she tell you? After he
18 got arrested and she went to the bond hearing and she saw
19 him, she knew it was him. She saw him. You saw her
20 demeanor. If for one second Letty Martin thought that
21 was the wrong guy, you know she would have told them.
22 She doesn't want the wrong guy to get punished. She
23 wants the right guy to get punished.

24 Ms. Ford mentioned that Letty Martin said she
25 had never seen him before, and if you remember when she

1 was being questioned, that was the way Ms. Ford asked it.
2 Didn't you say you had never seen him before? And I had
3 to correct it. She had been asked, Do you know him? The
4 police always want to know if you know who did it. And
5 she said, I don't know him.

6 MS. FORD: Objection. It's not in evidence,
7 Your Honor.

8 MS. SHEALY: Your Honor, may we approach?

9 THE COURT: Yeah.

10 (Discussion held at sidebar.)

11 THE COURT: Overruled. Go ahead.

12 MS. SHEALY: If you'll recall, I went back up
13 and asked her, what had she been asked and she had been
14 asked do you know him, and she said no.

15 Remember what Detective Smith said and
16 Ms. Martin said as well. She didn't just look at that
17 lineup and go -- and choose someone. She studied every
18 photograph. You saw her. She's the type of person who
19 takes care in making big decisions. Latrone Butler.

20 Let's reflect back on what Ms. Martin had
21 said that morning when she looked out her kitchen window
22 that drew her attention. He drew her attention. He was
23 knocking on the neighbor's trailer. She saw him head on,
24 and later, after she's gone to teach dancing at the
25 senior center in Mount Pleasant and run a few errands,

1 who does she see coming between these two trailers
2 closest to her own trailer but Latrone Butler.
3 Frustrated that someone was walking that close to her
4 trailer.

5 She saw him that morning, she saw him. He
6 was the man who put her back into the car after using
7 this smart device on her ribs. Felt just like a gun.

8 He does that to a 67-year-old woman, puts her
9 back in her car, and says, you start it and she start her
10 vehicle. Then what does he do? Jerk her out of it,
11 walks her around, puts her in the passenger seat after
12 she said, I can't crawl over the gear area.

13 And as they drove, and as they drove and as
14 they drove, she kept looking over. He would say, Don't
15 look at me. Look straight ahead.

16 Why was he driving around? He told her, I'm
17 just going to have you drop me off somewhere.

18 Well, did that happen? Did she just drop him
19 off somewhere? Did he get out of the vehicle? No. When
20 cars came up behind, he would scurry another way. One
21 time when he tries to turn around quickly, he puts it in
22 the wrong gear.

23 Ms. Ford wants you to believe that at that
24 point she was studying his hands in the darkness of the
25 car to see the tattoos. You'll have the pictures.

1 What does she care about what his hands look
2 like at that point? She's praying to God she doesn't
3 die. Let's look back at the timeline here, because it's
4 so important. These crimes occur on December 5th. On
5 December 7th, two days later, Detective Perkins gets a
6 tip. Thank goodness for crime stoppers, and they put the
7 photo of Latrone Butler in a lineup.

8 He hasn't been to the club and gotten
9 arrested yet. They're operating on a tip, and so lo and
10 behold, when Ms. Martin goes in, she identifies Latrone
11 Butler. The tip was right. And then the next night, all
12 those police go to Hamm Grant's club.

13 Police haven't found him yet. They haven't
14 found Latrone Butler. They haven't located the car
15 despite the fact they were using all those techniques to
16 find it. And there he is, inside the club. How did he
17 park the car? It was backed in. License tag behind.
18 And Shaun James, who testified, told you, the photograph,
19 there were 150 or so people there. They had to bring
20 them out one by one and say, Show me your arms. And the
21 tattoos matched, and there was the key to her car, in his
22 shoe.

23 Is this a coincidence? Is it a coincidence
24 that the tip and the person she identified is the guy at
25 the club with the car and the key? No, it's not a

1 coincidence. It's because Latrone Butler chose to do
2 these things, and Ms. Ford wants you to believe, well,
3 would it make sense for him to keep the car?

4 They're not geniuses who do these types of
5 crimes. They're not geniuses. Did it just happen that
6 she identifies the guy who the next day is found with the
7 key? What does the car show? Jeans.

8 Now, Ms. Ford wants you to hold it against
9 Ms. Martin. She didn't know the brand, that she didn't
10 see the patch. Are you kidding me? Dark jacket. Long
11 sleeves. Who knows how long they went over his hands?
12 Neckline that would come up around your neck, and his
13 wallet. There's nobody else's wallet in there? Cereal
14 bowl. Was he living in the car? Cereal bowl wasn't Ms.
15 Martin's. The cigarette ashes all over the car weren't
16 Ms. Martin's. The jacket wasn't hers; the jeans weren't
17 hers; the wallet wasn't hers; and his DNA is on that
18 steering wheel; and the fingerprints on the driver's
19 side, not the passenger side, the driver's side.

20 And Ms. Ford wants you to get really
21 concerned that they couldn't find his fingerprints on
22 this. Where was it? It was on the driver's side floor
23 when Shaun James saw it. It's his. And what does Al
24 Hallman tell you about -- you'll have his report back
25 there -- the gun? Insufficient for identification. No

1 analysis performed. They couldn't get good prints off
2 it, but it's in the driver's side where the DNA on the
3 steering wheel is, where the fingerprints on the door
4 handle are and the fingerprint on the window.

5 What do the contents of that wallet tell us?
6 The same man who asked her to start the car, the same man
7 who got it out of gear, even though it was an automatic?
8 He had a beginner's permit for a license in that wallet.
9 And his date of birth? [REDACTED] 27 years old at
10 the time. What did Ms. Martin say? Late 20's. She
11 nailed it.

12 And you've heard the descriptions she gave,
13 about six feet, five-ten to six feet, five-eleven. Keep
14 in mind she is five-four. He was taller than her.
15 That's what she knew, but what did his ID say?
16 Five-eleven.

17 I guess Ms. Ford wants you to believe that
18 because he lived at some point in Jericho mobile home
19 park that she just remembers him from hanging out there.
20 You think Ms. Martin was hanging out with everybody,
21 given her age or her interests? I'll tell you what
22 Jericho mobile home park has to do with it: He knows the
23 area. He would be there. That's what it tells us.

24 Let's talk about the actual crimes. That day
25 he carjacked her. He put her back in that vehicle to

1 start it and in the passenger side when he was driving,
2 and he left her there, much to his misfortune,
3 ironically, alive. He wanted to kill her. The judge
4 will instruct y'all on the law.

5 Carjacking is when a person takes or attempts
6 to take a motor vehicle from another person by force,
7 violence, or by intimidation while the person was
8 operating the vehicle or while the person was in the
9 vehicle.

10 Carjacking: Guilty. He kidnapped her. He
11 put her in that car. Why didn't he just leave her
12 behind? Because he didn't want the police after him. He
13 put her in that car, and he put her through terror,
14 driving around, the whole time. Time has escaped her,
15 she said. It was just difficult to even put it all
16 together, timelines. Every turn he takes. Every route
17 he chooses. She is in the car and cannot get out.

18 Kidnapping: When the defendant knowingly and
19 unlawfully seizes, confines, kidnaps, abducts or carries
20 away another person. Kidnapping: Guilty. And the
21 attack itself, doesn't that show us more than anything
22 else about Latrone Butler? He finds the spot. Cars are
23 on the other roads. He finds that gravel road, with not
24 a lot of houses, not a lot of businesses, a country
25 gravel road and says, This is the spot.

1 And he forces her out of that car and leads
2 her to the back and repeatedly jerks her neck in an
3 attempt to kill her. She told you. It wasn't the way
4 she was showing you on the stand. It was snap, snap,
5 snap, and she goes down. Didn't satisfy him.

6 He pulls her up and he does it again and he
7 does it again and he does it again until that car comes.
8 He wasn't trying to beat her up, he was trying to kill
9 her. He realized, I got to get rid of her. He needed to
10 get rid of her permanently.

11 He didn't say, get out of the car and run.
12 He didn't say, okay. Drop me off here. He didn't say,
13 I'll let you out, but swear to me you won't call the
14 police. He did none of those things. He tried to break
15 her neck and kill her.

16 Look at these photos. No earring in the ear.
17 This is the picture that was taken later. I'm sorry.
18 The earlier picture, remember, there was no earring on
19 the side and she had one on the other side? This photo
20 shows you -- look at her neck area, and I'll tell you
21 what, it shows you again that she is a fair and honest
22 person. She told me, now, I have some natural redness on
23 my neck. She wanted y'all to know that, but the
24 abrasions on her cheek and the scratch marks, that's from
25 his attack.

1 Right in here. Look at her collarbone. Look
2 at the bruise on her mouth. Her eye hemorrhages from the
3 impact, jerking her, jerking her, trying to take the life
4 out of her. Doesn't that speak volumes, a bruised tongue
5 from him? What shows you his intent more than anything
6 is that when she passed out, that wasn't good enough for
7 him. That didn't do the trick. Pulls her up and goes at
8 it again.

9 You will have the recording in the jail.
10 Actually, you won't have it back there, but if you need
11 to listen to it again, you can come back out and we'll
12 play it, and those are his words. And if you recall, two
13 days after his arrest, December 10th, talking to a girl,
14 he is still trying to be smart. Smart like this? He's
15 asking for some help because he's got some things figured
16 out. He has figured out a way to help himself.

17 This is what I need to tell you. This is
18 what I need you to do, you, Jazz, and Nicky. I need you
19 and Jazz to go to the lady's house. He knows the lady's
20 house. You follow me? Honestly now. This is what you
21 got to do. Go to her house and tell her I'm your cousin.
22 Don't let her know I'm your boyfriend, I'm your cousin,
23 scheming. Trying to work this thing out.

24 Say, He apologizes. You need to apologize
25 for what happened or whatever and say, say, he's strung

1 out on drugs. You follow me? Not, go down to that
2 lady's house and tell her she's got the wrong person. Go
3 tell her. It wasn't me. I just got that car from
4 somebody else.

5 That's not what he's saying. He's saying go
6 down there and apologize, not she's confused. She's
7 confused 'cause she gave me a ride one time to Harvest
8 Moon. I didn't do it. I did not do it. He doesn't say
9 that. Lie and said you're my cousin, go down to her and
10 apologize.

11 The girl says, I hear you. All right,
12 listen. Get out there. Both of you go out there and
13 say, he's strung out on drugs. I don't know, just be
14 like my cousin. Apologize.

15 Now, the reason I'm telling you this, when
16 the detectives come to me, when he gave me my papers, he
17 be telling me you can't -- white people, whatever. Boy,
18 they hate me.

19 The girl: What kind of drugs you on?

20 No, I ain't on. Oh, Lord. That's the catch
21 to the shit.

22 He's telling her, I'm not on drugs. I wasn't
23 on drugs that night, but go down to her and say he
24 apologizes. He was on drugs.

25 The girl says: What kind of drugs you on?

1 And he says: That's the catch to this shit.

2 She then says: Well, what kind of drugs do
3 you want me to tell her you're on?

4 Tell her on coke, crack, heroin.

5 The girl says: No, you're not.

6 He says: I got to. She says no. Well, what
7 you want me to use?

8 He's asking the girl. They're plotting.

9 Girl says: Just say coke.

10 All right. Better tell them that. All you
11 go to do is tell them, man, he is strung out. Say he's
12 high. And I'm going to have to use that for the
13 detective when he comes to me on Monday.

14 He's working the woman; he's going to work
15 the detective.

16 He'll say, meaning the detective, you on
17 drugs?

18 And when he tell me I be trying to catch on
19 to what he's telling me because he's a black dude. He's
20 a black dude. I can use that to my advantage.

21 Girl says -- I'm sorry. He says, What you
22 mean? He a black dude so I'm going to use that to my
23 advantage. The program they going to put you in is no
24 longer than four to eight months. Working it.

25 Never, I didn't do this. Get me a good

1 lawyer.

2 The girl says: So about a year?

3 And he says: Yeah. So once I tell them I on
4 drugs, he go back and he'll tell the next person I was on
5 drugs, and then the program is eight months, minimum of
6 four months, the maximum is eight. He is thinking. He
7 is working.

8 Let's hear it again.

9 (Whereupon, the recording was played for the
10 jury.)

11 Ladies and gentlemen: Letty Martin didn't
12 deserve what happened to her. Latrone Butler doesn't
13 deserve to get away with it.

14 THE COURT: All right, folks. Now we are at
15 the part of the trial where I told you at the beginning
16 you and I each have different duties. We're both judges,
17 but I'm the judge of the law and you're the judge of the
18 facts, and so I have duties as the trial judge to preside
19 over the trial, make sure the rules of our procedure were
20 followed, make sure our evidentiary rules were followed,
21 so you heard the evidence properly, exhibits were entered
22 into evidence, and stipulations of counsel were admitted.

23 It's now my duty to charge you on the law
24 that was applicable to this case and it's your duty as
25 jurors to accept the law as I now state it to you.

1 If you think you have some idea as to what
2 the law is or what it ought to be and it doesn't agree
3 with what I now charge you that it is, it is your duty
4 under the oath that you took to accept this law as I now
5 charge it to you and apply it as I state it.

6 You are the judges of the facts. You are the
7 sole judges of the facts. You determine such things as
8 how much weight to give the testimony of a witness, how
9 to judge the credibility of a witness. You can decide
10 whether or not a witness has a bias or prejudice or an
11 interest in the outcome of the suit. You can judge such
12 things as appearance and demeanor on the witness stand
13 and the reasonableness of a witness's statement.

14 You're not bound to decide this case based on
15 the number of witnesses that a side produces. You can
16 believe one witness over many and many over one. You can
17 accept all of a witness's statement or you can reject it
18 entirely. You can accept part of a witness's statement
19 and reject part of it, and if you reject part of it, of
20 course you can still accept the remainder of a witness's
21 testimony.

22 We also spoke about expert witnesses, and I
23 told you that ordinarily we don't let people come in and
24 tell you what their opinion is about evidence in this
25 case, but we make an exception for expert witnesses, and

1 those are people that because of education or experience
2 or specialized training in some area rise to a level of
3 expertise, and we allow them to come in and give you
4 their opinion about the case and state their reasons for
5 their opinion.

6 You decide how much weight to give an
7 expert's testimony. You can give it as much or as little
8 as you think it deserves. If you don't think a witness
9 has sufficient education or experience or you conclude
10 that an expert's opinion is not sound or that it's
11 outweighed by other evidence, you can disregard that
12 opinion entirely.

13 You're not compelled to blindly accept an
14 expert's opinion, and you have the right to consider how
15 much weight you want to give that testimony based on all
16 of the circumstances and evidence that you have heard
17 throughout the trial, and you give it the weight that you
18 think it's entitled, if any.

19 I want to remind you that the fact that the
20 defendant was arrested and charged and indicted in this
21 case is not evidence in this case and it can't be
22 considered by you as evidence of guilt in this case. It
23 does not present any presumption or inference of guilt.
24 The fact that he was indicted is simply a formal written
25 notice that puts him on notice of the charge that he is

1 standing trial for, and it is the way that this Court
2 gets jurisdiction over the case, but these indictments
3 are the only pieces of evidence that go back in the jury
4 room with you, or the only documents that will go back in
5 the jury room that are not evidence, again, going back in
6 the jury room simply for the purpose of you writing what
7 the verdict is on the back of it, and I'll go over that
8 with you in just a minute.

9 Now, the defendant pled not guilty to those
10 indictments, and that plea then casts a burden on the
11 State to prove the defendant is guilty beyond a
12 reasonable doubt. A person who is charged with
13 committing a criminal offense in South Carolina is never
14 required to prove himself innocent. This is an important
15 rule of law that we have in this country, that a
16 defendant in a criminal trial is always presumed to be
17 innocent of the crime for which he's indicted and until
18 his guilt has been proven by evidence satisfying you of
19 that guilt beyond a reasonable doubt.

20 This presumption of innocence is not a mere
21 legal theory. This isn't just a legal phrase. This is a
22 substantial constitutional right that every defendant is
23 entitled to. This presumption of innocence accompanies
24 the defendant from the time he's charged throughout the
25 trial and until you reach a verdict based upon evidence

1 satisfying you of guilt beyond a reasonable doubt.

2 I want to instruct you, and again emphasize,
3 the fact that the defendant did not testify is not a
4 factor to be considered by you in any way in your
5 deliberations and in your considerations on the question
6 of guilt or innocence of the defendant.

7 It must not be considered by you in any
8 manner whatsoever. The defendant has a constitutional
9 right to remain silent, and the assertion of this right
10 must not be considered by you in your deliberations. I
11 repeat: Under your oath, you are to draw no conclusion
12 whatsoever from the fact that the defendant in this case
13 did not testify. The fact that the defendant did not
14 testify should not even be discussed in the jury room.

15 The burden of proof as I've stated is on the
16 State. The defendant is not required to prove his
17 innocence. The burden of proof remains on the State to
18 prove guilt beyond a reasonable doubt. So what is this
19 reasonable doubt we've been talking about? And I told
20 you that you might have served as -- those of you that
21 might have served as a juror in a civil trial are told
22 that it was necessary only to prove something is more
23 likely true than not true. This is also called the
24 greater weight of the evidence or preponderance of the
25 evidence, but in a criminal trial, the State's proof has

1 to be more powerful than that. It must be beyond a
2 reasonable doubt.

3 Proof beyond a reasonable doubt is doubt that
4 leaves you firmly convinced of the defendant's guilt.
5 Very few things in this world that we know with absolute
6 certainty, and in criminal cases, the law doesn't require
7 proof that overcomes every possible doubt.

8 If, based on your consideration of the
9 evidence, you are firmly convinced that the defendant is
10 guilty of the crime that he has been charged with, then
11 you must find the defendant guilty. On the other hand,
12 if you think there is a real possibility that the
13 defendant is not guilty, then you must give the defendant
14 the benefit of the doubt and find him not guilty.

15 Now, there are two types of evidence in a
16 trial. There is direct evidence and there is
17 circumstantial evidence. Direct evidence directly proves
18 a fact or the existence of a fact, and it doesn't require
19 deduction. Circumstantial evidence is a proof of a chain
20 of facts and circumstances that indicate the existence of
21 a fact. Crimes can be proven by circumstantial evidence,
22 and the law doesn't make any distinction between the
23 weight or value to be given to either direct or
24 circumstantial evidence.

25 However, to the extent that the State relies

1 on circumstantial evidence, all of the circumstances must
2 be consistent with each other and, when taken together,
3 point conclusively to the guilt of the accused beyond a
4 reasonable doubt. If these circumstances merely portray
5 the defendant's behavior as suspicious, then the proof
6 has failed.

7 The State again has the burden of proving the
8 defendant guilty beyond a reasonable doubt, and this
9 burden rests on the State regardless of whether the State
10 relies on direct evidence, circumstantial evidence, or
11 some combination of the two.

12 Now, there are three charges in this case,
13 and I will go over the first one with you, and that is
14 attempted murder. Now, each of these charges are to be
15 considered by you separately. You will have a separate
16 verdict on each of the charges. You can find the
17 defendant guilty or not guilty of each of the charges
18 independent of what your verdict is on the other charges.

19 The first charge I want to go over with you
20 is attempted murder. In order to prove attempted murder,
21 the State must prove that the defendant, with the intent
22 to kill, attempted to kill another person with malice
23 aforethought, either expressed or implied. Malice is
24 hatred, ill will, or hostility toward another person.
25 It's the intentional doing of a wrongful act without just

1 cause or excuse and with an intent to inflict an injury
2 or under circumstances that the law will infer an evil
3 attempt.

4 Malice aforethought does not require that
5 malice exists for any particular time before the act is
6 committed, but malice must exist in the mind of the
7 defendant just before and at the time the act is
8 committed. Therefore, there must be a combination of
9 previous evil intent and act.

10 Malice aforethought may be expressed or
11 inferred. These terms, expressed or inferred, do not
12 mean different kinds of malice but merely the manner in
13 which malice may be shown to exist; that is, either by
14 direct evidence or from any inferences from the facts and
15 circumstances which are proven.

16 Express malice is shown when a person speaks
17 words which express hatred or ill will for another, or
18 when the person prepared beforehand to do the act which
19 was later accomplished. For example, lying in wait for a
20 person or any other acts in preparation going to show
21 that the deed was within the defendant's mind would be
22 express malice.

23 If the facts are proved beyond a reasonable
24 doubt sufficient to raise an inference of malice to your
25 satisfaction, this inference would simply be an

1 evidentiary fact to be considered by you, the jury, along
2 with any other evidence in this case, and you may give it
3 the weight you decide it should receive. Intent to kill
4 is an element of attempted murder, and the context of an
5 attempt crime, specific intent means the defendant
6 intended to complete the acts comprising the underlying
7 offense.

8 Intent means not accidentally or
9 involuntarily. Incident may be shown by acts and conduct
10 of the defendant or other circumstances from which you
11 may naturally and reasonably infer intent.

12 Evidence of the character of the act,
13 character of the instrument used, the manner in which it
14 was used, the purpose to be accomplished, and the
15 resulting wounds or injuries may be considered in
16 determining the incident with which the act was
17 committed. Intent may also be inferred when it
18 demonstrates that the defendant voluntarily and willfully
19 commits an act, the natural tendency of which is to
20 destroy another's life.

21 Now, the second charge is for kidnapping,
22 and, again, this should be considered independently for
23 what your verdict is for the other two charges. In order
24 to prove kidnapping, the State must prove beyond a
25 reasonable doubt that the defendant knowingly and

1 unlawfully seized, confined, inveigled, decoyed,
2 kidnapped, abducted, or carried away another person
3 without authority of law. It means -- to do a thing
4 unlawfully is to do it willfully against the law.

5 Knowingly means with knowledge, consciously,
6 not accidentally. Seize means to take hold of suddenly
7 or forcibly. Confine means to limit, restrict, or
8 enclose within bounds, imprison, or shut or keep in.
9 Inveigle means to lure, entice, or lead astray by false
10 representations, promises, or other deceitful means.
11 Decoy means to lure by, as if by, decoy.

12 A decoy is something to entice a person into
13 a trap. Kidnap is to remove a person against his will by
14 unlawful force or fraud. Abduct means to carry off
15 secretly or by force, for illegal purpose. Carry away
16 means to remove.

17 The State does not have to prove that the
18 defendant did all of these things. Instead, if you find
19 beyond a reasonable doubt that the defendant did any of
20 these things, you may find the defendant guilty of
21 kidnapping.

22 Something that is done without authority of
23 law is something which the law does not sanction, permit,
24 allow, condone, or provide justification for. The
25 kidnapping does not have to be for any personal or

1 monetary gain, for any illegal purpose but may be for any
2 reason whatsoever.

3 Now, the third charge is for carjacking, and,
4 again, this should be considered by you independent of
5 the other two charges. In order to prove carjacking, the
6 State must prove beyond a reasonable doubt that the
7 defendant took or attempted to take a motor vehicle from
8 another person by force and violation or about
9 intimidation while the person was operating his vehicle
10 or while the person was in the vehicle.

11 Now, an issue in this case is the
12 identification of the defendant as the person who
13 committed the crime charged. The State has the burden of
14 proving identity beyond a reasonable doubt. You must be
15 satisfied beyond a reasonable doubt of the accuracy of
16 the identification of the defendant before you may
17 convict the defendant. Identity testimony is an
18 expression of belief or impression by a witness.

19 You must determine the accuracy of the
20 identification of the defendant. You must consider the
21 believability of each identification witness in the same
22 way as any other witness. You may consider whether the
23 witness had an adequate opportunity to observe the
24 offender at the time of the offense. This will be
25 affected by things like how long or how short a time was

1 available, how far or how close the witness was, the
2 lighting conditions, and whether the witness had the
3 chance to see or know the person in the past.

4 Once again, I instruct you that the burden of
5 proof is on the State, and it extends to every element of
6 the crime charged, and this specifically includes the
7 burden of proving beyond a reasonable doubt the identity
8 of the defendant as the person who committed the crime.
9 If, after examining the testimony, you have a reasonable
10 doubt as to the accuracy of the identification, you must
11 find the defendant not guilty.

12 Finally, in determining the guilt or
13 innocence of the defendant, you cannot consider any
14 possible penalty for a particular crime. The punishment
15 of the crime is a matter for me to determine. It's never
16 to be considered by you in any way whatsoever in arriving
17 at a fair and impartial verdict as to the guilt or
18 innocence of the defendant. I will also instruct you
19 that your verdict must be unanimous.

20 So, Madame Foreman, these are the indictments
21 that will go back with you, and you'll see there's three
22 of them, and on the back of each of these, there is a red
23 stamp where it says true billed. Right below that, it
24 says verdict, and you write the verdict of the jury. The
25 two possible verdicts for each of the charge are either

1 guilty or not guilty. Whatever the jury unanimously
2 decides, you write that down, sign it, date it. All
3 right? Go to each one of them independently, same thing,
4 guilty or not guilty, give you options on each charge.

5 Once the jury has reached a unanimous verdict
6 on each of three charges, please let the bailiff know.
7 Now, I'm going to send you back. Don't begin your
8 deliberations just yet until I send the evidence back
9 with the indictments.

10 I have to give the lawyers just an
11 opportunity to say, you know, Judge, you misspoke. It
12 didn't come out like I said it was going to. Just a
13 formality we go through. We'll get the evidence
14 together, send it back with the bailiff, and when he
15 sends the evidence back and says the judge says you can
16 begin your deliberations, do that.

17 This just us takes a few minutes, but please
18 don't begin your deliberations until you get the word
19 along with the evidence. Thank you, and we'll see you in
20 a little bit.

21 (In open court, jury not present.)

22 THE COURT: Anything from the State?

23 MS. SHEALY: No, Your Honor.

24 THE COURT: From the defense?

25 MS. FORD: Just, Your Honor, about the

1 assaults and the lesser included.

2 THE COURT: How about y'all make sure
3 everything is together there. Is there any objection to
4 me sending the charges back?

5 MS. SHEALY: Not from the State.

6 MS. FORD: No, Your Honor.

7 THE COURT: All right. Good.

8 (At 11:15, jury retires to deliberate.)

9 (12:31 p.m., in open court, jury present.)

10 THE COURT: All right, folks. You asked a
11 couple of questions: What was the time of the 911 call
12 from Ms. Mizell's home? That time was not brought out in
13 evidence during the trial, so it's not something we can
14 go back and put in now, so the answer to that is I don't
15 know. It wasn't put in evidence.

16 And the other question, are we able to have
17 the location of lot four identified on State's Exhibit 1?
18 That also was not put in evidence during the trial, so we
19 cannot have new evidence considered now.

20 The other two questions are related -- the
21 first part was DNA analysis, item either 14 or 1.4, I
22 can't quite make out if there is a dot in the middle of
23 that. Was Letty Martin excluded as the second
24 contributor, and then you have a related question, is it
25 possible to read a copy of Catherine Leisy's testimony,

1 SLED forensic. We don't have a copy of the transcript,
2 but we can play the audio of it back. Do you wish to
3 have that played back? Okay. She's got it cued up. Go
4 ahead.

5 Is there any particular part that you want to
6 get to or you just want to hear the whole thing?

7 THE FOREPERSON: The question was just in
8 relation to whether or not Letty Martin was excluded from
9 the pocket swab and what the explanation was.

10 THE COURT: Okay. Does that answer your
11 question, or do you want to listen to more?

12 THE FOREPERSON: They said it was difficult
13 for them to understand.

14 THE COURT: That's best we can do.

15 THE FOREPERSON: Sure.

16 THE COURT: You want to hear it again or you
17 want us to play another part?

18 THE FOREPERSON: You want to hear it again?

19 THE COURT: Okay. So she'll go back with
20 you. Please don't discuss the case in front of her.
21 Just let her know what you want to hear. She'll play
22 back any of it, all of it, as many times as you want, and
23 when you're done, let us know and, she'll leave and
24 you'll resume your deliberations? Okay.

25 Thank you.

1 (Jury resumes deliberations.)

2 THE COURT: All right. Let the record
3 reflect the defendant is in the courtroom. I'm told we
4 have a verdict, so let's bring the jury in.

5 (1:53 p.m., in open court, jury present.)

6 THE COURT: All right. Welcome back, folks.
7 Madame Foreman: I'm told the jury has reached a verdict;
8 is that correct?

9 THE FOREPERSON: Yes, sir, we have.

10 THE COURT: Is it on all three indictments?

11 THE FOREPERSON: Yes, sir.

12 THE COURT: Is it unanimous as to each
13 indictment?

14 THE FOREPERSON: Yes, sir.

15 THE COURT: Would you hand that to the
16 bailiff, please.

17 All right. Defendant will rise. As to
18 indictment 2012-GS-10-3304, indictment for attempted
19 murder verdict is guilty, signed and dated by the
20 foreperson of the jury. 2012-GS-10-3305, indictment for
21 kidnapping, verdict is guilty, signed and dated by the
22 foreperson. Indictment 2012-GS-10-3303, indictment for
23 carjacking, verdict is guilty, signed and dated by the
24 foreperson.

25 Thank you. You may be seated. All right.

1 Poll the jury, please.

2 THE CLERK: Whenever I call your juror
3 number, I am going to ask you two questions. Please
4 respond to each question appropriately, and also whenever
5 I call your juror number, please raise your hand so I can
6 identify fill you.

7 Juror number 79 is this your verdict?

8 THE JUROR: Yes, it is.

9 THE CLERK: Is it still your verdict?

10 THE JUROR: Yes, it is.

11 THE CLERK: Juror 73, is this your verdict?

12 THE JUROR: Yes, it is.

13 THE CLERK: Thank you. Juror number 70, is
14 this your verdict?

15 THE JUROR: Yes, it is.

16 THE CLERK: Is it still your verdict?

17 THE JUROR: Yes, it is.

18 THE CLERK: Thank you, sir. Juror 295, is
19 this your verdict?

20 THE JUROR: Yes.

21 THE CLERK: Is it still your verdict?

22 THE JUROR: Yes.

23 THE CLERK: Thank you. Juror 105, is this
24 your verdict?

25 THE JUROR: Yes.

1 THE CLERK: Is it still your verdict?

2 THE JUROR: Yes.

3 THE CLERK: Thank you. Juror 266, is this
4 your verdict?

5 THE JUROR: Yes.

6 THE CLERK: Is it still your verdict?

7 THE JUROR: Yes.

8 THE CLERK: Thank you. Juror 285, is this
9 your verdict?

10 THE JUROR: Yes.

11 THE CLERK: Is it still your verdict?

12 THE JUROR: Yes.

13 THE CLERK: Thank you. Juror 358, is this
14 your verdict.

15 THE JUROR: Yes.

16 THE CLERK: Is it still your verdict?

17 THE JUROR: Yes.

18 THE CLERK: Thank you. Juror 136, is this
19 your verdict?

20 THE JUROR: Yes.

21 THE CLERK: Is it still your verdict?

22 THE JUROR: Yes.

23 THE CLERK: Thank you. Juror number 12, is
24 this your verdict?

25 THE JUROR: Yes.

1 THE CLERK: Is it still your verdict?

2 THE JUROR: Yes.

3 THE CLERK: Thank you. Juror 291, is this
4 your verdict?

5 THE JUROR: Yes.

6 THE CLERK: Is it still your verdict.

7 THE JUROR: Yes.

8 THE CLERK: Thank you. Juror 11, is this
9 your verdict?

10 THE JUROR: Yes.

11 THE CLERK: Is it still your verdict?

12 THE JUROR: Yes.

13 THE CLERK: Your Honor, the jury has been
14 polled and the verdict stands.

15 THE COURT: Very well. Thank you, ladies and
16 gentlemen for your hard work and your service this week.

17 That will conclude your jury service for the
18 week. We very much appreciate your, first of all,
19 showing up, and for jury duty, and then, second, for
20 helping us out on this trial, listening, paying
21 attention. Part of my job is to occasionally look glance
22 and check y'all out, and everybody paid attention the
23 whole time. I didn't see anybody inattentive or sleeping
24 or anything like that, and it's clear to me that the time
25 that you spent deliberating shows that you took it

1 seriously and did the things that we ask people to do.

2 It's not easy to do jury service and some
3 cases are easier than others. Obviously this case had
4 some difficulties to it, and that was reflected, you
5 know, in the amount of time you took to deliberate, so
6 that shows us that you took it seriously and the system
7 works, you know, and that's all we can ever ask.

8 We'll all live with your verdict now, and we
9 thank you so much for the service that you did this week.
10 This is public service at its finest, and -- because I
11 didn't qualify the jury on Monday, but I often tell
12 jurors that, you know, it is often considered to be a
13 burden to be on a jury. It's a responsibility of
14 citizenship, but it's also a privilege to be on a jury,
15 and this is your government at work, and people all over
16 the world would like to have this opportunity to have
17 their guilt or innocence decided by fellow citizens, not
18 people in the government that work, and a lot of
19 countries, it's probably less than a handful, that have
20 the right to have a jury trial when a state accuses
21 somebody of a crime.

22 Most countries around the world, if you have
23 anything that resembles a trial as we would recognize it,
24 it's either a panel or panel of judges that would make
25 that decision, but our founding fathers thought it was so

1 important to have a right for a jury in this country that
2 they put it in the federal and state constitution, so
3 it's a big deal, and because we do it all the time, we
4 take it for granted, but it's special what you have done
5 this week, just by showing up and participating.

6 I'm not trying to say you know, we encourage
7 you to find people guilty or not. The State has their
8 burden. They need to put up their evidence. Y'all
9 listened to the evidence. You decided they met their
10 burden, and that's all we could ever ask you to do, is to
11 set, listen, weigh the evidence, apply the law, and if
12 you felt like the State met their burden, then find the
13 defendant guilty, and if you had found otherwise, we
14 would live with that as well.

15 So we thank you for your service. You are
16 now free to go. You don't have to stick around. Did the
17 lunch ever come? You're welcome to stay back there and
18 eat your lunch or take your lunch with you, but you don't
19 have to hang around this place anymore, and they'll have
20 a big fat check next week. It's not huge, so probably
21 doesn't even pay for the lunches if you had to pay for on
22 your own, but I do want to thank you for your service,
23 and I will see you down the road.

24 (Jury dismissed.)

25 THE COURT: Is there anything the State wants

1 to say before imposing sentence?

2 MS. SHEALY: Yes, Your Honor. I would like
3 to advise you of his prior record. He has a shoplifting
4 from 2002; assaulting a police officer from 2002; a grand
5 larceny from 2002; a failure to stop for a blue light in
6 2005; a shoplifting in 2003; a grand larceny in 2005; an
7 ABWIK in 2005, and three -- let's see if it's ABHAN or
8 AHAN -- three ABHANS from 2005.

9 As I indicated to you earlier in the trial,
10 Your Honor, this is a case that would have been
11 appropriate for an LWOP notice. That was a failing on my
12 part. I think a sentence in this case begs for
13 consecutive time and the maximum time on each of these
14 three charges. They were distinct terrors that the
15 witness was faced with.

16 Her vehicle was carjacked. She was kidnapped
17 in the car and in fear of her life, and he was repeatedly
18 subjected to his attempting to break her neck. She
19 passed out. He pulls her up and keeps going.

20 Your Honor, we would ask the Court for the
21 maximum time and consecutive time. Any one of these
22 charges would have merited the maximum penalty, and in
23 that he did three different crimes on that one occasion,
24 it would be the State's position that it warrants more
25 than just a signal maximum penalty.

1 THE COURT: Would the victim like to say
2 anything?

3 MS. SHEALY: Let me ask her.

4 THE WITNESS: Yes, Your Honor, I feel very
5 strongly that if he isn't sentenced to the maximum time,
6 my life will still be in danger. He knows where I live.
7 I would feel that I would have to move, and since I live
8 in a mobile home, that's expensive, and I don't know
9 where I would go, actually, and I really do feel that if
10 he gets back on the street, he's going to keep trying
11 until he manages to kill somebody.

12 I don't see him stopping, and I really do
13 live in fear, every day, because of what he did to me.

14 THE COURT: All right. Thank you. Anything
15 further from the State?

16 MS. SHEALY: Nothing further. Thank you,
17 Judge.

18 THE COURT: Ms. Ford?

19 MS. FORD: Yes, Your Honor. May it please
20 the Court: Latrone is 30, will be 30 years old this
21 year. He's from the Ravenel area. He does have a young
22 daughter, Your Honor. The tattoo on his neck is actually
23 her name, so that's where that comes from.

24 You saw where he worked at the Harvest Moon
25 Grill and more recently Family Dollar. Latrone has been

1 in jail a little over two years now. He's been my client
2 during all of that time. First of all, we would like to
3 point out that if he were to receive the maximum on one
4 sentence, he certainly -- I don't think there would be
5 any issue that he would be a threat to Ms. Martin,
6 especially, Your Honor, at that point in time.

7 During the course of my representation, I can
8 tell you that he has always maintained his innocence,
9 Your Honor, but he has been someone -- he isn't someone
10 who has come off as cold or anything like that to me.

11 He has been patient. He takes -- you know,
12 he's been taking his case very seriously. He's actually
13 bright in a lot of ways. He's picked up with a lot of
14 things with the technical issues and DNA and everything.
15 He picked right up on it without me explaining it, so I
16 do think he is someone who does have potential in him.

17 He does have some smarts to him, Your Honor,
18 but he's always been a really good client to me. He's
19 never been rude to me or anything like that. He's always
20 been courteous and patient and very polite and nice to
21 me, Your Honor. We would ask for a concurrent sentence.

22 These charges, they do carry, I believe, zero
23 to 30, zero to 30, and zero to 20 because of the
24 carjacking. There has never -- they did not put forth
25 criminal bodily injury, so we would ask for concurrent

1 sentence. We think that that would be more than -- that
2 would certainly be sufficient considering the amount of
3 time. It's 85 percent, Your Honor, considering his age
4 now.

5 Thank you.

6 THE COURT: Mr. Butler, do you want to say
7 anything?

8 THE DEFENDANT: If it please the Court, I
9 just have to fight this another way. I mean, honestly,
10 sir, I am looking forward to getting back to my daughter.
11 She's two, going to be three, and she was born February
12 13. That's pretty much it.

13 THE COURT: All right. Anything further from
14 the defendant?

15 MS. FORD: No, Your Honor.

16 THE COURT: Well, Mr. Butler, you know, the
17 problem that I have with this case, having listened to
18 the testimony, is trying to figure out what the actual
19 motive was, and there's times when you go, well, it looks
20 like this was drug related. Usually they're stealing
21 money for drugs, that sort of thing.

22 I don't know what the motive was. The State
23 doesn't have to prove a motive, but it's disturbing that
24 there didn't seem to be a theft for money. Maybe the car
25 and the stupidity of riding around in a car after you

1 stole it is an issue. But that bothers me because, you
2 know, you almost can understand somebody committing this
3 crime if it were for some purpose, but the thing that
4 people in the community worry about more than anything is
5 unprovoked attacks by strangers, and this lady, she
6 didn't know you, and you appear from around the corner,
7 carjack her, take her off, kidnap her, and clearly, if
8 you had not had another car come along and cause you to
9 run off, I think you would have stayed there and murdered
10 her.

11 I do honestly believe that, and that just
12 makes you a mean person, and your prior record is
13 escalating. You're the kind of person that does need to
14 be taken off the streets for as long as we can, and I am
15 going to sentence you to 20 years on the carjacking, 30
16 on the kidnapping, 30 on the attempted murder, and run
17 them all consecutively. Good luck to you.

18 All right. Anything else from you guys?

19 MS. SHEALY: No, Your Honor. Thank you.

20 (Court's Exhibit Nos. 9 and 10 were marked
21 for identification.)

22

- - -

23

(Whereupon, the proceedings were concluded.)

24

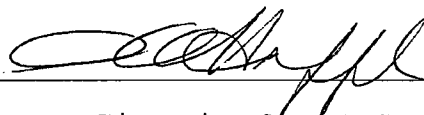
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25

I, the undersigned Amanda K. Haffenden, RPR, CRR, Official Court Reporter for the Ninth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Circuit Court for Charleston County, South Carolina, on the 17th of January 2014.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

March 26, 2014



Circuit Court Reporter

316

CHARLESTON COUNTY SHERIFF'S OFFICE
3505 PINEHAVEN DRIVE
CHARLESTON HEIGHTS, SC 29405-7789



CRIMINAL INVESTIGATIONS DIVISION
(843) 554-2473

J. AL CANNON, JR., ESQ.
SHERIFF, CHARLESTON COUNTY

Report of Photographic/Physical Lineup

OCA #: 2011-020074B Date: 12-7-11

Time: 12:25 Location: 3505 Pinhaven Dr.

Investigating Deputy: Det. J. Perkins

Identifying Witness (name & DOB) Letty Martin 3-9-44

- Letty 1. I am going to show you a series of photographs/physical lineup of individuals or an array of six photographs of individuals (circle appropriate one). The photographs that I am about to show you are placed in no special order.
- Letty 2. These photographs may or may not be the person who committed the crime. It is just as important to clear innocent people as it is to identify possible suspects. Whether or not you identify someone, the police will continue to investigate.
- Letty 3. After you are done, I will not be able to provide you with any feedback or comment on the results of the process.
- Letty 4. Do not discuss this identification procedure or the results with other witnesses in this case.
- Letty 5. Focus on the event: the place, view, lighting, your frame of mind, etc. Take as much time as you need.
- Letty 6. People may not appear exactly as they did at the time of the event, because features such as clothing style, hair color, hair style, etc. may change, even in a short period of time.
- Letty 7. As you look at the photographs, tell me if you recognize the person in them. If you do, please tell me how you know the person, and in your own words, how sure you are of the identification.

Witness Identification Statements

Identification Made: Yes No

He looks most like the person that carjacked me & tried to kill me.

CS
Independent Administrating Deputy's Signature

Christina Smith
Print Name

[Signature]
Deputy Sheriff's Signature

JAMES PERKINS
Print Name

Letty Anne Martin
Witness Signature

Letty Anne Martin
Print Name

COURT'S
EXHIBIT NO. 1
IDENTIFICATION EVIDENCE
DKT.# AKA
DATE: 1/15/14

STATE'S
EXHIBIT
14

01/04/10

LineUp ID:

Date time: 12/7/2011 8:47:18³¹⁷

Officer: Perkins

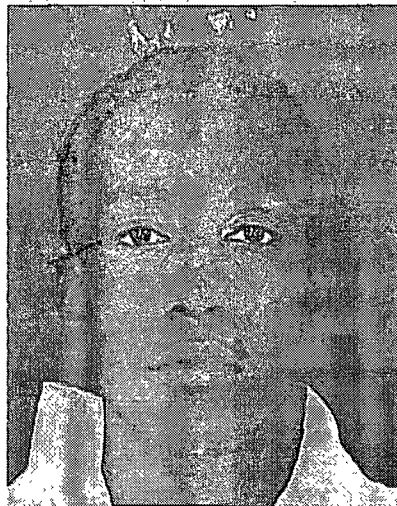
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Requested By: Perkins

Subject Name: BUTLER,



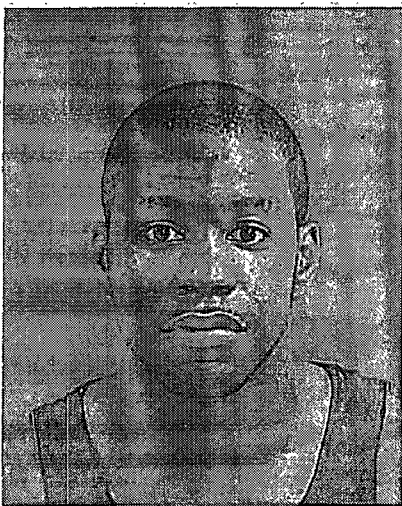
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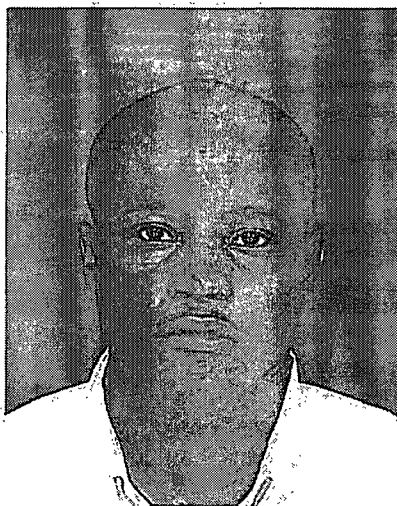
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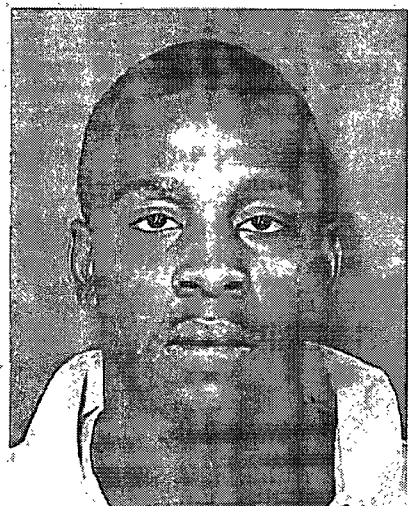
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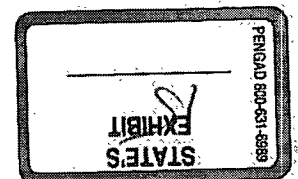


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0000273654 *lam*

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 0001090706 NELSON, TYRONE 9/4/1982 Race=BLACK
 0000083029 RIVERS, ANTONIO 9/1/1982 Race=BLACK
 0001078369 EADY, WINDARD 6/13/1982 Race=BLACK
 0000583914 ROBINSON, MURCER 9/5/1982 Race=BLACK
 0000273654 <LastName_06>, <FirstName_06> <DOB_06> Race=BLACK



ARREST WARRANT

M-605184

STATE OF SOUTH CAROLINA

County/ Municipality of

Charleston

THE STATE
against

Latrone Terrell Butler

Address:

Phone: [REDACTED] SSN: [REDACTED]
Sex: M Race: B Height: 5 11 Weight: 190

DL State: SC DL #: [REDACTED]
DOB: [REDACTED] Agency ORI #: SC0100000

Prosecuting Agency: Charleston County Sheriff
Prosecuting Officer: James B. Perkins - 0208

Offense: Carjacking / Take or attempt a vehicle from person
by force without great bodily harm

Offense Code: 2599
Code/Ordinance Sec: 16-03-1075(B)(1)

This warrant is CERTIFIED FOR SERVICE in the
 County/ Municipality of

The accused
is to be arrested and brought before me to be
dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to
defendant
on

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

General Sessions
Charleston County Judicial Center
100 Broad Street, Suite 106
Charleston, SC 29401

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

County/ Municipality of

Charleston

AFFIDAVIT

ORIGINAL

Form Approved by
S.C. Attorney General
Apr 21, 2001
SCGA 118

Personally appeared before me the affiant James B. Perkins who
being duly sworn deposes and says that defendant Latrone Terrell Butler
did within this county and state on or about 12/5/2011 violate the criminal laws of the
State of South Carolina (or ordinance of County/ Municipality of Charleston)
in the following particulars:

DESCRIPTION OF OFFENSE: Carjacking / Take or attempt a vehicle from person by force without great bodily harm

I further state that there is probable cause to believe that the defendant named above did commit
the crime set forth and that probable cause is based on the following facts:

SEE ATTACHED AFFIDAVIT

Signature of Affiant

STATE OF SOUTH CAROLINA

County/ Municipality of

Charleston

Affiant's Address

Affiant's Telephone

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that
on or about 12/5/2011 defendant Latrone Terrell Butler

did violate the criminal laws of the State of South Carolina (or ordinance of
 County/ Municipality of Charleston) as set forth below:

DESCRIPTION OF OFFENSE: Carjacking / Take or attempt a vehicle from person by force without great bodily harm

Having found probable cause and the above affiant sworn before me, you are empowered and directed to arrest the said defendant and bring him or
her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as
soon thereafter as is practicable
Sworn to and subscribed before me
on 12/8/2011

Signature of Judge

David Wilson Coker
Judge Code: 5535

(L.S.)

Judge's Address 4045 Bridge View Drive
Charleston, SC 29419

Judge's Telephone (843)202-6610

Issuing Court: Magistrate Municipal Circuit

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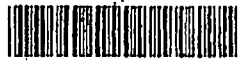
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ORIGINAL

ATTEST: A TRUE COPY

JULIE J. ARMSTRONG (SEAL)
CLERK, C.P. & S.S.

By *[Signature]*
DEPUTY CLERK



BAIL set by

WITNESSES

Judge Fligen
on 12-9-11
Type and Amount: No Bond
Name of Surety:

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

PRELIMINARY HEARING held by

Judge _____
on _____
Defendant Attorney: _____

Name: _____
Address: _____
Telephone: _____

Decision: _____
DISPOSITION before

Name: _____
Address: _____
Telephone: _____

Judge _____
on _____
by _____
(indicate jury trial, bench trial, plea, nol. pro., etc.)

Name: _____
Address: _____
Telephone: _____

Disposition: _____
Sentence: _____

Name: _____
Address: _____
Telephone: _____

JURORS

Name: _____
Address: _____
Telephone: _____
Name: _____
Address: _____
Telephone: _____

CODEFENDANTS

FILED
011 DEC 13 AM 10:57
JULIE J. ARMSTRONG
CLERK OF COURT
BY _____

ATTEST: A TRUE COPY
JULIE J. ARMSTRONG (SEAL)
CLERK, C.P., O.S. & F.C.
By [Signature]
DEPUTY CLERK

Charleston County Sheriff's Office
Criminal Investigations Division
Phone (843) 554-2475



3505 Pinehaven Drive
Charleston Heights, SC 29405
FAX (843) 554-9744

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

AFFIDAVIT

OCA # 2011-020074-B

Personally appeared before me, a magistrate of this County, one Detective J. Perkins, who, first being duly sworn, deposes and says that

LATRONE TERRELL BUTLER

did within this County and State on the 5TH day of December, 2011, violate the criminal laws of the State of South Carolina in the following particulars:

DESCRIPTION OF OFFENSE
CARJACKING
16-3-1075

The affiant states that there is probable cause to believe that the defendant named above did commit the crime(s) set forth, and that such probable cause is based on the following facts:

That on December 5, 2011, while at [REDACTED], Ravenel, in the County and State aforesaid, the above named defendant, **LATRONE TERRELL BUTLER**, did commit offense of violation section 16-3-1075 of the South Carolina Code of Laws, 1976 as amended, **CARJACKING**; in that he did willfully, unlawfully, and feloniously, while armed with a pistol, forcibly take and drive away a 1996 Acura TL, Maroon in color, SC registration-AHP 317, VIN# JH4UA3635TC014432, from Letty Martin with the intent to deprive the owner.


That on December 5, 2011, members of the Charleston County Sheriff's Office responded to [REDACTED] in reference to a carjacking. Upon arrival, deputies met with the victim, Letty Martin. Victim Martin advised that she arrived home during the afternoon hours and observed a black male walking through her front yard near the open car garage. Victim Martin advised that she parked the vehicle and began looking through her trunk and that was when she was attacked by the same black male. The suspect forced victim Martin into her vehicle and told her where to drive. The suspect then forced her out of her vehicle and sped off to an unknown direction of travel. Victim Martin advised that she did not know the suspect, but stated that he was not masked nor did he wear any gloves during the incident. Victim Martin also advised that while the suspect was inside the vehicle he held her right arm with force causing injury.


That on December 7, 2011, Detective C. Smith met with victim Martin at the Charleston County Sheriff's Office. There, victim Martin was showed a six (6) picture photographic lineup including one with the defendant, Latrone Terrell Butler. Victim Martin positively identified the defendant, Latrone Terrell Butler, in a six (6) picture photographic lineup as the assailant who carjacked and physically assaulted her causing injury.

This information was revealed through the investigation Detective Perkins of the Charleston County Sheriff's Office and the signed written statement of the victim, Letty Martin. They are both witnesses to prove the same against the form and dignity of the State.

Sworn to and Subscribed before me
this 5TH day of DEC 2011

Signature of Judge


Detective J. Perkins
Charleston County Sheriff's Office
3505 Pinehaven Drive
North Charleston, SC 29405
843-554-2475

ATTEST: A TRUE COPY
JULIE L ARMSTRONG (SEAL)
CLERK, CC, SC & C.
By 
DEPUTY CLERK

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Charleston
STATE VS.
Latrone Terrell Butler

INDICTMENT/CASE#: 2012GS1003303
A/W#: M605184
Date of Offense: 12/5/2011
S.C. Code §: 16-03-1075(B)(1)
CDR Code #: 2599

AKA:
Race: BLACK Sex: M Age: 29
DOB: SS#
Address:
City, State, Zip:
DL#: SID#: SC01437454

SENTENCE SHEET

*CDL Yes No CMV Yes No Hazmat Yes No
In disposition of the said indictment comes now the Defendant who was
TO: Carjacking Without Injury

CONVICTED OF or PLEADS

in violation of § 16-03-1075(B)(1) of the S.C. Code of Laws, bearing CDR Code # 2599
NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC §17-25-45
w/minor 1st or Lewd Act)

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury
The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST: Kneese Shealy, Jennifer Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,
for a determinate term of 20 days/months/years or under the Youthful Offender Act not to exceed years
and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment
of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation; which are incorporated by reference.

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 the State Department of Corrections.
The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal
Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP
Total: \$ plus 20% fee: \$
Payment Terms:
Set by SCDPPPS

Table with 2 columns: Description and Amount. Includes items like § 14-1-206 (Assessments 107.5%), § 14-1-211(A)(1) (Conv. Surcharge) \$100, § 14-1-211(A)(2) (DUI Surcharge) \$100, § 56-5-2995 (DUI Assessment) \$12, § 56-1-286 (DUI Breath Test) \$25, Proviso 47.9 (Public Def/Prob) \$500, § 14-1-212 (Law Enforce. Funding) \$25, § 14-1-213 (Drug Court Surcharge) \$150, § 50-21-114 (BUI Breath Test Fee) \$30, § 56-5-2942(I) (Vehicle Assessment) \$40/ea, Proviso 90.5 (SCCJA Surcharge) \$5, 3% to County (if paid in installments) \$, TOTAL \$133.90

days/hours Public Service Employment
Obtain GED
Attend Voc. Rehab. or Job Corp.
May serve W/E beginning
Substance Abuse Counseling
Random Drug/Alcohol testing
Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ beginning
\$ paid to Public Defender
Other:

RECEIVED

JAN 31 2014

SC Court of Appeals

Appointed PD or appointed other counsel, § 47-12 requires \$500 be paid to Clerk during probation.

Clerk of Court/ Deputy Clerk
Court Reporter: Amanda H. Hader
SCCA/217 (03/2011)

ATTEST: A TRUE COPY
JULIE ARMSTRONG (SEAL)
CLERK S.C. J.S. REC.
By: DEPUTY CLERK

Presiding Judge
Judge Code: 2137
Sentence Date: 1/17/14

322

JCS 2011208413

WITNESSES

Charleston County Sheriff

AGENCY CASE NUMBER

2011020074B

ARREST WARRANT NUMBER

M605184

DATE OF ARREST

December 8, 2011

AC BONDING GRAND JURY
TRUE BILL

[Signature]
Foreperson of Grand Jury
Date:

JUN 11 2012

VERDICT **GUILTY**

[Signature]
Foreperson of Petit Jury
Date: 1/7/14

INDICT

DOCKET NO. 2012GS1003303

The State of South Carolina
County of Charleston

COURT OF GENERAL SESSIONS

June Term 2012

THE STATE

vs.

LATRONE TERRELL BUTLER
DOB
B/M

Indictment for
Carjacking

ATTEST: A TRUE COPY
JULIE J. ARMSTRONG (SEAL)
CLERK, C.P., G.S. & S.C.
By *[Signature]*
DEPUTY CLERK

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

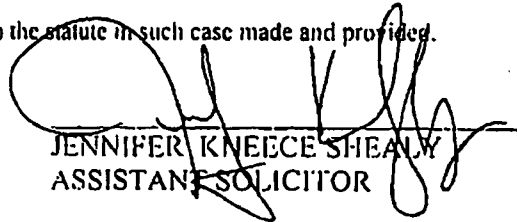
INDICTMENT

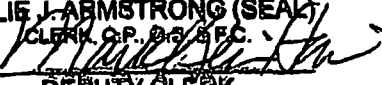
At a Court of General Sessions, convened on June 11, 2012 the Grand Jurors of Charleston County present upon their oath:

Carjacking

That in Charleston County, South Carolina, on or about December 5, 2011, the Defendant, did take or attempt to take a motor vehicle from Letty Martin by force, violence or intimidation while Letty Martin was operating the vehicle or inside of the vehicle; in violation of Section 16-3-1075(B)(1) of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


JENNIFER KNEECE SHEALY
ASSISTANT SOLICITOR

ATTEST: A TRUE COPY
JULIE J. ARMSTRONG (SEAL)
CLERK, C.P. & S.C.
By 
DEPUTY CLERK

ARREST WARRANT

M-605184

STATE OF SOUTH CAROLINA

County/ Municipality of

Charleston

THE STATE against

Latrone Terrell Butler

Address:

Sex: M Race: B Height: 5-11 Weight: 190

DL State: SC DL #: Agency ORI #: SC0100000

DOB: Prosecuting Agency: Charleston County Sheriff

Prosecuting Officer: James B. Perkins - 0208

Offense: Carjacking / Take or attempt a vehicle from person by force without great bodily harm

Offense Code: 2599

Code/Ordinance Sec: 16-03-1075(B)(1)

This warrant is CERTIFIED FOR SERVICE in the County/ Municipality of

The accused is to be arrested and brought before me to be dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to defendant on

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

General Sessions Charleston County Judicial Center 100 Broad Street, Suite 106 Charleston, SC 29401

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

County/ Municipality of

Charleston

AFFIDAVIT

ORIGINAL

Form Approved by S.C. Attorney General April 21, 2003 GGCA 518

Personally appeared before me the affiant James B. Perkins who being duly sworn deposes and says that defendant Latrone Terrell Butler did within this county and state on or about 12/5/2011 violate the criminal laws of the State of South Carolina (or ordinance of County/ Municipality of Charleston) in the following particulars:

DESCRIPTION OF OFFENSE: Carjacking / Take or attempt a vehicle from person by force without great bodily harm

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

SEE ATTACHED AFFIDAVIT

Signature of Affiant

STATE OF SOUTH CAROLINA

County/ Municipality of

Charleston

Affiant's Address

Affiant's Telephone

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 12/5/2011 defendant Latrone Terrell Butler

did violate the criminal laws of the State of South Carolina (or ordinance of County/ Municipality of Charleston) as set forth below.

DESCRIPTION OF OFFENSE: Carjacking / Take or attempt a vehicle from person by force without great bodily harm

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable. Sworn to and subscribed before me on 12/8/2011

Signature of Judge David Wilson Coker Judge Code: 5535

(L.S.)

Judge's Address 4045 Bridge View Drive Charleston, SC 29419

Judge's Telephone (843)202-6610

Issuing Court: X Magistrate Municipal Circuit

ORIGINAL

ORIGINAL

ORIGINAL

ATTEST: A TRUE COPY

JULIE J. ARMSTRONG (SEAL) CLERK, C.P., S.C. S.F.C.

By [Signature] DEPUTY CLERK

BAIL set by

WITNESSES

325



Judge Fliger
on 12-9-11
Type and Amount: No Bond
Name of Surety: _____

Name: _____
Address: _____
Telephone: _____
Name: _____
Address: _____
Telephone: _____

PRELIMINARY HEARING held by

Judge _____
on _____
Defendant Attorney: _____

Name: _____
Address: _____
Telephone: _____

Decision: _____
DISPOSITION before

Name: _____
Address: _____
Telephone: _____

Judge _____
on _____
by _____
(indicate jury trial, bench trial, plea, nol. pro., etc.)

Name: _____
Address: _____
Telephone: _____

Disposition: _____
Sentence: _____

Name: _____
Address: _____
Telephone: _____

JURORS

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

CODEFENDANTS

FILED
011 DEC 13 AM 10:57
JULIE J. ARMSTRONG
CLERK OF COURT
BY _____

ATTEST: A TRUE COPY
JULIE J. ARMSTRONG (SEAL)
CLERK C.P., G.S. & F.C.
By [Signature]
DEPUTY CLERK

Charleston County Sheriff's Office
Criminal Investigations Division
Phone (843) 554-2475



3505 Pinehaven Drive
Charleston Heights, SC 29405
FAX (843) 554-9744

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

AFFIDAVIT

OCA # 2011-020074-B

Personally appeared before me, a magistrate of this County, one Detective J. Perkins, who, first being duly sworn, deposes and says that

LATRONE TERRELL BUTLER

did within this County and State on the 5TH day of December, 2011, violate the criminal laws of the State of South Carolina in the following particulars:

DESCRIPTION OF OFFENSE
CARJACKING
16-3-1075

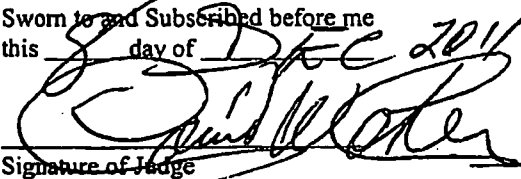
The affiant states that there is probable cause to believe that the defendant named above did commit the crime(s) set forth, and that such probable cause is based on the following facts:


That on December 5, 2011, while at [REDACTED], Ravenel, in the County and State aforesaid, the above named defendant, **LATRONE TERRELL BUTLER**, did commit offense of violation section 16-3-1075 of the South Carolina Code of Laws, 1976 as amended, **CARJACKING**, in that he did willfully, unlawfully, and feloniously, while armed with a pistol, forcibly take and drive away a 1996 Acura TL, Maroon in color, SC registration AHP 317, VIN# JH4UA3635TC014432, from Letty Martin with the intent to deprive the owner.

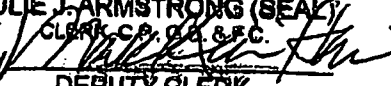
That on December 5, 2011, members of the Charleston County Sheriff's Office responded to [REDACTED] Savannah Highway in reference to a carjacking. Upon arrival, deputies met with the victim, Letty Martin. Victim Martin advised that she arrived home during the afternoon hours and observed a black male walking through her front yard near the open car garage. Victim Martin advised that she parked the vehicle and began looking through her trunk and that was when she was attacked by the same black male. The suspect forced victim Martin into her vehicle and told her where to drive. The suspect then forced her out of her vehicle and sped off to an unknown direction of travel. Victim Martin advised that she did not know the suspect, but stated that he was not masked nor did he wear any gloves during the incident. Victim Martin also advised that while the suspect was inside the vehicle he held her right arm with force causing injury.

That on December 7, 2011, Detective C. Smith met with victim Martin at the Charleston County Sheriff's Office. There, victim Martin was showed a six (6) picture photographic lineup including one with the defendant, Latrone Terrell Butler. Victim Martin positively identified the defendant, Latrone Terrell Butler, in a six (6) picture photographic lineup as the assailant who carjacked and physically assaulted her causing injury.

This information was revealed through the investigation Detective Perkins of the Charleston County Sheriff's Office and the signed written statement of the victim, Letty Martin. They are both witnesses to prove the same against the form and dignity of the State.

Sworn to and Subscribed before me
this 5th day of DEC 2011

Signature of Judge


Detective J. Perkins
Charleston County Sheriff's Office
3505 Pinehaven Drive
North Charleston, SC 29405
843-554-2475

ATTEST: A TRUE COPY
JULIE J. ARMSTRONG (SEAL)
CLERK C.P., D.C. & F.C.
By 
DEPUTY CLERK

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS 327

COUNTY OF Charleston
STATE VS.

INDICTMENT/CASE#: 2012GS1003304

AKA: Latrone Terrell Butler

A/W#: M605185

Race: BLACK Sex: M Age: 29

Date of Offense: 12/5/2011

DOB: SS#

S.C. Code §: 16-03-0029

Address:

CDR Code #: 3410

City, State, Zip: DL#: SID#: SC01437454

SENTENCE SHEET

*CDL Yes No CMV Yes No Hazmat Yes No
In disposition of the said indictment comes now the Defendant who was TO: Murder / Attempted Murder

CONVICTED OF or PLEADS

in violation of § 16-03-0029 of the S.C. Code of Laws, bearing CDR Code # 3410
NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC w/minor 1st or Lewd Act) § 17-25-45

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury (defendant's initials)
The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST: Kneec Sealy Jennifer 7919 Defendant Attorney for Defendant SC Bar#

WHEREFORE the Defendant is committed to the State Department of Corrections, County Detention Center,
for a determinate term of 30 days/months/years or under the Youthful Offender Act not to exceed years
and/or to pay a fine of \$ provided that upon the service of days/months/years and/or payment
of \$ plus costs and assessments as applicable*, the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.

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 the State Department of Corrections.
The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal
Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered
Total: \$ plus 20% fee: \$
Payment Terms:
Set by SCDPPPS

PTUP:
days/hours Public Service Employment
Obtain GED
Attend Voc. Rehab. or Job Corp.
May serve W/E beginning
Substance Abuse Counseling
Random Drug/Alcohol testing
Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ beginning
\$ paid to Public Defender Fund
Other:

Table with 3 columns: Description, Amount, Total. Includes items like § 14-1-206 (Assessments 107.5%), § 14-1-211(A)(1) (Conv. Surcharge) \$100, § 14-1-211(A)(2) (DUI Surcharge) \$100, § 56-5-2995 (DUI Assessment) \$12, § 56-1-286 (DUI Breath Test) \$25, Proviso 47.9 (Public Def/Prob) \$500, § 14-1-212 (Law Enforce. Funding) \$25, § 14-1-213 (Drug Court Surcharge) \$150, § 50-21-114 (BUI Breath Test Fee) \$50, § 56-5-2942(J) (Vehicle Assessment) \$40/ea, Proviso 90.5 (SCCIA Surcharge) \$5, 3% to County (if paid in installments) \$, TOTAL \$133.90

Appointed PD or appointed other counsel § 47.12 requires \$500 be paid to Clerk during probation.

Clerk of Court/ Deputy Clerk: Amanda Henderson
Court Reporter:
SCCA/217 (03/2011)

ATTEST: A TRUE COPY
JULIE J. ARMSTRONG (SEAL)
By: DEPUTY CLERK

Presiding Judge: 2137
Judge Code:
Signature Date: 11/27/14

WITNESSES

Charleston County Sheriff

AGENCY CASE NUMBER

2011020074B

ARREST WARRANT NUMBER

M605185

DATE OF ARREST

December 8, 2011

ACTION OF GRAND JURY

TRUE BILL

[Signature]
Foreperson of Grand Jury

Date: JUN 17 2012

VERDICT

GUILTY

[Signature]
Foreperson of Petit Jury

Date: 1/17/14

INDICT

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

June Term 2012

THE STATE

vs.

LATRONE TERRELL BUTLER

DOB: [REDACTED]
B/M

Indictment for
Attempted Murder

ATTEST: A TRUE COPY
JULIE J. ARMSTRONG (SEAL)
CLERK, C.P. G.S. 14-1-10

By *[Signature]*
DEPUTY CLERK

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

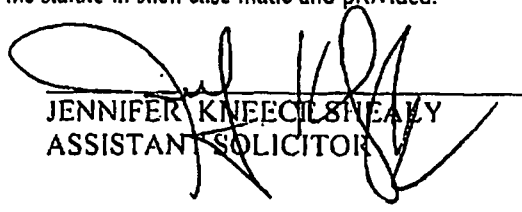
INDICTMENT

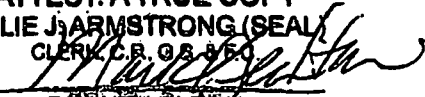
At a Court of General Sessions, convened on June 11, 2012 the Grand Jurors of Charleston County present upon their oath:

Attempted Murder

That in Charleston County, South Carolina, on or about December 5, 2011, the Defendant, LATRONE TERRÉLL BUTLER, did, with intent to kill and malice aforethought, attempt to kill Letty Martin. This is in violation of Section 16-3-29 of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


JENNIFER KNEECLESNEAZY
ASSISTANT SOLICITOR

ATTEST: A TRUE COPY
JULIE J. ARMSTRONG (SEAL)
CLERK C.R. 93-950
By 
DEPUTY CLERK

330 ARREST WARRANT

M-605185

STATE OF SOUTH CAROLINA

County/ Municipality of

Charleston

THE STATE
against

Latrone Terrell Butler

Address:

Phone: SSN: [REDACTED]
Sex: M Race: B Height: 5 11 Weight: 190
Dt. State: SC DL #: [REDACTED]
DOB: [REDACTED] Agency ID #: SC0100000
Prosecuting Agency: Charleston County Sheriff
Prosecuting Officer: James B. Perkins - 0208
Offense: Murder / Attempted Murder

Offense Code: 3410
Code/Ordinance Sec: 16-03-0029

This warrant is CERTIFIED FOR SERVICE in the
 County/ Municipality of
The accused
is to be arrested and brought before me to be
dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to
defendant
on

Signature of Constable or Officer to Deliver

RETURN WARRANT TO:

General Sessions
Charleston County Judicial Center
100 Broad Street, Suite 106
Charleston, SC 29401

ORIGINAL ORIGINAL

STATE OF SOUTH CAROLINA
 County/ Municipality of
Charleston

AFFIDAVIT

ORIGINAL
Form Approved by
S.C. Attorney General
April 21, 2003
SCCA 518

Personally appeared before me the affiant James B. Perkins who
being duly sworn deposes and says that defendant Latrone Terrell Butler
did within this county and state on or about 12/5/2011 violate the criminal laws of the
State of South Carolina (or ordinance of County/ Municipality of Charleston)
in the following particulars:

DESCRIPTION OF OFFENSE: Murder / Attempted Murder.

I further state that there is probable cause to believe that the defendant, named above, did commit
the crime set forth and that probable cause is based on the following facts:

SEE ATTACHED AFFIDAVIT

Signature of Affiant

STATE OF SOUTH CAROLINA
 County/ Municipality of
Charleston

Affiant's Address

Affiant's Telephone

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 12/5/2011 defendant Latrone Terrell Butler
did violate the criminal laws of the State of South Carolina (or ordinance of
 County/ Municipality of Charleston) as set forth below.

DESCRIPTION OF OFFENSE: Murder / Attempted Murder

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or
her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as
soon thereafter as is practicable.
Sworn to and subscribed before me
on 12/8/2011

(L.S.)

Signature of Judge
David Wilson Coker
Judge Code: 5535

Judge's Address 4045 Bridge View Drive
Charleston, SC 29419

Judge's Telephone (843)202-6610

Issuing Court: Magistrate Municipal Circuit

ORIGINAL ORIGINAL ORIGINAL ORIGINAL ORIGINAL ORIGINAL ORIGINAL

ATTEST: A TRUE COPY
JULIE J. ARMSTRONG (SEAL)
CLERK OF C.S. & J.C.
By *[Signature]*
DEPUTY CLERK

BAIL set by

WITNESSES

331



Judge Bligen
on 12-9-11
Type and Amount: \$100,000
Name of Surety: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

PRELIMINARY HEARING held by

Judge _____
on _____
Defendant Attorney: _____

Name: _____
Address: _____
Telephone: _____

Decision: _____

Name: _____
Address: _____
Telephone: _____

DISPOSITION before

Judge _____
on _____
by _____
(indicate jury trial, bench trial, plea, nol. pros., etc.)

Name: _____
Address: _____
Telephone: _____

Disposition: _____
Sentence: _____

Name: _____
Address: _____
Telephone: _____

JURORS

Name: _____
Address: _____
Telephone: _____
Name: _____
Address: _____
Telephone: _____

CODEFENDANTS

FILED
2011 DEC 13 AM 10:57
JULIE J. ARMSTRONG
CLERK OF COURT
BY _____

ATTEST: A TRUE COPY
JULIE J. ARMSTRONG (SEAL)
CLERK OF COURT
By [Signature]
DEPUTY CLERK

Charleston County Sheriff's Office
Criminal Investigations Division
Phone (843) 554-2475



3505 Pinehaven Drive
Charleston Heights, SC 29405
FAX (843) 554-9744

STATE SOUTH CAROLINA
COUNTY OF CHARLESTON

AFFIDAVIT

OCA# 2011-020074-B

Personally appeared before me, a magistrate of this County, one Detective J. Perkins, who, first being duly sworn, deposes and says that

LATRONE TERRELL BUTLER

did within this County and State on 5TH day of December, 2011, violate the criminal laws of the State of South Carolina in the following particulars:

**DESCRIPTION OF OFFENSE
ATTEMPTED MURDER
16-3-29**

The affiant states that there is probable cause to believe that the defendant named above did commit the crime(s) set forth, and that such probable cause is based on the following facts:

That on December 5, 2011, while at [redacted] Ravenel, in the County and State aforesaid, the above named defendant, **LATRONE TERRELL BUTLER**, did commit offense of violation section 16-3-29 of the South Carolina Code of Laws, 1976 as amended, **ATTEMPTED MURDER**, in that he did wilfully, unlawfully, and feloniously, repeatedly choke the victim, Letty Martin, causing her to go unconscious along with trying to break her neck and causing the victim to receive great bodily injury.

That on December 5, 2011, members of the Charleston County Sheriff's Office responded to [redacted] Savannah Highway after receiving a call from the victim, Letty Martin, that she was just carjacked and assaulted by a black male suspect. Victim Martin advised that she arrived home during the afternoon hours and observed a black male walking through her front yard of her property near her open garage. Victim Martin then stated that she pulled up in her yard and parked the vehicle and went to the trunk area to retrieve some items. Victim Martin advised, at that time the same black male walked up and grabbed her and forced her into her vehicle and made her drive while holding on to her arm and making verbal threats to kill her. Victim Martin further advised that the suspect made her drive to Hyde Park Road. Victim Martin further stated that once they exited the vehicle, the suspect choked her repeatedly until she became unconscious. Victim Martin stated that she later came too with the suspect trying to break her neck which caused her major injury.

That on December 7, 2011, Detective C. Smith met with Victim Martin at the Charleston County Sheriff's Office. Once at the Sheriff's Office, victim Martin was showed a six (6) picture photographic lineup including one with the defendant, Latrone Terrell Butler. Victim Martin positively identified the defendant, Latrone Terrell Butler, in a six (6) picture photographic lineup as the assailant who carjacked and attempted to kill her causing her major physical injury.

The above information was revealed through the investigation of Detective J. Perkins of the Charleston County Sheriff's Office along with the signed written statement of the victim, Letty Martin. They are both witnesses to prove the same against the form and dignity of the State.

Sworn to and Subscribed before me

this 5 day of December, 2011.

Signature of Judge

Detective J. Perkins
Charleston County Sheriff's Office
3505 Pinehaven Drive
Charleston Heights, SC 29405
843-554-2475

ATTEST: A TRUE COPY
JULIE J. ARMSTRONG (SEAL)
CLERK, C.P., S.A., P.F.C.
By [Signature]
DEPUTY CLERK

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS 333

COUNTY OF Charleston
STATE VS.

INDICTMENT/CASE#: 2012GSI003305

AKA: Latrone Terrell Butler

A/W#: M605186

Race: BLACK Sex: M Age: 29

Date of Offense: 12/5/2011

DOB: SS#

S.C. Code §: 16-03-0910

Address:

CDR Code #: 0095

City, State, Zip:

DL#: SID#: SC01437454

SENTENCE SHEET

*CDL Yes No CMV Yes No Hazmat Yes No
In disposition of the said indictment comes now the Defendant who was TO: Kidnapping

CONVICTED OF or PLEADS.

in violation of § 16-03-0910 of the S.C. Code of Laws, bearing CDR Code # 0095
NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC w/minor 1st or Lewd Act) § 17-25-45

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury (defendant's initials)
The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST: Kneese Shealy Jennifer SC Bar# Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,
for a determinate term of 30 days/months/years or under the Youthful Offender Act not to exceed years
and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment
of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.

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 the State Department of Corrections.
The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal
Domestic Violence.) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered
Total: \$ plus 20% fee: \$
Payment Terms:
Set by SCDPPPS

PTUP
days/hours Public Service Employment
Obtain GED
Attend Voc. Rehab. or Job Corp.
May serve W/E beginning
Substance Abuse Counseling
Random Drug/Alcohol testing
Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ beginning
\$ paid to Public Defender Fund
Other:

Table with 3 columns: Description, Amount, Total. Includes items like § 14-1-206 (Assessments 107.5%), § 14-1-211(A)(1) (Conv. Surcharge) \$100, § 14-1-211(A)(2) (DUI Surcharge) \$100, § 56-5-2995 (DUI Assessment) \$12, § 56-1-286 (DUI Breath Test) \$25, Proviso 47.9 (Public Def/Prob) \$500, § 14-1-212 (Law Enforce. Funding) \$25, § 14-1-213 (Drug Court Surcharge) \$150, § 50-21-114 (DUI Breath Test Fee) \$50, § 56-5-2942(J) (Vehicle Assessment) \$40/ca, Proviso 90.5 (SCC/A Surcharge) \$5, 3% to County (if paid in installments) \$, TOTAL \$133.90

Appointed PD or appointed other counsel, § 47-12 requires \$500 be paid to Clerk during probation.

Clerk of Court/Deputy Clerk: Amanda Hallender
Court Reporter:
SCCA/217 (03/2011)

ATTEST: A TRUE COPY
JULIE L ARMSTRONG (SISA)
CLERK, C.P. OR P.F.C.
By: DEPUTY CLERK

Presiding Judge:
Date: 11/7/14

334

JAN 20 11 208413

WITNESSES

Charleston County Sheriff

AGENCY CASE NUMBER

2011020074B

ARREST WARRANT NUMBER

M605186

DATE OF ARREST

December 8, 2011

ACCORDS OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury
Date:

JUN 11 2012

VERDICT

GUILTY

Foreperson of Petit Jury

Date:

INDICT

DOCKET NO. 2012GS1003305

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

June Term 2012

THE STATE

vs.

LATRONE TERRELL BUTLER

DOB: [REDACTED]

B/M

Indictment for

Kidnapping

ATTEST: A TRUE COPY
JULIE J. ARMSTRONG (SEAL)
CLERK, C.P., S.S. & F.F.

By

DEPUTY CLERK

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

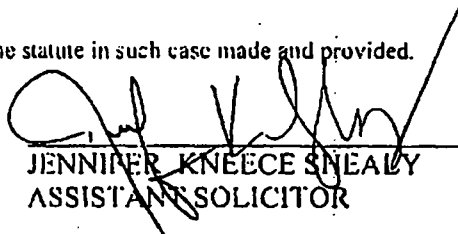
INDICTMENT

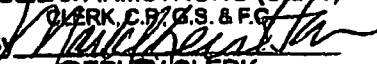
At a Court of General Sessions, convened on June 11, 2012 the Grand Jurors of Charleston County present upon their oath:

Kidnapping

That in Charleston County, South Carolina, on or about December 5, 2011, the Defendant, LATRONE TERRELL BUTLER, unlawfully did seize, confine, inveigle, decoy, kidnap, abduct or carry away the victim, Letty Martin, without authority of law; all in violation of Section 16-3-910 of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


JENNIFER KNEECE SNEALY
ASSISTANT SOLICITOR

ATTEST: A TRUE COPY
JULIE J. ARMSTRONG (SEAL)
CLERK, C.P., C.S. & F.G.
By 
DEPUTY CLERK

336

ARREST WARRANT

M-605186

STATE OF SOUTH CAROLINA

County/ Municipality of

Charleston

THE STATE
against

Latrone Terrell Butler

Address:

Phone: SSN:
Sex: M Race: B Height: 5 11 Weight: 190
DL State: SC DL #:
DOB: Agency ORI #: SC0100000
Prosecuting Agency: Charleston County Sheriff
Prosecuting Officer: James B. Perkins - 0208
Offense: Kidnapping / Kidnapping

Offense Code: 0095
Code/Ordinance Sec: 16-03-0910

This warrant is CERTIFIED FOR SERVICE in the
 County/ Municipality of
The accused
is to be arrested and brought before me to be
dealt with according to the law.

(L.S.)

Date:

RETURN

A copy of this arrest warrant was delivered to
defendant on

RETURN WARRANT TO:

General Sessions
Charleston County Judicial Center
100 Broad Street, Suite 106
Charleston, SC 29401

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

County/ Municipality of

Charleston

Personally appeared before me the affiant, James B. Perkins

being duly sworn deposes and says that defendant Latrone Terrell Butler

did within this county and state on or about 12/5/2011 violate the criminal laws of the

State of South Carolina (or ordinance of County/ Municipality of Charleston

in the following particulars:

DESCRIPTION OF OFFENSE: Kidnapping / Kidnapping.

I further state that there is probable cause to believe that the defendant named above did commit
the crime set forth and that probable cause is based on the following facts:

SEE ATTACHED AFFIDAVIT

Signature of Affiant

STATE OF SOUTH CAROLINA

County/ Municipality of

Charleston

Affiant's Address

Affiant's Telephone

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 12/5/2011 defendant Latrone Terrell Butler

did violate the criminal laws of the State of South Carolina (or ordinance of

County/ Municipality of Charleston) as set forth below.

DESCRIPTION OF OFFENSE: Kidnapping / Kidnapping.

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or
her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as
soon thereafter as is practicable
Sworn to and subscribed before me

on 12/8/2011

Signature of Judge
David Wilson Coker
Judge Code: 5535

Judge's Address: 4045 Bridge View Drive
Charleston, SC 29419

Judge's Telephone: (843)202-6610

Issuing Court: Magistrate Municipal Circuit

ORIGINAL

ORIGINAL

ORIGINAL

ATTEST: A TRUE COPY
JULIE J. ARMSTRONG (SEAL)

By *[Signature]*
DEPUTY CLERK

ORIGINAL

Form Approved by
U.S. Attorney General
April 21, 2003
SCCA 318

AFFIDAVIT



BAIL set by

WITNESSES

Judge Bligen
on 12-9-11
Type and Amount: \$ 100,000
Name of Surety: _____

Name: _____
Address: _____
Telephone: _____
Name: _____
Address: _____
Telephone: _____

PRELIMINARY HEARING held by

Judge _____
on _____
Defendant Attorney: _____
Decision: _____

Name: _____
Address: _____
Telephone: _____
Name: _____
Address: _____
Telephone: _____

DISPOSITION before

Judge _____
on _____
by _____
(indicate jury trial, bench trial, plea, not. pros., etc.)

Name: _____
Address: _____
Telephone: _____
Name: _____
Address: _____
Telephone: _____

Disposition: _____
Sentence: _____

JURORS

Name: _____
Address: _____
Telephone: _____
Name: _____
Address: _____
Telephone: _____

CODEFENDANTS

FILED
2011 DEC 13 AM 10:57
JULIE J. ARMSTRONG
CLERK OF COURT
By _____

ATTEST: A TRUE COPY
JULIE J. ARMSTRONG (SEAL)
CLERK, C.P., G.S. & F.C.
By [Signature]
DEPUTY CLERK

Charleston County Sheriff's Office
Criminal Investigations Division
Phone (843) 554-2475



3505 Pinehaven Drive
Charleston Heights, SC 29405
FAX (843) 554-9744

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

AFFIDAVIT

OCA # 2011-020074-B

Personally appeared before me, a magistrate of this County, one Detective J. Perkins, who, first being duly sworn, deposes and says that

LATRONE TERRELL BUTLER

did within this County and State on or about the 5th day of December, 2011, violate the criminal laws of the State of South Carolina in the following particulars:

DESCRIPTION OF OFFENSE
KIDNAPPING
16-3-910

The affiant states that there is probable cause to believe that the defendant named above did commit the crime(s) set forth, and that such probable cause is based on the following facts:

That on December 5, 2011, while at [REDACTED] Highway, in the County and State aforesaid, the above named defendant, **LATRONE TERRELL BUTLER**, did commit offense of violation section 16-3-910 of the South Carolina Code of Laws, 1976 as amended, **KIDNAPPING**, in that he did willfully, unlawfully, and feloniously did abduct and carry away the victim, one Letty Martin, against her will and without authority of law after he carjacked her while she was operating a 1996 Acura TL bearing SC registration AHP 317, VIN# JH4UA3635TC014432 and would not allow her to leave.

The facts to establish the aforesaid are that on December 5, 2011, members of the Charleston County Sheriff's Office responded to [REDACTED] Highway, Charleston SC. Upon arrival, Deputies met with the victim, Letty Martin, who had visible bruising consistent with being assaulted. Victim Martin advised that an unknown suspect grabbed her, forced her into the vehicle and held her there against her will and made her drive to Hyde Park Road. The suspect repeatedly told her while holding her against her will inside her vehicle that he would kill her if she did not follow all of his commands. Upon arrival of deputies, they observed visible injuries consistent with a physical confrontation. Victim Martin further stated that the unknown suspect was not wearing a mask and she could clearly see his face, nor did the suspect see any gloves being worn by the suspect.

That on December 7, 2011, Detective C. Smith met with Victim Martin at the Charleston County Sheriff's Office. Once at the Sheriff's Office, victim Martin was showed a six (6) picture photographic lineup including one with the defendant, Latrone Terrell Butler. Victim Martin positively identified the defendant, Latrone Terrell Butler, in a six (6) picture photographic lineup as the assailant who carjacked and held the victim against her will not allowing her to leave.

This information was revealed through the investigation of Detective J. Perkins of the Charleston County Sheriff's Office, and through the signed written statement of the victim, Letty Martin. They are both witnesses to prove the same against the form and dignity of the State.

Sworn to and Subscribed before me

This 5 day of December 2011

Signature of Judge

[Signature]
Detective J. Perkins
Charleston County Sheriff's Office
3505 Pinehaven Drive
North Charleston, SC 29405

ATTEST: A TRUE COPY
JULIE J. ARMSTRONG (SEAL)
CLERK OF COURT
By [Signature]
DEPUTY CLERK

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."

February 17th, 2015



Kathrine H. Hudgins
Appellate Defender


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

ATTORNEY FOR APPELLANT

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."

February 17th, 2015



Kathrine H. Hudgins
Appellate Defender

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

ATTORNEY FOR APPELLANT

RECEIVED

FEB 19 2015

SC Court of Appeals

STATE OF SOUTH CAROLINA,
IN THE COURT OF APPEALS

ORIGINAL

Appeal from Charleston County
Roger M. Young, Circuit Court Judge

RECEIVED

FEB 17 2015

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

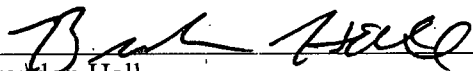
LATRONE TERRELL BUTLER,

APPELLANT

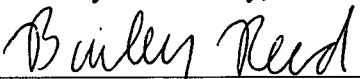
APPELLATE CASE # 2014-000189

CERTIFICATE OF SERVICE

I certify that a true copy of the Record on Appeal in the above referenced case has been served upon Salley W. Elliott, Esquire, at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201 this 17th day of February, 2015.


Brandon Hall
Administrative Specialist

SUBSCRIBED AND SWORN TO before me
this 17th day of February, 2015.

 (L.S.)
Notary Public for South Carolina

My Commission Expires: October 24, 2021