

STATE OF SOUTH CAROLINA

In The Court of Appeals

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APPEAL FROM CHARLESTON COUNTY

S.C. Supreme Court

Roger M. Young, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

SHELDON LAMAR KELLY,

APPELLANT

APPELLATE CASE NO. 2014-000918

RECORD ON APPEAL

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STATE OF SOUTH CAROLINA)
) TRANSCRIPT OF RECORD
 -vs-)
SHELDON LAMAR KELLY,)
) April 7-9, 2014
) Charleston, South Carolina
 Defendant.)

B E F O R E:

The Honorable Roger M. Young, Sr., Judge.

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1 to be on the record. It's a court of record, so when I
2 say privately, the court reporter has got to hear it,
3 listen in, and, depending on what the question is and
4 where we're at in the process, the lawyers as well.

5 The case that has been called for trial is
6 the State of South Carolina versus Sheldon Lamar Kelly.
7 Mr. Kelly has been indicted on three charges, and I will
8 read you those charges in just a minute, but I want to
9 tell you, again, the fact that the State indicted him in
10 front of a grand jury does not give any presumptions of
11 guilt, nor did the fact that he is again charged with
12 these crimes should that be considered by you as evidence
13 in any way of guilt.

14 The indictments are simply our way of letting
15 the defendant know that he has been charged with these
16 crimes, what those crimes are, when they took place, and
17 that allows him to come to court and stand trial for
18 them. These are not evidence and aren't to be considered
19 by you as evidence.

20 So the first indictment is for the crime of
21 carjacking, and that is indictment 2012-GS-10-06924, and
22 it alleges that in Charleston County, South Carolina, on
23 or about December the 19th, 2011, the defendant, Sheldon
24 Lamar Kelly, did take or attempt to take a Kia Optima
25 motor vehicle from Veronica Frutcheby by force, violence

1 or intimidation, while Veronica Frutchey was operating
2 the vehicle or inside of the vehicle in violation of
3 section 16-3-1075(d)1 of the South Carolina code of laws
4 as amended. Again, this was an indictment, and Mr. Kelly
5 has pled not guilty to that indictment.

6 The second indictment is for
7 2012-GS-10-06929, and it is an indictment for kidnapping,
8 and it alleges that in Charleston County, South Carolina,
9 on or about December 19th, 2011, the defendant, Sheldon
10 Lamar Kelly, unlawfully did seize, confine, inveigle,
11 decoy, kidnap, abduct, or carry away the victim, Veronica
12 Frutchey, without authority of law, all in violation of
13 section 16-3-910 of the South Carolina Code of Laws as
14 amended. Mr. Kelly pled not guilty to that indictment.

15 The final indictment is for possession of a
16 knife during the commission of a violent crime, and that
17 is indictment 2012-GS-10-06930, and it alleges that in
18 Charleston County, South Carolina on or about December
19 19, 2011, the defendant, Sheldon Lamar Kelly, did possess
20 a knife or visibly display what appears to be a knife
21 during the commission or attempted commission of
22 carjacking and kidnapping, both violent crimes.

23 This is in violation of section 16-23-490 of
24 the South Carolina Code of Law as amended, and, again,
25 Mr. Kelly pled not guilty to that indictment as well.

1 talk all afternoon, so I will now turn it over to the
2 lawyers to make their opening statements for the State.

3 Madame Solicitor?

4 MS. BALDWIN: Thank you, Your Honor.

5 Good afternoon. December 19, 2011 was a
6 terrifying day for Veronica Frutchey. It didn't start
7 out that way, though. It was a very normal day. She was
8 at work. Ms. Frutchey also goes by Ronnie as a nickname,
9 so you'll hear people refer to her as that throughout the
10 case.

11 It was around Christmastime. Ronnie was
12 working at Charles Blanchard Construction in North
13 Charleston on Rivers Avenue. She was going to bring
14 ornaments over to her boss's house to help decorate his
15 tree, and she decided to leave work a little bit early,
16 about 4:00 in the afternoon, still light outside. Her
17 car was parked on the side of the building and there were
18 parking spaces there.

19 Ronnie got into her car with her ornaments,
20 opened up the door, started her car, put the ornaments
21 down. She was getting everything situated in her car,
22 and then all of a sudden, her life changed, because all
23 of a sudden she heard someone say, Move over, bitch, and
24 a man pushed her over and got into her car.

25 Now, Ronnie didn't know who this person was.

1 All she could see was a tall black male. He had some
2 acne marks on his face. He was dressed in all black, and
3 he had a black knit cap on his head, and suddenly, this
4 person was telling her to move over and getting in her
5 car, and Ronnie told him, Just take the car. He could
6 have it. She wasn't going to put herself in further
7 danger over it.

8 Apparently that wasn't good enough for the
9 man. Told her to get into the passenger side and buckle
10 up. He put a knife to her stomach. Ronnie acted like
11 she was complying with what he wanted. She acted like
12 she would get into the passenger side and put her seat
13 belt on, but instead, she tried to run. She tried to get
14 out of that passenger door. She opened it up, but that
15 man wasn't going to allow that. He didn't just want the
16 car.

17 He grabbed her by the hair, pulled her back
18 in and wrapped his forearm around her neck. At the same
19 time he was trying to get away in the car with Ronnie, he
20 was trying to put the car into drive -- into reverse, to
21 back out of the parking spot, and that was the moment
22 that Ronnie really realized he wasn't just there for the
23 car. He was there to take her as well.

24 At that moment, she knew she was in a fight
25 for her life. She struggled to break free from him, and

1 every time he put the car into drive she would put it
2 back into neutral so the man couldn't take her. He hit
3 the horn, hoping that someone in the office would hear
4 her and come to her aid because there were people still
5 in the building working.

6 She also scratched her assailant in the face
7 because, she will tell you, she wanted to make sure if
8 that man did get away with her and her car he wasn't
9 going to get away with the crime. She wanted to make
10 sure that no matter what happened to her he would be
11 caught.

12 And luckily for Ronnie, the man didn't get
13 too far with her car and her. Two of her co-workers,
14 David May and Matt O'Donnell, heard the honking and came
15 running outside to see someone in the car, in the
16 driver's seat, excuse me, with his arm wrapped around
17 Ronnie's neck.

18 David May went to the passenger side and
19 tried to get Ronnie out. It was his only focus, to get
20 her out and get her safe; however, the man still wouldn't
21 let go. He still wanted to take Ronnie. When May
22 realized that, he grabbed the man by his black shirt so
23 he could hold on to him, but that man managed to break
24 free and he ran. They tried to chase him down but he got
25 away.

1 The police were called. They did everything
2 that they could to locate the person. They canvassed the
3 neighborhood, brought a K-9 unit in to track the man, did
4 a composite sketch with Ronnie to see if that could get
5 him anything. They also collected at the scene swabs
6 from underneath Ronnie's fingernails because she told
7 them that she scratched him in the face.

8 They also found the black hat that he wore
9 inside of her car and a piece of black cloth on the
10 ground in the direction that this person ran. However,
11 for six months, nothing happened. No suspect was
12 located. The police couldn't find anyone, and Ronnie's
13 assailant remained free. The police would occasionally
14 do a photo lineup with her if they came up with a person
15 that matched the description they received from Ronnie,
16 but no identification was ever able to be made.

17 Then in June of 2012, they matched the DNA
18 from Ronnie's nails to someone, and that someone was the
19 defendant, Sheldon Lamar Kelly. The police call Ronnie
20 in, and she identifies Mr. Kelly as her attacker.
21 Further testing shows that the black hat that Ronnie's
22 assailant left behind had also belonged to Mr. Kelly, and
23 the black cloth on the ground belonged to him as well,
24 and it became clear that Mr. Kelly was the person that
25 attacked Ronnie, put a knife to her stomach and who tried

1 to kidnap her and take her car.

2 Which is why, when you hear from Ronnie and
3 her co-workers and see and hear all of the evidence, you
4 will find Mr. Kelly guilty of carjacking, kidnapping, and
5 of possession of a knife during the commission of a
6 violent crime.

7 Thank you.

8 THE COURT: Yes, ma'am?

9 MS. PARNALL: Thank you, Your Honor. Good
10 afternoon. Anyone who has ever dealt with a real estate
11 agent, real estate firm, buying property, selling
12 property, renting property, has probably heard these
13 three words: Location, location, location. These three
14 words make up the most important rule of real estate, the
15 idea behind, which is that identical property can have
16 significantly different value depending upon the location
17 where it sits.

18 This same motto, location, location,
19 location, can also equally apply to this case. Here it
20 applies because Mr. Kelly and Ms. Frutchev picked a very
21 unfortunate location to conduct their business. The
22 State is going to put up numerous witnesses to tell you
23 the story that you just heard in brief.

24 Witnesses are going to show that Mr. Kelly
25 was in Ms. Frutchev's car. They're going to put up DNA

1 evidence to show that Mr. Kelly was involved in an
2 argument and a struggle with Ms. Frutchey. They're also
3 going to put up a witness to try to show that Mr. Kelly
4 had a motive, that he was there to steal Ms. Frutchey's
5 car.

6 When you finally hear from the defense
7 witnesses, you're going to learn that the DNA, the
8 identification of it, is unnecessary, because Mr. Kelly
9 is not disputing that he was in Ms. Frutchey's car.
10 Mr. Kelly is not disputing he was in an argument with Ms.
11 Frutchey. In fact, Mr. Kelly knew Ms. Frutchey before
12 that day. When you do hear from the defense witnesses,
13 you're going to learn that evidence boils down to those
14 three words: Location, location, location.

15 The location where this happened was a
16 parking lot, a commercial parking lot on Rivers Avenue
17 outside a construction office. Mr. Kelly had ties to
18 this location. This was an area where he lived, an area
19 where he had worked. In fact, he returned on that day to
20 check on a work uniform.

21 Mr. Kelly was very comfortable in this area.
22 He had friends in the nearby neighborhood of Accabee. He
23 also had a drug dealer located there. Ms. Frutchey also
24 had ties to this location. This was a parking lot
25 outside the construction company where she had a good

1 job, but work was not her only tie to this location.

2 You will hear that Ms. Frutchev had a drug
3 habit, that she saw an opportunity to supply that drug
4 habit when she approached a local black man that she saw
5 in that very same parking lot. Mr. Kelly and
6 Ms. Frutchev conducted several drug transactions in that
7 same parking lot. Because this was a location that was
8 familiar, and also is convenient to both of them, on the
9 day in question, Mr. Kelly made a bad decision to cheat
10 Ms. Frutchev out of some of her money.

11 Ms. Frutchev figured out that she had been
12 cheated while she was in the car with Mr. Kelly. She
13 demanded the money back, and when he refused, things got
14 very heated between them. You're going to hear Mr. Kelly
15 did get out of that car and he did leave that area but
16 not before two concerned people came outside and saw
17 Ms. Frutchev out there.

18 These were co-workers of Ms. Frutchev. They
19 approached the vehicle to try to figure out what the
20 commotion was all about. These people, these co-workers
21 were naturally very alarmed, because Mr. Frutchev was
22 very upset. She was struggling with a strange man in her
23 car, and Ms. Frutchev was left with the very unpleasant
24 task of trying to explain what was going on.

25 So she chose to create a story about a random

1 attack, a man who was trying to seize her or trying to
2 take her car, and as you listen, as you put these pieces
3 together, we ask that you reflect upon the location, a
4 location that was a commercial area that occurred during
5 a work day, during work hours, a place where both
6 Ms. Frutchey and Mr. Kelly were known and where both of
7 them had friends.

8 This is a location that is a logical setting
9 for quick, convenient drug deal. This is a location that
10 is not a logical setting for a carjacking or kidnapping,
11 as the State would have you believe. When you do hear
12 all this evidence and put together the pieces, we believe
13 you're going have no choice but to find Mr. Kelly not
14 guilty on all of these charges.

15 Thank you.

16 THE COURT: State ready to call your first
17 witness?

18 MS. BALDWIN: State calls Veronica Frutchey.

19 VERONICA FRUTCHEY,

20 having been first duly sworn,

21 was examined and testified as follows:

22 DIRECT EXAMINATION

23 BY MS. BALDWIN:

24 Q. Ms. Frutchey, tell the jury a little bit about
25 yourself. How old are you?

- 1 A. I am --
- 2 Q. Are you a little nervous?
- 3 A. Yes, I am. I'm 30 years old.
- 4 Q. And where are you from?
- 5 A. Originally North Charleston, South Carolina.
- 6 Q. Okay. Where do you work?
- 7 A. I work for Charles Blanchard Construction.
- 8 Q. And how long have you worked there?
- 9 A. I've worked there for about ten years.
- 10 Q. Doing what?
- 11 A. I'm an assistant project manager.
- 12 Q. So you were working there in December of 2011?
- 13 A. Yes.
- 14 Q. Do you go by a nickname?
- 15 A. I do.
- 16 Q. And what's that?
- 17 A. It's Ronnie.
- 18 Q. That's how most people know you?
- 19 A. Uh-huh.
- 20 Q. I'm going to bring you to December 19, 2011.
- 21 A. Yes.
- 22 Q. Talk to us about that day.
- 23 A. Okay. Well, I was -- I can go from leaving work,
- 24 right?
- 25 Q. Uh-huh.

VERONICA FRUTCHEY - DIRECT BY MS. BALDWIN

1 A. I was leaving work one afternoon to take my boss
2 some ornaments for his tree because he had just moved
3 into a new place.

4 Q. Are you close with your boss?

5 A. I am, yes.

6 Q. What is y'all's relationship?

7 A. He's my godfather.

8 Q. You said you were taking some ornaments?

9 A. Yes, and so I had the ornaments in my hand. I got
10 in the car, turned the car on, and set the ornaments over
11 in the passenger seat. When I turned back, I heard, Move
12 over, bitch, and there is a black man next to my car.

13 So --

14 Q. Let me stop you real quick.

15 A. Uh-huh.

16 Q. So you start your car?

17 A. Uh-huh.

18 Q. Was the door open or closed?

19 A. It was open.

20 Q. And somebody said, Move over, bitch, to you?

21 A. Uh-huh.

22 Q. Did you know the person?

23 A. I did not.

24 Q. Okay.

25 A. I looked. I said, Are you serious? And went to

1 close the door on my car, and the guy pulled it right
2 back open and forced his way into the car, where he and I
3 were both sitting in the passenger seat -- the driver's
4 seat. He told me to get over in the passenger seat and
5 put on my seat belt. So I just -- I was sort of in shock
6 at the time, you know, so I was moving over to the
7 passenger seat.

8 He then -- I was laying across my center console,
9 and he put a knife up to my stomach and said, Don't do
10 anything stupid.

11 Q. When you said you were lying across the center
12 console, where were your feet?

13 A. They were still on the driver's side. I hadn't
14 moved them over to the passenger side of the car yet,
15 so --

16 Q. And where was the top half of your body then?

17 A. It was going into the passenger seat. I was
18 leaning back into the passenger seat.

19 Q. So what happened next, after you said you were
20 lying across the center console?

21 A. Uh-huh.

22 Q. Then what did he say?

23 A. He held a knife to my stomach, my belly, and said,
24 Don't do anything stupid.

25 So I finished getting over into the passenger

VERONICA FRUTCHEY - DIRECT BY MS. BALDWIN

1 seat. I looked at him, I said, Listen, you can have the
2 car. I don't want it.

3 He just looked at me. He didn't really say
4 anything at that point, and I knew that I had to get out
5 of the car. I tried, so I acted like I was going to put
6 on my seat belt, and as soon as I had a chance, I opened
7 my car door and went out. Then the guy grabbed me by the
8 back of my head and pulled me back in by my hair then put
9 his arm around my neck, and -- we struggled for a while.
10 I was hitting the horn, trying to get anybody's
11 attention, yelling.

12 Q. What were you yelling?

13 A. I screamed help, you know, somebody help, and it
14 wasn't working. And then I would hit the horn whenever I
15 had a chance, and he was, of course, trying to pull me
16 away from the horn. He tried to put my car in gear to
17 back it out of my spot, and I would throw it out of gear.
18 We did this for a little bit.

19 Q. Do you drive -- what kind of car do you drive?

20 A. I drove a Kia Optima. Well, I drove a Kia Optima.

21 Q. Was it manual or automatic?

22 A. It was automatic.

23 Q. Okay. Continue.

24 A. And, finally, he, I guess, got tired of me
25 fighting. He said, I know what I need to do to you, and

1 he grabbed -- put me in a harder choke hold, and I
2 struggled with him for a little bit. Then I finally just
3 went limp. I quit struggling, and he sort of loosened up
4 on me, I guess, thinking I had passed out or whatnot.

5 Q. Why did you go limp?

6 A. To get him to loosen his grip because I couldn't
7 breathe. I was getting to the point where I couldn't
8 breathe anymore, so once he loosened up, I started on the
9 horn again and everything and throwing the car out of
10 gear, and then finally David and Matt came running out of
11 the office, my co-workers.

12 David came around to my passenger side door, was
13 pulling on me, trying to get me out, and the guy held on
14 me. When David realized he couldn't grab me out of the
15 car, he reached over and grabbed the guy, and then he --
16 once David got ahold of him, the guy fled, and I got out
17 of the car and Matt had run in to call the cops.

18 Q. Was this guy saying anything to you other than
19 what you said he said?

20 A. No. He said, Get over, you know, told me not to
21 do anything stupid and told me to put on my seat belt.

22 Q. What else did you do during the struggle besides
23 go limp? Scratch him at all?

24 A. Yes, I did. I scratched him to make sure I had
25 his skin under my fingers so that --

VERONICA FRUTCHEY - DIRECT BY MS. BALDWIN

1 Q. Why did you want to do that?

2 A. In case I didn't make it, and I knew somebody
3 would be able to find who did it.

4 Q. Why did you know that?

5 A. My boss, Mike, would always tell me to -- if I was
6 ever in a situation like that to fight because if they
7 took you somewhere, somebody wouldn't find your body, and
8 just so that you would have evidence.

9 Q. You're trying to survive and make sure that he was
10 caught?

11 A. Yes.

12 MS. BALDWIN: May I approach, Your Honor?

13 THE COURT: Uh-huh.

14 BY MS. BALDWIN:

15 Q. I'm going to show you what's been marked as
16 State's Exhibit 1. Could you tell me what that is.

17 A. That's my car.

18 Q. And where is your car?

19 A. It is in the driveway, basically.

20 Q. And State's Exhibit 4 --

21 A. Uh-huh.

22 Q. -- for identification.

23 A. It's where I would -- used to park.

24 Q. That's a picture of where you used to park?

25 A. Yes.

VERONICA FRUTCHEY - DIRECT BY MS. BALDWIN

1 Q. Why don't you park there anymore?

2 A. Because of this incident.

3 Q. And State's Exhibit 11.

4 A. Uh-huh.

5 Q. What is that?

6 A. That's the inside of my messy car and the knife in
7 the floorboard.

8 Q. State's Exhibit 13.

9 A. The inside of my car as well.

10 Q. 15 and 16, what are those?

11 A. The floorboard of my passenger seat.

12 Q. Okay, with the knife.

13 MS. BALDWIN: Your Honor, at this time I
14 would like to move to admit State's Exhibit 1, 4, 11, 13,
15 15, and 16 into evidence.

16 MR. GRIMES: No objection, Your Honor.

17 (State's Exhibit Nos. 1, 4, 11, 13, 15, and
18 16 were marked for identification and admitted into
19 evidence.)

20 THE COURT: They're admitted. You may
21 publish to the jury.

22 BY MS. BALDWIN:

23 Q. Let's put State's Exhibit 1 up there. That is the
24 picture of your car?

25 A. Yes, ma'am.

VERONICA FRUTCHEY - DIRECT BY MS. BALDWIN

1 Q. Was your car like that when you first got to that
2 location?

3 A. No, ma'am.

4 Q. Where is it typically?

5 A. It's in this parking spot.

6 Q. Okay. I'm going to show you State's Exhibit 4.
7 What's that?

8 A. That's the parking spot.

9 Q. Okay. And then we'll skip to State's Exhibit 13.
10 Actually, I think -- and what is that?

11 A. That's the inside of my car.

12 Q. Okay. Now, the two of you were sitting in that
13 driver's side?

14 A. Uh-huh.

15 Q. Were you sitting there for an extended period of
16 time?

17 A. No. It was not very long.

18 Q. And when you say you were laying over the console,
19 could you kind of point in there how your body was lying
20 across.

21 A. Well, my legs were over here still, and I was
22 leaning over like that.

23 Q. How tall are you, Ronnie?

24 A. I'm five-five.

25 Q. And then you moved into the passenger side?

1 A. Yes.

2 Q. And you tried to get out that way?

3 A. Uh-huh.

4 Q. Okay. State's Exhibit 11, what's that?

5 A. The inside of my car.

6 Q. Okay. What's on the floorboard there?

7 A. The knife and the ornaments.

8 Q. Those are the ornaments you were going to take?

9 A. Yes.

10 Q. State's Exhibit 15. And what's that?

11 A. The floorboard of my passenger side seat with the
12 ornaments.

13 Q. Could you just speak up a little bit so everybody
14 can hear you. I know you're kind of soft spoken.

15 A. That's the passenger side floorboard with the
16 knife and ornaments.

17 Q. You don't typically keep that knife in your car?

18 A. No.

19 Q. Have you ever seen that knife before?

20 A. I did not, I have not.

21 Q. State's Exhibit 16, could you put that up? Now,
22 Ronnie, did you know this person?

23 A. No.

24 Q. Had you seen him before?

25 A. No, not him. I had seen a guy who was similar

VERONICA FRUTCHEY - DIRECT BY MS. BALDWIN

1 walk through my parking lot, but I never really --

2 Q. When you saw him walk through the parking lot --
3 let's go back to State's Exhibit 1.

4 A. Uh-huh.

5 Q. When you say him walk through the parking lot,
6 where was he?

7 A. If I -- a lot of times he would come up through
8 the path that was -- if you go to the other picture,
9 where -- by my parking spot.

10 Q. State's Exhibit 4.

11 A. He would come through this path and then walk
12 through like that.

13 Q. All right. I'll show you what is State's Exhibit
14 7 for identification.

15 A. This is the front of our building.

16 MS. BALDWIN: At this time, I would like to
17 admit State's Exhibit 7.

18 MR. GRIMES: No objection.

19 THE COURT: Admitted.

20 (State's Exhibit No. 7 was marked for
21 identification and admitted into evidence.)

22 BY MS. BALDWIN:

23 Q. So when he would come through the parking lot and
24 you were parking, where were you?

25 A. I was here, on the hay bale.

1 Q. Would you guys have extensive conversations?

2 A. No.

3 Q. How many times would you see the person?

4 A. Three or four times.

5 Q. What injuries did you end up with? What injuries
6 did you suffer as a result of this altercation?

7 A. I had a cut on my neck. I had bruising around
8 here. My earring was pushed into my -- I guess my neck
9 as well and bruised back here and broke my earring. I
10 had a busted lip, and when he had pulled me back in the
11 car, a chunk of my hair was pulled out.

12 Q. Did it leave a big old bald patch?

13 A. I couldn't tell because it was so thick, but it
14 was a good handful of hair that he pulled out.

15 Q. And I may have asked you this already, but what
16 did this person that attacked you look like?

17 A. He was a tall black man. He -- light skinned, had
18 a little bit of acne on his face. He was tall. He
19 was -- you know, we could barely both fit in the car, in
20 the driver's seat together, and he had trouble
21 maneuvering my car because a lot -- once after we started
22 struggling, I was basically back in his lap when he had
23 me in the choke hold.

24 Q. So where were your feet facing again at that
25 point?

VERONICA FRUTCHEY - DIRECT BY MS. BALDWIN

1 A. This is after I tried to get out of the car. My
2 feet were facing the passenger side door. I was keeping
3 the door open with my feet, pretty much.

4 Q. And what was he wearing on his head?

5 A. He had a knit cap on.

6 Q. Long hair, short hair?

7 A. It was short.

8 Q. Let me show you State's Exhibit 22 through 27.

9 Could you tell me what those are.

10 A. Yes. These are pictures they took right after the
11 incident.

12 Q. Pictures of what?

13 A. Of me, my neck, the cuts on my neck.

14 MS. BALDWIN: At this time I would like to
15 admit State's 22 through 27 into evidence.

16 MR. GRIMES: No objection, Your Honor.

17 THE COURT: Admitted.

18 (State's 22, 23, 24, 25, 26 and 27 were
19 marked for identification and admitted into evidence.)

20 THE COURT: You may publish.

21 MS. BALDWIN: Thank you, Your Honor.

22 BY MS. BALDWIN:

23 Q. So is that you?

24 A. Yes.

25 Q. Why are you standing like that? What was going

1 through your head after this happened?

2 A. I was basically pretty much in shock at that
3 point, you know, just couldn't realize what -- you know
4 that, it had actually happened.

5 Q. State's 23, you were talking about scratch marks
6 on your neck. Would you point it out to me?

7 A. This one and this one, and then I've got a couple
8 smaller ones there.

9 Q. Do you know exactly when during the altercation he
10 got those?

11 A. No, ma'am.

12 Q. State's 24, what is that?

13 A. The scratches up close.

14 Q. And there's the time stamp on the top, military
15 time. Can you tell us what time it is? Can you tell us
16 military time?

17 A. I would have to count it. 4:59.

18 Q. When about did this whole incident take place?

19 A. Around 4:00, minute to.

20 Q. It's still pretty light outside?

21 A. Yes.

22 Q. During this incident, did you get a good look at
23 the person that was inside the car?

24 A. Yes.

25 Q. Was his face uncovered or covered?

VERONICA FRUTCHEY - DIRECT BY MS. BALDWIN

1 A. It was uncovered.

2 Q. How close to him were you?

3 A. I was in the passenger seat. He was in the
4 driver's seat, so about a foot.

5 Q. Did you view his face full on, profile?

6 A. I did get a look at his face and then --

7 Q. You have no clue who this person was.

8 A. No.

9 Q. I'll show you State's 26. What is that?

10 A. A scratch mark, I guess.

11 Q. And State's 27.

12 A. Those are my pants. I was not that dirty before
13 the altercation.

14 Q. Before the altercation, you weren't that dirty; is
15 that what you said?

16 A. Yeah, yeah.

17 Q. So when the police came, did you tell them what
18 happened?

19 A. Yes.

20 Q. What did they do?

21 A. Well, I mean, it was funny. I told them that I
22 kept telling them I scratched the guy, I scratched the
23 guy, but nobody really came up to me at that point. They
24 were -- they had asked me for the description, and then
25 they were trying to find him, and then I finally had --

1 an officer asked me to give him my statement.

2 Actually, my godfather came up to me and tried to
3 hug me, and one of the officers told him until the crime
4 scene he got there he couldn't touch me, and I was -- I
5 gave my statement and then the crime scene got there and
6 took me.

7 Q. You're a smoker?

8 A. Yeah.

9 Q. Of cigarettes?

10 A. Yes.

11 Q. Did they let you smoke a cigarette before crime
12 scene got to you?

13 A. No.

14 Q. And you gave the police the statement?

15 A. Yes.

16 Q. You told them what happened?

17 A. Uh-huh.

18 Q. You told them the -- gave them a description of
19 the suspect?

20 A. I did.

21 Q. Okay. Did you eventually make -- go into the
22 police station and do an identification?

23 A. I -- yes, I did.

24 Q. Okay. Tell us about that.

25 A. Well, I did a couple of them.

VERONICA FRUTCHEY - DIRECT BY MS. BALDWIN

1 Q. How many did you do, do you remember?

2 A. Three or four.

3 Q. Did you -- in the first three, or the first two,
4 did you make an identification?

5 A. No.

6 Q. Why not?

7 A. Because I didn't see the guy in bright lights.

8 Q. How long after this occurred did you make an
9 identification?

10 A. It was about six months.

11 Q. And you went down to the police station?

12 A. I did.

13 Q. They did a lineup with you?

14 A. Uh-huh.

15 Q. And you picked out somebody?

16 MR. GRIMES: Objection, Your Honor. Leading.

17 THE COURT: Rephrase.

18 BY MS. BALDWIN:

19 Q. How sure were you that when you made the
20 identification that that was the person that attacked
21 you?

22 A. I was fairly certain. The only thing that when I
23 was describing the guy, I did not -- the car threw me off
24 that's in the picture.

25 Q. You stated earlier that the person that attacked

1 you had something on his head?

2 A. Right. He had a knit cap on his head.

3 Q. How far down on his head was it pulled?

4 A. It was about here (indicating).

5 Q. What, if anything, has changed about the security
6 measures at your work since this happened?

7 A. Well, I cannot park on that side of the building.
8 We've added security cameras, and I have to leave work
9 with the last person. I can't stay, you know, any later.

10 Q. Have you changed your life at all?

11 A. Yes.

12 Q. How so?

13 A. I took up self-defense courses.

14 MR. GRIMES: Objection, Your Honor.
15 Relevance.

16 THE COURT: Sustained.

17 MS. BALDWIN: Thank you, Your Honor. Begging
18 the Court's indulgence.

19 Ronnie, I don't have any further questions at
20 this time. Please answer any questions Mr. Grimes has.

21 MR. GRIMES: May it please the Court?

22 THE COURT: Go ahead.

23 MR. GRIMES: Thank you, Your Honor.

24 CROSS-EXAMINATION

25 BY MR. GRIMES:

VERONICA FRUTCHEY - CROSS BY MR. GRIMES

1 Q. Good afternoon, Ms. Frutche. I just want to ask
2 you a few questions, okay?

3 A. Okay.

4 Q. The location of Charles Blanchard Construction is
5 off Rivers Avenue?

6 A. Yes, sir.

7 Q. And near that location is Lionheart Trucking?

8 A. Yes.

9 Q. And you said that the person who walked through
10 your driveway or parking lot three or four times worked
11 for Lionheart Trucking?

12 A. Yes, sir.

13 Q. And you sort of had some interaction with him when
14 you were outside smoking?

15 A. Yeah. It was just basically say hi.

16 Q. And you told the police that person resembled the
17 person that attacked you?

18 A. I did.

19 Q. And you told him that the person from Lionheart
20 Construction was always nice to you?

21 A. It's not construction.

22 Q. I'm sorry, Lionheart Trucking?

23 A. Yes.

24 Q. But was always nice to you?

25 A. I did say that.

1 Q. Now I want to ask you a few questions about your
2 statement to police. You were in shock afterwards. Were
3 you able to give them a full and complete statement about
4 what happened?

5 A. I was.

6 Q. Okay. But today you testified about going limp?

7 A. Uh-huh.

8 Q. Do you recall telling the police that?

9 A. No, I didn't.

10 Q. And you also testified about scratching somebody
11 to have evidence in case you were taken or something, and
12 you never told the police that either, did you?

13 A. I told them I scratched him.

14 Q. Did you tell them that you scratched him so you
15 could have evidence on your nails or scratched him
16 because it was fighting?

17 A. No, I didn't tell them to have evidence under my
18 nails. I assumed they would know that.

19 Q. All right. And in your statement to police, you
20 said you scratched him, you believe, on your face but
21 also somewhere on his body, right side of his body,
22 correct?

23 A. Uh-huh.

24 Q. At that point you weren't sure exactly where you
25 scratched him, were you?

VERONICA FRUTCHEY - CROSS BY MR. GRIMES

1 A. Right, because I was just trying to scratch him to
2 get his skin.

3 Q. And I would ask you a couple questions about your
4 job.

5 You said you worked at Charles Blanchard
6 about ten years.

7 A. Yes.

8 Q. And you're assistant project manager?

9 A. Yes.

10 Q. And it's a fairly good job?

11 A. Yeah.

12 Q. And the economy being as it is, going up and down,
13 you want to keep that job?

14 A. Right.

15 MR. GRIMES: Could I have one moment, Your
16 Honor?

17 Thank you, Your Honor. I have no further
18 questions.

19 THE COURT: Redirect?

20 MS. BALDWIN: No, Your Honor.

21 THE COURT: You may step down.

22 Do you have a real short witness?

23 MS. BALDWIN: Yes. We have a short witness.

24 THE COURT: Call him.

25 MS. LINDER: Matt O'Donnell.

MATTHEW O'DONNELL - DIRECT BY MS. LINDER

1 MATTHEW O'DONNELL,
2 having been first duly sworn,
3 was examined and testified as follows:

4 DIRECT EXAMINATION

5 BY MS. LINDER:

6 Q. Good afternoon, Mr. O'Donnell. Where are you
7 from?

8 A. I was born in Isle of Palms, raised in Isle of
9 Palms in Mount Pleasant.

10 Q. And where do you work currently?

11 A. I work at Charles Blanchard Construction.

12 Q. And is that the same place you were working back
13 in December of 2011?

14 A. Yes, ma'am.

15 Q. And do you know the victim, Veronica Frutchey, in
16 this case?

17 A. Yes. She's an employee.

18 Q. And do you know why you're here today?

19 A. Yes, I do.

20 Q. And why is that?

21 A. Well, because I was a witness to an incident.

22 Q. Okay.

23 A. A very serious incident.

24 Q. Can you tell the jury what happened on that
25 afternoon in December of 2011.

MATTHEW O'DONNELL - DIRECT BY MS. LINDER

1 A. I was sitting at my desk, and all of a sudden, I
2 started hearing a car horn honking. And several seconds
3 went by, and David May, my co-worker, and I both got to
4 the front door about the same time because we realized
5 that the car horn -- at first we thought might -- I
6 thought it might have been an alarm going off, but it
7 wasn't. It was more erratic than that.

8 So I went to the front door, and David was right
9 in front of me, and I said, Is that Ronnie?

10 Q. And what did you do after you got to the front
11 door, wondering if it was Ronnie?

12 A. Well, David, you know, beat me -- he was in front
13 of me, and we went out toward the side of the building,
14 and Ronnie's car was backed out of the parking lot at a
15 catty-corner and the alarm was going and the windshield
16 wipers were going, and it just seemed like a very
17 panicked situation.

18 Q. And did you see Ronnie in or around her car at
19 that time?

20 A. David went to the passenger car door that I
21 believe was opened, and that's when I realized I got
22 close enough, I don't normally work with my glasses, I'm
23 not even wearing them now, but they stay in my car.

24 So I didn't have the benefit of being able to see
25 with my glasses, so I realized what was going on. I saw

1 a very large black man in the driver's seat. Ronnie and
2 David had already gotten to the passenger side and was
3 engaged in, you know, trying to grab Ronnie out of there,
4 and then I realized that we were in a very serious
5 situation.

6 Q. And all of this was happening in whose car?

7 A. Ronnie's car that she had. It was a black Kia.

8 Q. And what ended up happening as a result of David
9 getting up and getting in the mix, so to speak, of the
10 action in her car?

11 A. Within about -- I think the whole incident -- as
12 soon as David got there, because at first I was kind of
13 shielded, but then I realized that, you know, I'm kind of
14 on the wrong side of the car, and I still had to go
15 around the front of the car, and the whole incident
16 probably took about eight to ten seconds. It didn't seem
17 any longer, and then the gentleman in the car got out the
18 driver's side and just took off.

19 Q. And do you know what direction he ran?

20 A. He ran through our parking lot to old Meeting
21 Street Road and then behind an abandoned building.

22 Q. And did you end up calling 911?

23 A. Yes, I did.

24 Q. And did you speak to the police when they came on
25 the scene?

MATTHEW O'DONNELL - CROSS BY MS. PARNALL

1 A. Yes, I did.

2 MS. LINDER: Beg the Court's indulgence. I
3 don't have any other questions for you. If you could,
4 please answer anything the defense may have.

5 THE COURT: Cross?

6 MS. PARNALL: Thank you, Your Honor.

7 CROSS-EXAMINATION

8 BY MS. PARNALL:

9 Q. Good afternoon, Mr. O'Donnell. When this
10 happened, were you working inside the building?

11 A. Yes.

12 Q. And were you even aware that Ms. Frutchev was
13 outside in the parking lot when you first heard the
14 horns?

15 A. I didn't know, because normally if you walk by my
16 office, I would see you coming and going, but I didn't
17 know she was outside.

18 Q. So you wouldn't have been aware of how long she
19 might have been in the parking lot?

20 A. No. David might have known because he works in
21 the same office with her, so, I mean, my recollection is
22 that when I first got up, I didn't realize that Ronnie
23 was outside the building.

24 Q. And you were the second one to exit the building
25 and approach the car?

1 A. Yes.

2 Q. And you described that shortly after approaching
3 the car that's when you saw the man exit the vehicle.

4 A. Well, I mean, the whole incident -- everything, as
5 soon as I, you know, was there on the scene didn't
6 seem -- maybe it was 15 seconds, I didn't know. It
7 happened very quick, so --

8 Q. So you didn't get a very good look at what was
9 going on inside that vehicle?

10 A. I could tell that Ronnie was in the passenger seat
11 struggling with a large black individual who was in the
12 driver's seat. That's the first scene I saw, and the
13 engine was revved up -- it looked like somebody's foot
14 was to the floorboard, and it was very chaotic and that
15 there was a struggle going on already.

16 Q. Mr. O'Donnell, do you normally wear glasses?

17 A. I wear glasses to drive.

18 Q. Did you have them with you there that day?

19 A. They were in my car. Because I -- normally at my
20 computer I can't wear these glasses because they're for
21 distance, so when I come to work, I'm perfectly fine in
22 the office, working at my computer, so I generally need
23 glasses in the office.

24 Q. So you did not have them on at the time that you
25 exited the building and heard the car horn honking?

MATTHEW O'DONNELL - CROSS BY MS. PARNALL

1 A. No.

2 Q. You were naturally very concerned about Ms.
3 Frutchey's safety when you approached and saw what was
4 going on in her car, correct?

5 A. I was very alarmed.

6 Q. And so you would have wanted to know what was
7 going on and who the person was and if she knew them?

8 A. Well, I knew that it was in a very dangerous
9 situation. I perceived it as being a carjacking, so to
10 speak. I identified it within a couple seconds in my
11 mind that that seemed like it was occurring.

12 Q. You would consider Ms. Frutchey to be a physically
13 strong female?

14 A. Yes.

15 MS. PARNALL: I beg the Court's indulgence
16 for a moment.

17 That's all the question I have for this
18 witness, Your Honor.

19 THE COURT: Cross?

20 MS. LINDER: No redirect, Your Honor.

21 THE COURT: All right. You can step down.
22 Do you have another short witness?

23 MS. BALDWIN: We do, Your Honor.

24 THE COURT: Okay. Call him.

25 MS. BALDWIN: State calls David May.

DAVID MAY - DIRECT BY MS. BALDWIN

1 DAVID MAY,
2 having been first duly sworn,
3 was examined and testified as follows:

4 DIRECT EXAMINATION

5 BY MS. BALDWIN:

6 Q. Good afternoon, Mr. May.

7 A. Good afternoon.

8 Q. Where are you from?

9 A. Originally? Born in Arkansas, been all over,
10 military dependent.

11 Q. How long have you lived in Charleston?

12 A. Lived in Goose Creek since '97.

13 Q. And where do you work?

14 A. At Charles Blanchard Construction company.

15 Q. How long have you worked there?

16 A. Since 2008.

17 Q. Do you know the victim, Veronica Frutchey?

18 A. I did.

19 Q. How do you know her?

20 A. We are co-workers. We work in the same office.

21 Q. You know her pretty well?

22 A. Yes.

23 Q. Do you know why you're here today?

24 A. I do.

25 Q. Why is that?

DAVID MAY - DIRECT BY MS. BALDWIN

1 A. To testify in a case where she was attacked at our
2 workplace.

3 Q. Tell us about that. Did you see Ronnie that day?

4 A. I did.

5 Q. Did she at any point leave work?

6 A. At about -- as I recall, it was somewhere between
7 3:30 and 4 p.m. that day. She said she was going to
8 leave and run some errands, which is typically we leave
9 about 5:00, so she was leaving a little bit early.

10 Q. Was it unusual for somebody to leave a little bit
11 early?

12 A. In her case, yes. She normally stayed until 5:00,
13 but not tremendously unusual. If she needed to do it,
14 she would do it, so I said, All right. See you tomorrow,
15 and she left and went outside to her car.

16 Q. And then what happened?

17 A. She hadn't been gone but a few minutes, and I
18 began to hear a car horn honk, and at first I assumed
19 that she had set off her car alarm, but the honking
20 became very erratic, very unusual, and sounded panicked.

21 And it occurred to me something was wrong.
22 Something was going on, so I got up from my desk, and I
23 ran out of our building and around to the side of the
24 building where she was parked, to see what was going on.
25 And what I saw when I got out there was her car had been

1 backed about three quarters of the way out of its parking
2 place. It was slightly turned. The windshield wipers
3 were going on the car. The engine was racing full out,
4 and the passenger door was open.

5 I couldn't really see inside the car because there
6 was a glare on the front windshield, so I ran around to
7 the passenger side of the car and that's when I saw
8 Ronnie was -- her lower half was in the passenger seat of
9 the car and her feet were sticking out of the door, but
10 her upper part was being held back across the center
11 console of the car, and there was a man in the car that
12 had hold of her hair and her upper half. I could tell
13 when I looked at her I saw that she had -- there was
14 blood in her mouth. She had a big red mark on her neck.

15 My immediate instinct was get her out of the car,
16 so I reached in the car and I grabbed her around the
17 waist and I tried to pull her out of the car, and the man
18 wouldn't let go of her. He just pulled back, and I
19 realized at that point I wasn't doing anything but making
20 it worse on her, so I let go of her and I reached in
21 across her and I began to try to hit and fight with the
22 guy that was hanging on to her.

23 There is only so much you can could in a car doing
24 that, so at that point I reached over and I grabbed the
25 front of his -- he was wearing a big loose sweatshirt and

DAVID MAY - DIRECT BY MS. BALDWIN

1 I grabbed hold of a big handful of it, and at that point
2 one of my coworkers, Matt O'Donnell, was in the front of
3 the car, and he began to move around to the driver's side
4 too.

5 So kind of as that got set up, the guy in the car
6 just opened driver's door and forced his way out. I
7 couldn't hang on to him. He got out and took off running
8 around the corner of the building and away.

9 Q. I want to show you State's Exhibit 1. What is
10 that?

11 A. That is Ronnie's car.

12 Q. Where were you when you were trying to get her
13 out?

14 A. I was on the passenger side.

15 Q. And you can actually touch that screen and show
16 us. Can you show us on there which direction he ran when
17 he broke free?

18 A. So I'm standing over here. He goes out the
19 driver's door. He goes down to this corner of this
20 building and between these two buildings and then back
21 around the back side of that other building. I ran down
22 to watch him go around that corner and back around the
23 side and he took off up that street, that side street.

24 Q. What is behind y'all's building, behind your
25 office?

1 A. There is another building. There is a row of
2 woods, and then there is a railroad track, and on the
3 back side of those railroad tracks there is some low
4 lying woods with water back there.

5 Q. And what is past that?

6 A. There is another -- there's a neighborhood back
7 there.

8 Q. Did you get a chance to look at that guy's face?

9 A. I saw him from the side and it was very quick.
10 This happened really fast, and I really only got a side
11 view and pretty close-up view of his face as I was trying
12 to get in the car and fight with him to let go of Ronnie.

13 Q. I know you said he was wearing all black. What
14 did he look like?

15 A. Black man. He had on a knit cap, a black
16 sweatshirt. I believe he was wearing black sweat pants
17 as well. That was really it. I recall his complex. He
18 seemed to have heavier than normal acne on his face. I
19 seem to recall that, but other than that, there is not a
20 whole lot that I could really -- because, like I said, I
21 never really got a direct look at him, so --

22 Q. Was he old, young?

23 A. Younger man.

24 Q. And you told the police what happened?

25 A. I did.

DAVID MAY - CROSS BY MR. GRIMES

1 Q. What was Ronnie's demeanor when you came up to the
2 car?

3 A. Panicked and fighting. She was fighting with him.
4 She was blowing the horn on the car, and she was slapping
5 and scratching at him to get him to get him to let go of
6 her. Like I said, he had a handful of her hair. He had
7 her around the upper half, and he wasn't going to let her
8 out of that car.

9 Q. And about how long was it between the time she
10 left and the car honking?

11 A. It couldn't have been more than a couple minutes
12 at the most, long enough for her to walk around the side
13 of the building and open her car door and get in her car,
14 and then it started right then.

15 MS. BALDWIN: Beg the Court's indulgence. I
16 have no further questions for you. Please answer any
17 defense counsel may have.

18 CROSS-EXAMINATION

19 BY MR. GRIMES:

20 Q. May it please the Court: I'll ask you a couple
21 questions about the location of Charles Blanchard
22 Construction Company. It's off Rivers Avenue, right?

23 A. Correct.

24 Q. And you were talking about the neighborhood back
25 there. Is that the Accabee neighborhood?

1 A. I'm not certain of the name of it. I know we've
2 cut there before, and I know there's residential streets
3 with houses on them behind us.

4 Q. It is fairly close to where you work at?

5 A. It is. It's really just the one row of commercial
6 buildings, and then, like I said, a railroad track, a
7 little bit more woods, and then the neighborhood starts
8 up, so it's pretty close.

9 Q. All right. I'm going to ask you a couple
10 questions about the timeline in this case.

11 I think you testified that Ronnie left the office
12 sometime between 3:30 and 4:00?

13 A. As I recall. It seemed like it was around a
14 quarter till 4:00.

15 Q. So about 3:45?

16 A. I think so.

17 Q. Do you know what time the police were called in
18 this case?

19 A. I know immediately after the man took off running,
20 my co-worker, Matt O'Donnell, called 911, so --

21 Q. Did he call from his cell phone or did he have to
22 go back into the office and call from there?

23 A. I can't recall, to tell you the truth. At that
24 point, I came back from -- I went to see where the guy
25 ran to, and I came back to check to see where Ronnie was

DAVID MAY - CROSS BY MR. GRIMES

1 at. I do know that he already was making a 911 call. I
2 just don't know where he made it from.

3 Q. All right. And let me ask you a question about
4 the time frame and location a little bit. She left at
5 3:45, and, say, 4:15 or 4:19, would that be enough time
6 for somebody to drive to that neighborhood and come back?

7 A. I'm not sure I understand the question.

8 Q. If Ronnie left at 3:45, got back at 4:15, in that
9 half hour, could she have driven to that neighborhood you
10 talked about and come back?

11 A. That would be more than enough time. It would
12 only literally take a few minutes to drive to the
13 neighborhood and get back.

14 Q. And you said after she left -- you heard a horn a
15 few minutes after she left; is that correct?

16 A. Correct.

17 Q. And you went outside and you saw an incident
18 between someone in a car and her.

19 A. That's right.

20 Q. And you don't know what caused that incident, do
21 you?

22 A. At the time I didn't. I mean, it was -- like I
23 say, we came outside. The car was in an awkward
24 position, windshield wipers going, engine racing, no idea
25 what had transpired before that.

1 I knew once I came around to the passenger side
2 and looked in the car it didn't take very long to put
3 together that she had been attacked in her car, you know,
4 at that point, so --

5 Q. That's what you believed, right?

6 A. That's right.

7 Q. All right. And it sounds like although your
8 involvement was short, you had a pretty good time to see
9 what was going on because you reached into the car to
10 pull Ronnie out?

11 A. Right.

12 Q. Grab for him?

13 A. I was just the first one to the car. Matt and I
14 both -- as I recall, when I ran out of my office and was
15 heading out the front door, Matt, I passed Matt's office.
16 Matt asked me, Is that Ronnie? And I said I think so. I
17 think something is wrong, but by that time I was already
18 moving, so he was behind me. I just happened to be the
19 first one to get to the passenger door.

20 Q. And when you got to that car, did you see
21 Mr. Kelly or anybody with a knife?

22 A. I did not see a knife.

23 MR. GRIMES: May I have one moment, Your
24 Honor?

25 Thank you, Your Honor. No further questions.

DAVID MAY - RECROSS BY MR. GRIMES

REDIRECT EXAMINATION

BY MS. BALDWIN:

Q. Briefly, long it was from the time you saw Ronnie leave until when you heard the car honking?

A. It could not have been more than -- it couldn't have been more than two minutes, to be honest. It was probably more like a minute and a half. It would have been long enough for her to walk out the door, open her car up, and start it, and then it would have been honking immediately.

MS. BALDWIN: No further questions.

THE COURT: Recross?

MR. GRIMES: Briefly, Your Honor.

RECROSS-EXAMINATION

BY MR. GRIMES:

Q. You gave a statement to Detective Jourdan in this case, female detective?

A. Female detective. I recall that.

Q. December 19, about 4:48 sounds right?

A. I think so.

Q. And when she asked you about the time frame, you didn't say a minute and a half, did you?

A. I don't recall.

MR. GRIMES: Thank you. No further questions.

1 THE COURT: All right. You can step down.
2 Thank you.

3 We'll break for today. I'll send you home.
4 We talked a little about things you can't do when we
5 broke for lunch, and namely, when you go home tonight, of
6 course the first thing somebody is going to do is ask if
7 you got picked for a jury.

8 You can say, yeah, I did, but the judge told
9 me I can't talk to anybody about it, and I told the
10 reasons why. It's basically a fairness argument. It's
11 not fair to these folks to have you make your decision
12 what everybody thinks is on this -- the evidence you're
13 hearing in here, but you're influenced by people who
14 didn't hear anything about the case, don't know anything
15 about the case, and are just, you know, unduly
16 influencing you.

17 We're only going to be here for a few days,
18 so I don't think it's too much to ask to not talk about
19 the case, and I know that's hard to do, but it's
20 important that you not do it. It's another one of those
21 things that I don't need you to do is now go out and try
22 to find out about the case. Don't go riding by the
23 scene, don't go trying to find out anything about the
24 case on the Internet. Don't go putting stuff on the
25 Internet. Now we have social media where people start

1 putting stuff on Facebook and different kinds of social
2 media.

3 You have people putting stuff on Twitter
4 about jury service and things like that. I know that
5 sounds goofy, but people do it, and the reason why I'm
6 bringing it up is because I don't want you to do it.
7 It's improper for you to do it. You'll have all the time
8 in the world that you can talk to anybody you want to
9 about this case when it is over, but while you are a
10 juror, please, this is a very serious case.

11 This is very, very important that you follow
12 these instructions, to not talk to anybody about the
13 case, not to try to learn anything about the case, and
14 don't publish anything about the case. If anybody does
15 try to talk to you about the case or comes up to talk
16 with you about it, please refuse to talk to them, and
17 report that immediately to the Court tomorrow morning.

18 Now, I'm going to break for the day and ask
19 that you report back to jury room at 9:30 tomorrow, and
20 we should be able to get started right on time with the
21 next witness. So enjoy your day, thank you for your
22 patience, and we'll see you tomorrow morning.

23 (Jury recessed.)

24 THE COURT: All right. Anything before we
25 break?

RYAN KILLIN - DIRECT BY MS. LINDER

1 MS. BALDWIN: Nothing from the State.

2 MR. GRIMES: Nothing, Your Honor.

3 THE COURT: All right. Have your witnesses
4 ready to go at 9:30. See you in the morning.

5 (April 8, 2014.)

6 (In open court, jury present.)

7 THE COURT: Okay. Folks, we will resume now
8 with the State calling their next witness.

9 Madame Solicitor?

10 MS. LINDER: State calls Ryan Killin.

11 RYAN KILLIN,

12 having been first duly sworn,

13 was examined and testified as follows:

14 DIRECT EXAMINATION

15 BY MS. LINDER:

16 Q. What is your occupation?

17 A. I'm a police officer with the city of North
18 Charleston.

19 Q. And can you tell the jury a little bit about your
20 education and training and background.

21 A. I've got an associate's degree in criminal
22 justice/political science, moved down here, started
23 working for the city of North Charleston. I've been
24 employed with North Charleston for about six years.

25 Q. And what are your duties with North Charleston

RYAN KILLIN - DIRECT BY MS. LINDER

1 police department?

2 A. I'm a patrol officer, south end of North
3 Charleston.

4 Q. And as a patrol officer, what are your kind of
5 everyday duties when you're a patrol officer?

6 A. We handle calls for service, just regular
7 emergency calls for service. When we're not handling
8 calls, we are proactive in the area, work in a very high
9 crime area.

10 Q. And did you have the occasion to be working back
11 on December 19th of 2011?

12 A. Yes, ma'am.

13 Q. And did you have the occasion to become involved
14 with this case, State versus Sheldon Kelly, in any way
15 back on that date?

16 A. Yes, ma'am. I was the first officer dispatched to
17 the call.

18 Q. And where were you dispatched to?

19 A. 2845 Rivers Avenue.

20 Q. Do you know approximately what time?

21 A. 4:25 p.m.

22 Q. And 4825 Rivers Avenue, is that Charleston County?

23 A. I believe so, ma'am.

24 Q. And did you go to the scene?

25 A. I did.

1 Q. What did you observe when you first got to the
2 scene?

3 A. I met with the victim and the witness that were
4 standing outside of a vehicle.

5 Q. And what did you do upon your arrival to that
6 scene?

7 A. When I arrived on the scene, I spoke with the
8 victim initially. She informed me that she was just
9 leaving work. She was getting into her vehicle.

10 MR. GRIMES: Objection, Your Honor. Hearsay
11 and bolstering.

12 THE COURT: Sustained.

13 BY MS. LINDER:

14 Q. What types of information do you ask for when you
15 first get on to a scene and try to assess it?

16 A. Initially upon the scene, first we want to make
17 sure she's okay, the victim is okay, if there is any need
18 for medical. That way we can get EMS started en route.

19 Then we'll get the facts of the case, what
20 occurred, suspect description, and then we'll get other
21 officers that are en route to start looking for the
22 suspect that has already fled the scene.

23 Q. Did you receive a description, physical
24 description, in this case?

25 A. Yes, ma'am.

RYAN KILLIN - DIRECT BY MS. LINDER

1 Q. What did you do with that physical description?

2 A. I put the description out over the radio, told
3 other officers en route to the area the suspect
4 description; also had a K-9 unit en route because the
5 suspect had fled.

6 Q. And how did you observe the demeanor of the
7 victim, Ronnie, in this case? What kind of condition was
8 she in?

9 A. She was distraught. She had some scratches on
10 her, on her body. I asked her if she needed EMS. She
11 declined. The victim was shaking.

12 Q. And did you end up doing any in-depth interview
13 with the witnesses or take any recorded statements?

14 A. I did not.

15 Q. And why didn't do you that?

16 A. I had detectives en route.

17 Q. And what else did you do? Did you do anything to
18 the scene once you got there?

19 A. I secured the crime scene. I also requested a
20 crime scene come to process the scene.

21 Q. And how do you go about securing the scene?

22 A. Protocol for a crime scene, whenever there is
23 something to be processed and we have a crime scene unit
24 en route, we'll basically cordon off that area so that
25 nobody is allowed to go into -- in this case, a vehicle,

1 keep people from tampering with evidence, going near the
2 vehicle or contaminating the possible scene.

3 Q. And you did that in this case?

4 A. Yes, ma'am.

5 MS. LINDER: Beg the Court's indulgence. I
6 don't have any other questions for you, if you could
7 answer any questions defense may have for up.

8 THE COURT: Cross?

9 MR. GRIMES: Thank you, Your Honor. May it
10 please the Court:

11 CROSS-EXAMINATION

12 BY MR. GRIMES:

13 Q. Good morning. Good morning, Officer Killin.

14 A. Good morning.

15 Q. I'm going to ask you a few questions about your
16 duties as a patrol officer. I believe you told
17 Ms. Linder that part of them is being a proactive patrol?

18 A. Yes, sir.

19 Q. And you're in the south end of North Charleston?

20 A. Yes, sir.

21 Q. And it's a high crime area?

22 A. It is.

23 Q. And the location of this business is the south
24 end?

25 A. Yes, sir.

RYAN KILLIN - CROSS BY MR. GRIMES

1 Q. And is there a neighborhood pretty close to
2 Accabee?

3 A. It's Accabee and Union Heights.

4 Q. Is Accabee known as a high crime area?

5 A. Yes, it is.

6 Q. And high crime areas, is there a lot of drug
7 activity that goes on there?

8 A. Yes, sir.

9 Q. Do you know someone involved in narcotics named
10 Chavis?

11 A. I don't --

12 MS. LINDER: Objection, Your Honor. I don't
13 believe Mr. Grimes laid the foundation or said relevance.

14 THE COURT: Sustained.

15 BY MR. GRIMES:

16 Q. And you made a lot of drug arrests in the Accabee
17 area?

18 A. I have.

19 Q. Have you arrested anybody named Chavis?

20 MS. LINDER: Objection, Your Honor. Again,
21 relevance.

22 (Discussion held at sidebar.)

23 BY MR. GRIMES:

24 Q. I think the question was, have you arrested
25 anybody named Chavis?

1 A. I don't recall.

2 Q. And last set of questions, I want to ask you maybe
3 just a little bit about the time frame. I believe you
4 said you received a dispatch about 4:25?

5 A. Yes, sir.

6 Q. And that would be straight from the 911 center?

7 A. Yes, sir.

8 Q. And you probably received a call a minute or two
9 minutes before they dispatched you?

10 A. Most likely.

11 Q. You don't know what was going on at Charles
12 Blanchard Construction Company before you got there, do
13 you?

14 A. I don't.

15 MR. GRIMES: May I have a moment, Your Honor?

16 THE COURT: Uh-huh.

17 MR. GRIMES: Thank you, Your Honor. I have
18 no further questions.

19 THE COURT: Redirect?

20 MS. LINDER: Just briefly, Your Honor.

21 REDIRECT EXAMINATION

22 BY MS. LINDER:

23 Q. Officer Killin, why specifically were you
24 dispatched to 2845 Rivers Avenue?

25 A. I was the next available unit.

MARK EVANS - DIRECT BY MS. BALDWIN

1 Q. Not why were you specifically, but what was the
2 reason that officers were being dispatched to that
3 location?

4 A. I was dispatched in reference to an attempted
5 carjacking.

6 MS. LINDER: Thank you.

7 THE COURT: Recross?

8 MR. GRIMES: No, sir.

9 THE COURT: You may step down. Thank you.
10 Next witness.

11 MS. BALDWIN: Thank you, Your Honor. State
12 calls Detective Mark Evans.

13 THE COURT: Do you need that witness anymore?

14 MS. BALDWIN: No, sir.

15 THE COURT: You're free to go.

16 MARK EVANS,

17 having been first duly sworn,

18 was examined and testified as follows:

19 DIRECT EXAMINATION

20 BY MS. BALDWIN:

21 Q. Detective Evans, where do you work and what is
22 your occupation?

23 A. I work for the city of North Charleston. I'm
24 currently assigned as the sergeant over the special
25 victims unit and the victim advocate office.

1 Q. Did you work for North Charleston back in 2011
2 into 2012?

3 A. I did.

4 Q. And in what capacity?

5 A. I was a detective with the persons crime unit
6 focussing on violent crime.

7 Q. And what were your duties as a part of that?

8 A. As part of those duties were to investigate crimes
9 of violence, murders, carjackings, armed robberies,
10 stabbings, criminal domestic violence, high aggravated
11 nature, crimes like that.

12 Q. And you became involved in this case. Do you know
13 why we're here today?

14 A. Yes, ma'am.

15 Q. How did you become involved in this case?

16 A. Detective Kramitz and myself were patrolling the
17 area in the south end following up on another
18 investigation when the call came out. We responded to
19 the area where we began to look for any suspects. They
20 had put out suspect description. I was in an unmarked
21 vehicle thinking I may be able to roll up on them before
22 anybody else.

23 Once we determined we were unable to locate any
24 suspect in the immediate area, Detective Kramitz and
25 myself responded to the crime scene.

MARK EVANS - DIRECT BY MS. BALDWIN

1 Q. And what was your role within this incident?

2 A. Due to the fact that where the crime was
3 committed -- at that time I was handling a majority of
4 crimes coming out of the south end of the city. Due to
5 that fact, Detective Kramitz went to interview the
6 victim, and I took over as maintaining the crime scene as
7 the case agent.

8 Q. And where was that incident location?

9 A. I believe it's 2845 Rivers Avenue.

10 Q. And is that in Charleston County?

11 A. Yes, ma'am, Charleston County.

12 Q. And do you know, is that a business there?

13 A. It is.

14 Q. Okay. What's the name of that business?

15 A. Charles Blanchard Construction.

16 Q. What did you see when you arrived on the scene?

17 A. Upon my arrival, I saw a black in color Kia, I
18 believe, Ultima or Kia, small four door vehicle. It was
19 parked awkwardly in the parking lot. I saw Detective
20 Kramitz escorting the victim, Veronica Frutche, to his
21 vehicle, and I observed other officers in the area.

22 Q. And you said you observed the crime scene.

23 A. I did.

24 Q. What did that entail?

25 A. Upon arriving on the scene, I initially went and

1 spoke with the initial responding supervisors and initial
2 responding officers, got a rough description of what took
3 place, determined that the crime scene, the main crime
4 scene, was the vehicle. The secondary or other areas of
5 the crime scene would be anywhere that the suspect may
6 have fled or where evidence may have been dropped.

7 Q. And if you saw -- did you see evidence dropped in
8 places?

9 A. We did.

10 Q. What did you see?

11 A. While we were canvassing the exterior of the crime
12 scene along some bushes on the side of a building, we
13 found a piece of black cloth inside the vehicle. We
14 located a black in color toboggan style hat and the small
15 knife, wood handled, silver blade knife.

16 Q. Where was that knife?

17 A. It was located on the front passenger floorboard
18 of the vehicle.

19 Q. And the crime scene was directed to collect that?

20 A. Yes, ma'am.

21 Q. What else did the crime scene do, to your
22 knowledge?

23 A. My understanding of what they've done is they
24 processed the vehicle for latent prints, they processed
25 the vehicle for any possible DNA evidence that could have

1 been left on that vehicle. They processed and collected
2 all pieces of evidence that we felt were part of the
3 crime scene.

4 They of course photographed and they met with the
5 victim and did a scraping of her fingernails. During her
6 interview, she indicated she had scratched the suspect,
7 so we did a -- take a small piece of plastic, is my
8 understanding, and kind of scrape out the underside of
9 her fingernails.

10 Q. And you said Detective Kramitz interviewed the
11 victim. Did you speak with her at all?

12 A. Briefly, and I believe it was just to ask a simple
13 question as about the knife or something of that nature.

14 Q. How did the victim appear when you saw her?

15 A. Distraught.

16 Q. Was the suspect on the scene?

17 A. He was not.

18 Q. What did you do -- did you know who the suspect
19 was?

20 A. We did not.

21 Q. What was done to develop the suspect?

22 A. Throughout the course of the investigation, of
23 course, we processed the latent prints, what latent
24 prints were recovered, and I don't recall if any were
25 recovered. We sent the DNA evidence off to SLED and

1 administered several photographic lineups of any suspect
2 that we could develop throughout the course of the
3 investigation.

4 Q. Was K-9 called out?

5 A. K-9 was called out, and they conducted a track.

6 Q. Could they locate?

7 A. They did not locate a suspect. They just followed
8 a path of exiting.

9 Q. Where did they lose the track?

10 A. In the Accabee subdivision.

11 Q. You said you did several lineup, photographic
12 lineups, with the victim?

13 A. We did.

14 Q. Okay. Was she able to make an ID immediately?

15 A. In the first three photographic lineups, she did
16 not make any identification.

17 Q. Okay. When you would do these several lineups,
18 what would make you put together one?

19 A. Again, as I mentioned, I was working all the
20 violent crimes in that area. If we found somebody that
21 matched the physical description, had the build, may have
22 committed crimes similar in nature, we would put them in
23 a six-pack photo lineup, a sequential photo lineup, and
24 see if he may have been responsible for the crime.

25 Q. Was a drawing ever done of the possible suspect?

MARK EVANS - DIRECT BY MS. BALDWIN

1 A. Yes. Detective Kramitz made contact with SLED,
2 South Carolina Law Enforcement Division, and they
3 conducted composite sketch.

4 Q. No suspect was developed from that?

5 A. No suspect.

6 Q. How did you eventually get to a suspect?

7 A. Approximately six months after the initial
8 incident, we received a confirmation that the South
9 Carolina Law Enforcement Division had identified a -- or
10 identified a match to the DNA that was located under the
11 victim's fingernails.

12 Q. Who did that match come back to?

13 A. Sheldon Lamar Kelly.

14 Q. As a result of that match, did you conduct another
15 photo lineup with the victim?

16 A. We did.

17 Q. Who administered that lineup?

18 A. Detective Kramitz.

19 Q. Why didn't you do it?

20 A. Because as the case agent, I know who the suspect
21 is. We would not want to have any type of influence on
22 that.

23 Q. So Detective Kramitz didn't know who the suspect
24 was?

25 A. Detective Kramitz did not know who the suspect

1 was.

2 Q. Walk us through -- how did you develop that
3 lineup? How did you put together the photo lineup for
4 Detective Kramitz?

5 A. We go and get an array of six photographs. Those
6 photographs we try to make look as similar to our suspect
7 as possible. We then take those photographs, ensure that
8 they all look similar. We ensure that they are same
9 size, shape, things like that. And then we -- I provide
10 those photographs after they're numbered, I provide those
11 photographs to Detective Kramitz and then he goes in, and
12 provides the photo lineup to them.

13 Q. Okay.

14 MS. BALDWIN: Beg the Court's indulgence.

15 BY MS. BALDWIN:

16 Q. I'll show you what's been marked as State's 39 for
17 identification. Can you tell me what that is?

18 A. This is the photographic lineup that was put
19 together in this case.

20 Q. That Detective Kramitz administered?

21 A. It is.

22 Q. Was the victim able to make an identification?

23 A. She was.

24 Q. And who did she identify?

25 A. She identified photograph number two, Sheldon

MARK EVANS - DIRECT BY MS. BALDWIN

1 Lamar Kelly.

2 Q. Did you ever collect the DNA sample from Sheldon
3 Kelly?

4 A. A DNA sample was collected, yes.

5 Q. Okay. Show you what's been marked State's Exhibit
6 36 for identification. Can you tell me what that is.

7 A. This is the bag containing the buccal swab that
8 was collected from Sheldon Lamar Kelly.

9 Q. How do you know that's the buccal swab that was
10 collected?

11 A. It says at the top the date, the location, and it
12 says it was recovered by myself, from Sheldon Lamar
13 Kelly.

14 Q. What is a buccal swab?

15 A. It's a small, plastic Q-tip type collection
16 device. It's got a plastic stick, and then on the end of
17 that stick is kind of a sponge applicator kind of thing.
18 It's used to collect DNA samples.

19 Q. And you took that DNA sample in this case?

20 A. Yes. It was taken from the inside of Mr. Kelly's
21 mouth.

22 Q. After you collect that sample, what did you do
23 with that swab?

24 A. The swab was placed back into -- it comes in a
25 plastic -- or not plastic, but a wax paper type wrapper.

1 I take that applicator, put it back into the container it
2 came in, wrap that up, and then walk it out and place it
3 into this brown paper bag, and then it's submitted into
4 evidence.

5 Q. Are you wearing gloves when you take the sample?

6 A. Yes.

7 Q. When you say it's placed into evidence, is that a
8 secure facility?

9 A. It is.

10 Q. How is it secured?

11 A. To get into the evidence area, you have to have a
12 secure pass card. Once you get into the original --
13 which would be the dropping area, you drop the evidence
14 in that area is also secured, and once it's dropped, it
15 cannot be accessed until a crime -- not crime scene,
16 excuse me, an evidence technician is able to go in and
17 get that. The evidence technician -- evidence
18 technicians are the only ones who have access into the
19 evidence room without being escorted in by one of them.

20 Q. So as a result of all this investigation, did you
21 subsequently arrest Mr. Kelly?

22 A. Yes. Mr. Kelly was arrested.

23 Q. What type of information do you get from somebody
24 when you arrest them?

25 A. We obtain, of course, their biographical

MARK EVANS - DIRECT BY MS. BALDWIN

1 information, you know, name, date of birth, social
2 security number, places of employment, family members,
3 things like that.

4 Q. Where they live?

5 A. Where they live, yes.

6 Q. Did you find out where Mr. Kelly lived in this
7 case?

8 A. We did.

9 Q. And where was that he lived?

10 A. In Fillmore Street in the Accabee subdivision.

11 Q. In Accabee?

12 A. Yes, ma'am.

13 Q. Okay. And I'll show you -- this is State's 39 for
14 identification. For clarification, the ID that you
15 identified will be State's 40. Can you tell me what the
16 actual State's 39 is?

17 A. This appears to be an overview satellite image of
18 Accabee subdivision and Meeting Street Road.

19 MS. BALDWIN: Your Honor, at this time I
20 would like to admit State's 39, the aerial map into
21 evidence.

22 MR. GRIMES: No objection.

23 THE COURT: Admitted. You may publish P.

24 (State's Exhibit No. 39 was marked for
25 identification and admitted into evidence.)

1 BY MS. BALDWIN:

2 Q. Can you tell me what that is?

3 A. That is Fillmore Street.

4 Q. Let me see if I can zoom out for you. And what is
5 in that blue box?

6 A. A residence.

7 Q. Is that where Mr. Kelly lived?

8 A. Yes, I would say so. That's about the approximate
9 location.

10 Q. And what is this over here?

11 A. That appears to be Charles Blanchard Construction.

12 Q. Okay. Beg the Court's indulgence.

13 Detective Evans, do you see Mr. Kelly in the
14 courtroom?

15 A. I do.

16 Q. Where is he?

17 A. Sitting over there.

18 Q. Could you tell me what he's wearing?

19 A. The black shirt with what appears to be gold
20 buttons, black pants and black shoes.

21 MS. BALDWIN: I don't have any further
22 questions. Please answer any of Mr. Grimes's.

23 THE COURT: Cross?

24 MR. GRIMES: Thank you, Your Honor. May it
25 please the Court:

MARK EVANS - CROSS BY MR. GRIMES

1 CROSS-EXAMINATION

2 BY MR. GRIMES:

3 Q. Good morning, Detective Evans.

4 A. Good morning, Mr. Grimes.

5 Q. How are you doing today?

6 A. Well, and yourself?

7 Q. Doing all right.

8 I just want to ask you just a couple questions,
9 okay?

10 A. Yes, sir.

11 Q. You're the case agent in this case?

12 A. Yes, sir.

13 Q. And could you explain to the jury what the duties
14 of a case agent are.15 A. It's to monitor the case, to collect the evidence,
16 to keep the case files and to ensure that everything that
17 needs to be done is getting done.18 Q. All right. And you review all the evidence that's
19 collected in the case?

20 A. I try to.

21 Q. And you would review like statements of witnesses
22 and victims?23 A. If they were written statements, yes, I would have
24 read over them.

25 Q. And what if they were audio statements?

1 A. I should, yes.

2 Q. I'm going to ask you a few questions about Exhibit
3 39, just showing you the aerial map.

4 A. Yes, sir.

5 Q. Is Lionheart Trucking on that map?

6 A. I would have to look at the numeric lists of
7 Lionheart Trucking.

8 Q. You don't know offhand?

9 A. I don't know the address, no, sir.

10 Q. But you couldn't say it's not on that map, can
11 you?

12 A. I believe if it's in front of Military Magnet, I
13 don't believe that it would lie on that map. I would
14 have to see the map again.

15 Q. All right. I'll show it to you.

16 A. Sure.

17 Q. It could possibly be one of these two buildings at
18 the top, very top corner?

19 A. Yes, sir.

20 Q. All right. And you've heard -- well, have you
21 listened to Ms. Frutcheys recorded statement?

22 A. I have not.

23 Q. So you wouldn't know anything about -- or let me
24 ask you this question: Have you discussed her recorded
25 statement with Detective Kramitz?

MARK EVANS - CROSS BY MR. GRIMES

1 A. I did.

2 Q. Did he sort of give you a summary of what she
3 said?

4 A. He did.

5 Q. In that summary, did he tell you that Lionheart
6 Trucking was across the street or near Charles Blanchard
7 Construction?

8 A. He did not.

9 Q. Do you recall if he told that you Ms. Frutchey
10 recalls seeing someone who resembled her attacker that
11 worked at Lionheart Trucking?

12 A. He did not.

13 Q. Now, it sounds like your investigation that you
14 got -- heard the call and responded to the scene,
15 correct?

16 A. That is correct.

17 Q. And did all the follow-up interviews and lineups,
18 correct?

19 A. We did, yes.

20 Q. And you never went over to Lionheart Construction
21 to see if the person -- anyone there resembled the
22 suspect in this case, did you?

23 A. I was unaware of any relation to Lionheart
24 Trucking.

25 Q. And you don't know if any of your officers who

1 worked with you, Detective Kramitz or anyone else, went
2 over there, do you?

3 A. Again, I was unaware of anything at Lionheart
4 Trucking. I would have no knowledge if any of them went
5 to Lionheart Trucking.

6 Q. Even though you're the case agent?

7 A. I was never informed that anybody went there.

8 Q. And you don't know what happened before you got to
9 Charles Blanchard Construction, do you?

10 A. Just what I was told.

11 Q. But you didn't witness anything yourself?

12 A. I did not witness it.

13 Q. You just witnessed -- and you based your
14 investigation upon what they told you, Ms. Frutchev and
15 her witnesses told you, correct?

16 A. I based it on what they told me in my training and
17 experience, yes, sir.

18 Q. And your observations of just any injuries and
19 disturbance at the scene?

20 A. Yes, sir.

21 Q. And have you dealt a lot in drug cases?

22 A. Could you be more specific?

23 Q. Have you dealt in cases where there are assaults
24 or fights related to drugs?

25 A. I have, several.

MARK EVANS - CROSS BY MR. GRIMES

1 Q. And if that has gone on, sometimes people don't
2 want to look like they want to tell the police they're
3 involved in drugs, do they?

4 A. Could you --

5 Q. If someone got robbed for drugs or trying to get
6 ripped off in a drug case, they might not tell the police
7 the reason they got ripped off is because they were
8 trying to buy drugs, correct?

9 A. Well, in my experience in dealing with violent
10 crimes such as those type of robberies, they often don't
11 want to tell you; however, their reaction and their
12 behavior is different than somebody who was robbed versus
13 somebody who is robbed for drugs.

14 Q. But that's based on -- let me rephrase my
15 question.

16 So somebody in your experience -- and there are
17 different types of drug dealers and victims, correct?

18 A. Correct.

19 Q. Some people are just on the street, homeless and
20 just use as a way to take care of mental illness,
21 correct?

22 A. Correct.

23 Q. And there are other people out there who use for
24 other reasons?

25 A. Correct.

1 Q. And then you have dealers that go around robbing
2 people and beating people up and shooting people over
3 drugs, correct?

4 A. Correct.

5 Q. And if one of those people get robbed, their
6 reaction is going to be different than someone who is
7 using drugs because they're mentally ill?

8 A. Who are you speaking of, sir?

9 Q. If, say, the bad guy who is like trying to force
10 his turf gets robbed because of a drug deal, his reaction
11 might be different than someone who got robbed with the
12 drugs and that person just uses them because of a mental
13 illness?

14 A. I wouldn't be able to answer that. It would
15 depend on the circumstances of the case.

16 Q. And drugs reach all levels of society, correct?

17 A. Correct.

18 Q. You had a former treasurer who was involved in
19 drugs?

20 A. Correct.

21 Q. And if a person has a good job and doesn't want to
22 lose that job --

23 MS. BALDWIN: Objection, Your Honor.
24 Relevance.

25 THE COURT: What is your objection?

MARK EVANS - CROSS BY MR. GRIMES

1 MS. BALDWIN: Relevance.

2 THE COURT: What is the relevance?

3 MR. GRIMES: It goes to Ms. Frutchey's
4 motive, bias, in disclosing to the police what happened.

5 THE COURT: Overruled. Go ahead.

6 BY MR. GRIMES:

7 Q. And if a person has a good job was using drugs or
8 addicted to drugs, they might not want to tell the police
9 that for fear of losing their job?

10 A. That is possible.

11 MR. GRIMES: May I have a moment, Your Honor?

12 THE COURT: Sure.

13 MR. GRIMES: Thank you, Your Honor. I have
14 no further questions.

15 THE COURT: Redirect?

16 REDIRECT EXAMINATION

17 BY MS. BALDWIN:

18 Q. Detective Evans, was there anything when you were
19 at the scene, when you conducted your investigation that
20 gave you any pause as to whether or not Ms. Frutchey was
21 carjacked and kidnapped?

22 A. No, ma'am.

23 MR. GRIMES: Objection, Your Honor. Calling
24 for an opinion. Bolstering.

25 THE COURT: Overruled.

1 BY MS. BALDWIN:

2 Q. Please answer the question.

3 A. No, ma'am. All indications showed that
4 Ms. Frutchev was distraught. She wasn't angry about the
5 incident, she was distraught, and many of the cases, it
6 would be different.

7 MS. BALDWIN: Thank you, Your Honor. No
8 further questions.

9 THE COURT: Recross?

10 MR. GRIMES: No, sir.

11 THE COURT: You may step down.

12 THE WITNESS: Thank you, sir.

13 THE COURT: Next witness.

14 MS. BALDWIN: Thank you, Your Honor. State
15 calls Officer Alan Kramitz.

16 ALAN KRAMITZ,
17 having been first duly sworn,
18 was examined and testified as follows:

19 DIRECT EXAMINATION

20 BY MS. BALDWIN:

21 Q. In what capacity were you working at North
22 Charleston in 2011?

23 A. I was assigned to the detective division. I
24 worked homicide, violent crime.

25 Q. And in 2012?

ALAN KRAMITZ - DIRECT BY MS. BALDWIN

1 A. On the street.

2 Q. Okay. During all of 2012 or --

3 A. No, part.

4 Q. Okay. You know why you're here today?

5 A. Yes, I do.

6 Q. Okay. What was your involvement in this
7 particular case?

8 A. I was in the area of Redwood Street, myself and
9 Detective Evans. We were on another call. We heard a
10 call go out about an attempted carjacking, at which time
11 we had information that the suspect may have ran to a
12 certain area, went to that area, and we were later told
13 again he went to a different area, so myself and
14 Detective Evans went to the scene.

15 Q. And what did you do when you were at the scene?

16 A. Made sure the scene was secure and went and
17 interviewed the victim.

18 Q. And what was the victim's demeanor when you were
19 interviewing her?

20 A. She was pretty upset, she was shaking. It was
21 obvious something happened.

22 Q. Did you receive a description of the suspect while
23 you were at the scene?

24 A. Yes, I did, black male, 25, 35 years old, dressed
25 in all black and had acne on his face.

1 Q. What type of hairstyle?

2 A. Bald, or short hair.

3 Q. Did you know who the suspect was when you were
4 interviewing the victim?

5 A. No, I did not.

6 Q. What else did you do with this case?

7 A. Later on I had a disk made of the statement that
8 was provided by the victim. I put that into evidence
9 later on that day. Also, I had a composite drawing set
10 up with the SLED agent.

11 Q. When you had that disk of the victim, did you
12 relate any of the facts from the interview to Detective
13 Evans?

14 A. Yes.

15 Q. Okay. Every single fact?

16 A. No.

17 Q. Besides the composite drawing, what else did you
18 do with this case?

19 A. I had a -- about six months later, we had
20 information of a possible suspect, at which time I went
21 ahead and had a photographic lineup taken, drawn up.

22 Q. Did you draw up the photographic lineup?

23 A. No, I didn't.

24 Q. At the time that that lineup was done, did you
25 know who the suspect was?

ALAN KRAMITZ - DIRECT BY MS. BALDWIN

1 A. No, I did not.

2 Q. Who asked you to do the lineup?

3 A. Detective Evans.

4 Q. Okay. So you administered the lineup to the
5 victim?

6 A. Yes, I did.

7 Q. Why do they have you administer the lineup you
8 don't know who the suspect is?

9 A. That way there is no way that I could actually
10 say, Hey, that's number so and to. You may want to look
11 at this guy here.

12 If I have no idea who the person is, I can't give
13 that information out or kind of lead the victim to this
14 person.

15 Q. So describe the process of administering the
16 lineup.

17 A. We have a standard form we use, and on the form,
18 there is seven lines of instructions for the victim to
19 either read, or I'll read to the victim herself or
20 himself, and I ask the person, do they understand that
21 form, what they've read? If they don't, I'll explain the
22 form to them.

23 After they're done, they initial each line they've
24 read where I explained to them. Also, there's a part at
25 the bottom for a statement.

1 Q. And then what do you do?

2 A. What I do with that is we have six pictures, array
3 of photographs, individual pictures, and to my
4 experience, I just hand the pictures to the person and
5 make sure they look at all six pictures before they pick
6 anybody, if they can.

7 Q. In this particular case, was the victim able to
8 pick out a picture?

9 A. Yes, the victim, while -- it takes a few minutes
10 to do this, this process. My notes say about three
11 minutes from the time of being read to the picking of the
12 suspect.

13 Q. I'm going to show you what's been marked as
14 State's Exhibit 40 for identification. Can you tell me
15 what that is.

16 A. Yes, ma'am. This is the form, the North
17 Charleston police department report of photographic
18 lineup form.

19 Q. What is there in addition to the form?

20 A. There are six photographs.

21 Q. Are those the photographs you administered to the
22 victim?

23 A. Yes.

24 Q. Including the one that she made an identification
25 on?

ALAN KRAMITZ - DIRECT BY MS. BALDWIN

1 A. Correct.

2 MS. BALDWIN: At this time I would like to
3 admit State's Exhibit 40 into evidence.

4 MS. PARNALL: No objections.

5 THE COURT: Admitted.

6 (State's Exhibit No. 40 was marked for
7 identification and admitted into evidence.)

8 BY MS. BALDWIN:

9 Q. Can you go over for the jury and explain to them
10 what the form says, line by line?

11 A. Sure. The top has the OCA number which case
12 assigned, investigating officer is Detective Evans, and
13 the victim's name. It says -- number one is: I'm going
14 to show you a series of photographs of individuals on an
15 array of six photographs of individuals. These
16 photographs may or may not be the person who committed
17 the crime. It's just important to clear innocent people
18 as to identify possible suspects. Whether or not you
19 identify someone the police will continue investigating.

20 After you're done, I will not be able to provide
21 you any feedback or comment on the results of this
22 process. Do not discuss the identification procedure or
23 results with any other witness in this case.

24 Focus on the event, the place, the viewing, the
25 lighting, your frame of mind, et cetera. Take as much

1 time as you need. People may not appear exactly as they
2 did at the time of the event. Of course features such as
3 clothing, clothing style, hair color, hairstyle, et
4 cetera, may change, even in a short amount of time, or
5 period of time.

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

10 Q. And the victim initialed by each line?

11 A. That's correct, one by seven.

12 Q. Indicating she understood?

13 A. Yes.

14 Q. Which number did she pick out?

15 A. Number two.

16 Q. That's the person that she picked out?

17 A. Yes.

18 Q. And is that her signature?

19 A. Yes, it is, and the date and time.

20 Q. Thank you. And what -- you indicated there was
21 room for the person to write a statement at the bottom of
22 the form?

23 A. That's correct.

24 Q. Did she write a statement at the bottom of it?

25 A. Yes, she did.

ALAN KRAMITZ - DIRECT BY MS. BALDWIN

1 Q. What was the statement?

2 A. I picked number two because this guy --

3 MS. PARNALL: Objection, Your Honor.

4 THE COURT: What is your objection?

5 MS. PARNALL: Hearsay and bolstering, Your
6 Honor.

7 MS. BALDWIN: It's admitted into evidence,
8 Your Honor.

9 THE COURT: That's true. Go ahead. It can
10 be published.

11 THE WITNESS: I picked number two because
12 this is the guy that attempted to steal my car and kidnap
13 me. He also threatened me with a knife.

14 MS. BALDWIN: Thank you. Beg the Court's
15 indulgence.

16 Officer Kramitz, I don't have any further
17 questions. Please answer any of Mr. Grimes's or
18 Ms. Parnall's.

19 CROSS-EXAMINATION

20 BY MS. PARNALL:

21 Q. Thank you. Good afternoon, Detective Kramitz.

22 A. Good afternoon. How are you doing.

23 Q. Doing well. Thank you.

24 A. Good.

25 Q. You got to interview Ms. Frutchev at the scene,

1 correct?

2 A. Yes.

3 Q. Do you recall during her statement her indicating
4 she had seen someone similar looking that had worked at
5 Lionheart Trucking?

6 A. No, ma'am, no.

7 Q. If you had a break to listen to that audio
8 statement again, would that maybe refresh your memory?

9 A. Yes, ma'am.

10 Q. And then you said six months after this
11 incident --

12 A. Yes.

13 Q. -- you then had the opportunity to administer the
14 photo lineup to Ms. Frutchev?

15 A. That's correct.

16 Q. And at that time, she did make an identification?

17 A. Yes.

18 Q. How quickly would you say after she reviewed all
19 photos did she make that identification?

20 A. Like I said a minute ago, I think I showed her the
21 lineup at 5:33 and she made the identification at 5:36,
22 three minutes.

23 Q. And would that indicate she knew the suspect's
24 features pretty well?

25 A. Yes, ma'am.

ALAN KRAMITZ - CROSS BY MS. PARNALL

1 Q. Might that also indicate that she had known the
2 suspect prior to this incident?

3 A. No.

4 MS. PARNALL: I beg the Court's indulgence
5 for a moment.

6 Thank you, Detective Kramitz. I have no
7 further questions.

8 THE COURT: Redirect?

9 MS. BALDWIN: No, Your Honor.

10 THE COURT: You may step down. Next witness?

11 MS. LINDER: Andrew Coker.

12 ANDREW COKER,

13 having been first duly sworn,

14 was examined and testified as follows:

15 DIRECT EXAMINATION

16 BY MS. LINDER:

17 Q. Good morning. Can you please tell the jury,
18 what's your occupation?

19 A. I'm a police officer with the city of North
20 Charleston police department, have been so for 23 years.

21 Q. And what was your position in North Charleston
22 back in December of 2011?

23 A. I was assigned to the crime scene unit as a crime
24 scene investigator.

25 Q. And can you tell the jury a little bit about your

1 education, background, and your training with the crime
2 scene?

3 A. Yeah. As far as crime scene investigation, I was
4 transferred into the crime scene unit in 2006. While in
5 the unit, I received hands-on training, as far as the
6 extensive investigations, as far as collecting evidence,
7 photographing documenting evidence, processing evidence,
8 for any type of further evidence such as fingerprints or
9 DNA. Also, I've attended multiple event training classes
10 in the fingerprint examination as a fingerprint expert.

11 Q. And what are your actual duties with the crime
12 scene?

13 A. To respond to the crime scene, to identify,
14 photograph and/or video document the scene and collect
15 any items of evidentiary value.

16 Q. If you could kind of take the jury through when
17 you arrive on scene, if you could kind of detail for them
18 what you do, what's your process? What do you try to
19 collect or document, how you go about it.

20 A. Certainly. As we arrive on the scene, we usually
21 try to consult with one of the supervisors on scene to
22 determine what events had occurred prior to our arrival.

23 Based upon that information, we evaluate the
24 scene, take photographs to document the scene it as was
25 when we arrived. We attempt to identify any items of

ANDREW COKER - DIRECT BY MS. LINDER

1 potential evidence, collect those items of evidence, if
2 necessary, process the vehicle or a building or some
3 other item for fingerprints or DNA evidence. We will do
4 that as well.

5 Q. And on December 19th of 2011, did you have the
6 occasion to respond to 2845 Rivers Avenue?

7 A. Yes.

8 Q. What was the purpose of going to that location?

9 A. We responded to a report of attempted carjacking.

10 Q. Who responded from the crime scene?

11 A. Myself and crime scene technician Angelica Loaiza.

12 Q. And what did you do when you first arrived at the
13 scene on Rivers Avenue?

14 A. When we first arrived, we spoke with Lieutenant
15 Versetti who was the watch commander at that time and
16 also Sergeant Howard Thomas, the shift supervisor, and
17 obtained from them information about the events about
18 what had transpired prior to their arrival.

19 Q. And did you attempt to process the scene?

20 A. We did. We started by photographing the scene,
21 also identified several items of potential evidence,
22 which were photographed and collected and collected,
23 potential DNA evidence from the victim as well as dusting
24 a portion of the items in the vehicle for fingerprints.

25 Q. Now, let's talk about photograph. You say you

1 took photographs. What did you take photographs of?

2 A. The entire scene. We try to take photographs of
3 the scene from various angles to show the placement, in
4 this case of a vehicle in a parking lot, to -- just to
5 show how the scene appeared when we arrived. From there
6 we go and attempt to locate items of potential evidence
7 and photograph those as well.

8 Q. I'm going to show you what's been marked as
9 State's Exhibit 1 through 27, if you can just take a look
10 at those. Take your time.

11 A. Yes, ma'am.

12 Q. Did you recognize those?

13 A. Yes, ma'am, I do.

14 Q. How do you recognize these items?

15 A. These were the photos that were taken the night of
16 the incident.

17 Q. And do all these photographs fairly and accurately
18 represent the scene as it was when you arrived back on
19 December 19 of 2011?

20 A. With the exception of the photo of the hat that
21 was collected. It was taken later on.

22 Q. Okay.

23 MS. LINDER: Your Honor, at this time I would
24 ask that State's Exhibits 1 through 27 that have not been
25 previously admitted come in, so that would be 1 through

—ANDREW COKER - DIRECT BY MS. LINDER—

1 27, however, 1, 4, 7, 11, 13, 15, 16, and 22 through 27
2 have already been admitted.

3 MR. GRIMES: No objection to the remainder of
4 the pictures.

5 THE COURT: They're admitted.

6 (State's Exhibit Nos. 2, 3, 5, 6, 8, 9, 10,
7 12, 14, 17, 18, 19, 20 and 21 were marked for
8 identification and admitted into evidence.)

9 BY MS. LINDER:

10 Q. I'm going to go through some of these. Some will
11 be quicker than others, but if you could just explain to
12 the jury they will come up on a screen in front of you so
13 it should be easier to see. What is this photograph?

14 A. This is a photograph of the vehicle in the parking
15 lot the female reporting the crime was operating owns.

16 Q. Did you move the car to that spot?

17 A. I did not.

18 Q. Is that where the car was when you arrived?

19 A. Yes.

20 Q. And was the scene secure?

21 A. Yes. Multiple police officers were on scene and
22 had secured the scene.

23 Q. And what's this picture?

24 A. Again, the vehicle in the parking lot.

25 Q. Number three?

1 A. Again, from a different angle.

2 Q. What does State's Exhibit 4 show?

3 A. The empty parking space in front of the vehicle.

4 Q. 5?

5 A. From a different angle, same photo.

6 Q. State's Exhibit 6?

7 A. Again, different angle.

8 Q. And looking at this direction, what is out this
9 way?

10 A. That would be the vehicle I was assigned at the
11 time.

12 Q. Okay. And what is this information down here in
13 the bottom right?

14 A. That is the time and date stamp of when the photos
15 were taken.

16 Q. What is State's Exhibit 7?

17 A. The business itself.

18 Q. No. 8?

19 A. The tag for the vehicle and the vehicle in the
20 parking space.

21 Q. No. 9?

22 A. A different angle of the vehicle.

23 Q. 10?

24 A. Closer, different angle of the vehicle.

25 Q. Now, State's Exhibit 11.

ANDREW COKER - DIRECT BY MS. LINDER

1 A. The interior of the passenger side and center
2 console of the vehicle.

3 Q. Is there anything of note in this photograph?

4 A. Yes. One of the items that was located in the
5 vehicle on the floorboard next to the Christmas tree
6 decoration balls was a knife, yes, that's it.

7 Q. And State's Exhibit 12?

8 A. Again, different angle of the interior of the
9 vehicle.

10 Q. 13?

11 A. A photo from the driver's side of the interior of
12 the vehicle.

13 Q. Exhibit's 14?

14 A. And this is a photo showing the knife in the
15 center of the photo.

16 Q. State's Exhibit 15?

17 A. An overhead photo of the same knife.

18 Q. 16?

19 A. And an additional photo of the same knife.

20 Q. State's Exhibit 17?

21 A. This is a hat that was located in the vehicle
22 also. It was collected and photographed as it was laid
23 out later on in the crime scene office.

24 Q. And what does State's Exhibit 18 show?

25 A. I'm sorry. On the last photo, it was

1 photographed -- it was photographed at the scene, but it
2 was laid out on a vehicle so we could get a contrasting
3 background.

4 Q. Okay. State's Exhibit 18?

5 A. This is a photo of a building on the far side of
6 the parking lot from the business that owns the parking
7 lot.

8 Q. And why did you take this photograph?

9 A. This photograph was taken because of the item at
10 the center lower portion of the photo. It's a piece of
11 cloth.

12 Q. If you touch that screen, it will mark on that so
13 you can point that out.

14 A. Right where I placed the mark.

15 Q. State's Exhibit 19?

16 A. And also another photo from a different vantage
17 point showing the name of the company on the business,
18 and this would be a close-up photo of the piece of cloth
19 that was found.

20 Q. All right. 21?

21 A. Additional photo of said cloth.

22 Q. State's Exhibit 22?

23 A. This is a photograph of the victim in the
24 incident.

25 Q. State's Exhibit 23?

ANDREW COKER - DIRECT BY MS. LINDER

1 A. Closer photographs of the victim showing injuries
2 to her neck and chest.

3 Q. 24?

4 A. And, again, closer photos of those injuries.

5 Q. 25?

6 A. Once again, closer photo.

7 Q. 26?

8 A. And a closer photo of the scratch on her chest.

9 Q. And this is 27?

10 A. And this is the victim's pants.

11 Q. And did you collect or attempt to collect any
12 fingerprints from this scene?

13 A. Yes, yes. Some -- vehicle driver's door was
14 dusted, and several lifts were made, but they were
15 unusable.

16 Q. Could you kind of explain to the jury how you go
17 about attempting to collect fingerprints, what surfaces
18 or atmospheric conditions make things conducive to
19 collecting fingerprints?

20 A. Right. Surfaces that would tend to hold
21 fingerprints would be those that are fairly smooth, some
22 slightly porous surfaces. In this case, the vehicle, the
23 car door and window are very good surfaces to get
24 fingerprints off of.

25 Fingerprints usually left by any type of

1 substance, including sweat and anything that may gather
2 on your fingers during normal conditions, if it's warmer,
3 usually sweat deposits will increase the amount of
4 fingerprints that are left. When a person touches a
5 surface, they'll leave a print.

6 When we attempt to locate the prints, we go back
7 and process the surface by using a fine bristle brush and
8 some contrasting powder. Usually, it's black powder. By
9 brushing the powder across the surface, it enhances or
10 brings to light the fingerprints, and then we can lift
11 those prints and place them on a suitable contrasting
12 background, such as a white card.

13 Q. And did you lift any fingerprints in this case?

14 A. I made a couple of lifts in this case.

15 Q. And you did get any matches?

16 A. No, I did not.

17 Q. What are some reasons why you don't get matches?

18 A. Well, it would depend on the quality of the print.
19 Sometimes when a person touches an object, their finger
20 and/or hand may be dragged away from the item leaving a
21 smudge. Also, there may not be enough suitable substance
22 on the hand to leave a print, or the person may be
23 wearing some form of glove or have something else over
24 their hand that would prevent the prints from being left
25 in the first place.

ANDREW COKER - DIRECT BY MS. LINDER

1 Q. And in this case, out of those prints that you
2 lifted, did you do the comparison?

3 A. Yes.

4 Q. And you said you couldn't make any matches. Can
5 you go through specifically for the items lifted in this
6 case the reasons why you could not make a match?

7 A. I don't have my report with me.

8 Q. Okay.

9 MS. LINDER: May I approach the witness?

10 THE COURT: You may.

11 BY MS. LINDER:

12 Q. Do you recognize this?

13 A. Yes. This would be a latent fingerprint report
14 that I completed.

15 Q. Okay. I'm going to use this as State's Exhibit 41
16 for identification purposes only. If you can look at
17 this report, State's Exhibit 41 for identification
18 purposes, can you tell, based on this, what reasons there
19 were that no match came about?

20 A. Yes. When we collect prints, if the prints are
21 suitable for entry into our automated fingerprint
22 identification system -- it's a computer we use to search
23 known prints or search latent prints against a none
24 database, the -- two of the prints were entered into the
25 system, and we searched with no results, no positive

1 results, returning from them.

2 Also, there was another fingerprint that was not
3 suitable for entry into the AFIS computer, however was
4 identifiable, had enough detail to be likely to be
5 identified.

6 Q. And can you explain to the jury kind of what a
7 smudge is or different types of fingerprints? I mean,
8 when I do this and I'm sitting here and I've been here
9 and Ms. Baldwin and Ms. Grimes and Ms. Parnall, a bunch
10 of us were standing up here and who knows who was
11 standing up here last week or last month. Every time we
12 touch this, do we leave a print that you could run and
13 compare?

14 A. It's possible that a print could be left on a
15 fairly smooth surface. If we touch an item directly and
16 remove our hand or fingers directly lifting them straight
17 up, likely a print would be left; however, if the hand or
18 fingers are dragged across the surface, it would leave a
19 smudge on there rather than a clean print.

20 Q. Did you end up searching the vehicle? I know we
21 saw pictures of it, but did you end up searching the
22 vehicle in this case?

23 A. Yes. We searched the areas where the suspect
24 involved in the incident had been located in the vehicle.

25 Q. And did you collect any physical items during that

ANDREW COKER - DIRECT BY MS. LINDER

1 search?

2 A. Yes. The knife was collected as well as the black
3 cap.

4 Q. And what about the pictures of that black cloth or
5 whatnot by that building?

6 A. Yes. It was collected as well.

7 Q. I'm going to show you what's been marked as
8 State's Exhibit 28. Do you recognize that?

9 A. Yes. This is the package the knife that was
10 collected that night, the one that appeared in
11 photographs.

12 Q. And did you handle that knife?

13 A. I did.

14 Q. Who did you receive it from?

15 A. I received it from crime scene tech Loaiza.

16 Q. And what did you do with that item?

17 A. Upon arrival back at city hall, I swabbed both
18 sides of the knife with a clean swab moistened with
19 distilled water in an attempt to lift DNA from the knife.
20 I then packaged the knife and it was submitted to the
21 evidence locker with the accompanying packaging.

22 MS. LINDER: At this time I would ask that
23 State's Exhibit 28, the buck knife, be entered into
24 evidence.

25 THE COURT: Any objection?

ANDREW COKER - DIRECT BY MS. LINDER

1 MR. GRIMES: No, sir.

2 THE COURT: Admitted.

3 (State's Exhibit No. 28 was marked for
4 identification and admitted into evidence.)

5 BY MS. LINDER:

6 Q. You also said the black knit cap and black cloth
7 were collected. At this time I will show you what's been
8 marked as State's Exhibit -- it's actually 29 and 30.
9 Feel free to manipulate that, or, if you need to, open
10 it.

11 Do you recognize those two items?

12 A. Yes. These are the packaged items that were
13 collected for us, the knife and the cloth -- correction,
14 the cap and the cloth.

15 Q. And who initially collected those?

16 A. Crime scene Detective Loaiza collected these.

17 Q. Did you ever handle those items?

18 A. Yes. They were turned over to me, and then I
19 submitted them to evidence.

20 Q. At this time I show you what's been marked as
21 State's Exhibit 35. Do you recognize that?

22 A. This is the packaging for the swab that I
23 collected from the buck knife, swab and the potential DNA
24 collected from the buck knife.

25 Q. And what did you do with that swab after you

ANDREW COKER - DIRECT BY MS. LINDER

1 collected it?

2 A. After I swabbed the buck knife, the swab was
3 placed into a swab dryer to dry for a suitable amount of
4 time. After drying, it was placed in this envelope and
5 then submitted to the evidence locker.

6 Q. All right. Now, I'm going to show you what's been
7 marked as State's Exhibit 34. Do you recognize that?

8 A. This is the packaging for a swab that was used to
9 swab the shifter knobs for the vehicle.

10 Q. And did you do that swab?

11 A. Yes.

12 Q. And what did you do with that swab after you
13 collected it?

14 A. Again, it was also placed in a forensic swab dryer
15 to dry for a suitable amount of time and then was
16 packaged and submitted to the evidence locker.

17 Q. Everything that you have collected that you've
18 discussed here today about submitting into evidence, can
19 you explain to the jury kind of the procedures that North
20 Charleston has and that you have as far as how you go
21 about submitting it to evidence, such a confusing or
22 vague word.

23 Is it a separate building? Is it secure? Can
24 anybody just walk back there?

25 A. No. The evidence locker is a secure area which is

1 occupied only by the personnel assigned to the evidence
2 locker. In that area, we submit evidence from ourselves
3 which has already been packaged and/or processed. We try
4 to package the items separately, submit them separately.
5 Once we've submitted them into evidence, the evidence
6 custodian receives them, marks them for whatever area
7 they're going to be stored and places the items into that
8 area where they're held until further examination or
9 until a trial comes up.

10 Q. And I'm going to show you State's 31, 32, and 33.
11 Do you recognize those?

12 A. Yes.

13 Q. And what are those?

14 A. These are --

15 Q. How do you recognize them, rather?

16 A. These are swabs that were collected by CST Loaiza
17 on scene of the victim's neck, the victim's right hand
18 under the fingernails, and what we refer to as a buccal
19 swab which is a known standard of DNA from the victim.

20 Q. And how did you get involved in those items?

21 A. They were passed along to me. She collected them
22 at the scene in my presence because she was in training
23 at the time. I was monitoring all her activities, and
24 after she packaged them, she passed them to me to be
25 submitted to the evidence locker.

ANDREW COKER - CROSS BY MR. GRIMES

1 MS. LINDER: If you could answer any
2 questions the defense may have.

3 THE COURT: Cross?

4 MR. GRIMES: Thank you, Your Honor.

5 CROSS-EXAMINATION

6 BY MR. GRIMES:

7 Q. Good morning, Officer Coker.

8 A. Good morning.

9 Q. I just want to ask you some general questions
10 about crime scenes and what you can learn from a crime
11 scene.

12 It's fair to say you can learn a lot from
13 examination of a crime scene; is that correct?

14 A. That's correct.

15 Q. For example, you can maybe learn who committed a
16 crime by examining the crime scene?

17 A. Yes.

18 Q. That could be done through DNA or fingerprints?

19 A. Yes, sir.

20 Q. You may be able to learn what happened by
21 examining a crime scene?

22 A. Yes, sir. Based upon the evidence at the scene,
23 yes, sir.

24 Q. You may be able to learn when it happened?

25 A. Yes, sir.

1 Q. But there are some things that you can learn from
2 crime scenes, correct?

3 A. There certainly is some things that can't be
4 gathered just by examining a crime scene, yes, sir.

5 Q. For example, you may not be able to tell why
6 something happened?

7 A. Correct.

8 Q. For example, if someone was shot, you can't tell
9 if it was self-defense or just a plain shooting.

10 A. It may have to be gathered from speaking with
11 witnesses or persons involved in the incident.

12 Q. The victim of an entry wound normally wouldn't
13 tell you whether it was self-defense or attempted
14 assault?

15 A. Again, that would have be determined by
16 investigation of all the leads in the case.

17 Q. And it may not be able to tell you what happened
18 either, correct?

19 A. That's correct.

20 Q. For example, if someone was accused of rape and
21 they said it was consent, you may have DNA evidence
22 showing they were there, there was intercourse, but
23 that's not going to tell you whether it was consensual or
24 against a woman's will, right?

25 A. It's possible.

ANDREW COKER - CROSS BY MR. GRIMES

1 Q. Now, I'm going to ask you a few questions about
2 what you did collect out there and did not collect. If
3 you had found some hair in the car, would you have
4 collected that as evidence?

5 A. Yes, we would have.

6 Q. And do you recall if you collected any hair in
7 this case?

8 A. I do not recall that any was collected, no.

9 Q. And the last question I want to ask is, you're
10 very careful when you collect evidence, correct?

11 A. Yes, sir.

12 Q. Obviously, you want to avoid contamination?

13 A. Yes, sir, yes, sir. We use gloved hands to do it
14 most of the time, yes, sir.

15 Q. Because gathering stuff that might have DNA is
16 very sensitive. You could leave DNA just by touching
17 something?

18 A. Yes, sir, that's correct.

19 Q. And you followed all proper procedures in this
20 case, trying to collect evidence and do the testing,
21 right?

22 A. Yes.

23 Q. Ms. Linder asked you some questions about the
24 fingerprints in this case, and I think you recovered four
25 fingerprints?

1 A. I believe it was four latent lifts that were made
2 from the vehicle.

3 Q. And, two, you were able to run through AFIS?

4 A. AFIS, yes, sir.

5 Q. And that's the database for fingerprints and all
6 sorts of sources?

7 A. Yes, sir.

8 Q. And no matches came up there?

9 A. That's correct.

10 Q. And at least one of the fingerprints was
11 insufficient to run through AFIS, correct?

12 A. That's correct.

13 Q. But you said it was identifiable ridge detail, but
14 you could be identified in the fiber, the other
15 fingerprint, correct?

16 A. Yes, sir. If I had a standard that was from the
17 unknown source, I could do a direct comparison from that
18 set of fingerprints and determine whether there was
19 identifiable detail that corresponded with both the
20 latent print and known sample.

21 Q. When you look at the latent print and ridge
22 detail, you would be looking for whorls?

23 A. We're looking for the overall shape of the
24 fingerprint itself, whether it be an arc, a loop, or a
25 whorl or just some ridge pattern from some part of the

ANDREW COKER - CROSS BY MR. GRIMES

1 hand or even foot, if that scene were to include
2 footprints, as well as smaller details.

3 Q. And do you know if anyone ever gave you
4 Mr. Kelly's fingerprints to examine to compare to that
5 one fingerprint that was insufficient for AFIS but had
6 identifiable ridge detail?

7 A. I was not provided with a standard for Mr. Kelly.

8 Q. Okay. And the last fingerprint was just
9 insufficient for some reason to make any type of match,
10 correct?

11 A. Right. The latent print did not contain enough
12 detail to be compared to any known standard.

13 Q. And that could be for any reasons, such as a
14 smudge or maybe someone pressed it too hard on that
15 object?

16 A. Yes, sir. It could also just have been a dark
17 spot that was on the surface that was lifted and
18 determined later to not be a fingerprint.

19 Q. And you didn't find any fingerprints on the knife?

20 A. I did not.

21 MR. GRIMES: May I have one moment, Your
22 Honor?

23 THE COURT: Uh-huh.

24 MR. GRIMES: Thank you, Your Honor. I have
25 no further questions.

ANDREW COKER - REDIRECT BY MS. LINDER

1 THE COURT: Redirect?

2 MS. LINDER: Briefly, Your Honor.

3 REDIRECT EXAMINATION

4 BY MS. LINDER:

5 Q. Detective Coker, when these prints five that you
6 lifted that couldn't match or didn't match anything, did
7 they come from the exterior of the car?

8 A. Yes.

9 Q. And from the information that you were told upon
10 arrival, and through your capacity as crime scene, was
11 the door opened or closed?

12 A. The door, from my understanding, was as it was
13 when we -- when I arrived at the scene. The door had
14 been closed on the vehicle. I do not know whether the
15 door was touched by the suspect in the case or not, so it
16 was processed to determine if there were any prints that
17 might identify a potential suspect.

18 MS. LINDER: Thank you.

19 THE COURT: Recross?

20 MR. GRIMES: No, thank you.

21 THE COURT: All right. You may step down.

22 THE WITNESS: Thank you.

23 THE COURT: All right. Why don't we take
24 about a 15-minute break so everybody can use the rest
25 room. Don't begin deliberations or discussions about the

ANDREW COKER - REDIRECT BY MS. LINDER

1 case, and we'll see you back in about 15 minutes. Thank
2 you for your patience.

3 (Recess taken.)

4 (In open court jury present.)

5 THE COURT: Okay, folks. Let me bring you up
6 to speed with what we'll be doing next and then this
7 afternoon.

8 The next witness is going to testify via
9 Skype. She no longer works for -- I think it was North
10 Charleston, lives out of town, and rather than bring her
11 back in, if the technology works, she's going to testify
12 via Skype, which probably most of you have heard about,
13 but it's technology that allows video questioning and
14 answering.

15 It's to be treated by you exactly the same as
16 if she is here present in court testifying. She'll be
17 placed under oath, and you're not to give this sort of
18 testimony any greater weight than you normally would any
19 other testimony, nor should you give it any lesser
20 weight. You decide how much weight her testimony
21 deserves, based on all of the evidence that you'll hear
22 throughout the trial.

23 Now, I also told you yesterday that when we
24 were qualifying, that we are repeating this scene all
25 over the state and all over the country. Well, we got 46

ANGELICA LOAIZA - DIRECT BY MS. LINDER

1 counties in this state, and some of them are also holding
2 criminal court this week. We only have one SLED agency,
3 though, and so the witnesses -- there will be this
4 witness and then very short chain of custody witnesses.
5 Our witnesses that would be testifying from SLED are in
6 Allendale County this afternoon, and so when we finish up
7 with this next witness and then the three short witnesses
8 after that, we're just going to break for today and then
9 we will resume tomorrow morning, and those SLED agents
10 that are in Allendale today will be available to testify.

11 So when we break for lunch, we'll be breaking
12 for the day, so you'll have the afternoon free. So that
13 is just to give you the update on where we're at.

14 So if you're ready, let's see if it works.

15 MS. LINDER: The State calls Angelica Loaiza.

16 ANGELICA LOAIZA,

17 having been first duly sworn,

18 was examined and testified as follows:

19 DIRECT EXAMINATION

20 BY MS. LINDER:

21 Q. Good morning.

22 A. Good morning.

23 Q. What was your job back in December of 2011?

24 A. December 2011, I was a crime scene tech under
25 training.

ANGELICA LOAIZA - DIRECT BY MS. LINDER

1 Q. And where were you working?

2 A. North Charleston police department.

3 Q. And are you still with North Charleston?

4 A. No, ma'am.

5 Q. And where are you now?

6 A. I'm located in Miami, Florida.

7 Q. And could you tell the jury about any background
8 or training or education that you have along the lines of
9 being in law enforcement or crime scene.

10 A. I have a bachelor's degree in criminal justice.
11 I'm certified in crime scene processing. I'm certified
12 also in photographing. At that time I was certified with
13 Miami Dade police department crime scene processing,
14 fingerprint processing and lifting.

15 Q. And what do your duties include as far as crime
16 scene are involved?

17 A. Once we arrive at the scene, we have to document
18 photographs, process for any fingerprints, DNA, comb the
19 area to see if we can find any other evidence that is
20 going to help the case.

21 Q. Back on December 19th of 2011, did you respond to
22 2845 Rivers Avenue?

23 A. Yes, ma'am.

24 Q. And what was the purpose of you going to that
25 location?

1 A. Myself and Coker responded to the scene. I was
2 still under training. I was riding along with Officer
3 Coker at the time.

4 Q. You said you do a variety of different things as
5 part of your role of crime scene. Does part of that
6 include searching?

7 A. Yes, we do. We have the ability to search the
8 vehicle. We will search a vehicle or house.

9 Q. And in this case, did you do any sort of search?

10 A. Yes, I did.

11 Q. And what areas did you search, or assist in
12 searching?

13 A. I searched -- I helped Coker search the vehicle.

14 Q. And did you locate or collect anything in that
15 vehicle?

16 A. Yes, I did. I went ahead and I -- actually, I
17 located a black knit cap in the space between the left
18 front seat and the door; also, a buck knife that was
19 actually on the floorboard of the right seat.

20 Q. And as far as the black knit cap and that buck
21 knife, you said you located it. Did you take photos of
22 that?

23 A. I did not.

24 Q. And did someone else take photos of that?

25 A. Coker did.

ANGELICA LOAIZA - DIRECT BY MS. LINDER

1 Q. And what did you do, or were those items ever
2 collected?

3 A. Yes, they were.

4 Q. And what happened with those items?

5 A. Those items were collected. I went ahead -- once
6 we responded back to North Charleston police department,
7 I went ahead and sealed them and I released them to
8 Coker.

9 Q. And aside from just searching the vehicle, did you
10 search any other area about the crime scene that day?

11 A. Yes. We actually canvassed the area, and I
12 collected a black piece of cloth that was in the nearby
13 area.

14 Q. And what did you do with that black piece of
15 cloth?

16 A. I also collected a picture of the vehicle, and
17 once I was back in Charleston, I went ahead and sealed it
18 and released it to Coker.

19 Q. Bear with me here.

20 A. No problem.

21 Q. I'm going to show you what has already been
22 admitted into evidence as State's Exhibit 15. We'll see
23 if you can see this. This is State's Exhibit 15.

24 A. It's that knife.

25 Q. Do you see this?

1 A. The knife?

2 Q. Yes.

3 A. Yeah.

4 Q. And how do you recognize this?

5 A. That was the buck knife.

6 Q. That's the buck knife you located this day? Do
7 you recognize -- this has already been admitted as
8 State's Exhibit 17. Do you recognize this picture?

9 A. Yes.

10 Q. What is this?

11 A. The cap, the knit cap.

12 Q. And I'm going to show you what's already been
13 admitted into evidence as State's Exhibit 20. Do you
14 recognize this?

15 A. Yes, the piece of cloth.

16 Q. All right. At this time, I'm going to show you
17 what's been marked as -- actually, one thing at a time.

18 After I went through and you searched and
19 collected items, did you do any other processing of the
20 scene that you had talked about a minute ago?

21 A. Yes. I actually spoke to the victim, and she had
22 told me that she had a struggle with the suspect. I did
23 notice some scratches in her neck, and I went ahead and I
24 did some DNA on her neck. I got some DNA from underneath
25 her fingernails, from her right hand, and also I got a

ANGELICA LOAIZA - DIRECT BY MS. LINDER

1 standard from her.

2 Q. And could you tell the jury a little bit about how
3 you go about collecting underneath her nails and getting
4 a standard, as you call it.

5 A. Yes. What I use is I use a sterile cotton tip
6 swab with distilled water. I moisten the tip, and then I
7 process her fingernails for possible biological evidence.
8 She did scratch him. After that I went ahead and I also
9 swabbed her neck, because she did tell me she did
10 struggle with him. She had a scratch from him.

11 After that, I went ahead and got a buccal swab.
12 What it is, is that she opened her mouth and I swabbed
13 both of her cheeks multiple times for a known standard.

14 Q. Okay. At this time I show you what has been
15 marked as State's Exhibit 31 and 32. Okay, trying to
16 give you far away and then close up.

17 A. Okay. Is that the SLED packaging? Because I
18 can't see -- I can't see it very well.

19 Q. Yes. After you collected the swab from her
20 fingernails, her neck, and inside of her mouth, that
21 standard, that buccal swab, what did you do with those
22 items?

23 A. I went ahead and I collected them, secured them in
24 the vehicle. I actually -- I sealed the buccal swab. I
25 gave it to Coker. I also -- then I relieved Coker, the

1 victim's neck swab and also lifted her nail tips.

2 Q. And why did you put all these items into evidence?

3 A. That's the protocol we would have to use once we
4 collect evidence.

5 Q. And was the thought -- I understand your job is to
6 collect it, but were these items collected in order to be
7 further tested by SLED?

8 A. Yes, ma'am.

9 Q. Okay. I already showed you State's Exhibit 31 and
10 32. I'm going to attempt to show you 33.

11 A. Uh-huh.

12 Q. Buccal swab?

13 A. Yes.

14 Q. Okay. Bear with me.

15 A. Okay. I see it.

16 Q. Okay. And do you know what that is? I think you
17 already said it.

18 A. Yes. The buccal swab from the victim that we use
19 as a known standard as per SLED regulations.

20 Q. Okay. Hold on one second.

21 I'm going to show you -- this may be a little
22 tougher to see. It's a larger bag. I'm going to show
23 you what's been marked as State's Exhibit 29 and 30, and
24 if you need to, I can cut this thing open, but here it
25 is.

ANGELICA LOAIZA - DIRECT BY MS. LINDER

1 A. Okay.

2 Q. Do you want me to cut this open? Will that help?

3 A. Yes, that will help.

4 Q. Okay. All right. This is State's Exhibit 30 that
5 was previously in that big clear bag that I was showing
6 you.

7 A. Okay.

8 Q. I don't know if you can see this any better.

9 A. And it says black cloth.

10 Q. Right. Is this what you collected back on
11 December 19th of 2011?

12 A. Yes, ma'am.

13 Q. And then this is item -- I'm sorry, item 29. And
14 this also is in that bag. Here it is.

15 A. Okay. It says black knit cap.

16 Q. Is this the item you collected back on that day?

17 A. Yes, ma'am.

18 MS. LINDER: All right. I don't have any
19 other questions for you right now. The defense attorney
20 is going to come over here in my spot, and please answer
21 any questions they may have for you. Okay?

22 THE WITNESS: No problem.

23 MR. GRIMES: Defense has no questions, Your
24 Honor.

25 THE COURT: All right. Well, thank you very

1 much. You can shut that down.

2 MS. LINDER: We're going to end the call.
3 Thank you very much.

4 THE WITNESS: Thank you.

5 THE COURT: Okay. Call your next witness.

6 MS. BALDWIN: Your Honor, may we approach
7 briefly?

8 (Discussion held at sidebar.)

9 THE COURT: All right. We need about ten
10 minutes for the next witnesses to get here, so let's go
11 back to the jury room, and just bear with us for a few
12 minutes and we'll resume as soon as they get back.
13 Again, don't begin deliberations or discussions about the
14 case.

15 (Recess taken.)

16 (In open court, jury present.)

17 THE COURT: All right. Call your next
18 witness.

19 MS. BALDWIN: State calls Officer Mouzon.

20 MONIQUE MOUZON,

21 having been first duly sworn,

22 was examined and testified as follows:

23 DIRECT EXAMINATION

24 BY MS. BALDWIN:

25 Q. Where are you presently employed?

MARYANN BOEHM - DIRECT BY MS. BALDWIN

1 MS. LINDER: Thank you very much.

2 THE COURT: All right. Your next witness is
3 a live witness?

4 MS. BALDWIN: Yes, Your Honor.

5 THE COURT: All right.

6 MS. BALDWIN: State calls Maryann Boehm.

7 MARYANN BOEHM,

8 having been first duly sworn,

9 was examined and testified as follows:

10 DIRECT EXAMINATION

11 BY MS. BALDWIN:

12 Q. Where are you employed?

13 A. I'm employed by South Carolina Law Enforcement
14 Division, commonly known as SLED.

15 Q. How long have you been employed with SLED
16 approximately?

17 A. Approximately eight and a half years.

18 Q. What is your job at SLED?

19 A. I am assigned to the DNA case work department. I
20 process DNA profiles from evidence and compare that to
21 DNA profiles of a known standard.

22 Q. What your educational background?

23 A. I received a bachelor of science in integrated
24 science and technology with a concentration in
25 biotechnology from James Madison University, and that's

1 in Harrisonburg, Virginia.

2 Q. Do you have any prior professional experience
3 working in laboratories?

4 A. I did. Upon graduation from James Madison
5 University, I was employed by a private DNA company,
6 Orchid Cellmark in Germantown, Maryland, worked there
7 about two-and-a-half years before being employed by SLED.

8 Q. What specialized training have you had in the area
9 of forensics?

10 A. Through training, I have received in house at SLED
11 training by a Court qualified analyst about the proper
12 procedures and techniques; also attended outside training
13 in civic instrumentations and statistics we use in our
14 lab.

15 Q. Have you ever been qualified as an expert in
16 forensic serology and DNA analysis before?

17 A. Yes, I have.

18 Q. And how many times?

19 A. About 45 times.

20 MS. BALDWIN: Your Honor, at this time the
21 State would like to offer Ms. Boehm in the field of
22 forensic serology and DNA analysis.

23 THE COURT: Any objection?

24 MR. GRIMES: No objection, Your Honor.

25 THE COURT: All right.

MARYANN BOEHM - DIRECT BY MS. BALDWIN

1 Folks, I told you at the beginning of the
2 trial, when somebody testifies, they normally come in and
3 tell you what they heard, they saw, they touched, they
4 felt, they smelt. We normally don't let people come in
5 and give their opinion about evidence.

6 The law says, however, that when somebody
7 because of training or experience or education in a field
8 rises to a level of expertise in that field, we allow
9 them to come into court. They can testify about their
10 observations, and they're also allowed to give their
11 opinion and tell you the basis for what their opinions
12 are.

13 This witness has now been qualified as an
14 expert in the field of forensic DNA analysis, so she'll
15 be allowed to give you her opinion about what the
16 evidence shows.

17 You are not required to give an expert
18 witness's testimony any greater weight than you do any
19 other evidence. You decide how much weight her opinion
20 deserves based on her credentials and all the other
21 evidence that you feel like or you have heard throughout
22 the trial, and you determine how much weight her opinion
23 is due.

24 So I'll let you resume.

25 BY MS. BALDWIN:

1 Q. Ms. Boehm, could you explain to the jury what DNA
2 is.

3 A. DNA stands for Deoxyribonucleic Acid. It is a
4 chemical found in all our cells of the body except the
5 red blood cells. It gives us our physical features, like
6 hair color and our height. It also is important for
7 passing along traits from generation to generation. We
8 get half DNA from our mother and half from our father.

9 With the exception of identical twins, no two
10 individuals have the DNA profile. As far as the science,
11 we are interested in the portion of DNA that differ
12 between individuals. We test 15 of those locations, and
13 a combination of those test results make up a DNA
14 profile.

15 Q. And did you receive evidence in this case, the
16 State versus Sheldon Lamar Kelly?

17 A. Yes, I did.

18 Q. What items did you receive?

19 A. I received several items of evidence, a swab from
20 the right hand fingernails, a swab from the neck, a swab
21 from a knitted cap, another swab from a knitted cap, a
22 cutting from that knitted cap, a hair from that knitted
23 cap, two swabs from a piece of clothing, a cutting from a
24 piece of clothing, and swab from the shifter knob, as
25 well as a swab of a buck knife, from a buck knife. I

MARYANN BOEHM - DIRECT BY MS. BALDWIN

1 also received two standards to compare to that evidence.

2 Q. And what standard were those?

3 A. A buccal swab from Veronica Frutchey and a buccal
4 swab from Sheldon Kelly.

5 Q. I'm going to show you what's been marked as
6 State's Exhibit 33. Can you tell me what that is.

7 A. This State's Exhibit 33 is our lab item number
8 one, which is a buccal swab from Veronica Frutchey.

9 Q. I'm showing you State's Exhibit No. 31 and 32.

10 A. State's Exhibits 31 and 32 are the swabs I
11 received, swab from the right hand fingernails and swab
12 from the neck.

13 Q. State's Exhibit 34?

14 A. This is the swab from the shifter knob.

15 Q. State's 35?

16 A. This is the swab of the buck knife.

17 Q. And State's 36?

18 A. This is a swab from Sheldon Kelly, the buccal
19 swab.

20 Q. And State's 37?

21 A. State's Exhibit 37 contains the swabs from the
22 knitted cap, cutting from the knitted cap, the hair from
23 the knitted cap, the swab from the piece of clothing, the
24 swab from the piece of clothing, and a cutting from a
25 piece of clothing.

1 Q. And how are all of these items packaged when you
2 receive them?

3 A. They are all sealed.

4 Q. Did they appear to be tampered with at all?

5 A. No, ma'am.

6 Q. Had they appeared to be tampered with, would you
7 have performed any analysis on them?

8 A. No, I would not have.

9 MS. BALDWIN: Your Honor, at this time I
10 would like to admit State's 31 through 37 into evidence.

11 MR. GRIMES: No objection, Your Honor.

12 THE COURT: Admitted.

13 (State's Exhibit Nos. 31 through 37 were
14 marked for identification and admitted into evidence.)

15 BY MS. BALDWIN:

16 Q. You did, in fact, perform DNA analysis on those
17 items?

18 A. Yes, ma'am, I did.

19 Q. And what are your results?

20 A. The DNA profile developed from our lab item one,
21 which was a swab from the right-hand fingernails is a
22 mixture of at least two individuals. The DNA profile of
23 the major contributor to this mixture matches the DNA
24 profile of Sheldon Kelly.

25 The probability of randomly collecting an

1 unrelated individual having a DNA profile matching the
2 major contributor to this item is approximately 1 in 16
3 trillion. The DNA profile of the minor contributor to
4 this mixture is consistent with the DNA profile of
5 Veronica Frutchey.

6 Q. And as to items 3.1, 3.2, 3.3, 3. -- is it 4,
7 which is hair?

8 A. Yes, ma'am.

9 Q. Did that come from item 3.4?

10 A. Yes, which ultimately came from the knitted cap.

11 Q. 4.1 and item 4.2, what are your results there?

12 A. The DNA profile developed from those items also
13 matches the DNA profile of Sheldon Kelly. The
14 probability of randomly collecting an unrelated
15 individual having an DNA profile matching these items is
16 approximately 1 in 110 trillion.

17 Q. And you're referring to some documents there.
18 What are those documents?

19 A. These are the reports I prepared based on my
20 findings.

21 Q. As to item 4.3?

22 A. The DNA profile developed from item 4.3, which was
23 the cutting from the piece of clothing, is a mixture of
24 at least two individuals. The DNA profile of the major
25 contributor to this mixture also matches the DNA profile

1 of Sheldon Kelly. Veronica Frutchey can be excluded as a
2 minor contributor to this mixture.

3 Q. And what does that mean?

4 A. That her DNA profile was not found in that
5 mixture.

6 Q. And that was the cutting from the piece of cloth?

7 A. Yes, ma'am.

8 Q. And tell us about item six.

9 A. DNA profile developed from item six, which was the
10 swab from the shifter knob, is the mixture of at least
11 two individuals. The DNA profile of the major
12 contributor to this mixture matches the DNA profile of
13 Veronica Frutchey. The probability of randomly selecting
14 an unrelated individual having a DNA profile matching the
15 major contributor to this item is approximately 1 in 140
16 trillion. Sheldon Kelly cannot be excluded as minor
17 contributor to this mixture.

18 Q. What does that mean, cannot be excluded?

19 A. That his DNA profile could be found within that
20 mixture.

21 Q. And then tell us about your results from item
22 eight, the swab from the buck knife.

23 A. The DNA -- the partial DNA profile developed from
24 item eight is not suitable for interpretation.

25 Q. What does that mean?

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1 A. I didn't get enough of a DNA result to make any
2 kind of an interpretation. I couldn't compare it to any
3 standard.

4 Q. You mentioned earlier that as to items -- I
5 believe item one, the swab from the right hand
6 fingernails and items 3.1 through, I guess, 4.2, you have
7 a probability there, I guess it's 1 in 16 trillion and 1
8 in 110 trillion but how many people are on the planet?

9 A. Approximately 7 billion.

10 Q. So what -- how do you develop these probabilities?

11 A. We use a computer software program maintained by
12 the Federal Bureau of Investigations, the FBI. It is a
13 computer program that contains frequencies for each test
14 result at every location that we test and we put in the
15 profile that we performed a match on, and it calculates
16 the frequency for the entire profile of how rare that
17 profile is.

18 Q. So one in 16 trillion, that's more than the number
19 of people on the planet?

20 A. Yes, ma'am.

21 MS. BALDWIN: Beg the Court's indulgence.

22 BY MS. BALDWIN:

23 Q. Ms. Boehm, if you could just go through one more
24 time, read the item you have and who it belongs to, who
25 it came from, so start with item one, please.

1 A. Okay. Item one, which was a swab from the right
2 hand fingernails, it was a mixture of at least two
3 individuals. The major contributor matches the DNA
4 profile of Sheldon Kelly. The minor contributor is
5 consistent with Veronica Frutchey.

6 The DNA profile developed from item 3.1, which was
7 a swab from the knitted cap, also matches the DNA profile
8 of Sheldon Kelly. The DNA profile developed from 3.2,
9 which was another swab from the knitted cap, matches the
10 DNA profile of Sheldon Kelly. The DNA profile developed
11 from the cutting from the knitted cap are in 3.3 also
12 matches DNA profile of Sheldon Kelly. The DNA profile
13 developed from the hair from the knitted cap also matches
14 the DNA profile of Sheldon Kelly.

15 The DNA profile developed from item 4.1, which was
16 a swab from a piece of clothing, also matches the DNA
17 profile from Sheldon Kelly. The DNA profile developed
18 from item 4.2, which is another swab from the piece of
19 clothing, also matches the DNA profile of Sheldon Kelly.
20 The DNA profile from item two, which is the swab from the
21 neck, is consistent with the DNA profile of Veronica
22 Frutchey.

23 The DNA profile from item 4.3, which was a cutting
24 from the piece of clothing, was a mixture of at least two
25 individuals. The major contributor to this mixture also

1 matches the DNA profile of Sheldon Kelly. Veronica
2 Frutchey cannot be excluded as the minor contributor to
3 this mixture.

4 Q. She can or cannot be?

5 A. She can be, I'm sorry. I misspoke. The DNA
6 profile from item six, the swab from the shifter knob, is
7 a mixture of at least two individuals. The DNA profile
8 of the main contributor matches the DNA profile of
9 Veronica Frutchey, and Sheldon Kelly cannot be excluded
10 as a minor contributor to that item.

11 MS. BALDWIN: Beg the Court's indulgence. I
12 have no further questions for you, Ms. Boehm. Please
13 answer any of Mr. Grimes's.

14 THE COURT: Cross?

15 MR. GRIMES: Thank you, Your Honor.

16 CROSS-EXAMINATION

17 BY MR. GRIMES:

18 Q. Good morning. I just want to ask you some
19 questions about limitations of DNA.

20 For example, DNA, if it's not preserved properly,
21 it can degrade over time, correct?

22 A. That's correct. Extreme heat or exposure to a
23 moist environment will degrade DNA.

24 Q. And the length of time it could be outside could
25 affect DNA?

1 A. Right. If those kind of factors, extreme heat or
2 subject to moisture, rain, it could degrade DNA.

3 Q. If you have several people who come in contact
4 with something, such as this podium, it might contaminate
5 the DNA, correct?

6 A. It wouldn't degrade -- degradation is damaging the
7 DNA, where I wouldn't be able to test it. If someone
8 else touched DNA, or another surface, it would probably
9 be a mixture of those two DNA profiles.

10 Q. And do you know the circumstances under which
11 these items that you tested were recovered?

12 A. No, sir.

13 Q. DNA can also -- it can't tell you when something
14 happened, can it?

15 A. That's correct.

16 Q. And it can't tell you exactly what happened,
17 correct?

18 A. No, sir.

19 Q. I'm going to ask you a couple hypotheticals, okay,
20 based upon your training in forensic serology and DNA
21 analysis.

22 If I was to scratch somebody on their arm, that
23 could pick up their DNA under my fingernails; is that
24 correct?

25 A. That's correct.

1 Q. If I scratch someone on their neck, could I leave
2 my DNA in the neck area, correct?

3 A. It's -- maybe it's possible. You don't really
4 shed too much skin cells or DNA from your fingernails.
5 It's more of the skin that you shed cells from.

6 Q. Okay. And if someone is choking somebody, you
7 could leave DNA that way, correct?

8 A. That's possible.

9 Q. And if I was wearing a cap while out running or
10 jogging, I could leave DNA in the cap, right?

11 A. Yes.

12 Q. And if I'm in my car and I got shifting around and
13 driving the car, I could leave DNA on the shifter knob,
14 correct?

15 A. That's correct.

16 Q. And if I take a knife to defend myself and I'm
17 opening it and sticking it in someone's abdomen, I could
18 leave my DNA on that knife, right?

19 A. It's possible.

20 Q. In this case, you need to find a suitable DNA
21 sample on a knife to do the testing, correct?

22 A. I performed DNA analysis on that sample. There
23 just wasn't a lot of DNA there for me to develop a full
24 profile of all those test results to make any kind of
25 comparison.

1 That goes along with touch DNA. Any time you
2 touch an object, there is a potential to leave DNA
3 behind; however, you may not always leave it behind.
4 There is a lot of conditions that affect whether you
5 leave DNA behind, whether -- how long you touch it, how
6 often you use the object, do you have a barrier, like a
7 glove or some kind of cloth in between you and the
8 object.

9 There's also -- we call them shedders, people
10 slough off more DNA, or skin cells, than other people, so
11 they will tend to leave more DNA behind than others.

12 Q. You didn't find Mr. Kelly's DNA on this knife, did
13 you?

14 A. I didn't have that to compare to any standard with
15 that.

16 Q. You didn't find his DNA?

17 A. That's correct.

18 Q. And on the shifter knob, you couldn't exclude him
19 or -- let me check that. You couldn't -- you didn't
20 match him, but you couldn't exclude him as a contributor?

21 A. Right. He couldn't be excluded as a minor
22 contributor.

23 Q. So unlike the knife, the DNA on the shifter knob,
24 there was enough to do testing, right?

25 A. That's correct.

1 Q. And you didn't find Mr. Kelly's DNA on any of the
2 neck samples, did you?

3 A. That's correct.

4 MR. GRIMES: Could I have one moment, Your
5 Honor?

6 THE COURT: Sure.

7 MR. GRIMES: Thank you, Your Honor.

8 I have no further questions.

9 THE COURT: Redirect?

10 MS. BALDWIN: Briefly, Your Honor.

11 REDIRECT EXAMINATION

12 BY MS. BALDWIN:

13 Q. If someone was wearing a long-sleeved shirt while
14 they were choking somebody, would they likely leave any
15 DNA on that person's neck?

16 A. If the shirt came in contact, instead of their
17 skin, most likely they wouldn't leave DNA behind. Like I
18 said before, this condition of leaving touch DNA behind,
19 one of which is a barrier between your skin and the
20 object you're touching.

21 MS. BALDWIN: Thank you.

22 I have no further questions.

23 THE COURT: Recross?

24 MR. GRIMES: Maybe one or two questions.

25 RECROSS-EXAMINATION

1 BY MR. GRIMES:

2 Q. In that same hypothetical, if a person is wearing
3 a long-sleeved shirt and choking someone, you would
4 expect to find the victim's DNA on the cloth?

5 A. It's possible.

6 Q. And you didn't find Ms. Frutcheys DNA on the
7 black cloth, did you?

8 A. No, sir, I did not.

9 MR. GRIMES: Thank you.

10 THE COURT: All right. You can step down.
11 Thank you.

12 Does the State have any further witnesses?

13 MS. BALDWIN: No, Your Honor. At this time
14 the State rests.

15 THE COURT: Folks, you've heard all of the
16 State's evidence now. I'm going to send you back into
17 the jury room so we can get ready for the next phase of
18 the trial, and we'll just take our mid-morning break at
19 this time. So we'll go ahead and take about a 15-minute
20 break.

21 Again, don't begin deliberations or
22 discussions about the case, and we'll see you back in
23 about 15 minutes. Thank you.

24 (In open court, jury not present.)

25 THE COURT: All right. Any motions?

1 MR. GRIMES: Yes, Your Honor. I believe
2 under Rule 29 we move for a motion of directed verdict.
3 The State hasn't established sufficient intent of
4 carjacking or kidnapping.

5 Thank you, Your Honor.

6 THE COURT: All right. Well, there is
7 certainly direct evidence of kidnapping and carjacking
8 and the knife charges, so the motion is denied.

9 Now, have y'all talked about whether or not
10 you're going to present a defense?

11 MR. GRIMES: Yes, Your Honor, we have.

12 THE COURT: Okay. What is your decision?

13 MR. GRIMES: Our decision is to present two
14 witnesses: Sheryl Kelly and Mr. Kelly.

15 THE COURT: Before I talk to Mr. Kelly again,
16 has the State decided whether or not they're going to try
17 to -- or want to ask if they are getting into his
18 conviction for voluntary manslaughter?

19 MS. BALDWIN: Your Honor, I think it depends
20 on what Mr. Kelly's testimony is as to whether or not it
21 would be admissible.

22 THE COURT: Well, what would be the probative
23 value of it?

24 MS. BALDWIN: If he were to indicate that
25 they weren't violent in any way, I think a voluntary

1 manslaughter conviction would be quite probative.

2 MR. GRIMES: Your Honor, I think we all agree
3 with Ms. Baldwin if we open the door and say he's a
4 peaceful person, the State would be allowed to impeach
5 him, but we don't plan to do that.

6 THE COURT: Well, certainly before you
7 attempt to put it in for that purpose, you need to
8 approach the bench and ask for permission, but as to
9 whether or not you would be able to otherwise get it in,
10 I don't think that under the Black case a voluntary
11 manslaughter conviction is something that normally comes
12 in over -- under 609 for impeachment purposes, so I'm not
13 going to let you bring it in under 609.

14 I think the prejudicial value is outweighed
15 by the probative value of it. If you think he's opened
16 the door to use for impeachment on whether or not he's a
17 violent person, well, let's just -- we'll revisit it at
18 that time, but be sure you ask permission from the Court
19 before you go down there.

20 All right? Mr. Kelly, we talked yesterday,
21 or maybe it was the day before, about your right to
22 testify. Your lawyer tells me you do want to testify.
23 That's fine. I just want to go over with you, based on
24 what I just talked about, as I told you, you can testify
25 or not. If you don't want to testify, I will instruct

1 the jury they're not to hold that against you in any way
2 while they are deliberating their verdict.

3 If you do want to testify, I have made a
4 decision that the State may not introduce evidence of
5 your voluntary manslaughter conviction for the purposes
6 of impeachment, that is for the purposes of a -- or a
7 prior conviction, felony conviction, conviction of a
8 dishonest crime would come in for credibility purposes.
9 In other words, since you were convicted of a crime
10 involving dishonesty, it is likely you would lie, is the
11 theory.

12 I have made a ruling that the crime of
13 voluntary manslaughter is based on our prior case law,
14 not normally allowed for that purpose, and so I've told
15 the State they may not introduce it for that purpose;
16 however, as I'm sure your lawyer will explain to you, if
17 you get up and testify and there is some possibility of
18 you denying -- I'm not sure how that would come up, that
19 you were a violent person, so to speak, then I think they
20 may try again at that point to see if they could use that
21 for impeachment purposes.

22 I've told them they need to approach the
23 bench and we'll talk about that again, but you and
24 Mr. Grimes will talk about that a few minutes before you
25 testify, but your lawyer tells me at this point you do

1 want to testify.

2 Is that correct?

3 THE DEFENDANT: Correct.

4 THE COURT: We'll take about a 15-minute
5 break here so y'all can get ready. We'll use the rest
6 room and come back in 15 minutes and get started. All
7 right?

8 (Recess taken.)

9 THE COURT: Okay. Are we ready?

10 MR. GRIMES: Yes, sir.

11 (In open court, jury present.)

12 THE COURT: Okay, folks. Welcome back. We
13 are now going to move to the next phase of the trial,
14 which is the defense calling their first witness.

15 Mr. Grimes?

16 MR. GRIMES: Thank you, Your Honor. May it
17 please the Court: We call Sheryl Kelly.

18 SHERYL KELLY,

19 having been first duly sworn,
20 was examined and testified as follows:

21 DIRECT EXAMINATION

22 BY MR. GRIMES:

23 Q. Good morning, Ms. Kelly.

24 A. Good morning.

25 Q. How are you doing today?

—SHERYL KELLY - DIRECT BY MR. GRIMES—

1 A. I'm fine.

2 Q. Before we get started, I wanted to ask you a few
3 questions about your background, okay?

4 A. Certainly.

5 Q. Could you tell the jury how old you are?

6 A. Thirty-eight.

7 Q. And where are you from?

8 A. Originally Charleston.

9 Q. And have you lived in Charleston your whole life?

10 A. Somewhat.

11 Q. Okay. Do you know Sheldon?

12 A. Yes, I do.

13 Q. And what is your relationship with Sheldon?

14 A. He's my baby brother.

15 Q. All right. I'm going to ask you a few questions
16 about December 2011, okay?

17 A. Okay.

18 Q. Do you know Sheldon was working at that time?

19 A. Yes.

20 Q. And where was that at?

21 A. Lionheart Trucking.

22 Q. And where exactly is Lionheart Trucking located
23 at?

24 A. It's across from Military Magnet, a little off of
25 Rivers on the opposite end of Rivers Avenue.

1 Q. Do you know if it's near Charles Blanchard
2 Construction Company?

3 A. Approximately.

4 Q. Ma'am?

5 A. Approximately.

6 Q. Okay. And where was Sheldon living at at this
7 time?

8 A. Apparently between the two residence, my residence
9 and my grandmother's residence.

10 Q. And where are those two residences at?

11 A. Mine is currently off Otranto and my grandmother's
12 is Fillmore Street, off of that, in the subdivision.

13 Q. And how far is Accabee subdivision from Lionheart
14 Trucking?

15 A. It's, like, minutes of a walkway. I'd say about
16 15, 20 minutes walk.

17 Q. During this time was Sheldon working anywhere
18 else?

19 A. Currently with me at the restaurant.

20 Q. Could you tell the jury about the restaurant you
21 had.

22 A. Currently it is located at 3309 Rivers Avenue.
23 It's actually between Reynolds and Rivers.

24 Q. What was the name of it?

25 A. It was Big Mama's Soul Foods.

—SHERYL KELLY - DIRECT BY MR. GRIMES—

1 Q. Okay. What was Sheldon doing there?

2 A. He currently just monitored, like, help out
3 because I need to be left alone, so he keep, like,
4 security, take out trash, any major things that we would
5 need done, such as handyman stuff as well.

6 Q. I'm going to ask you a few questions about
7 Sheldon's appearance in December 2011, okay?

8 A. Okay.

9 Q. At any time in December -- did you notice any
10 scratch marks on his face?

11 A. No, none that I can recall.

12 Q. And how often would you see him there in December?

13 A. We see each other every day.

14 Q. All right. I want to show you what's marked as
15 Defense Exhibit 1. Do you recognize what this is?

16 A. Yes. It's a picture of Sheldon at the restaurant.

17 Q. And could you tell the jury when that picture was
18 taken.

19 A. December 23rd, 2011.

20 Q. And why was that picture taken?

21 A. He was in a current workman comp case.

22 Q. And do you know who took the picture?

23 A. An investigator.

24 Q. For?

25 A. Joye Law Firm.

—SHERYL KELLY - DIRECT BY MR. GRIMES—

1 Q. Does this picture fairly and accurately represent
2 Sheldon as he appeared on December 23rd, 2011?

3 A. Correct, sir.

4 MR. GRIMES: Your Honor, at this time I would
5 move to introduce Defendant's Exhibit 1.

6 MS. BALDWIN: Without objection.

7 THE COURT: Admitted.

8 MR. GRIMES: Can I publish it?

9 THE COURT: You may.

10 (Defense Exhibit No. 1 was marked for
11 identification and admitted into evidence.)

12 BY MR. GRIMES:

13 Q. Ms. Kelly, do you see any scratch marks on
14 Sheldon?

15 A. Currently I do, other than just his regular scar.

16 Q. The scar on his nose?

17 A. Yes. That one, and he also has one here.

18 Q. Apart from that, no scars on his cheek or on his
19 neck?

20 A. Not that I see.

21 MR. GRIMES: All right. Please answer any
22 questions Ms. Baldwin or Ms. Linder would have for you.

23 THE WITNESS: Yes, sir.

24 CROSS-EXAMINATION

25 BY MS. BALDWIN:

—SHERYL KELLY - CROSS BY MS. BALDWIN—

1 Q. Good morning, Ms. Kelly.

2 A. Good morning, ma'am.

3 Q. You say Sheldon is your baby brother?

4 A. Yes, he is.

5 Q. You care very much about him?

6 A. Just normal. It's my brother.

7 Q. As older sister to a younger brother?

8 A. Correct.

9 Q. Y'all grew up together?

10 A. Yes, ma'am.

11 Q. And you've been here the entire time waiting
12 outside to testify, correct?

13 A. Correct.

14 Q. You're here to support Sheldon?

15 A. Yes, I am.

16 Q. So you want to help him out?

17 A. Whatever is needed to be able to.

18 Q. You want to say anything you can to help him out?

19 A. Not anything, no.

20 Q. You say that picture was taken December 23rd?

21 A. Yes.

22 Q. Did you see Sheldon every single day?

23 A. Sheldon and I -- like I said, we lived together,
24 so I would be able to see him because we are always
25 typically on the phone or either facing each other, so

1 I'm always around him.

2 Q. But he went between your house and your grandma's
3 house on Fillmore Street, right?

4 A. That's still the same house, because we took
5 ownership of the home after she deceased.

6 MS. BALDWIN: Beg the Court's indulgence. No
7 further questions.

8 THE WITNESS: Thank you.

9 THE COURT: Any redirect?

10 MR. GRIMES: No, sir.

11 THE COURT: You can step down.

12 THE WITNESS: Thank you.

13 THE COURT: Next witness?

14 MR. GRIMES: We would call Sheldon Kelly.

15 SHELDON KELLY,

16 having been first duly sworn,

17 was examined and testified as follows:

18 DIRECT EXAMINATION

19 BY MR. GRIMES:

20 Q. Sheldon, do you know why we're here today?

21 A. Yes, sir.

22 Q. And let's just get right to the point. Did you
23 carjack Ms. Frutchey on December 19, 2011?

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

25 Q. Did you try to take her car in any way?

SHELDON KELLY - DIRECT BY MR. GRIMES

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

2 Q. Did you try to kidnap Ms. Frutchev on December 19,
3 2011?

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

5 Q. Did you try to seize her, pull her away from
6 anybody, take her anywhere?

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

8 Q. And please tell the jury, sort of briefly, what
9 happened between you and Ms. Frutchev on December 19,
10 2011 while you were in the car together.

11 A. Why we were in the car together? Well, it was a
12 drug deal that went bad. I was going to pick up some
13 drugs for her, and she got all outrageous about it
14 because she felt like she lost money in the deal and was
15 wanting me to straighten the deal out for her.

16 And I was, like, I bought drugs for you. I can't
17 go back and get no money for you because it's a deal.
18 You make me look like I'm the bad guy here. I'm not the
19 bad guy. I didn't do anything wrong. All I did was do
20 what you asked me to do, pick up some drugs for you.

21 Q. All right. Now, I want to go back a little bit
22 and ask you a few questions about your background, okay?

23 A. Okay.

24 Q. Where are you from?

25 A. Sumter.

1 Q. And how long have you lived in Charleston?

2 A. Since 2009.

3 Q. And how old are you, Sheldon?

4 A. Thirty-three years old.

5 Q. And do you have a lot of family in the Charleston
6 area?

7 A. My mom, sister, brother, grandmother, aunts,
8 uncles.

9 Q. Okay. And when you came back in Charleston, were
10 you working anywhere?

11 A. Yes, sir, I was.

12 Q. And where were you working at?

13 A. Lionheart Trucking.

14 Q. And while you were working at Lionheart Trucking,
15 where were you living at?

16 A. In between my sister's address and my
17 grandmother's address, Fillmore.

18 Q. And did -- December of 2011, were you more at your
19 grandmother's address --

20 A. I was more at my grandmother's house. It was more
21 convenient to be right next to my job.

22 Q. Okay. Could you describe to the jury sort of the
23 path from your grandmother's house to go to Lionheart
24 Construction -- I mean trucking.

25 A. The path, you talking about the way I go?

SHELDON KELLY - DIRECT BY MR. GRIMES

1 Q. Yes, sir.

2 A. Down Fillmore, come out on Appleton, which is the
3 main road of Accabee, in Accabee, come out, lead you back
4 out to the back road of Meeting Street, Meeting Street
5 leads you back into the Charles Blanchard Construction,
6 across Rivers, and into Lionheart Trucking parking lot.

7 Q. Would you be going to Charles Blanchard's parking
8 lot a lot?

9 A. Daily, every day, Monday through Friday.

10 Q. Okay. What kind of work did you do at Lionheart
11 Trucking?

12 A. Diesel technician.

13 Q. And were you working anywhere else at this time?

14 A. My mother's restaurant, like, on weekends.

15 Q. Okay. I want to ask you a few questions about
16 your history with Ms. Frutche, okay?

17 A. Uh-huh.

18 Q. When did you first meet her?

19 A. Around August, September, somewhere in there when
20 I first started working at Lionheart.

21 Q. In 2011?

22 A. 2011, yes, correct.

23 Q. And what was this first meeting like, when you
24 first met her?

25 A. Hi, what's up? And then walking through the

1 parking lot. She was out smoking a cigarette, and just
2 the normal passing and greeting and hello, how are you
3 doing?

4 Q. Do you know what kind of cigarettes she would
5 smoke?

6 A. Marlboros in the white box.

7 Q. And did there come to a point where she asked you
8 to help her get drugs?

9 A. At one point, yes, she did. One time when she
10 first approached me there, yes, she did.

11 Q. And how did that happen?

12 A. I was coming through the parking lot one day. She
13 was, like, What is going on?

14 I was, like, Nothing, chilling. I'm going on
15 my lunch break. Be back in an hour. And she was, like,
16 Well --

17 Q. And after you told her you would be back in a
18 hour, what did she say to you?

19 A. She asked me, well, could I get her a bag of
20 cocaine on my way back from my grandmother's house in
21 Accabee.

22 Q. And when she asked you to get her a bag of
23 cocaine, how did react to that?

24 A. I said, You're not trying to set me up or nothing,
25 right? She started laughing and joking, like no, she's

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1 not a cop. And she was like, No, I'm not the police.
2 She said, I wouldn't be asking you that if I was police,
3 man.

4 Q. Did you end up getting her cocaine that day?

5 A. Yes, I did.

6 Q. Where did you get it from?

7 A. A guy named Chavis in Accabee.

8 Q. How many times did Ms. Frutchev ask you to buy
9 cocaine for her?

10 A. Numerous occasions.

11 Q. Okay. More than ten or less than ten?

12 A. More than ten.

13 Q. And then when she would ask to you buy cocaine,
14 what value would she ask to you buy?

15 A. Well, first started out at, like, a \$20 bag, you
16 know what I mean. It increased, it grew, kept going, you
17 know what I mean?

18 Q. Okay. And what did it go up to?

19 A. Maximum amount was, like, \$225. It was seven
20 grams of cocaine.

21 Q. Was that in December --

22 A. December 19th, the day of the incident.

23 Q. Before that, had she ever asked for that much
24 before?

25 A. No, no, she hadn't. Mostly before that incident

1 was probably like \$60, \$80.

2 Q. So if I understand you correctly, before December
3 19th, 2011, when you bought drugs from Ms. Frutchey, it
4 would range between \$20 to \$60, \$80 bag?

5 A. Yes, it was.

6 Q. Now, I'm going to ask you some questions about the
7 incident between and you Ms. Frutchey, some of your
8 observations, okay?

9 A. All right.

10 Q. Do you remember any of her co-workers coming out
11 and trying to grab you or do anything?

12 A. I can't say; no, I didn't.

13 Q. Okay.

14 A. I didn't remember any -- to my knowledge, I can't
15 recollect it.

16 Q. Anybody pull on you, try to grab your shirt?

17 A. I can't say. During the altercation, there was so
18 much going on in the front seat of that car I couldn't
19 really say. I was trying to exit the car. She was
20 trying to hold me, grab me, keep me there, you know?

21 Q. Okay. And then when she was grabbing you and
22 holding you, did she ever scratch you anywhere?

23 A. It may have in the altercation she may have
24 scratched me. I'm not going to deny that because there
25 was a physical altercation.

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1 Q. Was it on your face or on your arm?

2 A. No, she never scratched my face. She may have
3 scratched me on my arm, my hand, you know what I mean?
4 When I was swinging at her hand, I stopped her hand and
5 she kind of grabbed my hand and tried to get her hand off
6 my wrist.

7 Q. And we've seen some pictures of her having some
8 bruising to her neck. Do you know how that happened?

9 A. It may have happened in the altercation, but so
10 far as me trying to restrain her from hitting me or going
11 any further with the altercation, you know what I mean.

12 Q. If there was any -- the bruising that she
13 sustained during this incident, you were sort of
14 restraining her rather than trying to grab her?

15 A. To try to stop her from attacking me.

16 Q. And you're a pretty big guy, aren't you?

17 A. Yes, sir. I'm about 225, 220, somewhere in there.

18 Q. Do you think you had to do that, or could you have
19 handled her in a different way?

20 A. I was just trying to stop her. I was more in a
21 panic mode because she was looking at me like, I want my
22 money, and I'm not taking this shit, I want my money, you
23 know.

24 Q. Did you have drugs on you at that time?

25 A. Yes, I did.

1 Q. And you're in the middle of a parking lot?

2 A. In the middle of a parking lot, yes, sir.

3 Q. Were you worried about anyone coming up there, the
4 police?

5 A. More the police, yes, I was.

6 Q. And during this incident, did you ever use a
7 knife?

8 A. No, sir.

9 Q. Did you ever have a knife with you?

10 A. No, sir.

11 Q. Have you ever seen that buck knife before?

12 A. No, sir.

13 Q. I want to ask you some more details about what
14 happened during the incident, okay?

15 A. All right.

16 Q. I think you testified on December 19th that
17 Ms. Frutchey was buying an extra amount of cocaine. Did
18 she ever tell you why?

19 A. No, she never said that. We never went into no
20 details. She just wanted it, and I told her I could get
21 it and I got it.

22 Q. And what was your reaction when she said she
23 wanted \$225 worth?

24 A. To be honest, I was thinking \$225, it's around
25 Christmas time, she's not going to get this cocaine. I'm

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1 going to keep this money. I'm going to be honest. If
2 I'm going to be honest about it, that's what I said in my
3 mind.

4 Q. So you were planning to rip her off of the \$225?

5 A. Just thought it would be an easy \$225, and I
6 didn't expect to be put in this situation behind \$225,
7 you know what I mean?

8 Q. And is there any significance in the amount of
9 buying \$225 worth?

10 A. You get seven grams for \$225 on the street,
11 quarter ounce of cocaine.

12 Q. Okay. And after she asked you to buy this quarter
13 ounce of cocaine, what did you do next?

14 A. Got in the car, we went to Accabee, drove to
15 Accabee in her black Kia Ultima.

16 Q. Who was driving?

17 A. I was.

18 Q. Where did you go to in Accabee?

19 A. Down Appleton on Fillmore to where they know me,
20 standing on the corner and sell drugs.

21 Q. Do you remember who you got it from?

22 A. Yes, a guy named Chavis, known drug dealer in
23 Accabee.

24 Q. And tell the judge a little bit how you went to
25 buy it and how you were planning to rip her off.

1 A. Okay. After we discussed it, I got in the car and
2 drove down Appleton the way explained it. I walked to
3 get to work. Drove in the back side of Accabee. I got
4 down to Fillmore Street. I turned in. Pulled into a
5 field. It got an abandoned house, and I sat parked in
6 the field. I told her sit right in the car.

7 I went into, like, the abandoned yard. They got
8 the house boarded up on the corner of Accabee. I walked
9 in, told Chavis, I said, Look, man. I got \$225 for seven
10 grams.

11 And he was, like, I could do that, you know what I
12 mean? But I was, like, this is the lick. Give me the
13 coke, and give me a dummy bag.

14 Q. What do you mean by a lick?

15 A. The lick is like -- I guess you could say I'm
16 planning on getting over on somebody. I guess if you
17 call it street terms, like lick, you're going to give him
18 something to get something out of the deal, you know what
19 I'm saying?

20 So the deal was for him to get the \$225 and give
21 me the coke, and I was going to get the fake bag and he
22 got the 225 and she got the fake bag of coke.

23 Q. What would go in this fake bag of coke?

24 A. I don't know what was in it. I just know it is a
25 powder substance that looks to be cocaine but it wasn't.

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1 Q. Okay. Now, after you got the real cocaine and
2 this fake bag of cocaine, what did you do?

3 A. Placed the cocaine in my left pocket, placed
4 the -- I guess you could call it the flam, the fake drugs
5 in my right pocket, and walked out of the yard got back
6 in the vehicle and drove back to Charles Blanchard
7 Construction.

8 Q. When you got back to Blanchard Construction, what
9 happened there?

10 A. We pulled in the lot. I said, Well, went in my
11 right pocket. I gave her a bag of cocaine, mostly bag of
12 cocaine. She was, like, What the hell is this?

13 I'm, like, What you asked for, seven grams. And I
14 said, This is what you asked me to go get you.

15 She said, No, this ain't what I'm spending my
16 money on. She said, No, this is not what I asked for.
17 This don't look real, you know what I mean?

18 Q. And when she was saying it didn't look real and
19 that wasn't what she asked for, what else was she doing?

20 A. She opened the bag and kind of like, I guess you
21 could say, like, tested it or stick her finger in the
22 bag, and she's, like, No, huh-uh. I'm not going for
23 that.

24 Q. Once she discovered the drugs were fake, did she
25 get angry?

1 A. She got more belligerent, I'd say. We could say
2 wild and crazy about it. It wasn't like she was
3 accepting it.

4 Q. When you say she got wild and crazy, could you
5 tell the jury kind of exactly what she was doing?

6 A. She tried to hit me in the face, but I kind of
7 pulled back. I'm, like, what the hell were you doing?
8 You act like I'm the bad guy in the situation. I did
9 what you asked me to do, get you some cocaine. If it
10 ain't real, it ain't on me, you know what I mean?

11 So she kind of kept on trying to attack me from
12 the passenger side of the vehicle, but I'm trying to hold
13 her at bay, like, Calm down, man.

14 And she's, like, I want my damn money. I'm not
15 accepting this. I'm not going to take this.

16 So it's like, Let me see what we can could to try
17 to diffuse the situation. I back the car out. I went to
18 back the car out.

19 I said, Let's go back around here and see if the
20 dude is going to give you your money back, which I told
21 her it's not going to happen, but I can try. I could try
22 to get the money back. I said, basically, it's not going
23 to happen, but we could make an effort at trying to make
24 myself look like I wasn't the bad guy in the situation.

25 Q. Were you planning for her to keep buying drugs

1 from you?

2 A. Yeah, I intended.

3 Q. That's why you didn't want to be the bad guy?

4 A. Yeah.

5 Q. After you backed the car out, what happened then?

6 A. She started -- I was, like, I don't know if I'm
7 going to be able to get your money back.

8 She was, like, You are going to do something.

9 You're going to have to give me my money or they're going
10 to do something. I want my money.

11 I said, Well, I can't guarantee that. I stopped
12 the car. I said, look, I can't guarantee you money back,
13 I can go back and ask the guy and say, look, this stuff
14 ain't real. Girl wants her money back and leave it at
15 that.

16 She still started getting belligerent, like in the
17 front seat, like, Hell no. I know I'm not getting that.
18 I want my money. This is not what I paid for.

19 Q. All right. During this argument, did you ever use
20 a knife or anything?

21 A. No, sir.

22 Q. And after the argument, what happened? What did
23 you do?

24 A. Basically was trying to get out of the vehicle.
25 She was trying to hold me in the vehicle.

1 Q. And did you eventually get out of the vehicle?

2 A. Yes, I did.

3 Q. When you got out, what did you do? What did you
4 do?

5 A. Walked through the parking lot of Charles
6 Blanchard and went on my way.

7 Q. Do you remember anyone trying to chase you or
8 chase after you or anything?

9 A. No, I can't recall that.

10 Q. When you were walking out, did you throw down this
11 cloth rag or anything?

12 A. I pass through that parking lot all that time. I
13 might have dropped that cloth rag from work.

14 Q. I mean, on December 19th, did you drop it?

15 A. No, sir, no, sir.

16 Q. And the cloth rag, what would you kind of use that
17 for at work?

18 A. Sweatband.

19 Q. All right. If it got dirty and oily, what would
20 you do?

21 A. Trash it, drop it.

22 Q. Okay. Now, in conclusion, could you tell the jury
23 again, look them right in the eye. Did you ever try to
24 take Ms. Frutcheys car from her?

25 A. No, ma'am. No, sir. Ladies and gentlemen of the

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1 jury: I would never do that.

2 Q. Did you ever try to kidnap her?

3 A. No, sir. No, ma'am. Ladies and gentlemen of the

4 jury: I would never attempt that. I would never even
5 think of that.

6 Q. Are you guilty of basically some type of drug
7 offense?

8 A. Yeah, trying to cheat her out of money. I would
9 accept responsibilities of that. Carjacking and
10 kidnapping, no.

11 Q. All right. Thank you. Please answer any
12 questions the State may have for you.

13 THE COURT: Cross?

14 CROSS-EXAMINATION

15 BY MS. BALDWIN:

16 Q. Your Honor, good morning, Mr. Kelly.

17 A. Good morning.

18 Q. How are you doing?

19 A. I'm fine.

20 Q. As Mr. Grimes asked you, you know why we're here
21 today?

22 A. Yes, ma'am.

23 Q. Sitting in the courtroom the whole time?

24 A. Yes, ma'am.

25 Q. Heard all the testimony?

1 A. Yes, ma'am.

2 Q. I want to take you back to the first time that you
3 met Ms. Frutchey, okay?

4 A. Yes, ma'am.

5 Q. First time she asked you to get drugs for her.

6 A. Uh-huh.

7 Q. Where was she?

8 A. Charles Blanchard Construction parking lot,
9 smoking a cigarette.

10 Q. Where was she sitting?

11 A. In her vehicle.

12 Q. In her vehicle?

13 A. Yes, ma'am.

14 Q. Which vehicle?

15 A. Black Ultima, Optima, or whatever that car is
16 called.

17 Q. Where was the car parked?

18 A. It was parked in the front of the building.

19 Q. The front of the building?

20 A. Yes, ma'am.

21 Q. Okay. And what exactly did she say to you is?

22 A. Very first meeting was, Hi, how are you doing,
23 passing through the parking lot, and just the normal
24 things you would greet and meet someone when you first
25 meet them, actual meet and greet, hello, how are you

1 doing?

2 Q. When she asked to you get her drugs the first
3 time, what kind of drugs were they?

4 A. Cocaine.

5 Q. Exactly how did she -- did she say cocaine? Did
6 she say coke?

7 A. She said cocaine. Can you get me some cocaine?

8 Q. And where was she sitting when she asked you?

9 A. In her Kia Optima.

10 Q. How did she -- was her window down? Was it up?

11 A. Door was open, her front door. She was sitting in
12 the door with the door open, like, her legs out of the
13 car.

14 Q. Where were you?

15 A. Walking through the parking lot.

16 Q. Where in the parking lot when she called out to
17 you?

18 A. Like, when I come -- it's kind of hard to explain,
19 but when I came through the parking lot, basically I
20 wouldn't have missed her path. No way would I have
21 missed her path.

22 Q. You don't remember where you were though, exactly?

23 A. No. I just know I was coming through the parking
24 lot.

25 Q. And exactly what did she say to you when she asked

1 you?

2 A. She said, Can you get me some cocaine? And my
3 reaction was -- I said, yeah, I can get you some cocaine,
4 but are you the police?

5 She said, No, I'm not the police.

6 Q. What did you say when she said, I'm not the
7 police?

8 A. I said okay. I can get you some cocaine.

9 Q. What did you do?

10 A. Went and got the \$20 from her and got the cocaine.

11 Q. How did you get the \$20 from her?

12 A. She passed me the bill; like, passed me a bill,
13 like, had a bill in her hand, pass it out the door of the
14 car, and I went and got the cocaine.

15 Q. What route did you take to go get the cocaine?

16 A. What?

17 Q. What route did you take to get the cocaine?

18 A. The same route I took the whole time I was working
19 at Charles Blanchard Construction, walking down Appleton
20 to Fillmore to my front door.

21 Q. You said the whole time you've been working at
22 Charles Blanchard Construction.

23 A. I meant whole time I was working at Lionheart
24 Trucking.

25 Q. When you were walking through the parking lot and

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1 she called out to you, you were on your way to work that
2 day?

3 A. I was at work that day, yes. It was the very
4 first time I met her.

5 Q. When she asked you to get cocaine?

6 A. Which occasion? She asked me several times to get
7 cocaine.

8 Q. The very first time.

9 A. Yes. I was at work that day, yes.

10 Q. You weren't --

11 A. That was back in August.

12 Q. You weren't at work, though, when she called out
13 to you, you were in the parking lot?

14 A. You're right. I was in the parking lot.

15 Q. And you were on your way to work then?

16 A. No. I was on my way to lunch break.

17 Q. What time of day was it?

18 A. Noon.

19 Q. And then where did you go?

20 A. Down through the parking lot of Charles Blanchard,
21 across Meeting Street, back of Accabee to Appleton
22 Avenue, walked down Appleton Avenue to Fillmore.

23 Q. Where on Fillmore was it?

24 A. I don't know exactly the address, but it's right
25 at Church at the corner of Church and Fillmore.

1 Q. How long did that walk take you?

2 A. I couldn't actually say. I couldn't put a time on
3 it because --

4 Q. You make that walk pretty often, right?

5 A. Yeah. I walk pretty often, but some days, I walk
6 slow, some days I walk fast.

7 Q. Give me an average?

8 A. Maybe seven, eight minutes, seven minutes at the
9 most.

10 Q. Not sure though?

11 A. Not 100 percent positive.

12 Q. So let's fast forward to the reason why we're all
13 here today.

14 A. Okay.

15 Q. So how did you get in touch with Ms. Frutchev that
16 day?

17 A. Again, she is standing out front, smoking a
18 cigarette.

19 Q. Where she was?

20 A. Out front of Charles Blanchard Construction,
21 smoking a cigarette.

22 Q. Was she standing or sitting?

23 A. In her car, I wouldn't -- I would say in her car.

24 Q. What time of day was it?

25 A. Again, it was somewhere between 3:00 -- a little

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1 after 3:00, maybe 40 minutes after 3:00 or something.

2 Q. 40 minutes after 3:00?

3 A. 45 after 3:00, somewhere in that area.

4 Q. Where were you when she called out to you?

5 A. Where was I?

6 Q. Yes.

7 A. I was coming in the parking lot.

8 Q. From which direction?

9 A. Lionheart Trucking.

10 Q. Where were you headed?

11 A. Home.

12 Q. What time do you typically get off of work?

13 A. Various times. It all depends on what's going on
14 at the shop.

15 Q. What time do you typically go to work?

16 A. 8:00 in the morning.

17 Q. How many times do you typically work there?

18 A. Monday through Fridays, Saturdays and Sundays if
19 permitted, if we're overcrowded, got a lot of trucks that
20 need to be out and serviced.

21 Q. Set time for you to show up, but not a set time
22 for you to leave?

23 A. Yeah.

24 Q. What did she say to you when she called out to you
25 on December 19th?

1 A. Could you look here right quick? I stepped to the
2 vehicle.

3 Q. What happened next?

4 A. She asked me could I purchase her something for
5 \$225, some cocaine for \$225.

6 Q. Did she give you that specific amount of money?

7 A. Yes, she did. She said she wanted seven grams of
8 cocaine.

9 Q. Which one did she say, \$225, or seven grams of
10 cocaine?

11 A. Seven grams of cocaine. I have \$225. Could you
12 get me seven grams of cocaine? I said yes.

13 Q. You knew exactly the amount of cocaine she could
14 get for that money?

15 A. Yes, I guess.

16 Q. She didn't say why?

17 A. No. She didn't give me any reason, no specifics.

18 Q. You typically say she would ask for less amounts,
19 lesser amounts.

20 A. Yes, she would.

21 Q. Okay. Then what happened next?

22 A. I got in the car, drove it, went to get the
23 cocaine.

24 Q. The first time you went and got the cocaine for
25 her, she didn't come with you, right?

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1 A. Yes, she did.

2 Q. I thought you just said that you went down to
3 Fillmore Street and got the cocaine. You walked down.

4 A. No. The very first time I went to go get cocaine,
5 I was by myself. Yes, I did say that, but I'm talking
6 about -- you said the day of December 19th, and that's
7 the day me and her got in the vehicle and went down, yes.

8 Q. How many times did you say you purchased this
9 cocaine for her?

10 A. Multiple times.

11 Q. Who did you purchase it from?

12 A. More than ten. A guy named Chavis.

13 Q. Every single time?

14 A. Every time. He's the only drug dealer in Accabee.

15 Q. The first time you say you walked alone to go get
16 drugs.

17 A. I walked alone; yes, I did.

18 Q. What about the second time?

19 A. Yes, I did.

20 Q. Third time?

21 A. Yes.. I can't actually say was it a third time
22 that I walked or did I ride my mini bike. I can't say.
23 I had a little mini bike also.

24 Q. You had a little mini bike?

25 A. Yes.

1 Q. You would take that to work, didn't you?

2 A. Yes, ma'am, sometimes.

3 Q. What about the fourth, fifth, sixth time you went
4 and got cocaine for her? Did you go by yourself?

5 A. Yes, I did.

6 Q. When was the first time she rode with you?

7 A. That time when she was spending \$225.

8 Q. Not the other times when she spent \$80?

9 A. Yes.

10 Q. She never rode with you?

11 A. The most she ever spent was \$80. The most she
12 ever spent with Chavis was \$80.

13 Q. But she never rode with you those times?

14 A. No, ma'am.

15 Q. When you went to purchase cocaine, you were
16 driving?

17 A. Yes.

18 Q. Who made that decision?

19 A. I did.

20 Q. Why did you make that decision?

21 A. Because I know she didn't know the neighborhood.
22 It's not like she just going to drive through the
23 neighborhood, not knowing where she's going, so why
24 not --

25 Q. So she had no problem with you driving her car?

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1 A. No. We talk, meet. How are you doing? Chavis.
2 I never gave her a problem to the point of -- she have no
3 problem with me driving her car.

4 Q. And she said in the passenger seat?

5 A. Yes, ma'am, she did.

6 Q. Court's indulgence.

7 While I'm looking for a picture, Mr. Kelly, you
8 said she smoked. What kind of cigarettes did you say Ms.
9 Frutchey smoked?

10 A. Marlboro whites in the white pack.

11 Q. How did you see that?

12 A. I see her sitting in the car, numerous times
13 talking to her, standing out front smoking a cigarette.

14 Q. Mr. Kelly, I'm going to show you State's Exhibit
15 11.

16 A. Okay.

17 Q. I think you've seen this since you've been in
18 here. Do you know what that is?

19 A. That's the Marlboro cigarette.

20 Q. Do you know what that whole picture is?

21 A. That's the car.

22 Q. Whose car?

23 A. I guess Ms. Frutchey's car.

24 Q. There is a whole bunch of stuff on that passenger
25 seat, right?

1 A. Yes, there is.

2 Q. But she was sitting in the passenger seat?

3 A. Yes.

4 Q. Okay. So what route did you guys take to go get
5 the drugs?

6 A. Out Charles Blanchard Construction parking lot,
7 down across old Meeting Street, back of the Accabee,
8 crossing the tracks, come into the back of Appleton, down
9 Appleton to Fillmore till the abandoned house, like
10 boarded up neighborhood house or whatever you want to
11 call it, in the fields, open field, like, there.

12 Q. And there was a boarded up house?

13 A. Yes, ma'am. There was a boarded up house with an
14 old field next to it.

15 Q. And who was in that house?

16 A. Nobody lives in the house. It's an abandoned
17 house.

18 Q. How did you know to get the drugs?

19 A. Because, like I said, that's where they sell drugs
20 and stand on the corner in Accabee.

21 Q. And what happened after you guys pulled up to this
22 house?

23 A. I pulled up to the field. The house is next to
24 the field.

25 Q. All right. What happened after you pulled up to

1 the field?

2 A. Okay. I told her, Sit right here. I'm going to
3 get it and be right back.

4 Q. What did she say?

5 A. Nothing, really. Okay. All right.

6 Q. What did you guys alk about on your way over?

7 A. Nothing really. She was, like, is this
8 neighborhood -- what kind of neighborhood is this? And
9 I'm like, You be all right.

10 Q. She was unfamiliar with Accabee?

11 A. Yes, ma'am.

12 Q. So you went inside to purchase the drugs?

13 A. No. I was outside. I went around the corner
14 there, go into the field, the yard of abandoned house.

15 Q. Who did you purchase them from?

16 A. Chavis.

17 Q. Could you see Chavis from the corner where you
18 parked?

19 A. They're pretty much standing -- yeah. You could
20 see him standing in the back yard, yeah.

21 Q. And you and Chavis had a conversation with each
22 other?

23 A. Yes, we did.

24 Q. And what did that entire conversation entail?
25 What did you guys talk about?

1 A. About -- I told him I wanted something for \$225,
2 and he was, like, Okay. I can get that for you.

3 With the money I gave him, the money she gave me
4 for drugs, and I'm, like, I need some fake dope too. I
5 need some fake drugs too and put it in the bag.

6 Q. Now, \$225 worth of cocaine is a pretty good amount
7 of drugs?

8 A. Seven grams. I would call that a pretty good
9 amount of drugs. That's a quarter of an ounce.

10 Q. Where did Chavis get it from?

11 A. Out of an abandoned burgundy LTD in the back of
12 the yard.

13 Q. He was in the front of the house?

14 A. No. He was in the back yard of the house.

15 Q. You walked to the back yard of the house?

16 A. That's where he hang out.

17 Q. Where did he get the fake cocaine from?

18 A. I guess out of that vehicle, like, wherever he
19 used to cut coke with I guess.

20 Q. Where were you standing when this happened?

21 A. Next to the burgundy LTD that's in this back yard.

22 Q. How long did this whole thing take?

23 A. Not long.

24 Q. Give me -- how long?

25 A. Probably three minutes, four minutes, three

1 minutes.

2 Q. How long would it typically take when you would go
3 to purchase drugs for Ms. Frutchey?

4 A. Again, I wasn't planning on giving him details of
5 what I'm doing. Probably less than a minute. I walk up,
6 say I got \$20, he hand it to me. I keep moving.

7 Q. Why did it take longer this time?

8 A. Because it took time to put together the fake
9 drugs.

10 Q. He just had fake drugs hanging out?

11 A. No, he doesn't, but he made a bag of fake drugs.

12 Q. What did he put in there?

13 A. I couldn't answer what he put in there. I don't
14 know what it was. I just know it was a white powder
15 substance that looks like cocaine.

16 Q. You don't know he got it from?

17 A. I just said out of a burgundy car.

18 Q. But what material was it?

19 A. No, I can't answer that question. I don't know
20 exactly what it was.

21 Q. When you say he got it out of the burgundy car,
22 what part of the car did he get it out of?

23 A. From the passenger side front, passenger side.

24 Q. Okay. And what happened after you obtained those
25 baggies?

1 A. I put it in -- the real cocaine in my left pocket,
2 the fake cocaine in my right pocket, went back out to the
3 field, drove the car and drove Ms. Frutchey back to
4 Charleston Blanchard Construction.

5 Q. What route did you guys take?

6 A. Same route, back down Fillmore, turn around, come
7 out, back down Appleton, across the tracks, back across
8 Meeting Street, into the back entrance of Charles
9 Blanchard.

10 Q. Where did y'all park?

11 A. In the spot where the fire hydrant is, right there
12 on the wall.

13 Q. And how long were you guys gone?

14 A. Like I said, maybe three minutes, max.

15 Q. Three minutes from start to finish?

16 A. Probably three, four minutes, max. I would guess
17 somewhere in there. I'm not 100 percent sure, but I
18 would say somewhere in there.

19 Q. What time did you say you left?

20 A. I didn't say what time I left, but I can't
21 actually say what time I left, you know what I mean.

22 Q. Didn't you say it was 3:40 when she called out to
23 you?

24 A. Yeah. No, I said it was 3:40. Yeah, I did say it
25 was 3:40.

SHELDON KELLY - CROSS BY MS. BALDWIN

1 Q. You weren't sure of the time?

2 A. Yeah.

3 Q. So what happened after you guys parked, you
4 parked?

5 A. I parked in the spot of where the vehicle was,
6 right in front of that little water thing right on the
7 wall, where the car is at, I mean. She was like, Okay.
8 What's up?

9 I reach in my right pocket, hand her the bag.

10 She is, like, What is this?

11 I'm like, That's what you asked for, ain't it?
12 Cocaine.

13 Q. And what was her reaction?

14 A. Again, she just act belligerent. She went fool
15 about it, like, Hell, no. This is not what I asked for.
16 This don't look right, you know what I mean --

17 Q. It looked like cocaine to you, though, didn't it?

18 A. Yeah. It looked like cocaine to me.

19 Q. What were you going to do with that real cocaine
20 you said you were going to have?

21 A. That's how I was going to make my money from the
22 deal.

23 Q. What happened after she said, No these aren't the
24 real drugs?

25 A. She, like, I want my money back.

1 Q. What did you say?

2 A. I said, The guy is probably not going to give you
3 your money back, but we can probably go back around and
4 see.

5 Q. And what was her reaction?

6 A. Still talking trash and trying to --

7 Q. What exactly was she saying?

8 A. Like, Hell no, I'm not accepting that, basically,
9 is what she's saying. Hell no. I want my money. That's
10 what she was saying.

11 Q. What was her tone?

12 A. Hysteric, belligerent.

13 Q. What was her volume?

14 A. High pitched, like, screaming. Hell no, I want my
15 money, you know.

16 Q. And what did you do?

17 A. I was, like, Let's see if we can go back around
18 here and see if Chavis give me my money back or
19 straighten this up or whatever, you know what I mean.

20 Q. How long was this conversation?

21 A. It couldn't have been no more than a few seconds
22 once she realized the stuff wasn't real.

23 Q. And what did you say happened after that, after
24 you said, Let's go try to talk to Chavis?

25 A. That's when I said, Let's go see if Chavis going

1 to straighten it up.

2 Q. And what did you do?

3 A. Backed out, started to back out into the parking
4 lot, and then she still talking trash in the front seat
5 of the car about the cocaine deal, about the cocaine.

6 Q. And what happened?

7 A. She started just getting hysterical about the
8 whole situation when I said, The man might not give you
9 the money back.

10 She was, like, Hell no. Somebody going to give me
11 something. Somebody going to straighten up something.

12 Q. And you were calm the entire time?

13 A. Most of the point, yes, I was.

14 Q. You didn't worry that this hysterical woman was --

15 A. I knew what was going on. I already knew what was
16 going on, so I was trying to make myself look like I
17 didn't do anything wrong in the situation.

18 Q. And you said then Ms. Frutchev attacked you?

19 A. Yes, because she was upset about the cocaine I
20 gave her, supposedly cocaine I gave her, yes.

21 Q. How did she attack you?

22 A. At first, she kind of like latched out to hit my
23 face and I reached out to block her.

24 Q. Where were your hands right before that?

25 A. My hands were kind of like -- one was on the wheel

1 and backing out, so when she backed out of the vehicle,
2 gear shift, put it in gear to back out.

3 Q. And what did you do when she hit you in the face?

4 A. Threw my hand up to block the hit.

5 Q. And then did she continue to attack you?

6 A. Yes, she did.

7 Q. Did --

8 A. Screaming and saying all kind of things: I want
9 my damn money. I want my damn money. I'm not going for
10 this.

11 Q. And, Mr. Kelly, how much bigger than Ms. Frutchey
12 are you?

13 A. I don't know. I weigh about --

14 Q. How tall are you?

15 A. I guess about -- I don't actually know my average
16 height. Probably six-two.

17 Q. And about how much do you weigh?

18 A. Probably 220, 225.

19 Q. And you said that you weren't aware that any
20 co-workers came running out at any point?

21 A. Yeah, I didn't. I couldn't be 100 positive that I
22 seen any of her co-workers.

23 Q. You don't remember anybody grabbing you by the
24 shirt?

25 A. No. Like I said, in front of that vehicle,

SHELDON KELLY - CROSS BY MS. BALDWIN

1 everything was going wild, and she was going wild in the
2 front seat of the car.

3 Q. You don't remember pulling away from anybody?

4 A. No, I don't, not to my knowledge. I can't say
5 yes, I did, or I can't say, no, I didn't. Like I said,
6 so much was going on at the time I can't say I did.

7 Q. And you said that you just got out of the car and
8 calmly walked off.

9 A. Yes, I did.

10 Q. What direction did you go?

11 A. Down Meeting Street, across, out the back side of
12 Charles Blanchard, across Meeting Street, back into
13 Accabee, walking down Appleton.

14 Q. Do you remember giving a statement to police?

15 A. Yeah, I remember giving a statement to the police?

16 Q. Yeah. Do you remember talking to police?

17 A. Yeah, I talked to Detective Evans. Yeah, he asked
18 me some common questions.

19 Q. Back in June of 2012?

20 A. Yes.

21 Q. Okay. Do you remember telling him -- him asking
22 you about somebody scratching you with a knife?

23 A. Yes.

24 Q. About a car?

25 A. Yes, I do.

1 Q. And you said you didn't know anything about that.

2 A. No. He asked me do I know anything about a
3 carjacking or a kidnapping, that's what he asked me.
4 Those were his specific questions, do I know anything
5 about a carjacking or do I know anything about a
6 kidnapping, and I said, No, I don't.

7 Q. Do you remember him asking you how your DNA got
8 underneath a young lady's fingernails?

9 A. Yes, I do.

10 Q. And you said, I don't know what you're talking
11 about?

12 A. I said, I don't know what you're talking about,
13 yeah, I did. I said, I can't answer that. I don't know.

14 Q. Do you remember him asking you about a
15 construction company at 2800 Rivers Avenue, and you said
16 you don't know what that is?

17 A. Not that name I didn't, yeah, you're right. I
18 walked in the parking lot, but he asked me did I know
19 CBBC, I didn't know what that meant but --

20 Q. You knew it was a construction company, right?

21 A. I guess you could call it a construction company.
22 I never seen anything constructive going on there other
23 than vehicles parked there. I never seen no tractors or
24 forklifts or backhoes in front of it, so I didn't
25 consider it a construction company.

SHELDON KELLY - CROSS BY MS. BALDWIN

1 Q. Do you remember denying knowing anything about a
2 knife?

3 A. Yes, I do.

4 Q. Okay. And do you remember how many times you told
5 Detective Evans -- or there was another person that came
6 in, right?

7 A. I want to say it was another detective.

8 Q. Sergeant Hille?

9 A. I don't know if it was a sergeant, detective. I
10 just know there was --

11 Q. So you remember telling Detective Evans and this
12 other person several times that you didn't know anything
13 about anything?

14 A. Yeah. I didn't no knowing about no carjacking or
15 kidnapping. That's what I said.

16 Q. Do you remember Detective Evans reading out a
17 search warrant for your DNA to you?

18 A. I can't say I did I can't say I didn't. I
19 remember him taking my DNA. I don't remember him reading
20 anything to me. I can't say I did or I can't say I
21 didn't.

22 Q. You don't remember a piece of paper being in front
23 of you at the very end?

24 A. I remember it saying you have the right to remain
25 silent.

1 Q. Let me bring it to the very end of the interview.
2 Remember him taking the buccal swab from you?

3 A. Uh-huh.

4 Q. Remember there was a piece of paper right in front
5 of you and Detective Evans read it out to you?

6 A. Yes, I do.

7 Q. And remember on that piece of paper Detective
8 Evans gave you several details of what happened, he said
9 there was -- in fact, one moment.

10 Detective Evans reading it to you, saying on
11 December 19th of 2011, 2045 Rivers Avenue, North
12 Charleston, the victim was attempting to enter a vehicle
13 which was parked in the parking lot.

14 Do you remember him reading that to you?

15 A. Uh-huh.

16 Q. And you remember the victim entered vehicle and
17 shut the door to the vehicle. The defendant approached
18 the driver's side wielding a knife.

19 Remember him reading that sentence?

20 A. Something like this, yes, ma'am.

21 Q. And you remember him reading that defendant
22 entered the vehicle, forced the victim to remain in her
23 vehicle. One occasion victim attempted to open the
24 passenger door of the vehicle, and the defendant grabbed
25 her by her hair and pulled her back into the vehicle.

SHELDON KELLY - CROSS BY MS. BALDWIN

1 A. Somewhat to that knowledge, somewhere in there.

2 Q. And do you remember him reading to you the victim
3 than began to struggle with the defendant, and the
4 defendant then began to choke the victim. During the
5 struggle, the victim was able to scratch the defendant on
6 his face and honk the horn which alerted the witness as
7 to the events that were taking place? Remember all that?

8 A. I remember him reading that, yes, but --

9 Q. At no time did that bring your mind back to the
10 struggle that took place between you and Ms. Frutchey?

11 A. It was six months in between that time, so I
12 didn't think about that that's what he was talking about,
13 yes.

14 Q. Do you have altercations with people on a regular
15 basis?

16 A. No, I don't.

17 Q. How about women?

18 A. No, I don't.

19 Q. So that didn't stick out in your mind?

20 A. Because it didn't, you know what I mean?

21 Q. It was down on Rivers Avenue.

22 A. Yes.

23 Q. And he read the Rivers Avenue address to you?

24 A. Yes, ma'am.

25 Q. At no time during him reading this extensive

1 search warrant to you did it stick out that maybe he was
2 talking about --

3 MR. GRIMES: Objection. Asked and answered.

4 THE COURT: This is just getting into an
5 argument. If you want to impeach him with a statement,
6 you can do that, but move on.

7 BY MS. BALDWIN:

8 Q. Do you remember Detective Evans asking you if you
9 had a drug problem?

10 A. Yes, I remember him asking me I did have a drug
11 problem.

12 Q. And you denied you had a drug problem?

13 A. Yes, I did.

14 Q. Do you think you have a drug problem?

15 A. No.

16 Q. Do you remember him asking you about a hat, if you
17 owned any hats, if you were missing a black hat?

18 A. Yeah, he asked me that.

19 Q. And do you remember telling him that -- one
20 moment -- that you never wore a black hat?

21 A. I told him I never had a black hat or something to
22 that. No, I never told him that I never owned a black
23 hat. I don't remember saying that. I never said I had a
24 black hat. I never said I owned a black hat.

25 Q. You don't remember him saying, I'm not talking

SHELDON KELLY - CROSS BY MS. BALDWIN

1 about a baseball hat, and you're said yeah, you're
2 talking about a beanie hat? I don't wear hats?

3 A. No, I don't.

4 MS. BALDWIN: Beg the Court's indulgence.

5 BY MS. BALDWIN:

6 Q. So the day this happened, were you wearing a hat?

7 A. Yes, I was wearing a hat.

8 Q. Okay. What else were you wearing?

9 A. A biker's jacket.

10 Q. I'm sorry?

11 A. Like a blazer jacket, like a windbreaker jacket.

12 Q. What was the temperature outside?

13 A. Fairly warm, cool -- I guess kind of in between
14 cool and warm.

15 Q. What were you wearing underneath the blazer?

16 A. It was just a T-shirt under the blazer.

17 Q. Do you typically wear a blazer to work?

18 A. Yeah, sometimes. If I walk to work in my uniform,
19 I change out in my uniform.

20 Q. What pants were you wearing?

21 A. Jeans.

22 Q. Do you also remember telling -- I believe you told
23 Sergeant Hille, who was the second man that came and
24 interviewed you when you gave a statement, that you had
25 21 years martial arts experience?

1 A. Yes. It's actually 18 years of martial arts
2 experience.

3 Q. Several years of martial arts appearance.

4 Court's indulgence. Mr. Kelly, I'm going to show
5 you again State's Exhibit 11.

6 A. Okay.

7 Q. Is that typically where you have the driver's seat
8 when you sit in it?

9 A. Driver's seat, I never moved her seat.

10 Q. You never moved the seat?

11 A. No.

12 Q. Were you comfortable when you drove?

13 A. No, I wasn't comfortable, but you just don't get
14 in somebody's vehicle, moving things around.

15 Q. I show you State's Exhibit 12, and that seat is
16 pretty high up?

17 A. The cushion part or the lean-back part?

18 Q. The cushion part?

19 A. Yeah, I would say that is.

20 Q. You didn't move the seat, though?

21 A. No, I didn't.

22 Q. And you said you don't remember anybody named
23 David May running up?

24 A. I can't recall that. I don't know him by name,
25 no. I don't recall -- I don't even know who David May

SHELDON KELLY - REDIRECT BY MR. GRIMES

1 is.

2 Q. You don't remember anybody coming up to the car?

3 A. No, ma'am.

4 Q. You don't remember another person being in the
5 parking lot?

6 A. Ma'am?

7 Q. You don't remember another person being in the
8 parking lot?

9 A. No, I ma'am, I didn't.

10 Q. Was it light outside?

11 A. It was kind of light outside, but, like I said, I
12 was more focussed on the altercation going on in the car
13 with Ms. Ronnie at the time. I wasn't looking for David
14 May or none of the guys that came and testified.

15 Q. You don't remember anybody chasing after you?

16 A. No, ma'am, I didn't.

17 MS. BALDWIN: I have no further questions.

18 THE COURT: Redirect?

19 MR. GRIMES: Thank you, Your Honor.

20 REDIRECT EXAMINATION

21 BY MR. GRIMES:

22 Q. Mr. Kelly?

23 A. Yes, sir.

24 Q. Ms. Baldwin asked you a lot of questions about
25 details of that day.

1 A. Uh-huh.

2 Q. That happened in December of 2011?

3 A. December 19th, 2011, yes, sir, it did.

4 Q. It was two-and-a-half years ago now?

5 A. I would say somewhere in that area. I'm not
6 exactly -- I would have to sit down and count up -- yeah,
7 it would be around in that area.

8 Q. And during that day, were you taking notes of what
9 was happening?

10 A. No. I wasn't taking notes.

11 Q. Were you writing down times of when you met
12 Ms. Frutchev?

13 A. No.

14 Q. When you left?

15 A. No, I wasn't.

16 Q. Okay.

17 A. Like a log, every time we meet I would go home and
18 write it down or something like that?

19 Q. Yeah. Did you do anything like that?

20 A. No, no.

21 Q. And I'm going to ask you a few questions about the
22 statement you gave, or the interview with Detective
23 Evans.

24 A. Uh-huh.

25 Q. Was another detective there too?

SHELDON KELLY - REDIRECT BY MR. GRIMES

1 A. There was three detectives there. Evans, I guess,
2 and two other detectives came in after Evans walked out,
3 and then another detective came in and then another
4 officer came in, another detective, whoever he was. I
5 don't know him by name. I knew him by face when I seen
6 him.

7 Q. During this interview process, it was about 10:30
8 at night?

9 A. I would say so, somewhere in -- probably came and
10 got me about 9:00, something in the night at my
11 residence, by 9:30, 9:45, something like that.

12 Q. When he came in your residence, how did they come
13 to your residence to get you?

14 A. He came and knocked --

15 MS. BALDWIN: Objection, Your Honor.
16 Relevance and outside the scope of my cross.

17 THE COURT: He's asking about the interview
18 that took place at night. You brought up the interview.

19 MS. BALDWIN: Yes, Your Honor. I was just
20 talking about the interview and not what happened prior
21 to it.

22 THE COURT: Overruled. Go ahead.

23 BY MR. GRIMES:

24 Q. How did the police come and get you out of your
25 house?

1 A. They came and ring the door bell and came to the
2 door. He said, who -- he said, Are you the Sheldon Kelly
3 reside at this residence?

4 And I said yes.

5 So he was, like, Oh, we got some guys standing
6 outside of your house out here in the yard, on the
7 shoulder of your house.

8 I'm like standing on the shoulder of my house? I
9 said, Ain't nobody should be in my house this time of
10 night.

11 So I was, like, Let me get dressed and get on some
12 shirt and pants and see who it was.

13 As soon as they stepped out the door, they snatch
14 me clean off the steps, the team that come and pick
15 people up, search team or whatever.

16 He said, We need you down at city hall.

17 I'm, like, What is going on? Am I under arrest?

18 He said, No, not at the moment you're not.

19 They put me in the back seat of the car. I end up
20 at 2500 City Hall anyway.

21 Q. When he snatched you up out of your house, how did
22 that make you feel?

23 A. It shocked me. You know what I mean? I'm
24 actually -- I didn't respond. I was being assaulted by
25 somebody that's dressed in a uniform. I would have been

SHELDON KELLY - REDIRECT BY MR. GRIMES

1 the bad guy again. With my martial arts experience, I
2 probably could have done some damage.

3 Q. And when you got down to the police station,
4 you're being interviewed by Detective Evans and two other
5 detectives?

6 A. Yes, two -- there was Detective Evans two other --
7 another detective and then another detective. There was
8 three people total I spoke to.

9 Q. At various points in the interview, did it get
10 heated?

11 A. Yes. Detective Evans kind of got mad, you know
12 what I mean.

13 Q. He wanted you to confess, didn't he?

14 MS. BALDWIN: Objection, Your Honor.
15 Leading.

16 THE COURT: Rephrase.

17 BY MR. GRIMES:

18 Q. You know why Detective Evans got mad?

19 A. I can't really say why he got mad because I told
20 him I didn't know nothing about a carjacking kidnapping.

21 Q. Did he keep asking you anything about DNA?

22 A. Yes, he did. He keep running that down DNA, how
23 did my DNA get here and my DNA get there.

24 Q. Did he ever show you a picture of Ms. Frutchev and
25 give you a little more details or background of what was

1 going on?

2 A. No, never once. I even asked him, I said who are
3 you talking about? I said I even asked him that
4 question. I said, Who are you talking about?

5 Q. And if had shown you a picture of Ms. Frutchey or
6 given you more information about what he was talking
7 about, would that have helped you?

8 A. Yeah. That probably would have jogged my memory
9 to bring it back.

10 Q. Okay. And when you told him you didn't know
11 anything about the carjacking and kidnapping, is that
12 what you were focussed on?

13 A. That is what my main focus was, the carjacking and
14 kidnapping, because that's the allegations he brought to
15 me.

16 Q. And those are pretty serious charges?

17 A. Yes. They are very serious.

18 Q. When you learned you were being charged with that,
19 how did that make you feel?

20 A. Kind of depressed, knowing it, because I know I
21 didn't do that.

22 Q. All right.

23 MR. GRIMES: Please answer any questions Ms.
24 Baldwin may have.

25 THE COURT: Do you have any recross?

SHELDON KELLY - RECROSS BY MS. BALDWIN

1 MS. BALDWIN: Briefly, Your Honor.

2 RECROSS-EXAMINATION

3 BY MS. BALDWIN:

4 Q. Mr. Kelly, do you recall telling Detective Evans
5 that it would be difficult to explain the DNA?

6 A. No, I never said that.

7 Q. You don't recall stating that?

8 A. No, I never once said it would be difficult to
9 explain DNA. I told him I didn't know. I couldn't
10 answer that.

11 Q. Court's indulgence.

12 MS. BALDWIN: Your Honor, may we approach?

13 (Discussion held at sidebar.)

14 BY MS. BALDWIN:

15 Q. Mr. Kelly, you met with Detective Evans?

16 A. Yes, ma'am.

17 Q. Back in June 2012?

18 A. Yes, ma'am.

19 Q. To talk about a carjacking and kidnapping?

20 A. Yes.

21 Q. And Detective Evans confronted you with the DNA,
22 that there was DNA under a lady's fingernails?

23 A. I think he said something to that, something about
24 how do I know what DNA is or how do I explain DNA? I
25 said DNA is anatomy of the human body, I guess.

1 Q. And you told Detective Evans it would be hard to
2 explain the DNA?

3 A. No.

4 MR. GRIMES: Objection, Your Honor.

5 THE COURT: Hold on.

6 BY MS. BALDWIN:

7 Q. You say you didn't tell him that?

8 A. I don't recall calling him and telling him that.

9 MR. GRIMES: I believe it's outside the scope
10 of redirect or recross.

11 THE COURT: It's the interview, and so she is
12 entitled to talk about the interview. So the date and
13 time of the interview?

14 BY MS. BALDWIN:

15 Q. Do you remember the interview was at 10:15 at
16 night?

17 A. I think it was around that time. I'm not sure.

18 Q. And where was that?

19 A. 2500 City Hall.

20 Q. Where did you go to do this interview?

21 A. 2500 City Hall, right behind Mall Drive, Montague
22 Avenue.

23 Q. Police station?

24 A. Police station right by there, yeah.

25 Q. On June 13, 2012?

SHELDON KELLY - RECROSS BY MS. BALDWIN

1 A. June 12th, I think it was -- yeah. They came and
2 got me at 10 something -- I don't know, probably June
3 12th, June 13th, somewhere in that area.

4 Q. You don't remember the exact date?

5 A. I don't remember the exact date.

6 Q. But it was either the 12th or 13th?

7 A. Somewhere around that time, yes, ma'am.

8 THE COURT: You can set it up.

9 BY MS. BALDWIN:

10 Q. Mr. Kelly, I kept saying it was Detective Evans.
11 Do you remember telling Sergeant Hille it would be hard
12 to explain the DNA?

13 A. I remember talking to officers, but I can't really
14 say what I remember telling him.

15 Q. You say you don't remember telling him -- you
16 didn't say that. You didn't say --

17 A. I didn't remember telling him that. I can't
18 explain the DNA. No, I couldn't explain the DNA. I
19 don't remember. I don't remember.

20 Q. You said you don't -- did you say it's going to be
21 hard to explain the DNA?

22 A. I don't know what I said.

23 MR. GRIMES: Objection, Your Honor. Asked
24 and answered.

25 THE COURT: Sustained. If you want to get to

1 the part where you want to impeach him about a statement,
2 get to that. Focus on one thing at a time.

3 BY MS. BALDWIN:

4 Q. So you remember telling Detective Hille
5 you don't even know this lady they were talking about?

6 A. They never gave me a lady name.

7 Q. They gave you descriptions, though, of what
8 happened and the location, correct?

9 A. Yes, they did, about a carjacking. They said do I
10 know anything about a carjacking or a kidnapping. I said
11 no, I don't.

12 Q. And you stated on your direct testimony that she
13 might have been scratched, correct?

14 A. Yes, I did. I might have.

15 Q. I'm sorry. Go ahead?

16 A. Yes, I did.

17 Q. But you don't remember -- you told the police you
18 don't know anything about being scratched by anyone?

19 A. Yes, I did.

20 MS. BALDWIN: I have no further questions.

21 THE COURT: All right. You can step down
22 then.

23 Anything further from the defense?

24 MR. GRIMES: No, Your Honor. At this time,
25 the defense would rest.

VERONICA FRUTCHEY - DIRECT BY MS. BALDWIN

1 THE COURT: All right. Is the State going to
2 have any rebuttal?

3 MS. BALDWIN: Yes.

4 THE COURT: All right. Call your witness.

5 MS. BALDWIN: All right. State calls
6 Veronica Frutchey.

7 VERONICA FRUTCHEY,
8 having been previously duly sworn,
9 was examined and testified on rebuttal:

10 DIRECT EXAMINATION

11 BY MS. BALDWIN:

12 Q. Hello again, Ms. Frutchey. You've been in the
13 courtroom since your testimony.

14 A. Yes, ma'am.

15 Q. So you're heard all the testimony?

16 A. Yes, ma'am.

17 Q. Where was your car typically parked when you would
18 park it at work?

19 A. During that time I would park on the side of our
20 building in that first spot.

21 Q. You said earlier on your direct -- I'm sorry.
22 Rephrase.

23 Where would you typically smoke cigarettes?

24 A. It would be in the front of the building. We had
25 a hay bale out there, and we would sit there.

1 Q. And are there windows in the front of your
2 building?

3 A. Just the front door is a storefront.

4 Q. Could you see the hay bale from the storefront?

5 A. No.

6 Q. Do you know Mr. Kelly?

7 A. No, I do not.

8 Q. Are you familiar with the Accabee neighborhood?

9 A. I'm not. I would cut through, like another part.
10 It's coming off of Cosgrove, and it will come -- it will
11 cut through to Meeting Street.

12 Q. And we talked the other day. I asked if you had
13 done any drugs at all, and you said no, correct?

14 A. Correct.

15 Q. That's not entirely true, is it?

16 A. No.

17 Q. Tell us about that.

18 A. In college I smoked weed twice, and after that
19 experience, I didn't do it again.

20 Q. Nothing since then?

21 A. No.

22 Q. Why not? What is your attitude towards drugs?

23 A. Well, because my mother was a druggy. She was
24 into the similar stuff, and my childhood, growing up with
25 her, I had a negative opinion towards it, and I didn't

JOHN FRUTCHEY - DIRECT BY MS. LINDER

1 want that to be my life.

2 Q. Did your mom ever -- did your mom have custody
3 your entire childhood?

4 A. No. She lost custody of me.

5 Q. Why was that?

6 A. Because of her drug issues.

7 MS. BALDWIN: Court's indulgence. I don't
8 have any further questions for you.

9 THE COURT: Cross?

10 MR. GRIMES: We have no questions, Your
11 Honor.

12 THE COURT: You may step down.

13 THE WITNESS: Thank you.

14 THE COURT: Anything further?

15 MS. BALDWIN: Yes. State calls John
16 Frutchey.

17 JOHN FRUTCHEY,
18 having been first duly sworn,
19 was examined and testified as follows:

20 DIRECT EXAMINATION

21 BY MS. LINDER:

22 Q. Good morning. Could you tell the jury where
23 you're from?

24 A. Originally from Pennsylvania. I live in North
25 Charleston now.

JOHN FRUTCHEY - DIRECT BY MS. LINDER

1 Q. How long have you lived in South Carolina?

2 A. Moved down here in January 2000.

3 Q. Do you know the victim in this case, Veronica
4 Frutchev?

5 A. Yes, ma'am.

6 Q. And how do you know her?

7 A. We were married.

8 Q. And when did you first meet her?

9 A. 2003.

10 Q. 2003? And how long were you married? When did
11 you get married?

12 A. Got married 2007, and our divorce was finalized
13 last year.

14 Q. And did you ever know, John -- know Ronnie or
15 observe Ronnie using drugs?

16 A. No.

17 Q. And did you ever -- did you know of Ronnie's
18 mother's drug issues?

19 A. Just a little tidbits. I didn't know a lot. I
20 just knew she had problems in the past.

21 Q. Have you ever known Ronnie to use any sort of
22 substance when you all were together?

23 A. No.

24 Q. Did you know she smoked cigarettes?

25 A. Yeah.

JOHN FRUTCHEY - DIRECT BY MS. LINDER

1 Q. Did she drink alcohol?

2 A. Socially. Not a heavy drinker, but she did drink,
3 social drinking.

4 Q. And did you know her to use cocaine?

5 A. No.

6 Q. And what year was it that you first met her?

7 A. 2003.

8 Q. And what year was it that your divorce was
9 finalized?

10 A. Last year.

11 Q. So in the ten years that you were around her
12 frequently, did you ever observe or know her to use
13 cocaine?

14 A. No.

15 MS. LINDER: I have nothing further. Please
16 answer anything the defense may have.

17 MR. GRIMES: We have no questions, Your
18 Honor.

19 THE COURT: You may step down. Anything
20 further from the State?

21 MS. BALDWIN: Your Honor, may we approach?
22 (Discussion held ad sidebar.)

23 THE COURT: We have two separate witnesses
24 that are on their way, but what we will do is -- your
25 lunch should be here very quickly.

1 We're going to take about a 45 minute break
2 so that you can have your lunch. Then we'll come back,
3 hear from those witnesses. There is a couple of things
4 we have to do to get it ready, but I want to get it so
5 that we can have charging argument right after lunch so
6 you will have plenty of time to deliberate.

7 Let's go on back there. I'm thinking right
8 now about starting in about 45 minutes. If your lunch
9 isn't back there, we'll adjust accordingly, but sometime
10 between 1:15, 1:30 hopefully, we'll get started back.
11 Okay?

12 Don't begin deliberations or discussions
13 about the case. Don't talk about the case in any way,
14 shape, or form, and we'll see you back in a few minutes.

15 (In open court, jury not present.)

16 MR. GRIMES: We did have one concern about
17 one of the State's witnesses. Our notes say Mr. Kelly
18 testified he was walking away from Lionheart Trucking
19 rather than he was working that day. So if he just says
20 he was there for some other reason, we believe the
21 impeachment that the State will proffer would be
22 improper.

23 MS. LINDER: Judge, our response to that is
24 he testified on direct and then on cross from
25 Ms. Baldwin -- she was asking him a bunch of questions.

1 She asked what time it was, and he said it was 3:35,
2 3:40. She asked which direction he was going. She had a
3 lot of questions about that.

4 He said he was on his way home from work,
5 which started her asking what time did you normally leave
6 work? He said it was various times. What time did you
7 go in? 8 a.m., so it's during all of those questions
8 where he did say he was leaving work and heading back
9 because he was done for the day.

10 THE COURT: I do recall him saying that his
11 workday started at 8:00 in the morning. So I think it's
12 in play, so we will allow that. See you back in about 45
13 minutes.

14 (Recess taken.)

15 A F T E R N O O N S E S S I O N

16 THE COURT: Are your witnesses here?

17 MS. LINDER: They are both here, Your Honor.

18 THE COURT: All right. Bring the jury in.

19 (In open court, jury present.)

20 THE COURT: All right.

21 Welcome back, folks. We're going to have two
22 quick rebuttal witnesses by the State, so if you're
23 ready, call your first witness.

24 MS. LINDER: State calls Mike Blanchard.

25 MICHAEL BLANCHARD,

MICHAEL BLANCHARD - DIRECT BY MS. LINDER

1 having been first duly sworn,
2 was examined and testified as follows:

3 DIRECT EXAMINATION

4 BY MS. LINDER:

5 Q. Good afternoon. Where are you employed?

6 A. Charles Blanchard Construction Company.

7 Q. And do you know why you're here today?

8 A. Yes.

9 Q. Do you know the victim in this case, Veronica, or
10 Ronnie, Frutchev?

11 A. Yes.

12 Q. How long have you known her?

13 A. Since she was nine years old.

14 Q. And in what context have you known her?

15 A. I met her when her dad did some work on some
16 property that we owned and became friends with her dad
17 and --

18 Q. And is Ronnie an employee of yours, or of Charles
19 Blanchard Construction?

20 A. Yes.

21 Q. Is there any sort of business drug testing policy?

22 A. Yes.

23 Q. And what is that?

24 A. We do pre-employment, post-incident, and regularly
25 scheduled tests, depending on where we're working at the

MICHAEL BLANCHARD - DIRECT BY MS. LINDER

1 time.

2 Q. Has Ronnie ever tested positive?

3 A. No.

4 Q. Do you know anything or do you have any personal
5 experience to know Ronnie's attitude or general feelings
6 about drugs?

7 A. Yes, I do. Ronnie came to live with my wife and I
8 when she was ten years old. Her mother had a lot of drug
9 abuse problems, and Ronnie grew up in a home where there
10 were a lot of boyfriends in and out. There was a lot of
11 domestic issues, and she just hated anything to do with
12 drugs and all the problems they created.

13 Q. Have you ever observed Ronnie doing any sort of
14 drugs or talking about illegal drugs?

15 A. No.

16 Q. Did you talk to Ronnie or communicate with Ronnie
17 on December the 19th of 2011?

18 A. Yes.

19 Q. And can you tell the jury what that was about.

20 A. Ronnie was supposed to meet me at my house that
21 afternoon before she had some Christmas decorations. It
22 was a week or so before Christmas. She had some
23 Christmas decorations she was going to bring to my house,
24 and she was at the office. She was supposed to wait
25 until I got to my house.

1 I texted her. I said, Hey, I'm at the house.
2 Come on over.

3 My house is about five minutes from the office.
4 After about ten minutes she wasn't there, and I texted
5 her and said, Where are you?

6 And she said, I was attacked.

7 And I said, Yeah, right.

8 And she said, No, I was attacked in the parking
9 lot.

10 So I immediately got in my truck and drove to the
11 office.

12 Q. When you got there, did you see Ronnie?

13 A. Yes.

14 Q. Can you describe what her demeanor was?

15 A. She was badly shaken up, her hair was all
16 disheveled. She was scratched up, bleeding.

17 MS. LINDER: I believe that's all the
18 questions I have for you, if you could answer anything
19 the defense may have.

20 THE COURT: Cross?

21 MR. GRIMES: Thank you, Your Honor.

22 CROSS-EXAMINATION

23 BY MR. GRIMES:

24 Q. Good afternoon, Mr. Blanchard. Are you Ronnie's
25 godfather?

1 A. Yes.

2 Q. You have a pretty close relationship with her?

3 A. Yes.

4 Q. And you don't want to see anything bad happen to
5 her, do you?

6 A. Sir?

7 Q. You don't want to see anything bad happen to her,
8 do you?

9 A. No, sir.

10 Q. You want to protect her as much as you can?

11 A. Yes, sir.

12 Q. All right. I want to ask you a few questions to
13 follow up on the drug testing program that you have at
14 work, so part of it is free employment?

15 A. Yes.

16 Q. So that's when someone would apply there, they
17 would be tested for drugs?

18 A. Once we look through an application and decide to
19 hire someone, we send them for a drug test.

20 Q. And Ms. Frutchev was hired in what, 2005?

21 A. That's probably about right. I don't know off the
22 top of my head.

23 Q. So she would have been drug tested some time in
24 2005 under the policies, correct?

25 A. I imagine she would have. I don't remember what

1 we were doing back in 2005.

2 Q. And you talk about post incident. If you have a
3 driver, forklift operator gets in an accident, you want
4 them tested, right?

5 A. Yes, sir.

6 Q. And Ms. Frutchey was a manager, project manager?

7 A. Assistant project manager.

8 Q. And you said regularly scheduled drug testing?

9 A. Depending where we work. Certain plants -- when
10 we work in a plant like Capstone or BP, they have
11 different policies. Some have regular testing, some have
12 random testing, so it depends on where we're working.

13 Q. And that would be the people you hire to go to
14 Capstone or BP, correct?

15 A. Yes, sir.

16 Q. If someone is working at the office, then they
17 wouldn't be subject to those policies, Capstone's BP's
18 tests, would they?

19 A. Not if they weren't working in the plant.

20 Q. Okay. Now, finally, I'll ask you a few questions
21 about Ms. Frutchey's mother. You said she had a lot of
22 drug issues.

23 A. Yes. From what I understand, there were a lot of
24 issues.

25 Q. And because of that, you stated that Ms. Frutchey

1 hates drugs and everything about drugs?

2 A. Yes, sir. She hated what drugs did to her family
3 and determined not to be like that.

4 Q. And she would never use drugs at all?

5 A. Not that I know. I've known a lot of people that
6 work with me, for me, and she was wasn't like that.

7 Q. Are you aware if she ever used marijuana?

8 A. No.

9 Q. Okay. Do you have a close relationship with her?

10 A. Yes.

11 Q. I want to ask you sort of about the time frame of
12 the text messages you had with Ms. Frutchev on December
13 19 of 2011. I think you said something about you asked
14 her to come on over?

15 A. Yes, sir. I texted her when I got to my house and
16 said, I'm here. Come on over.

17 Q. Was that about 4:17 p.m.?

18 A. I know it was in the afternoon.

19 Q. It was about five minutes after that when she said
20 to you that somebody had tried to kidnap her?

21 A. No. It was about ten minutes later. She didn't
22 show up, so I texted her and asked where she was.

23 Q. If I showed you some text messages between you and
24 her, would that refresh your memories?

25 A. Yes.

1 MR. GRIMES: I mark this as Defense Exhibit 2
2 for identification.

3 BY MR. GRIMES:

4 Q. According to testimony, you said you texted her
5 twice and then she told you that she had been kidnapped?

6 A. Yes, sir.

7 Q. I show you some text messages. Does that refresh
8 your memory as to how many times you texted her?

9 A. That looks about right.

10 Q. Basically, you texted her about 4:17 p.m. and
11 asked her to come over?

12 A. Yes.

13 Q. And she texted you back at 4:23?

14 A. Somebody tried to kidnap her.

15 Q. And that was about five, six minutes later?

16 A. Yes. I thought it was more like ten.

17 Q. Okay.

18 A. Because it would have taken her five minutes to
19 get there, and when she was late, I was wondering where
20 she was.

21 Q. That's fair, because sometimes five minutes may
22 seem like ten minutes, and ten minutes may seem like five
23 minutes, correct?

24 And, finally, the neighborhood, Accabee
25 neighborhood, it's about five minutes away?

VANESSA CHAMBERS - DIRECT BY MS. LINDER

1 A. I'm not sure -- the neighborhood right behind us
2 is probably -- it would probably take close to five
3 minutes to walk to some of the nearest houses.

4 Q. Okay.

5 MR. GRIMES: Thank you. Please answer any
6 questions Ms. Linder may have.

7 MS. LINDER: I have no redirect, Your Honor.

8 THE COURT: You may step down. Thank you.

9 Next witness?

10 MS. LINDER: State calls Vanessa Chambers.

11 VANESSA CHAMBERS,

12 having been first duly sworn,

13 was examined and testified as follows:

14 DIRECT EXAMINATION

15 BY MS. LINDER:

16 Q. Good afternoon. Where do you work?

17 A. Hunter Transportation.

18 Q. And are you aware of a place called Lionheart Auto
19 and Truck?

20 A. Yes, I am.

21 Q. And how do you know about that?

22 A. Lionheart is a sister company to Hunter
23 Transportation. I provide them with the same kind of
24 services I do at Hunter, HR and administrative work.

25 Q. And are records kept -- are records kept at Hunter

1 Transportation of Lionheart of who the employees are?

2 A. Yes, ma'am.

3 Q. And are records kept about the hours that those
4 employees work?

5 A. Yes, they are.

6 Q. And are those records kept in the normal and
7 ordinary course of business?

8 A. Yes, they are.

9 Q. And are they maintained also in the normal and
10 ordinary course of business?

11 A. Yes, they are.

12 Q. Did the defendant in this case, Sheldon Kelly,
13 ever work for Lionheart Auto and Truck?

14 A. Yes, he did.

15 Q. When was his start date?

16 A. He started August 1, 2011.

17 Q. Was he working on December 19th of 2011?

18 A. He was not working at Lionheart on December 19,
19 2011.

20 Q. When was the last day he worked at Lionheart Auto
21 and Truck?

22 A. December 15, 2011.

23 Q. Do you know the circumstances around that?

24 A. I was -- I am aware that he came to work that
25 morning, left at lunch, and never returned.

VANESSA CHAMBERS - CROSS BY MR. GRIMES

1 Q. So he left on December the 15th, 2011?

2 A. That's correct.

3 Q. And he was not working at Lionheart at any time on
4 December 19th of 2011?

5 A. Correct.

6 MS. LINDER: I have no further questions.
7 Please answer anything the defense may have.

8 MR. GRIMES: Thank you, Your Honor. May it
9 please the Court:

10 CROSS-EXAMINATION

11 BY MR. GRIMES:

12 Q. Good afternoon, Ms. Chambers. It sounds like
13 you're sort of in charge of HR?

14 A. I am.

15 Q. And I take it you're familiar with Title 7?

16 A. No.

17 Q. Of the federal employment laws?

18 A. Which aspect are you questioning?

19 Q. General Title 7 where employers can discriminate
20 because of someone's race?

21 A. Oh, yeah, correct, absolutely.

22 Q. Okay. And you're familiar with some South
23 Carolina laws on wrongful discharges?

24 A. Yes.

25 MS. LINDER: Objection, Your Honor.

1 Relevance?

2 THE COURT: What's the relevance?

3 MR. GRIMES: I believe it would show bias on
4 the witness's part against Mr. Kelly. Goes to
5 impeachment on this date of termination.

6 (Discussion held at sidebar.)

7 BY MR. GRIMES:

8 Q. And you're familiar with some of South Carolina's
9 wrongful discharge laws, correct?

10 A. That's correct.

11 Q. And you can't fire someone for reporting a
12 worker's comp claim, can you?

13 A. No.

14 Q. Now, you testified that Mr. Kelly just sort of
15 walked off the job on December 15th?

16 A. He did.

17 Q. Are you aware he was injured on December 1st?

18 A. I am.

19 Q. And that -- in your paperwork talking about he had
20 a right groin strain?

21 A. Yes.

22 Q. Were you aware he was in the process of seeking
23 worker's comp relief in this case?

24 A. When he reported the injury, we sent him, in
25 accordance with our normal work procedures for anyone

1 injured on the job, to our occupational medicine provider
2 who treated him and, I think, advised a day off work and
3 said he would be good to return to work and gave him a
4 follow-up appointment. He didn't show up at the
5 follow-up appointment. He did return to work, worked for
6 another maybe ten days, eight days, and then left.

7 Q. Do you know --

8 A. So at that point, that was the -- all the
9 knowledge that we had by the 15th of December about his
10 worker's comp situation.

11 Q. Had you received anything from the Joye Law Firm,
12 demand letter or complaint regarding worker's comp?

13 A. By the 15th of December or ever?

14 Q. By the 15th of December.

15 A. No.

16 Q. Regarding Mr. Kelly?

17 A. I don't think so.

18 Q. Okay. Now, I'll ask you a few questions on, I
19 guess, the application process.

20 He was given a drug test for that?

21 A. He was. That's our standard procedure.

22 Q. And it came back negative on everything?

23 A. Yes.

24 Q. Including cocaine metabolite?

25 A. Including cocaine metabolite.

1 Q. And after his injury, he was given a drug test
2 again, right?

3 A. He was.

4 Q. And that also came back negative?

5 A. I got to tell you, they called me out of the
6 office a half hour ago, and I don't have my records with
7 me, so --

8 Q. If I showed you a document, would that refresh
9 your memory?

10 A. That certainly may.

11 MR. GRIMES: I would mark this as Defense
12 Exhibit 3 for identification.

13 (Defendant's Exhibit Nos. 2, 3, and 4 were
14 marked for identification and admitted into evidence.)

15 BY MR. GRIMES:

16 Q. I show you what's marked as Defense Exhibit 2.
17 That's a drug screen report? Is that a drug screen
18 report?

19 A. It is, yes.

20 Q. Does it show it's negative for everything?

21 A. It shows it's negative.

22 Q. It's kept in the ordinary course of your business?

23 A. It is.

24 Q. And as a business record for Lionheart
25 Construction?

VANESSA CHAMBERS - CROSS BY MR. GRIMES

1 A. Yes. It's Lionheart Auto and Truck.

2 Q. I keep saying construction. Lionheart Automotive.

3 MR. GRIMES: At this time we move to
4 introduce Defense Exhibit 3.

5 MS. LINDER: Without objection.

6 THE COURT: Admitted.

7 MR. GRIMES: Thank you.

8 (Defense Exhibit No. 3 was marked for
9 identification and admitted into evidence.)

10 BY MR. GRIMES:

11 Q. Last couple questions. I'm going to ask you about
12 December 19th. I believe you testified he didn't work
13 that day?

14 A. That is correct.

15 Q. Do you know if it's possible that he came in that
16 day to drop off his uniform?

17 A. He could have done that. He had dropped them off
18 by the 22nd.

19 Q. And -- or he could have come up to pick up his
20 check?

21 A. He could not pick up his check --

22 Q. If I showed you an e-mail --

23 A. He could have picked up his check because he would
24 have had a check from the previous Friday. Friday is our
25 pay day, so he would have had a check from that previous

1 Friday.

2 Q. December 19th, I believe, was a Monday.

3 A. I believe so.

4 Q. Okay. So his check would have been there, ready
5 for him?

6 A. Right.

7 Q. And you don't have any documentation of when he
8 picked this check up, or do you?

9 A. I don't have any with me. I don't have any
10 recollection at the present time.

11 Q. If I show you an e-mail, would that also refresh
12 your memory as to him maybe possibly getting his check or
13 turning in his uniforms?

14 A. Sure.

15 Q. All right.

16 MR. GRIMES: Mark this as Defense Exhibit 4.

17 BY MR. GRIMES:

18 Q. After you review the e-mail, that might refresh
19 your memory as to when Mr. Kelly might have picked up his
20 check or turned in his uniform.

21 A. I have no knowledge as to when he picked up his
22 check or turned in his uniform except the uniforms were
23 in by the 22nd.

24 Q. So it's possible he may have been at Lionheart
25 Automotive on December 19th, in the afternoon some time?

VANESSA CHAMBERS - CROSS BY MR. GRIMES

1 A. He could have been --

2 Q. All right.

3 A. -- anywhere at all on the 19th?

4 Q. Ma'am?

5 A. He could have been anywhere at all on the 19th.

6 Q. Well, he wasn't in China.

7 MR. GRIMES: Thank you, Your Honor. I have
8 no further questions.

9 MS. LINDER: Just very briefly.

10 REDIRECT EXAMINATION

11 BY MS. LINDER:

12 Q. Was Mr. Kelly at work at Lionheart Auto and Truck
13 on the 19th at 8 a.m.?

14 A. He was not.

15 Q. And did Mr. Kelly work on that day, December 19,
16 2011, until about 3:30 or so before clocking out?

17 A. He did not.

18 MS. LINDER: I have no further questions.

19 THE COURT: Recross?

20 MR. GRIMES: No, sir.

21 THE COURT: All right. You may step down.

22 Thank you.

23 All right. Is that the last from the State?

24 MS. LINDER: Yes, sir.

25 THE COURT: You've now heard all of the

1 evidence you're going to hear in this case. We've got to
2 have the final arguments, and then I will charge you on
3 the law and you will retire to consider your verdict.

4 I need about 15 minutes with the lawyers so
5 that we can go over a few things that we do at this
6 point, and then we'll bring you back in for closing
7 arguments and the charge.

8 Now, you're heard all the evidence you're
9 going to hear, but it's still not time for you to begin
10 your deliberations yet because you haven't heard the
11 arguments, and, more importantly, I haven't told you what
12 the law is in this area, so you can't begin your
13 deliberations yet.

14 So please just bear with us a few minutes.
15 Don't begin to talk about the case yet, and we will have
16 you back here in just a few minutes for closing arguments
17 and the charge.

18 Thank you.

19 (In open court, jury not present.)

20 THE COURT: Okay. Any motions?

21 MR. GRIMES: Again, we move to renew our
22 motion for directed verdict, especially in light of
23 Mr. Kelly's testimony and the testimony of his sister and
24 the exhibits we've introduced.

25 Based upon that, we don't believe there is

1 sufficient evidence to support the charge of kidnapping
2 or carjacking or use of a weapon in a crime of violence.

3 Thank you.

4 THE COURT: Well, there is direct evidence of
5 the defendant's complicity in each of those charges, so
6 the motion is denied.

7 All right. Have y'all had a chance to look
8 at the charges yet? Anything from the State?

9 MS. LINDER: I had e-mailed your law clerk
10 about one item to be removed. You had printed out
11 firearm. There is no firearm, just to remove that one
12 part, and that is the only item the State has.

13 THE COURT: All right. Mr. Grimes, anything
14 from you?

15 MR. GRIMES: Just briefly, Your Honor. Page
16 three, on reasonable doubt, we just ask the Court to
17 consider the charge about reasonable doubt.

18 THE COURT: All right. Well, this is the one
19 that I use that has been approved by the Court, so I'm
20 not going to start changing now.

21 MR. GRIMES: Just asking for both.

22 THE COURT: All right. Anything else?

23 MR. GRIMES: No, sir.

24 (Recess taken.)

25 (In open court, jury present.)

1 THE COURT: All right. Folks, we are going
2 to now finish up with the trial, which is consists of the
3 closing arguments, and then I will charge you on the law,
4 then you will retire to consider your verdict.

5 The rules provide that because the State has
6 the burden of proof, they get to open and close, so they
7 open on the law, which is very brief where they just talk
8 about the law that applies, about five minutes, then
9 you'll hear from the defense, and then you will have
10 the -- the State will be allowed to close, so you will
11 hear from the State twice, the defense once.

12 After that, then I will charge you on the
13 law, and then again you'll go back and come back with
14 your verdict.

15 So, Madame Solicitor, if you're ready, you
16 may begin.

17 MS. BALDWIN: Thank you, Your Honor.

18 THE COURT: Let me just remind you, this is
19 the lawyers talking. You've heard all the evidence.
20 They're not testifying. They're only discussing the
21 evidence, okay?

22 I'm sorry. Go ahead.

23 MS. BALDWIN: Thank you. Good afternoon,
24 ladies and gentlemen.

25 As Judge Young said, I'm going to briefly go

1 over the law that applies to this case. First, I want to
2 thank you for your service. Without you all, we couldn't
3 do our jobs.

4 Mr. Kelly is charged with carjacking,
5 kidnapping, and possession of a weapon during the
6 commission of a violent crime. Judge Young will go over
7 that law later, and if anything that I say is different
8 from what he says, follow what he says.

9 But the elements of carjacking are that the
10 defendant took or attempted to take a motor vehicle from
11 another person by force and violence or intimidation
12 while the person was operating the vehicle or while the
13 person was in the vehicle.

14 As to kidnapping, the defendant would have to
15 unlawfully seize, confine, inveigle, trick, decoy,
16 kidnap, abduct, or carry away another person by any means
17 whatsoever without authority of law, and the last charge,
18 possession of -- that says pistol, but it's a knife --
19 during the commission of a violent crime, a person in
20 possession of a knife or visibly displays what appears to
21 be a knife during the commission of a violent crime is
22 guilty of possession of a knife during the commission of
23 a violent crime, and carjacking and kidnapping are both
24 violent crimes.

25 The judge will instruct you that the State,

1 it's my burden, that we must prove that Mr. Kelly is
2 guilty beyond a reasonable doubt. Proof beyond a
3 reasonable doubt is proof that leaves you firmly
4 convinced of the defendant's guilt. There are few things
5 that we know with complete certainty, but if the State
6 has proved and left you firmly convinced that the
7 defendant is guilty of carjacking and kidnapping and
8 possession of a weapon, you find him guilty.

9 There is another point of law that you might
10 have seen. There were some chain witnesses that you
11 might have seen, one person that came in and testified
12 that he transported one piece of evidence from one place
13 to another and that it hadn't been tampered with. That's
14 a point of law that the State has to prove. I know it's
15 not the most exciting of testimony, but it's something
16 that we must do, so I thank you for your patience with
17 that, and I thank you for your service.

18 THE COURT: Mr. Grimes?

19 MR. GRIMES: Thank you, Your Honor. May it
20 please the Court: Good afternoon, ladies and gentlemen.
21 I hope you had a good lunch.

22 Now, I told you at the beginning of the case,
23 this is a case about location, location, and location.
24 In this trial, the State would have you believe that
25 Sheldon chose, for a random violent carjacking and

1 kidnapping, chose a business right off Rivers Avenue, one
2 of the busier roads around Charleston, in the middle of
3 the afternoon, about 4:00, 4:15. It wasn't dark, went in
4 there without any type of mask or gloves or disguise and
5 went to carjack and kidnap somebody.

6 You need to ask yourselves if that really
7 makes sense, or what makes more sense, that there was a
8 drug deal going on and that location was near a
9 neighborhood that has a lot of drugs in it, as Officer
10 Killin testified. You heard Detective Kramitz say they
11 were out in that area already responding to another call,
12 another case.

13 This is an area where -- I'm not trying to
14 put race into it, but some people might not want to go
15 into Accabee. It could be a dangerous place, so you
16 would want somebody you know to go into that area to get
17 your drugs.

18 Sheldon is from there. No one is going to
19 bother Sheldon if he's going in there to go get drugs,
20 and so it makes sense for her to find somebody who can be
21 that courier to go and get drugs. If I was going to hire
22 someone to go and deliver a message to Judge Young's
23 chambers, I wouldn't have them go in there wearing a
24 do-rag on their head or sweat pants or shorts, he would
25 be dressed appropriately, go to court, go talk to

1 somebody like Judge Young.

2 And what motive is there in this case for
3 Mr. Kelly to steal this car or kidnap Ms. Frutchey?
4 Certainly not going to try to hold her for ransom or
5 anything, and a Kia Optima, no one testified to the great
6 value of that car. What is he going to do with that car?

7 But if you can get \$225 pretty easy and
8 pretty quickly to pay your bills, cover stuff for
9 Christmas, that's an easy motive, something you can do
10 easily. So any motive in this case for robbery
11 corroborates his testimony that it was basically a drug
12 deal that went bad. It doesn't corroborate or support
13 any argument that he's trying to steal the car or kidnap
14 Ms. Frutchey.

15 There's a couple things about Ms. Frutchey's
16 testimony that I think corroborate Mr. Kelly's testimony.
17 You heard that she testified there is a guy who worked at
18 Lionheart Automotive who resembled the attacker, but she
19 said they were different people. You heard Sheldon talk
20 about how he would walk from Accabee, his grandmother's
21 house there, through, I think, Appleton Road, across from
22 Meeting Street, go down through the parking lot and over
23 to Lionheart Automotive and walk back that same way, and
24 when she's testifying that there was a guy who walked
25 back and forth, said hi to me, talk about cigarettes,

1 that's exactly how Mr. Kelly said they kind of met in the
2 first place. He was walking back and forth, and then one
3 day she said hi, and they started talking a little bit.

4 And there is one thing that kind of puzzles
5 me about this. Ms. Frutchev told Detective Kramitz
6 during her interview how come no one from the police
7 department ever went over to Lionheart Construction to
8 see if there was someone there who looked like him? They
9 had a sketch. They have a suspect in this violent crime,
10 had him at large.

11 You have a lead from the main witness who
12 says someone who resembles him works right over there,
13 but the detective doesn't even listen to her audio
14 recorded statement, case agent, working on the case from
15 December to June when they made an arrest. At no point
16 in time does he even listen to it.

17 Why is that? I don't know. I'm sure they
18 have a lot of cases, a lot of work to do. Maybe rely on
19 what Detective Kramitz told them, or maybe they're
20 waiting to see what the DNA team got, and the injuries
21 you saw during this, this dovetails with Mr. Kelly's
22 testimony.

23 You've heard that she was wild and
24 belligerent when she realized she wasn't getting her
25 money back or getting real drugs. I think we heard from

1 one of her co-workers, I think it's Mr. O'Donnell who
2 stated Ronnie is a fighter. She can hold her own.

3 Now, I'm not going to argue she could go beat
4 up Mr. Kelly. Obviously there is disparity in sizes and
5 strength, but -- when she's really mad that someone stole
6 \$225 from her or ripped her off for drugs, might she
7 strike the person, hit him in the face, scratch his arm?
8 That's possible. You could be holding someone off trying
9 to do that. You might hit them in the throat.

10 And the DNA is consistent with Mr. Kelly's
11 testimony. I told you how he was in the car. The DNA
12 was found in the car. Told you he was wearing a black
13 cap that day. DNA is found on the cap. I think he said
14 he wasn't sure she scratched him, but it's possible. He
15 wasn't sure in all of the excitement and everything. The
16 fingernail scratching is consistent basically with her
17 version of what happened, and you saw from the picture
18 introduced and the testimony of his sister he never had
19 any scratch marks on his face, and Ms. Frutche testified
20 she thought maybe his face, but somewhere on his right
21 side.

22 And if he is in there, holding the knife to
23 her, you would expect to find some DNA on that. It's not
24 a case where the knife was left outside and it was
25 raining and it had washed off the DNA or it took them six

1 months to find the knife in the weather, affecting the
2 quality of the DNA.

3 You saw the pictures that were in the car.
4 The crime scene was secured. You heard why the crime
5 scene was secured, to prevent any kind of contamination,
6 to preserve the evidence. You heard Detective Coker
7 talking about all the procedures they followed, make sure
8 it was done right, so if you're going to have DNA on the
9 shifter knob, you surely got DNA on the knife, if he used
10 it. If he didn't use it, his DNA would not be there, and
11 that's why there is no DNA on that knife.

12 And, unfortunately, you know, drugs is kind
13 of rampant through society at various levels.
14 Politicians use drugs, we have a former treasurer who
15 used drugs. We have people in Congress right now using
16 drugs. And so no one is really proud that they're
17 involved in drugs. That's not something they're going to
18 talk about, tell people about.

19 Now, in the grand scheme of things, you use
20 marijuana, it's not a big deal. Washington has legalized
21 it. Colorado has, to some degree. California has
22 medical marijuana. I think South Carolina just passed
23 where you can use cannabis oil for epilepsy, and ten
24 years from now, twenty years from now, it may be legal,
25 people will say well, marijuana is no more dangerous than

1 cigarettes, nicotine, caffeine, alcohol.

2 So the fact Ms. Frutchev may have used
3 marijuana in college is really no big deal. I would
4 imagine most people that have probably gone to college
5 have used marijuana, but what is a big deal is to lie
6 about it. Like when President Clinton was caught, he
7 lied to cover up, and she was under oath. She told you
8 no, she never used drugs.

9 Her godfather raised her since she was about
10 ten years old, who hired her to work there. He didn't
11 know that she had used marijuana, and we did talk about
12 the drug testing policy they had. Well, you saw some
13 actual records from Mr. Kelly that shows negative for
14 everything including cocaine and marijuana. They don't
15 have any records from Ms. Frutchev, and we don't know how
16 often she was tested. If she got tested in 2005 and that
17 was the last time she was tested, you know, we didn't
18 show anything.

19 No one said she went to Capstone and had to
20 get tested per their policy, and her being the supervisor
21 she may know when tests are coming up and therefore she
22 could know when she could use drugs and not use drugs,
23 and if she's willing to hide she used marijuana from her
24 godfather and initially from you, what else is she
25 willing to hide?

1 And the location in this case may be why she
2 is hiding stuff because if she was using drugs and gotten
3 in an argument with somebody over drugs in her employer's
4 parking lot where you could have leaks and whatever kind
5 of liability issues come up, are you really going to go
6 and tell your boss, Yeah, this is just an argument over
7 drugs. I thought he ripped me off. I got in a fight
8 with them, or are you going to say, this guy all of a
9 sudden is trying to carjack me and did this, trying to
10 steal my car or something else? What's the easiest way
11 out at that point, and that's the way she took.

12 I want to talk about two things. The law in
13 the case, as you will hear it from Judge Young, the State
14 has the duty of proving Mr. Kelly guilty beyond a
15 reasonable doubt, and that's because he's presumed
16 innocent. That's something that's very important, found
17 in this country, and is the values we have here.

18 As Judge Young told you in jury
19 qualification, only a few countries have jury trials and
20 sometimes they do bench trials. I don't know that I
21 would want to go to trial in China or Russia or go to
22 trial for a crime in Iran, so these are very important
23 right you have, is that you are presumed innocent.

24 The State has to have a lot of evidence to
25 overcome that presumption, and they have to convince you

1 beyond a reasonable doubt that Mr. Kelly is guilty. And
2 in a civil case, they have to show you by a preponderance
3 of the evidence, so if you have the scales of justice,
4 they just tip a little bit that someone is responsible
5 for, say, a car accident or medical malpractice or a
6 document being messed up or a title search went wrong and
7 someone is foreclosing your house, those are all civil
8 matters, but they are all very important.

9 A criminal case is even more important
10 because unlike those civil matters where you might lose
11 some money, in a criminal case you could lose your
12 freedom and your liberty. That's why the burden is so
13 much higher in a criminal case, and when the situation
14 gets resolved -- two different accounts from two people
15 about what happened in this three, almost, two-and-a-half
16 years ago. You have what she's saying, her version. You
17 have Ms. Kelly telling you what happened, and it's not
18 going to be an easy job when you go back there and
19 resolve it and you have to make a resolution.

20 When you first vote, you take a little piece
21 of paper and you put your vote on there, you give it to
22 the foreperson, and then she opens it and sort of tallies
23 the votes if there is going to be any deliberations
24 about, you know, whether someone is guilty or not guilty,
25 how do you resolve that? And whatever you decide then is

1 your vote. You be open-minded, listen to what all the
2 other jurors say, you just don't change your vote because
3 eight against four or nine against three or something
4 like that, you do change your vote because the State has
5 convinced you beyond a reasonable doubt that Mr. Kelly is
6 guilty.

7 Now, we would admit that he is guilty of some
8 bad acts, for example, maybe involving drugs, perhaps
9 some assault and battery or the injuries that
10 Ms. Frutchev sustained, but they have not even come close
11 to convincing anybody that he's guilty of carjacking or
12 kidnapping, and therefore we ask you to find him not
13 guilty of those charges.

14 Thank you.

15 THE COURT: Madame Solicitor?

16 MS. BALDWIN: Thank you, Your Honor.

17 Oftentimes I don't try to pick apart the
18 other side's closing argument and take issue with every
19 little point that they make, but I do think there is
20 something important to say about what Mr. Grimes just
21 argued about it, and he stated this is the story of one
22 person versus another person, and that's just not the
23 case.

24 The fact of the matter is you have Veronica
25 Frutchev telling the story of what happened. You also

1 have David May telling the story of what he saw happen.
2 You have Matt O'Donnell telling you the story of what he
3 saw happen, and you also heard this afternoon from
4 Mr. Blanchard who saw Ms. Frutchey after the fact.

5 All those people were involved, and all those
6 stories are consistent. What's not consistent is what
7 Mr. Kelly said happened on the stand. He told you it was
8 a drug deal that had just gone bad; yet, when I asked him
9 about the police bringing him in and asked them about DNA
10 and the knife and something that happened at this
11 construction company, down the road from his workplace
12 that he seemed to be familiar with, he said he just
13 didn't know what they were talking about.

14 He said that he might have been scratched on
15 my arm. He wasn't scratched on the face, but he also
16 said he was wearing a blazer that day. I think it would
17 be kind of difficult to scratch him on the arm if it was
18 a blazer. He also stated that he didn't even see Mr. May
19 or Mr. O'Donnell, even though you have both of them come
20 in and say they saw this man in this car at this time and
21 they were struggling.

22 You heard Mr. Grimes talk about location, how
23 convenient it was. Well, it was convenient for
24 Mr. Kelly. He knew the location of that place. He
25 probably had walked through that parking lot many times

1 and had seen Ms. Frutchey out front smoking a cigarette.
2 And thinking hmmm, she's smaller than me.

3 He also told you, that though, that he was on
4 his way home from work that day. He was heading home,
5 went through the parking lot when Ms. Frutchey called out
6 to him, and yet he had Ms. Chambers come in and say that
7 he had been fired a few days before. I asked Mr. Kelly,
8 When do you work?

9 And he said, 8:00 till it varies a little in
10 the afternoon, maybe about 3:30.

11 He didn't say he was dropping off his uniform
12 or getting his paycheck. He said he was leaving work
13 that day. From that sentence you know Mr. Kelly's story
14 is not true. He also testified that Ms. Frutchey let him
15 drive her car. Not that she said, Let me drive because
16 it's my car and I barely know you.

17 Use your common sense and think about what's
18 logical to you. He said that he sat in the driver's
19 side; she sat in the passenger seat. State's Exhibit
20 11 -- and y'all will have all those pictures back in the
21 jury room with you, and I urge to look them all over and
22 study them closely, but you'll see, all the cigarette
23 boxes, things that are in the driver's seat are -- excuse
24 me, the passenger seat in Ms. Frutchey's car, she wasn't
25 sitting on top of those if they were going for a ride to

1 go get drugs.

2 See the cigarettes here are flattened from
3 somebody sitting on them. They're there. That's because
4 Ms. Frutchey got in the driver's seat. Mr. Kelly came to
5 the driver's side, told her to move over, and a struggle
6 ensued as she was fighting for her life, which brings us
7 to what really happened that afternoon.

8 You heard Ms. Frutchey. She said she was
9 leaving work to drop ornaments off at her boss's house.
10 You heard from Mr. Blanchard. He said the same thing.
11 She said that that she went to her car, which was parked
12 alongside of the building, not in the front, as Mr. Kelly
13 said, and then she got into the driver's side and maybe
14 foolishly, maybe not, had the door opened when she was
15 starting her car.

16 She was at work. It's a place where you
17 think you're safe. She wasn't expecting somebody to come
18 over and try to take her car for from, and while she was
19 getting herself situated, while she was putting down the
20 ornaments that ended up on the floor of her car, a man, who
21 she didn't recognize, came out of nowhere and said, Move
22 over, bitch.

23 And so she just wanted him to just take the
24 car. She thought, I just need to keep myself safe. It's
25 not that big of a deal. He can have my car. At that

1 point, Sheldon Kelly could have gotten his Christmas
2 money, but he want more than that. He wanted Ms.
3 Frutchey, and he made her get over, told her to buckle up
4 because he thought she could escape at that point, and
5 she tried and he grabbed her by the hair, pulled her back
6 in the car, put his arm around her neck, put a knife to
7 her stomach, and they fought. Ms. Frutchey was fighting
8 for her life.

9 She said when she actually left to get in the
10 car it was 4:19. I asked Mr. Blanchard about the text
11 message. 4:17. You heard Mr. May say it was only a
12 couple minutes between the time that she left and when he
13 heard her honking the timeline makes since. What doesn't
14 make sense is within a couple months she got -- met
15 Mr. Kelly, got into a car, drove over to the
16 neighborhood, engaged in this drug deal while Mr. Kelly
17 had a conversation with this other person about, oh, give
18 me the fake drugs and I can pull the slip, and then they
19 drove back and got into an altercation.

20 So while Ms. Frutchey was fight for her life,
21 she honked the horn of the car. You heard from David May
22 and Matt O'Donnell, they said they heard a car honking.
23 They thought it was an alarm, and then they realized that
24 wasn't the case. She said Mr. Kelly was trying to put
25 the car in reverse and back the car out to take the car

1 and her, and she kept putting it in neutral.

2 You heard David May say, when he came
3 outside, and I believe Matt O'Donnell said as well, that
4 the engine was racing, similar to the gas being on,
5 similar to a car being in neutral while somebody had
6 their foot all the way down on the gas pedal

7 Mr. Kelly testified that he didn't want to
8 move the driver's side seat when they went over, so he
9 didn't move the seat, but he's a tall guy. I submit to
10 you that he didn't move the seat because it happened very
11 quickly. He tried to take the car very quickly. Maybe
12 he would have adjusted the seat once they had gotten on
13 the road, once Ms. Frutchev was captive.

14 Mr. Kelly wanted to make a big deal about
15 Ms. Frutchev saying afterwards to Detective Kramitz, I
16 think he looks like the guy that worked over down the
17 road, but that guy was always so nice to me. If she
18 wanted to cover up this whole thing because it was some
19 drug deal gone bad, she didn't have to say he looks kind
20 of like that guy.

21 She didn't have to say, Hey, I scratched the
22 guy. I've got the DNA, but she did. That's because
23 Mr. Kelly tried to carjack her. She was trying to help
24 the police, to give them as much income as she could so
25 they would find the person who attacked her. If she was

1 trying to get away with this, she never would have made
2 an identification, or, on the other hand, he -- the
3 police showed her several lineups before they developed
4 Mr. Kelly as a suspect, and she never picked out a
5 person.

6 Why? Because that wasn't the person that
7 attacked her. If she had wanted to just have it be over
8 with, she wanted to point out somebody, say, Yeah, this
9 is the person who carjacked me. She could have pointed
10 out anybody on those lineups, but she didn't. She waited
11 until the police showed her a lineup with the person that
12 attacked her, and, as I said before, at any rate, what
13 Ronnie says isn't the most important thing.

14 You have David May who heard the horn
15 honking, who heard the engine racing, who said, I think
16 Ronnie is in trouble, and he ran outside and he saw her,
17 in the choke hold, in the car with a stranger. He had
18 his arm around her neck. He was in the driver's side and
19 she was struggling with a passenger side door open,
20 consistent to what Ms. Frutche testified to. David May
21 maintains he ran over to the car. He tried to pull
22 Ronnie out, but the person inside there wasn't letting
23 her go, consistent with what Ronnie said, not so
24 consistent with what Mr. Kelly said.

25 He said, Yeah, I had no clue that anybody was

1 there. He just calmly got up and walked away.

2 You also have Matt O'Donnell who confirms
3 what Mr. May did, and he tried to get her out of there,
4 and Mr. McDonnell just moved a little bit slower and did
5 not get her at the time. You also had David May say he
6 was pulling at the shirt of Ronnie's assailant, and there
7 is a piece of black cloth with DNA that comes back to Mr.
8 Kelly on the ground in the direction that Mr. May said he
9 ran.

10 I believe you then heard from law
11 enforcement. You heard Officer Killin who describes
12 Ronnie as shaken, not angry, not upset, not belligerent,
13 as they discussed her, but upset, with scratches,
14 bruising. She gave a description, said she didn't know
15 the person.

16 I submit to you that the injuries that were
17 shown in the pictures that are consistent with her
18 testimony. Somebody is choking you or fighting, you're
19 trying to get them off of you. You can't breathe. You
20 may have scratches on your neck.

21 We also heard from Detective Evans, who is a
22 case agent, and I tell you, Detective Evans maybe should
23 have listened to that statement. We probably would have
24 gotten Sheldon earlier instead of six months, but don't
25 blame the police for that. They're not on trial today.

1 You heard Detective Owens also describe the
2 victim as being upset, shaken. When he was asked about
3 robberies or there are drug deals gone bad and somebody
4 robs another, and he said, Hey, in my training and
5 experience, that wasn't like what I saw with
6 Ms. Frutchey. Those incidents weren't this incident.
7 What he saw was consistent with a carjacking and a
8 kidnapping.

9 Also, when Detective Kramitz interviewed her,
10 she gave a pretty detailed story, and they spoke pretty
11 soon thereafter the whole incident occurred. She didn't
12 have to give a detailed story. She could have just said,
13 I'm very upset. Somebody tried to take me. She gave a
14 statement of what happened. She told the truth, hence
15 the details.

16 Our crime scene recovery is also familiar
17 with Ms. Frutchey. She described the person as wearing a
18 hat. They recovered a black hat from the side between
19 the driver's side seat and the door of the car.

20 Ms. Frutchey told them that she scratched
21 him, so they recovered that, and they also found the
22 cloth, which brings us to the DNA.

23 So often we have to say to juries, This isn't
24 CSI. It's not like CSI. We don't have DNA, so accept
25 it.

1 But is this one of the few cases where we do
2 we have the DNA, and that DNA comes back to Sheldon Lamar
3 Kelly. It's hard to get around DNA. It's science, so
4 you have to come up with some sort of explanation as to
5 why, and that's what Sheldon Kelly did. He's had
6 two-and-a-half years to come up with that explanation.

7 You've also heard from the rebuttal witnesses
8 today. You heard from Ronnie again. She said never did
9 drugs. She tried it twice in college, and I submit to
10 you she's not going to lie under oath about drugs. She
11 wasn't asked. When she was asked today about doing it,
12 she said twice in college, but she hasn't done it ever
13 since, and she really doesn't want to be involved in
14 drugs because her mother had so many problems. She
15 doesn't like that. Mr. Blanchard confirmed that for you.

16 You also heard from her ex-husband who was
17 with her at the time, said he didn't know about any drug
18 problems. Mr. Kelly said he purchased for her ten plus
19 times in about four months. Don't you think her husband
20 would have noticed a little something if she had been
21 doing that much cocaine outside of her work?

22 I spoke to you briefly about reasonable
23 doubt. It's not beyond all doubt. It's not beyond every
24 doubt. There are few things in life that we are
25 completely certain. I think the phrase goes death and

1 taxes, those are the only things you can be certain of.
2 If these case were beyond all doubt, you would be a
3 witness on that witness stand. It's proof that leaves
4 you firmly convinced, and Mr. Grimes is right, the State
5 has a lot of evidence to convince you of, and I said we
6 have. We've convinced you to use your common sense.

7 These people, Ms. Frutchev, Mr. May, and
8 Mr. O'Donnell, say that this is what happened, that
9 Ms. Frutchev left her work to go drop ornaments off at
10 her boss's house, and two minutes later, in her own
11 vehicle, Ms. Frutchev was attacked.

12 It doesn't make sense that Ms. Frutchev in
13 the middle of a day, in a place she had walked at for
14 several years, to go and conduct drug deals right beside
15 her business. Use your common sense.

16 I submit to you that after you have reviewed
17 all of the evidence, Mr. Kelly is guilty of carjacking,
18 that he tried to take by force, via a knife and via his
19 hands, Ms. Frutchev's car while she was in it and try to
20 bark the car out of the parking lot and drive with her
21 still in it. I do submit to you that he did try to
22 kidnap her as well and that he wouldn't let her go after
23 Mr. May came and tried to drag her out of the car.

24 She is lucky because but for Mr. May and
25 Mr. O'Donnell, who knows what would happened that day?

1 Lastly, possession of a weapon during the commission of a
2 violent crime, holding that knife while he was carjacking
3 and kidnapping her.

4 Thank you.

5 THE COURT: All right. We're now to the
6 point in the trial where you've heard all the evidence
7 and you've heard arguments and it's my duty to charge you
8 on the law.

9 I told you at the beginning of the trial you
10 have duties and I have duties, and one of mine is to be
11 the judge of the law, which was in part to conduct the
12 trial, make sure we followed our rules of procedure, or
13 rules of evidence, my best efforts to make sure both
14 sides get a fair trial. I, like you, don't have an
15 interest in the outcome of this case other than to make
16 sure that the parties receive a fair trial.

17 Your job is to consider the evidence that you
18 heard in this case, apply the law as I now charge it to
19 you. That is my other role in this trial, is to charge
20 you on the law that applies to the facts in this case.
21 It is your job as jurors under the oath that you took at
22 the beginning of the trial to apply the law as I now
23 charge it to you. It is your duty to accept this law,
24 whether you think it is the law, whether you wish it was
25 the law or you disagree with it.

1 Under the oath that you took at the beginning
2 of the trial, it is now your duty to accept this law and
3 apply it to the facts as you find it to come up with your
4 verdict. You as the judges of the facts are the sole
5 judges of the facts. You alone determine how much weight
6 to give the testimony of a witness. You alone determine
7 how to judge the credibility of a witness. You decide
8 whether or not a witness has a bias, a prejudice, or an
9 interest in the outcome of this case.

10 You can judge such things as a witness's
11 appearance, their demeanor while they were on the witness
12 stand. You can judge the reasonableness of their
13 statements. You are not bound to decide this case based
14 upon the number of witnesses that a side produces. You
15 can believe one witness over many, or many over one. You
16 can accept all of a witness's statement or you can reject
17 it entirely. You can accept part of a witness's
18 statement and you can reject part of it, and, again, if
19 you reject part of it, you can still accept the remainder
20 of a witness's testimony.

21 I also talked to you about types of
22 witnesses. Normally we allow people to come in and tell
23 you what they saw, they heard, they touched, they felt,
24 they smelt. We don't normally let people come in and
25 give their opinions, but I told you that during a trial

1 we make an exception for expert witnesses, and witness
2 experts are considered as such because of experience or
3 education or specialized training in some field, and they
4 are allowed to come in and give you their opinion and
5 state the reasons for their opinion.

6 You can decide how much weight to give an
7 expert's testimony. If you don't think it's based upon
8 sufficient education or experience or you conclude that
9 an expert's opinions are not sound or that they're
10 outweighed by other evidence, then you are free to
11 disregard that opinion entirely. You are not compelled
12 to blindly accept an expert witness's opinion. You have
13 the right to consider an expert witness's testimony in
14 light of all of the circumstances and give it such weight
15 that you think it is entitled to.

16 I also want to remind you that the fact that
17 the defendant was arrested, charged, and indicted in this
18 case is not evidence in this case and it cannot be
19 considered by you as evidence of guilt in this case, nor
20 does it create any presumption or inference of guilt.

21 An indictment is simply a formal written
22 notice that contains the charges made against the
23 defendant. It is the formal document by which this case
24 is brought into court, and it lets the defendant know
25 what he is charged with. The defendant pled not guilty

1 to these indictments, and that plea therefore casts the
2 burden on the State to prove the defendant is guilty
3 beyond a reasonable doubt.

4 I'm telling you and charge you that a person
5 who is charged with committing a criminal offense in
6 South Carolina is never required to prove himself at any
7 time. This is an important rule of law in this country
8 that a defendant in all criminal cases will always be
9 presumed innocent of the crime for which he is indicted
10 unless and until his guilt has been proven by evidence
11 satisfying you of that guilt beyond a reasonable doubt.

12 A presumption of innocence is not a mere
13 legal theory. This isn't just a legal phrase. It is a
14 substantial constitutional right to which every defendant
15 is entitled, and this presumption of innocence
16 accompanies the defendant from the time he is charged
17 throughout the trial until you reach a verdict of guilt,
18 based upon evidence satisfying you of that deal beyond a
19 reasonable doubt.

20 So what is a reasonable doubt? Some of you
21 may have served as a juror in a civil case, and I told
22 you at the beginning of trial that in a civil case the
23 burden is a different burden in a civil case than it is
24 in a criminal case. In a civil case, you're told that
25 it's only necessary that a fact is more likely true than

1 not true, but by a greater weight of the evidence, that's
2 called a preponderance of the evidence. In criminal
3 cases, however, the State's proof must be more powerful
4 than that. It must be beyond a reasonable doubt.

5 Proof beyond a reasonable doubt is proof that
6 leaves you firmly convinced of the defendant's guilt.
7 There are very few things in this world that we know with
8 absolute certainty, and in criminal cases, the law does
9 not require proof overcomes every possible doubt. If
10 based on your consideration of the evidence, you are
11 firmly convinced that the defendant is guilty of the
12 crimes charged, then you must find the defendant guilty.
13 On the other hand, if you find there is a real
14 possibility that the defendant is not guilty, then you
15 must give the defendant the benefit of the doubt and find
16 him not guilty.

17 Now, there are two types of evidence that we
18 generally have in a trial. There's direct evidence, and
19 there is circumstantial evidence. Direct evidence
20 directly proves the existence of a fact that does not
21 require a deduction. Circumstantial evidence is proof of
22 a chain of facts and circumstances that indicate the
23 existence of a fact.

24 Crimes may be proved by circumstantial
25 evidence. The law makes absolutely no distinction

1 between the weight and value to be given to either
2 direction or circumstantial evidence; however, to the
3 extent the State relies on circumstantial evidence, all
4 the circumstances must be consistent with each other and
5 when taken together point conclusively to the guilt of
6 the accused beyond a reasonable doubt.

7 If the circumstances merely portray the
8 defendant's behavior as suspicious, the proof has failed.
9 The State has the burden of proving the defendant guilty
10 beyond a reasonable doubt. This burden rests with the
11 State, regardless of whether the State relies on direct
12 evidence, circumstantial evidence, or some combination of
13 the two.

14 Now, I told you there are three indictments
15 or three charges in this case. I'll go over each of them
16 now. Each of these verdicts are to be considered -- each
17 of these charges are to be considered by you separately,
18 so just because you find -- if you were to find the
19 defendant guilty of one, that doesn't necessarily mean
20 you have to find him guilty of all three, and if you find
21 him not guilty of one, that doesn't necessarily mean you
22 have to find him not guilty of all of them. You consider
23 each on its own merits, determine whether or not the
24 State has met its burden of proof as to each charge
25 separately. All right?

1 First is for kidnapping, which is a charge
2 contained -- or a crime named in South Carolina code
3 section 16-3-910. In order to prove the defendant
4 committed the crime of kidnapping in violation of that
5 statute, the State must prove beyond a reasonable doubt
6 that the defendant knowingly and unlawfully seized,
7 confined, inveigled, decoyed, kidnapped, abducted, or
8 carried away another person without authority of law.

9 To do a thing unlawfully is to do it
10 willfully against the law; knowingly means with
11 knowledge; consciously, not accidentally. Seize means to
12 take hold of suddenly or forcibly. Confine means to
13 limit, restrict, or enclose within bounds, imprison, or
14 shut or keep in.

15 Inveigle means to lure, entice, or lead
16 astray by false representations, promises, or other
17 deceitful means. Decoy means to lure by, or as if by
18 decoy. A decoy is something that entices a person into a
19 trap. Kidnap is to remove a person against his will by
20 unlawful force or by fraud. Abduct means to carry off
21 secretly or by force for an illegal purpose. Carry away
22 means to remove.

23 The State does not have to prove that the
24 defendant did all of these things. Instead, if you find
25 beyond a reasonable doubt that the defendant did any of

1 these things, you may find the defendant guilty of
2 kidnapping.

3 Something that is done without authority of
4 law is something which the law does not sanction, permit,
5 allow, condone, or provide justification for. The
6 kidnapping does not have to be for any personal or
7 monetary gain or any illegal purpose or may be for any
8 reason whatsoever..

9 The second indictment is for the charge of
10 carjacking, and that's contained in section 16-3-1075
11 (d) of the South Carolina Code of Law. In order to prove
12 carjacking, the State must prove beyond a reasonable
13 doubt the defendant took or attempted to take a motor
14 vehicle from another person by force or violence or by
15 intimidation while that person was operating the vehicle
16 or while the person was in the vehicle.

17 The third charge is for the possession of a
18 knife or a weapon during the commission of a violent
19 crime, and that is contained in South Carolina code
20 section 16-23-490. In order to prove that the defendant
21 was guilty of possessing a weapon during the commission
22 of or attempt to commit a violent crime, the State must
23 prove beyond a reasonable doubt that the defendant
24 visibly displaced a knife during the commission of a
25 violent crime.

1 A knife means an instrument or tool or sharp
2 cutting blade, whether or not fastened to a handle, which
3 can be used to inflict a cut, slash, or wound. In order
4 to find the defendant guilty of possession of a weapon
5 during the commission of a violent crime, you must first
6 find the defendant guilty of either committing the
7 violent crime or attempting to commit a violent crime.

8 I charge you that kidnapping and carjacking
9 are both considered violent crimes. The State must prove
10 beyond a reasonable doubt that the weapon further
11 advanced or helped in the commission of crime. And,
12 finally, in determining the guilt or innocence of the
13 defendant, you cannot consider any possible penalty for
14 any particular crime.

15 Punishment for the crime is a matter for me
16 to determine and should never be considered by you in any
17 way whatsoever in arriving at a fair and impartial
18 verdict as to the guilt or innocence of the defendant.

19 Now, your verdict must be unanimous as to
20 each of the charges. Madame Foreman, I told you at the
21 beginning of the trial, this is where you actually have
22 some duties. You conduct the deliberations any way that
23 you see fit. You can consider each of these charges in
24 any way that you want to or in any order that you want
25 to, but on the back of them, or front, depending on what

1 you want to call it, you'll see this side over here with
2 the red mark, true bill where the grand jury marked it.
3 All right?

4 Underneath that is written the word verdict.
5 After the jury has unanimously reached a verdict as to
6 each of the charges, you, Madame Foreman, write what that
7 verdict is under the word verdict, and the two possible
8 verdicts are either guilty or not guilty. After they've
9 reached their verdict, write either guilty or not guilty
10 there, sign it and date it.

11 Once you have reached a verdict as to all
12 three charges, please then let the bailiffs know that you
13 have reached a verdict, and they will bring you back in
14 and we'll receive that verdict.

15 Now, I'm going to send you back for just a
16 moment before you begin your deliberations. Please don't
17 until I send the evidence back along with the
18 indictments. Again, remember, the indictments are not
19 considered evidence. They're, again, just a charging
20 instrument, and they're sent back for the purpose of you
21 writing what the verdict is on them.

22 I just have to give the lawyers the
23 opportunity to state whether or not I misspoke something
24 during my charge and we get the evidence together. It
25 shouldn't take more than five minutes, but just hold off

1 on deliberating until the bailiff sends word back, and
2 he'll say, Here is the evidence. The judge says you can
3 begin your deliberations. All right? Thank you for your
4 patience.

5 (In open court, jury not present.)

6 THE COURT: Is there anything from the State?

7 MS. BALDWIN: No, Your Honor.

8 THE COURT: From the defense?

9 MR. GRIMES: No, sir.

10 THE COURT: Do y'all have any objection to me
11 sending the written charges back?

12 MS. BALDWIN: Not at all.

13 MR. GRIMES: I don't think so, if I could
14 double-check them.

15 (Court's Exhibit Nos. 1 and 2 were marked for
16 identification and admitted into evidence.)

17 (At 3:04, the jury retires to deliberate.)

18 (5:30 p.m., in open court, jury present.)

19 THE COURT: All right. Madame Foreman, I
20 understand the jury has reached a verdict; is that
21 correct?

22 THE FOREPERSON: We have, sir.

23 THE COURT: Is it unanimous as to each count?

24 THE FOREPERSON: Yes.

25 THE COURT: All right. Would you hand it to

1 the bailiff, please. Thank you.

2 Defendant will rise. All right. As to
3 indictment 2012-GS-10-6924, carjacking, the verdict is
4 not guilty; as to indictment 2012-GS-10-6929, kidnapping,
5 the verdict is guilty; and as to indictment
6 2012-GS-10-6930, the verdict is not guilty.

7 All right. Is that, in fact, the verdict of
8 the jury? If so, would you indicate that by raising your
9 right hand? So there is two not guilty, one guilty? All
10 right. Would you like to have the jury polled - --

11 MR. GRIMES: Yes, Your Honor.

12 THE COURT: -- all right. Will you poll the
13 jury, please.

14 THE CLERK: Yes, sir. When I call your juror
15 number, please raise your hand, identify yourself, and
16 then I'll ask you two questions: Please answer them with
17 a yes or a no.

18 THE CLERK: Juror number 340? Is this your
19 verdict?

20 THE JUROR: Yes.

21 THE CLERK: Is it still your verdict?

22 THE JUROR: Yes.

23 THE CLERK: Juror number 16, is this your
24 verdict?

25 THE JUROR: Yes.

1 THE CLERK: Is it still your verdict?
2 THE JUROR: Yes.
3 THE CLERK: Juror number 295?
4 THE JUROR: Yes.
5 THE CLERK: Is it still your verdict?
6 THE JUROR: Yes.
7 THE CLERK: Juror number 354, is this your
8 verdict?
9 THE JUROR: Yes.
10 THE CLERK: Is it still your verdict?
11 THE JUROR: Yes.
12 THE CLERK: Juror number 214, is this your
13 verdict?
14 THE JUROR: Yes.
15 THE CLERK: Is it still your verdict?
16 THE JUROR: Yes.
17 THE CLERK: Juror number 222, is this your
18 verdict?
19 THE JUROR: Yes.
20 THE CLERK: Is it still your verdict?
21 THE JUROR: Yes.
22 THE CLERK: Juror number 313, is this your
23 verdict?
24 THE JUROR: Yes.
25 THE CLERK: Is it still your verdict?

1 THE JUROR: Yes.

2 THE CLERK: Juror number 30, is this your
3 verdict?

4 THE JUROR: Yes.

5 THE CLERK: Is it still your verdict?

6 THE JUROR: Yes.

7 THE CLERK: Juror number 46, is this your
8 verdict?

9 THE JUROR: Yes.

10 THE CLERK: Is it still your verdict?

11 THE JUROR: Yes.

12 THE CLERK: Juror number 256, is this your
13 verdict?

14 THE JUROR: Yes.

15 THE CLERK: Is it still your verdict?

16 THE JUROR: Yes.

17 THE CLERK: Juror number 169, is this your
18 verdict?

19 THE JUROR: Yes.

20 THE CLERK: Is it still your verdict?

21 THE JUROR: Yes.

22 THE CLERK: Juror number 175, is this your
23 verdict?

24 THE JUROR: Yes.

25 THE CLERK: Is it still your verdict?

1 THE JUROR: Yes.

2 THE CLERK: Your Honor, the jury has been
3 polled, and the verdict stands.

4 THE COURT: All right. You may be seated.

5 Ladies and gentlemen: I want to thank you
6 for your service this week. This will be the last case
7 that we need you for. I think Judge Jefferson's case may
8 still be going on, but we've got some other things that
9 we'll be doing tomorrow and Friday, so you won't need to
10 call back tonight. You won't need to come back in this
11 week. Your jury service for the week is concluded.

12 I want to thank you for your service. It's a
13 difficult thing to be on a jury on a case like this. I
14 hope that you learned a lot. You find out about making a
15 group decision sometimes, how different people view
16 different evidence. What seems straightforward to one
17 person doesn't always seem so straightforward to another,
18 but yet somehow or another we always find a way to get a
19 unanimous verdict, which is all that we can ask you to
20 do, and it's based on the amount of time that you took to
21 consider your verdict. You've done what we asked, and
22 that is listen attentively through the trial and then go
23 back and discuss it and come up with a unanimous
24 decision, so on behalf of the State of South Carolina and
25 the people of Charleston County, I want to thank you for

1 your service this week.

2 You should be proud of your service. I hope
3 that you learned something from it about the way our
4 legal system works. I hope that you enjoyed it, and if
5 you did, then I hope you'll go and tell people about it
6 because that's the way we operate, is we need people to
7 go out and tell other people that they have got to serve
8 on a jury, it was a pleasurable experience and it was a
9 favorable experience, so when it comes their time,
10 they'll want to do it.

11 Most of the time I run into people and they
12 tell me how much they did enjoy it and that they learned
13 a lot from it. Most of the time they tell me how
14 wonderful they think the bailiffs are, and those folks do
15 a wonderful job and we always appreciate the hard work
16 that they do, but we do appreciate your hard service and
17 I know that it takes up your time, it disrupts our lives,
18 but it's important what you do, so I want to thank you.

19 You're now free to go, and you don't have to
20 call the number after 6:00 anymore. You don't have to
21 come back tomorrow, so thank you very much for your
22 service. You are now free to talk to anybody you want to
23 about the case, and that sometimes includes people --
24 sometimes the lawyers or the people from their offices
25 will call. It helps them to do a better job if they can

1 find out what your thought processes are.

2 It's perfectly fine to talk to them now, if
3 you want to, and if you don't want to, just tell them and
4 they will respect that, but it's okay to talk to anybody
5 at all now that you want to about the case. So thank you
6 very much.

7 (Jury dismissed.)

8 THE COURT: All right. Do y'all have the
9 sentencing sheet?

10 MS. BALDWIN: I do, Your Honor.

11 THE COURT: Is there anything the State would
12 like to say before sentencing?

13 MS. BALDWIN: Just to put on the record, Your
14 Honor, that Mr. Kelly and Mr. Grimes were served the
15 State's intention to seek life without parole on March
16 13th of 2014, and would you like to say anything?

17 The victim would not like to speak.

18 THE COURT: All right. And so he has a prior
19 most serious offense?

20 MS. BALDWIN: Yes, sir, for voluntary
21 manslaughter.

22 THE COURT: And what was the date of that
23 conviction?

24 MS. BALDWIN: He was convicted on December
25 16th of 1996.

1 THE COURT: And you have a warrant or
2 indictment number for the record?

3 MS. BALDWIN: I have a copy of the sentencing
4 sheet, Your Honor, if I can hand that up to you.

5 THE COURT: Okay. Thank you. Let the record
6 reflect it was indictment 96-GS-43-4 and it was for
7 voluntary manslaughter, and it looks like the date was
8 December 16th, 1996.

9 All right. Anything from the defense?

10 MR. GRIMES: Yes, sir. Just to address the
11 LWOP issue. We would object to a sentence of life
12 without parole being in violation of the Eighth Amendment
13 and the parallel provision of South Carolina
14 constitution. Specifically, the record would show
15 voluntary manslaughter conviction, the incident arose
16 when Mr. Kelly was 14. I think he was convicted when he
17 was 15, and it would be our position, given the case law
18 that has developed since then in Miller versus Alabama
19 and Florida, which is Graham, that using a prior
20 conviction from when someone was a minor to enhance
21 subsequent conviction would violate the Eighth Amendment,
22 and especially in a case like this, where it seems at
23 least to me at first glance it could be inconsistent
24 verdicts. He was found not guilty of using a weapon, and
25 kidnapping is so broad it could almost be one second or,

1 you know, half an hour.

2 Given those combinations, we believe that
3 involving standards of decency, our Court should not
4 impose a sentence of life without parole.

5 Thank you, Your Honor.

6 THE COURT: All right. Well, I don't know
7 that I agree with your reasoning on that. I don't know
8 that an offense that was committed when he was 14 used as
9 another strike offense in any way prohibits a life
10 without parole offense when he is convicted of another
11 most serious offense when he is of the age of majority.

12 Mr. Kelly, would you like to say anything?

13 THE DEFENDANT: No, sir.

14 THE COURT: All right. Well, the sentence of
15 the Court is life without parole. Good luck to you.

16 - - -

17 (Whereupon, the proceedings were concluded.)

18 - - -

19

20

21

22

23

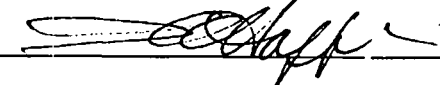
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25

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 9th of April 2014.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

June 24, 2014


Circuit Court Reporter

JBN20120604429

WITNESSES

North Charleston Police Department

AGENCY CASE NUMBER

2011046956

ARREST WARRANT NUMBER

M998539

DATE OF ARREST

June 14, 2012

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date: Nov 14 2012

VERDICT

Guilty

Foreperson of Court Jury

Date:

INDICT.DOT

DOCKET NO. 2012GS1006929

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

November Term 2012

THE STATE

vs.

SHELDON LAMAR KELLY

DOB:

Indictment for

Kidnapping

ATTEST: A TRUE COPY
JULIE J. ARMSTRONG (SEAL)
CLERK OF COURT
By: [Signature] DEPUTY CLERK

STATE OF SOUTH CAROLINA)
)
 COUNTY OF CHARLESTON)

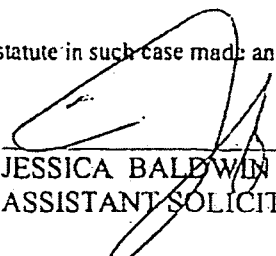
INDICTMENT

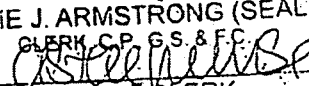
At a Court of General Sessions, convened on November 13, 2012 the Grand Jurors of Charleston County present upon their oath:

Kidnapping

That in Charleston County, South Carolina, on or about December 19, 2011, the Defendant, SHELDON LAMAR KELLY, unlawfully did seize, confine, inveigle, decoy, kidnap, abduct or carry away the victim, Veronica Frutchey, 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.


 JESSICA BALDWIN
 ASSISTANT SOLICITOR

ATTEST: A TRUE COPY
 JULIE J. ARMSTRONG (SEAL)
 CLERK, C.P., G.S. & F.C.
 BY 
 DEPUTY CLERK

268

JBN20120604429

WITNESSES

North Charleston Police Department

AGENCY CASE NUMBER

2011046956

ARREST WARRANT NUMBER

M998540

DATE OF ARREST

June 14, 2012

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date:

NOV 14 2012

VERDICT

Foreperson of Petit Jury

Date:

INDICT.DOT

DOCKET NO. 2012GS1006930

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

November Term 2012

THE STATE

vs.

SHELDON LAMAR KELLY

DOB

B/M

Indictment for

Possession Of A Knife During Commission
Of A Violent Crime

FILED

11/28/2012 2:53:35 PM

JULIE J. ARMSTRONG

CLERK OF COURT

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

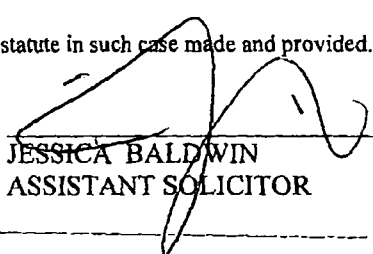
INDICTMENT

At a Court of General Sessions, convened on November 13, 2012 the Grand Jurors of Charleston County present upon their oath:

Possession Of A Knife During Commission Of A Violent Crime

That in Charleston County, South Carolina, on or about December 19, 2011, the Defendant, SHELDON LAMAR KELLY, did possess a knife or visibly display what appeared to be a knife during the commission, or attempted commission, of Carjacking and Kidnapping, both violent crimes. This is in violation of 16-23-490 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.


JESSICA BALDWIN
ASSISTANT SOLICITOR

270

JBN20120604429

WITNESSES

North Charleston Police Department

AGENCY CASE NUMBER

2011046956

ARREST WARRANT NUMBER

M998538

DATE OF ARREST

June 14, 2012

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury
Date:

JUN 14 2012

VERDICT

Foreperson of Petit Jury

Date:

INDICT.DOT

DOCKET NO. 2012GS1006924

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

November Term 2012

THE STATE

vs.

SHELDON LAMAR KELLY

DOB:

B/M

Indictment for

Carjacking

FILED

11/28/2012 2:53:35 PM

JULIE J. ARMSTRONG

CLERK OF COURT

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

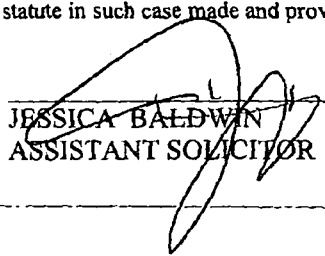
INDICTMENT

At a Court of General Sessions, convened on November 13, 2012 the Grand Jurors of Charleston County present upon their oath:

Cariacking

That in Charleston County, South Carolina, on or about December 19, 2011, the Defendant, SHELDON LAMAR KELLY, did take or attempt to take a Kia Optima motor vehicle from Veronica Frutcheby by force, violence or intimidation while Veronica Frutcheby 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.


JESSICA BALDWIN
ASSISTANT SOLICITOR

272
STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Charleston
STATE VS.
Sheldon Lamar Kelly
AKA:
Race: I Sex: M Age: 32
DOB: 12/19/2011 SS#: 123456789
Address: 123456789
City, State, Zip: 123456789
SID#: SC01114354

INDICTMENT/CASE#: 2012GS1006929
A/W#: M998539
Date of Offense: 12/19/2011
S.C. Code §: 16-03-0910
CDR Code #: 0095

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 ☐ §17-25-45
w/minor 1st or Lewd Act)

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: Baldwin, Jessica 76784 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 Life without Parole 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 _____ days/hours Public Service Employment

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

*Fine: \$
§ 14-1-206 (Assessments 107.5 %) \$
§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$100.00
§ 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 \$25.00
§ 14-1-213 (Drug Court Surcharge) \$150 \$
§ 50-21-114(BUI Breath Test Fee) \$50 \$
§ 56-5-2942(J) (Vehicle Assessment) \$40/ca \$
Proviso 90.5 (SCCJA Surcharge) \$5 \$5.00
3% to County (if paid in installments) \$390 \$
TOTAL \$133.90

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: _____

☐ Appointed PD or appointed other counsel.
§ 47.12 requires \$500 be paid to Clerk
during probation.

Clerk of Court/ Deputy Clerk

Court Reporter: Amanda Haffenden

SCCA/217 (03/2011)

ATTEST: A True Copy

CLERK OF COURT

By DEPUTY CLERK

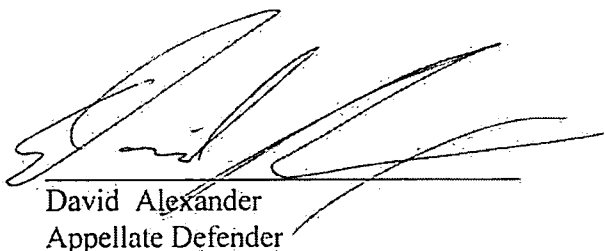
DEPUTY CLERK

4/9/14

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 12th, 2015



David Alexander
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