

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM RICHLAND COUNTY

Robert E. Hood, Circuit Court Judge

RECEIVED

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SC Court of Appeals

THE STATE,

RESPONDENT,

V.

TRENTON MALIK BARNES,

APPELLANT

APPELLATE CASE NO. 2014-002771

RECORD ON APPEAL

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**THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:
STATE'S EXHIBIT # 323 (VIDEO-BAKERY); STATE'S EXHIBIT # 324 (VIDEO);
STATE'S EXHIBIT # 325 (VIDEO-ALE HOUSE); STATE'S EXHIBIT # 404 (LETTER-
T. BARNES); STATE'S EXHIBIT # 440 (CD)**

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

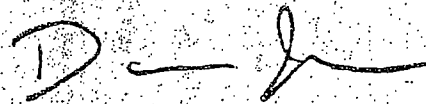
INDICTMENT

At a Court of General Sessions, convened on February 19, 2014,
the Grand Jurors of Richland County present upon their oath:

MURDER

That Trenton Malik Barnes did in Richland County, on or about July 1, 2013, kill the victim, Kelly Hunnewell, with malice aforethought, either express or implied, by means of gunshot, and the victim did die as a proximate result thereof. All in violation of Section 16-03-0010, S. C. Code of Laws, 1976, as amended

Against the peace and dignity of the State, and contrary to the
statute in such case made and provided.



DAN JOHNSON, SOLICITOR

WITNESSES

(S) Matthew David McCoy
- Columbia Police Department

ARREST WARRANT NUMBER

2013A4021602386

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Petit Jury
Date:

DOCKET NO. 2014GS4000752

The State of South Carolina

County of

Richland

COURT OF GENERAL SESSIONS

87 FEBRUARY TERM 2014

**THE STATE
vs.**

Trenton Malik Barnes

**Indictment for
MURDER**

SC Code: **16-03-0010**
CDR Code: **0116**

After being fully advised as to my
legal rights, I hereby waive presentment
to the Grand Jury.

Defendant

I
hereby appear in my own proper person and plead
guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

00002

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

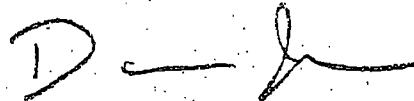
INDICTMENT

At a Court of General Sessions, convened on February 19, 2014,
the Grand Jurors of Richland County present upon their oath:

BURGLARY, SECOND DEGREE
(VIOLENT)

That Trenton Malik Barnes did in Richland County on or about July 1, 2013, enter without consent and with the intent to commit a crime therein, a building of CAROLINA CAFE located at 93 Tommy Circle, and the defendant, Trenton Malik Barnes, did enter the building in the nighttime; and/or did cause physical injury to any person who is not a participant, and/or is armed with a deadly weapon in the crime, and/or uses or threatens the use of a dangerous instrument, and/or displays what is or appears to be a pistol or other firearm in violation of Section 16-11-0312(B), S. C. Code of Laws, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



DAN JOHNSON, SOLICITOR

WITNESSES

(S) Matthew David Mccoy
- Columbia Police Department

ARREST WARRANT NUMBER

2013A4021602388

ACTION OF GRAND JURY

Foreperson of Grand Jury
Date: FEB 20 2014

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2014GS4000755

The State of South Carolina

County of

Richland

COURT OF GENERAL SESSIONS

FEBRUARY TERM 2014

87

**THE STATE
vs.**

Trenton Malik Barnes

**Indictment for
BURGLARY 2ND DEGREE (VIOLENT)**

**SC Code: 16-11-0312(B)
CDR Code: 0086**

After being fully advised as to my
legal rights, I hereby waive presentment
to the Grand Jury.

Defendant

I
hereby appear in my own proper person and plead
guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

000004

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

INDICTMENT

At a Court of General Sessions, convened on February 19, 2014,
the Grand Jurors of Richland County present upon their oath:

KIDNAPPING

That Trenton Malik Barnes did in Richland County on or about July 1, 2013, unlawfully seize, confine, inveigle, decoy, kidnap, abduct or carry away one Kelly Hunnewell, without authority of law, in violation of Section 16-03-0910, S. C. Code of Laws, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



DAN JOHNSON, SOLICITOR

WITNESSES

(S) Matthew David McCoy
- Columbia Police Department

ARREST WARRANT NUMBER

2013A4021602387

ACTION OF GRAND JURY

Foreperson of Grand Jury
Date:

FEB 20 2014

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2014GS4000754

The State of South Carolina

County of

Richland

COURT OF GENERAL SESSIONS

FEBRUARY TERM 2014

87

**THE STATE
vs.**

Trenton Malik Barnes

**Indictment for
KIDNAPPING**

SC Code: 16-03-0910
CDR Code: 0095

After being fully advised as to my
legal rights, I hereby waive presentment
to the Grand Jury.

Defendant

I
hereby appear in my own proper person and plead
guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

90000

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

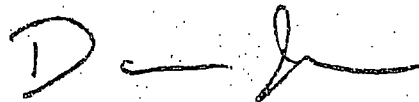
INDICTMENT

At a Court of General Sessions, convened on February 19, 2014,
the Grand Jurors of Richland County present upon their oath:

ATTEMPTED ARMED ROBBERY

That Trenton Malik Barnes did, along with co-defendants in Richland County on or about July 1, 2013, while armed with a deadly weapon, attempt to take and carry away the personal property from or in the immediate presence of Kelly Hunnewell with intent to deprive him/her of possession by use of force, threats, or intimidation, and/or while alleging, either by action or words, Trenton Malik Barnes was armed while using a representative of a deadly weapon or any object which a person present during the commission of the robbery reasonably believed to be a deadly weapon in violation of Section 16-11-0330(B), S. C. Code of Laws, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



DAN JOHNSON, SOLICITOR

WITNESSES

(S) Matthew David McCoy
- Columbia Police Department

ARREST WARRANT NUMBER

2013A4021602389

ACTION OF GRAND JURY

Foreperson of Grand Jury
Date:

FEB 20 2014

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2014GS4000756

The State of South Carolina

County of

Richland

COURT OF GENERAL SESSIONS

FEBRUARY TERM 2014

87

**THE STATE
vs.**

Trenton Malik Barnes

**Indictment for
ATTEMPTED ARMED ROBBERY**

SC Code: 16-11-0330(B)
CDR Code: 0026

After being fully advised as to my
legal rights, I hereby waive presentment
to the Grand Jury.

Defendant

I
hereby appear in my own proper person and plead
guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

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

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

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

9 THE DEFENDANT: Doing good, sir.

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

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

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

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

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

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

1 the defendants against each other.

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

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

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

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

10 THE COURT: Thank you. Ms. McDuffie?

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

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

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

1 THE COURT: Okay. Very good.

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

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

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

23 THE COURT: Page?

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

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

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

17 THE COURT: All right.

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

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

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

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

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

25 THE COURT: You agree with me that everything you

1 just said pure speculation, right?

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

12 THE COURT: All right.

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

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

24 THE COURT: Mr. Schnee.

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

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

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

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

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

3 THE COURT: All right. Thank you.

4 Next.

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

6 THE COURT: Next motion.

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

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

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

1 the issuance of a search warrant.

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

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

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

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

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

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

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

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

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

15 THE COURT: Sure.

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

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

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

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

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

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

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

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

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

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

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

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

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

20 THE COURT: Okay.

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

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

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

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

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

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

1 and improper character evidence and not be admissible.

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

4 THE COURT: All right. Next.

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

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

16 MR. KRZYSTON: Certainly.

17 THE COURT: We have the crime scene.

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

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

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

23 THE COURT: And then you have Bronx Road.

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

1 as pretrial is concerned, Your Honor.

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

3 Mr. Barnes.

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

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

11 THE COURT: Yes.

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

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

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

1 an interview that we have never heard.

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

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

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

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

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

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

8 MS. GARFIELD: Yes, sir.

9 MR. SCHNEE: Okay. I maybe misunderstood.

10 THE COURT: Okay.

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

13 THE COURT: What is this for?

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

17 THE COURT: All right.

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

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

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

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

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

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

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

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

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

25 MS. GARFIELD: No, sir.

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

3 MR. SCHNEE: Yes, Your Honor.

4 THE COURT: Okay.

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

17 THE COURT: 307 what?

18 MS. McDUFFIE: South Carolina 458.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5 THE COURT: My question.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17 THE COURT: Has that interview been turned over?

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

20 THE COURT: Okay.

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

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

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

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

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

5 THE COURT: Okay.

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

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

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

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

15 MR. SCHNEE: All right.

16 (WHEREUPON, a short break was taken.)

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

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

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

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

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

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

1 with that.

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

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

23 THE COURT: Okay.

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

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

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

8 MR. SCHNEE: But the problem ---

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

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

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

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

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

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

24 MS. GARFIELD: Yes, sir.

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

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

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

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

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

10 THE COURT: So what's not true?

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

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

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

19 THE COURT: Okay.

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

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

IN THE COURT OF GENERAL SESSIONS
Indictment Number: 2014-GS-40-00752,
2014-GS-40-00754, 2014-GS-40-007525,
2014-GS-40-007526, 2014-GS-40-00757

The State of South Carolina,)

vs.)

MOTION TO EXCLUDE HEARSAY
PORTIONS OF STATEMENTS ADMITTED
UNDER RULE 804(B)(3)

Trenton Barnes,)

Defendant.)

Trenton Barnes, through undersigned counsel, respectfully moves this Court to preclude admission of hearsay testimony contained within statements admitted under Rule 804(b)(3), SCRE. This motion is predicated upon the Fourth, Fifth, Sixth, and Fourteenth Amendments to the United States Constitution, Article I, § 1, 3, 8, 9, 11, 12, 14, and 15 of the Constitution of the State of South Carolina. Specifically, this motion is directed towards the potential admission of statements made to both lay witnesses and law enforcement by non-testifying co-defendants, co-conspirators and/or others where portions are self incriminating in nature and other portions incriminate Mr. Barnes and/or exculpate the declarant and/or others.

The Supreme Court of the United States clarified this issue in Williamson v. United States, 512 U.S. 594, 114 S.Ct. 2431 (1994). Specifically, the Court found that a trial court must not look at the whole statement, but must instead look at **each phrase** contained within. Specifically, the Court said:

In our view, the most faithful reading of Rule 804(b)(3) is that it does not allow admission of non-self-inculpatory statements, even if they are made within a broader narrative that is generally self-inculpatory. The [court] **may not** just assume for purposes of Rule 804(b)(3) that a statement is self-inculpatory because it is **part of a fuller confession**, and this is **especially true when the statement implicates someone else**. (emphasis added).

The Court ultimately ruled that:

In this case, however, we cannot conclude that all that Harris said was properly admitted. Some of Harris' confession would clearly have been admissible under Rule 804(b)(3); for instance, when he said he knew there was cocaine in the suitcase, he essentially forfeited his only possible defense to a charge of cocaine possession, lack of knowledge. But other parts of his confession, especially the parts that implicated Williamson, did little to subject Harris himself to criminal liability. A reasonable person in Harris' position might even think that implicating someone else would decrease his practical exposure to criminal liability, at least so far as sentencing goes... Id.

The Court ultimately remanded the case because "this can be a fact-intensive inquiry, which would require careful examination of all the circumstances surrounding the criminal activity involved." Id.

In Lilly v. Virginia, 527 U.S. 116, 119 S.Ct. 1887 (1999), the Supreme Court again ruled that a hearsay statement by an accomplice which incriminates another defendant is not admissible. Virginia argued that the specific statement in that case was inherently reliable because the statement was against the penal interest of the speaker and, therefore, confrontation was not necessary. The Court held:

[t]he decisive fact, which we make explicit today, is that accomplices' confessions that inculcate a criminal defendant are not within a firmly rooted exception to the hearsay rule as that concept has been defined in our Confrontation Clause jurisprudence. Id. at 134.

While Lilly is ultimately decided based on confrontation grounds, the Court focuses its opinion on Rule 804(b)(3) issues. Specifically, the Court finds there are three categories of statements that fall into the umbrella of Rule 804(b)(3):

In criminal trials, statements against penal interest are offered into evidence in three principal situations: (1) as voluntary admissions against the declarant; (2) as exculpatory evidence offered by a defendant who claims that the declarant committed, or was involved in, the offense; and (3) as evidence offered by the

prosecution to establish the guilt of an alleged accomplice of the declarant. Id. at 127.

Equally important to the analysis in the instant case, in Lilly (which was not a joint trial), the Court stated that had the non-testifying co-defendant been in trial with Lilly that "the use of [the non-testifying co-defendant's] confession to prove his guilt might have an adverse impact on the rights of his accomplices." The Court also stated in this regard that:

When dealing with admissions against penal interest, we have taken great care to separate using admissions against the declarant (the first category above) from using them against other criminal defendants (the third category).

In describing category three, the Court discussed the importance of determining reliability and the presumption that hearsay is unreliable and, hence, not admissible.

Specifically, the Court analyzed the "firmly rooted" hearsay exceptions and stated:

The third category includes cases, like the one before us today, in which the government seeks to introduce "a confession by an accomplice which incriminates a criminal defendant." The practice of admitting statements in this category under an exception to the hearsay rule to the extent that such a practice exists in certain jurisdictions is, unlike the first category or even the second, of quite recent vintage. This category also typically includes statements that, when offered in the absence of the declarant, function similarly to those used in the ancient ex parte affidavit system...

Consistent with this scholarship and the assumption that underlies the analysis in our Bruton line of cases, we have over the years "spoken with one voice in **declaring presumptively unreliable accomplices' confessions** that incriminate defendants." Id. at 130, 131. (emphasis added)

The Court also determined:

It is clear that our cases consistently have viewed an accomplice's statements that shift or spread the blame to a criminal defendant as falling outside the realm of those "hearsay exception[s] [that are] so trustworthy that adversarial testing can be expected to add little to [the statements'] reliability." Id. at 133. (internal citations omitted).

The South Carolina Supreme Court addressed the same issue and cited Lilly in State v. Fuller, 337 S.C. 236, 523 S.E.2d 168 (1999). Fuller involved a statement by a deceased co-defendant made to an accomplice which implicated Fuller. The Court held:

The hearsay statements recounted by McKinney essentially amounted to statements by a deceased third-party that inculpated Defendant and subjected the declarant to criminal liability. Thus, the issue before this Court is whether a non-self-inculpatory statement, which is collateral to a self-inculpatory statement, may nonetheless come in under Rule 804(b)(3), SCRE, as a statement made by an unavailable declarant against his penal interest. We conclude that such statements are inadmissible. Id. at 172.

The Fuller opinion went on to address the possible admission of such a statement if it is supported by a showing of "particularized guarantees of trustworthiness" discussed in Lilly. The "trustworthiness" analysis was performed based on both Virginia law and the Federal Rules of Evidence. In South Carolina, however, since "our rules of evidence do not contain a catchall hearsay exception, our courts do not undertake such an analysis when determining admissibility." Id.

In a separate appeal, but based on the same facts as Fuller, our Supreme Court made the issues even more clear. In State v. Holmes, 342 S.C. 113, 536 S.E.2d 671 (2000), the State argued that because there is other evidence corroborating the testimony, the statement should be admissible. The Court held this to be error and stated:

[t]he statement must first qualify under Rule 804(b)(3). Bernard Holmes' alleged hearsay statement implicating appellant does not qualify as a statement against interest under Rule 804(b)(3), regardless of the existence of evidence corroborating the statement. Id. at 673.

During the trial of Holmes, a police officer read Fuller's redacted confession. The Court held this was also error and stated:

[a]lthough the redacted statement did not directly refer to appellant, the State's

main purpose in seeking to introduce Fuller's statement was clearly to implicate appellant by inference. Like the hearsay statements of Bernard Holmes held inadmissible in Fuller, Fuller's non-self-inculpatory statements made collateral to a self-inculpatory statement are inadmissible under Rule 804(b)(3). Id.

The Defendant, therefore, requests this Court determine the admissibility, outside the presence of the jury, of all statements made to both lay witnesses and law enforcement by non-testifying co-defendants, co-conspirators and/or others where portions are self incriminating in nature and other portions incriminate Mr. Barnes and/or exculpate the declarant or others pursuant to Rule 804(b)(3), SCRE.

Respectfully,



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Columbia, South Carolina

This 2 day of November, 2014

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

IN THE COURT OF GENERAL SESSIONS
Indictment Number: 2014-GS-40-00752,
2014-GS-40-00754, 2014-GS-40-007525,
2014-GS-40-007526, 2014-GS-40-00757

The State of South Carolina,

vs.

DEFENDANT'S INITIAL
PRETRIAL MOTIONS

Trenton Barnes,

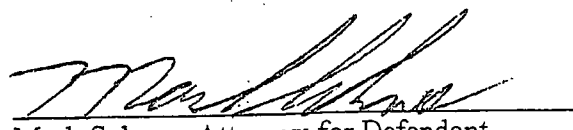
Defendant.

List of Pretrial Motions:

1. Renew Rule 5 and Brady Motions,
2. Motion for Discovery pursuant to Riddle
3. Motion to compel complete Crimestoppers information
4. Motion to compel Federal 302's
5. Motion to compel police/investigator reports
6. Motion to Dismiss for violating Brady/Rule 5
7. Motion for sanctions for violating Brady/Rule 5
8. Motion to prevent witnesses from testifying due to violations of Brady/Rule 5
9. Motion to continue trial based on late discovery and violations of Brady/Rule 5
10. Motion to continue the trial based on additional, new discovery
11. Motion to Reveal the Deal and the Basis of Deal
12. Motion to redact or suppress jail calls
13. Motion to Dismiss Indictment # 2014-GS-40-00757 for lack of jurisdiction in General Sessions
14. Motion to Exclude all Photographs that show an autopsy and/or any gruesome photographs
15. Motion Settle Record of all Witnesses and Defendants
16. Motion to Exclude any Testimony and/or Evidence of Gang Activity or Gang Connections
17. Motion to Prevent Shackling
18. Motion to Address Belcher

RICHLAND COUNTY
FILED
2014 OCT 30 PM 2:56
JEANNETTE W. MCBRIDE
C.C.P. & G.S.

Respectfully,



Mark Schnee, Attorney for Defendant
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Columbia, South Carolina

This 30 day of October, 2014

RICHLAND COUNTY
FILED

2014 OCT 30 PM 2:56
JEANNETTE W. MCBRIDE
C.C.P. & G.S.

STATE OF SOUTH CAROLINA)

COURT OF GENERAL SESSIONS

County of Richland)

2014-GS-40-0745

2014-GS-40-0746

2014-GS-40-0747

2014-GS-40-0749

2014-GS-40-0752

2014-GS-40-0754

2014-GS-40-0755

2014-GS-40-0756

The State)

vs.)

TRANSCRIPT OF RECORD

Lorenzo Young)

and)

Trenton Barnes,)

Defendants)

November 10 - 19, 2014
Columbia, South Carolina

BEFORE:

The Honorable Robert Hood, Judge

APPEARANCES:

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

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

KAREN AMBROZIAK
Official Court Reporter

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3	Photo	Marked at pretrial	
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5	Photo (withdrawn)	Marked at pretrial	
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EXHIBITS:STATE'S EXHIBITS: (continued)

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No.	Description	ID	EV
214	Photo (withdrawn)	39	
215	Photo	39	774
216	Photo	39	775
217	Photo	39	775
218	Photo	39	775
219	Photo	39	775
220	Photo	39	775
221	Photo	39	775
222	Photo	39	904
223	Photo (withdrawn)	39	
224	Photo (withdrawn)	39	
225	Photo (withdrawn)	39	449
226	Photo (withdrawn)	39	
227	Photo (withdrawn)	39	
228	Photo (withdrawn)	39	
229	Photo (withdrawn)	39	
230	Photo (withdrawn)	39	

EXHIBITS:STATE'S EXHIBITS: (continued)

<u>No.</u>	<u>Description</u>	<u>ID</u>	<u>EV</u>
231	Photo (withdrawn)	39	
232	Photo (withdrawn)	39	
233	Photo (withdrawn)	39	
234	Photo (withdrawn)	39	
235	Photo (withdrawn)	39	
236	Photo (withdrawn)	39	
237	Photo (withdrawn)	39	
238	Photo (withdrawn)	39	
239	Photo (withdrawn)	39	
240	Photo (withdrawn)	39	
241	Photo (withdrawn)	39	
242	Photo (withdrawn)	39	
243	Photo (withdrawn)	39	
244	Photo (withdrawn)	39	
245	Photo (withdrawn)	39	
246	Photo (withdrawn)	39	
247	Photo (withdrawn)	39	
248	Photo (withdrawn)	39	

EXHIBITS:STATE'S EXHIBITS: (continued)

<u>No.</u>	<u>Description</u>	<u>ID</u>	<u>EV</u>
249	Photo (withdrawn)	39	
250	Photo (withdrawn)	39	
251	Photo (withdrawn)	39	
252	Photo (withdrawn)	39	
253	Photo (withdrawn)	39	
254	Photo (withdrawn)	39	
255	Photo (withdrawn)	39	
256	Photo (withdrawn)	39	
257	Photo (withdrawn)	39	
258	Photo (withdrawn)	39	
259	Photo (withdrawn)	39	
260	Photo (withdrawn)	39	
261	Photo	39	904
262	Photo (withdrawn)	39	
263	Photo (withdrawn)	39	
264	Photo	39	904
265	Photo	39	904

EXHIBITS:STATE'S EXHIBITS: (continued)

No.	Description	ID	EV
266	Photo (withdrawn)	39	858
267	Photo	39	904
268	Photo	39	904
269	Photo	39	904
270	Photo	39	904
271	Photo	39	904
272	Photo	39	904
273	Photo	39	904
274	Photo	39	904
275	Photo	39	904
276	Photo	39	904
277	Photo	39	904
278	Photo	39	904
279	Photo	39	904
280	Photo	39	904
281	Photo (withdrawn)	39	904
282	Photo (withdrawn)	39	904
283	Photo	39	904

EXHIBITS:STATE'S EXHIBITS: (continued)

<u>No.</u>	<u>Description</u>	<u>ID</u>	<u>EV</u>
284	Photo	39	904
285	Photo	39	904
286	Photo	39	904
287	Photo	39	904
288	Photo	39	904
289	Photo	39	904
290	Photo	39	904
291	Photo	39	904
292	Photo	39	904
293	Photo	39	904
294	Photo	39	904
295	Photo	39	904
296	Photo	39	904
297	Photo	39	904
298	Photo	39	904
299	Photo	39	904
300	Photo	39	904
301	Photo	39	904

EXHIBITS:STATE'S EXHIBITS: (continued)

<u>No.</u>	<u>Description.</u>	<u>ID</u>	<u>EV</u>
302	Photo	39	904
303	Photo	39	904
304	Photo	39	904
305	Photo	39	904
306	Photo	39	904
307	Photo	39	904
308	Photo	39	904
309	Photo	39	904
310	Photo	39	904
311	Photo	39	904
312	Photo	39	904
313	Photo	39	904
314	Photo	39	904
315	Photo	39	904
316	Photo	39	904
317	Photo	39	904
318	Photo	39	904
319	Photo	39	904

EXHIBITS:STATE'S EXHIBITS: (continued)

<u>No.</u>	<u>Description</u>	<u>ID</u>	<u>EV</u>
320	Photo	39	904
321	Photo	39	904
322	Photo	39	904
323	Video - Bakery	227	435
324	Video	227	444
325	Video - Ale House	227	
326	Spoon	277	382
327	Timecard	277	368
328	Keys	277	368
329	Cell phone	277	368
330	Keys	277	368
331	Shell casing	277	369
332	Shell casing	277	369
333	Shell casing	277	369
334	Shell casing	277	369
335	Shell casing	277	369
336	Shell casing	277	369
337	Projectile	277	370

EXHIBITS:STATE'S EXHIBITS: (continued)

<u>No.</u>	<u>Description</u>	<u>ID</u>	<u>EV</u>
338	Projectile	277	370
339	Projectile	277	370
340	Projectile Fragment	277	370
341	Projectile	277	370
342	Projectile	277	370
343	Purple Top	277	382
344	Swabs	277	382
345	Swabs	277	378
346	Projectile	277	378
347	Shoes/clothes	277	375
348	Sweatshirt	277	375
349	Swabs	277	384
350	Swabs	277	384
351	Swabs	277	384
352	Swabs	277	384
353	Swabs	277	386
354	Swabs	277	386
355	ID (withdrawn)	277	
356	Cell phone (withdrawn)	277	

EXHIBITS:STATE'S EXHIBITS: (continued)

<u>No.</u>	<u>Description</u>	<u>ID</u>	<u>EV</u>
357	(withdrawn)	277	
358	(withdrawn)	277	
359	(withdrawn)	277	
360	(withdrawn)	277	
361	Cell phone	(withdrawn) 277	
362	Cell phone	(withdrawn) 277	806
363	Shoes	277	910
364	Shoes	277	910
365	Hoodie	277	909
366	Hoodie	277	909
367	Hoodie	277	909
368	Gloves	277	
369	Shoes	277	793
370	.45	277	801
371	.40	277	797
372	Ammo box	277	402
373	Phone / Ammo	277	794
374	Nike Shoes	277	792
375	Clip Ammo Box	277	794/801

EXHIBITS:STATE'S EXHIBITS: (continued)

<u>No.</u>	<u>Description</u>	<u>ID</u>	<u>EV</u>
376	Glock Magazine	277	800
377	Cell	277	1,057
378	Map	277	300
379	(withdrawn)	277	
380	Cell phone	277	1,086
381	Latent Prints	277	404
382	Cell phone	277	1,192
383	Cell phone	277	1,192
384	(withdrawn)	277	
385	Swab	277	946
386	Swab	277	946
387	Swab	277	946
388	Swab	277	946
389	GSR Lifts	277	818
390	Photo (withdrawn)	277	
391	Photo (withdrawn)	277	
392	Photo	277	
393	Photo (withdrawn)	277	
394	Photo (withdrawn)	277	

EXHIBITS:STATE'S EXHIBITS: (continued)

No.	Description	ID	EV
395	AT&T Phone Records	318	322
396	Blow Up (withdrawn)	360	
397	Diagram	354	360
398	Blow Up	36	1,092
399	Verizon Phone Records	360	394
400	Diagram	469	767
401	40 Caliber	556	797
402	T-Mobile Phone Records	508	510
403	Envelope - T. Barnes	556	685
404	Letter - T. Barnes	556	685
405	Blow Up	608	711
406	Blow Up	608	711
407	Blow Up	608	711
408	Blow Up	608	711
409	Blow Up	608	711
410	Handwriting Samples	608	711
411	Handwriting Samples	608	711
412	Handwriting Samples	608	711
413	Handwriting Samples	608	711

EXHIBITS:STATE'S EXHIBITS: (continued)

No.	Description	ID	EV
414	Handwriting Samples	608	711
415	Handwriting Samples	608	711
416	Handwriting Samples	608	711
417	Handwriting Samples	608	711
418	Handwriting Samples	608	711
419	Handwriting Samples	608	711
420	Folder of Photos	625	627
421	Diagram	868	1,057
422	DNA	911	962
423	Buccal Swab	911	912
424	Diagram		962
425	Photo	1,026	
426	Photo	1,026	
427	Photo (withdrawn)	1,026	
428	Photo (withdrawn)	1,026	
429	Photo (withdrawn)	1,026	
430	Photo (withdrawn)	1,026	
431	Photo (withdrawn)	1,026	

EXHIBITS:STATE'S EXHIBITS: (continued)

No.	Description	ID	EV
432	Photo	1,026	
433	Photo (withdrawn)	1,026	
434	Photo (withdrawn)	1,026	
435	Photo		
436	Blow Ups	1,162	
437	Photo (withdrawn)	1,162	
438	Photo	1,162	1,147
439	Video		1,168
440	CD		
441	CD	1,279	1,285
442	CD		1,289
443	Blow Up		1,193
444	Blow Up	1,279	1,324
445	Blow Up	1,279	1,325
446	Blow Up	1,279	1,325
447	Blow Up	1,279	1,325
448	Blow Up	1,279	1,325
449	Blow Up	1,279	1,325

EXHIBITS:STATE'S EXHIBITS: (continued)

<u>No.</u>	<u>Description</u>	<u>ID</u>	<u>EV</u>
450	Blow Up	1,279	
451	Photo		1,445
452	Photo		1,445
453	Photo		1,445
454	Photo		1,445
455	Photo		1,445
456	Photo		1,445
457	Photo		1,445
458	Photo		1,445
459	Photo		1,445
460	Photo		1,445
461	Photo		1,445
462	Photo		1,445
463	Photo		1,445
464	Rights	(withdrawn)	

DEFENDANT'S EXHIBITS:

(There were no Defendant's Exhibits introduced.)

EXHIBITS:COURT'S EXHIBITS: (continued)

<u>No.</u>	<u>Description</u>	<u>ID</u>	<u>EV</u>
1	Email	Marked at pretrial	
2	Pretrial Motions	Marked at pretrial	
3	Affidavit	Marked at pretrial	
4	Sealed Notes	Marked at pretrial	
5	Requested Voir Dire	39	
6	Crimestopper tips - Sealed	40	
7	Packet - Sealed	42	
8	Note	163	
9	Question	230	
10	Juror Note	421	
11	Juror Note	421	
12	Juror Note	421	
13	Juror Note	724	
14	Juror Note	1,025	
15	Cut Photo	1,050	
16	State's 437	1,183	
17	Note	1,601	

EXHIBITS:COURT'S EXHIBITS: (continued)

<u>No.</u>	<u>Description</u>	<u>ID</u>	<u>EV</u>
18	Note	1,691	
19	Note	1,636	
20	Limiting Instruction	1,659	

STATEMENTS:

Pretrial Charge	245
Opening Statement by Ms. Garfield	258
Opening Statement by Mr. Schnee	269
Opening Statement by Mr. Schnee (continued)	285
Opening Statement by Ms. Bambach	290
Closing Statement by Ms. Campbell	1,501
Closing Statement by Ms. Simpson	1,527
Closing Statement by Mr. Krzyston	1,576
Closing Statement by Mr. Schnee	1,584
Jury Charge	1,604
VERDICT	1,652
SENTENCING	1,637
CERTIFICATE OF REPORTER	1,660

1 (WHEREUPON, State's Exhibits Numbers 8-322 were
2 previously marked for identification only.)

3 (WHEREUPON, Court's Exhibit Number 5 was marked
4 for identification only.)

5 THE COURT: Okay. So we're on the record in the
6 State of South Carolina versus Trenton Barnes and
7 Lorenzo Young. Both Mr. Barnes and Mr. Young are
8 present along with their counsel, and the State is
9 present. The first thing that I'm going to do is mark
10 as a sealed Court's Exhibit from our hearing a couple
11 of weeks ago the Crimestoppers tips so I have reviewed
12 the Crimestoppers tips in their original format as
13 they came in. I've also reviewed that in comparison
14 to the discovery materials provided. There actually
15 was some information that was in the Crimestoppers
16 tips that was not in the discovery, and that was
17 turned over to the defense, so I've turned --- I am
18 sealing the original tips and the form in which the
19 tips were turned over as a Court's Exhibit. So any
20 motion to see the original tips is denied based upon
21 the prevailing law as to --- I think there is a
22 statute actually. I don't know it off the top of my
23 head, but there is a statute dealing with that. I
24 have made sure from the Crimestoppers tips that there
25 is no evidence that is --- that needs to be turned

1 over pursuant to the rules to the defense and that the
2 summary is adequate providing for any exculpatory
3 information. So you can mark that.

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

6 THE COURT: Okay. Yes, ma'am.

7 MS. PINNOCK: Your Honor, may it please the
8 Court. Just for our understanding, when you reviewed
9 the records as provided by the solicitor's office, if
10 there was a --- if you came to the conclusion that
11 there was still information that was contained in the
12 tips that was not contained in the original summaries
13 that we were provided, we have not received anything
14 else from the Crimestoppers tips.

15 THE COURT: I think she turned them over to you
16 about three or four weeks ago.

17 MS. SIMPSON: Yes, Your Honor. What we did was
18 take the actual substantive information as it was
19 written in the tips and that information was provided
20 in the summary format to both defense counsel. It is
21 complete. It is --- it contained all the tips that we
22 had.

23 MS. PINNOCK: And I was just being on the record
24 --- for clarity purposes, I thought you said there was
25 an additional part of the case that should have been

1 turned over, but if there was not...

2 THE COURT: And I informed them --- I made that
3 decision about three or four weeks ago. I'm putting
4 that on the record. I told them to turn that over to
5 you then.

6 MS. PINNOCK: Yes, sir.

7 THE COURT: The next thing I have that I was
8 reviewing in camera was what we commonly know as 302s,
9 which are Federal Bureau of Investigation debriefings
10 and such that could potentially be relevant to the
11 case. There were two in submissions that I went
12 through with the State. One was the 302 of a Darrell
13 Alston, which contained about a paragraph of
14 information concerning this case, and that's been
15 turned over, correct, Ms. Simpson?

16 MS. SIMPSON: Yes, Your Honor, that's correct.

17 THE COURT: And the other one that I found to be
18 relevant, it was actually --- it's not a 302. It's an
19 ATF interview form on a Rayski and that is R-A-Y-S-K-I
20 Walters and I deemed that to be relevant to the case
21 at hand for whatever value that it's worth. Mr.
22 Walter's debriefing has been turned over; is that
23 correct?

24 MS. SIMPSON: Yes, Your Honor, that's correct.

25 THE COURT: So Walters' debriefing and Alston's

1 debriefing has been turned over. The rest of the
2 information provided to me in this packet that I'm
3 about to seal has nothing to do with this case. So
4 we're going to seal that as a Court's exhibit.

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

7 THE COURT: So, Mr. Young, I have an indictment
8 for murder, kidnapping, burglary second degree violent
9 and attempted armed robbery; is that correct?

10 MS. GARFIELD: Yes, sir.

11 THE COURT: On Mr. Barnes, I have an indictment
12 for murder, kidnapping, burglary second degree violent
13 and attempted armed robbery; is that correct?

14 MS. GARFIELD: Yes, sir.

15 THE COURT: Okay. We're going to do a couple of
16 the defendants' pretrial motions right now, and then
17 we're going to move into jury selection, and then
18 we'll reconvene this afternoon to finish up pretrial
19 by the defense.

20 Okay. The first motion I have is a defense
21 motion to prevent shackling in the courtroom. That
22 motion is denied. We have changed the tables around
23 in the courtroom to where Mr. Barnes and Mr. Young are
24 both sitting at a table to where the underneath side
25 of the table is actually blocked by the view. It's

1 actually wood underneath the table. I don't know how
2 to describe it other than that. It's not a hollow
3 table underneath that you could see through, it's
4 actually covered by wood. That's the clerk of court's
5 table which we switched into that. So the motion to
6 prevent shackling is denied. If we reach the point
7 where somebody is testifying, of course, you don't
8 have to testify. You have a constitutional right to
9 remain silent. If we reach that point, we'll take the
10 appropriate break before that. I don't want the jury
11 --- the court security officers who are always with me
12 during trials and have been up here before I even ever
13 started working here, they know. I don't want the
14 jurors to see either Mr. Barnes or Mr. Young in any
15 kind of shackling. I know you gentlemen know that and
16 will advise your people of that. Anything else on
17 that, Mr. Schnee?

18 MR. SCHNEE: My concern isn't for during the
19 during the course of the trial. These tables are more
20 than adequate to hide that. My main concern at this
21 point is for when the jury is walking in. They will
22 be able to see under the table from here. When Your
23 Honor introduces my client and has him stand up,
24 they're also going to hear the shackles when he stands
25 up and turns around.

1 THE COURT: All right.

2 MR. SCHNEE: For the limited purposes of jury
3 selection, I ask they be removed.

4 THE COURT: All right. Sergeant Doudoukjian,
5 walk out there and walk back in. See if you can see
6 anybody's chains.

7 (complies.)

8 THE DEPUTY: If I step out and look for them,
9 yes, I can see them.

10 THE COURT: As long as you stay behind the bar,
11 you can't see them?

12 THE DEPUTY: (Indicating in the negative.)

13 THE COURT: Okay. Does he have a waist chain on?

14 THE DEPUTY: No, sir.

15 THE COURT: So his hands are free?

16 THE DEPUTY: That's correct.

17 THE COURT: Okay. The defense motion is denied.
18 He will stay in the shackling unless we reach a point
19 in time where he has to walk in front of the jury, at
20 which point we'll deal with that if it comes up and
21 how we would handle that. Okay.

22 Okay. Now, the motion to sequester is in effect,
23 so we have McCoy and Reese staying in with the city
24 and then everybody else is under a motion to sequester
25 including lay witnesses. Does everybody understand

1 that, Mr. Schnee?

2 MR. SCHNEE: Yes, Your Honor.

3 THE COURT: Mr. Krzyston?

4 MR. KRZYSTON: Yes, sir.

5 THE COURT: Ms. Garfield?

6 MS. GARFIELD: Yes, sir.

7 THE COURT: Okay. Now I say this in every trial.

8 I don't know who these people are. I mean, literally

9 I don't know who they are. I don't know what they

10 look like or anything else, so I need you all and your

11 staff to help with, "Hey, Judge, somebody just walked

12 in the back of the room that is a potential witness."

13 I don't know who they are. I know that's weird

14 because I have the best vantage point to see who is in

15 the courtroom and who is not, but I need everybody to

16 pay close attention to that so we don't run into that

17 situation, if possible. Does everybody understand

18 that?

19 MR. KRZYSTON: Yes, Your Honor.

20 THE COURT: All right. Ms. Garfield, do you

21 understand that?

22 MS. GARFIELD: Yes, sir.

23 THE COURT: Okay. And Mr. Schnee?

24 MR. SCHNEE: Yes, Your Honor.

25 THE COURT: Okay. All right. Now, I have

1 received State's potential --- do I have a State's
2 witness list?

3 MS. SIMPSON: Yes, Your Honor. I'll bring you an
4 updated witness list.

5 THE COURT: Do I have Mr. Young's potential
6 witness list?

7 MR. KRYZTON: We don't have anyone at this
8 particular time, Your Honor.

9 THE COURT: And I have Mr. Barnes' potential
10 witness list that was provided.

11 MS. SIMPSON: Your Honor, this was provided last
12 week via email to the defense and here is the State's
13 proposed voir dire.

14 THE COURT: Okay. So does everybody have a copy
15 of the State's potential witness list?

16 MR. KRZYSTON: Yes, Your Honor.

17 THE COURT: Mr. Schnee?

18 MR. SCHNEE: Yes, Your Honor.

19 THE COURT: Mr. Barnes has submitted one. Does
20 the State have a copy of that?

21 MR. SCHNEE: Yes, I provided them a copy of that.

22 THE COURT: Okay. Thank you very much. Let's go
23 over voir dire real quickly. Let's start with the
24 State's and we'll go in that order just so I can keep
25 up on where I am. Okay. So the defense reviewed the

1 State's requested voir dire. All right. Number two I
2 already ask. Number three is going to be asked.
3 Number four is going to be asked. Number five is
4 going to be asked on the State's requested voir dire.
5 Any objection to number one, Mr. Krzyston?

6 MR. KRZYSYON: No, Your Honor.

7 THE COURT: And Mr. Schnee?

8 MR. SCHNEE: No, Your Honor. I'm pretty sure I
9 asked the same question.

10 THE COURT: Okay. Good. I'm on Mr. Young's
11 requested voir dire now. Number one will be asked.
12 Number five will be asked. Number eight will be
13 asked. Number nine will be asked. Number ten will be
14 asked.

15 Okay. Any objections from the State as to Young's
16 voir dire?

17 MS. CAMPBELL: Yes, Your Honor. Taking them as
18 number two, I think that's just the reciprocal of what
19 we asked. I think that would be appropriate.

20 THE COURT: Okay.

21 MS. CAMPBELL: Number three we don't have any
22 problem with, number four we have no problem with.
23 Your Honor, as far as number five, we don't have any
24 probably with it other than I don't believe the
25 Assessment Resource Center is --- the primary purpose

1 of them is as it related to law enforcement. I don't
2 know how that's related to this case.

3 MS. PINNOCK: Your Honor, that's my fault.

4 THE COURT: So you're okay with the Assessment
5 Resource Center coming out?

6 MS. PINNOCK: Yes. That was my fault.

7 THE COURT: All right.

8 MS. CAMPBELL: Number six, Your Honor, as far as
9 Facebook, MySpace or Twitter. I'm just somewhat
10 concerned, I mean, I don't ---

11 THE COURT: I don't know what the relevance of
12 the question is.

13 MS. PINNOCK: Your Honor, we were made aware of
14 some logs. You know, log forums that discuss this
15 case on some very disturbing topics, so we were
16 wanting to know if anybody was a member of blogs, any
17 social forums, other than Facebook, MySpace, Twitter
18 to see what the nature of those forums were. It's
19 just because we had been made aware of information, of
20 some very disturbing, very disturbing racially charged
21 social networks, so we were wanting to inquire of the
22 potential jurors about that.

23 MS. CAMPBELL: Your Honor, the only thing I'm
24 going to say is I believe you're going to ask them if
25 they have any knowledge and what the source of

1 knowledge is.

2 THE COURT: I'm going to go into that. I'm not
3 going to ask this question specifically, but I'm going
4 to say, you know, if you're a member of a blog or any
5 connection to this case in any way, shape, or form. I
6 will cover it. I may not ask it directly that way
7 because somebody is --- does a blog about cooking, I
8 don't really care. I am going to stress anything
9 about this case.

10 MS. PINNOCK: Yes, sir.

11 THE COURT: Okay. Keep going, Ms. Campbell.

12 MS. CAMPBELL: Your Honor, number seven, if
13 they've been a witness. I don't know how that would
14 be relevant unless --- I don't know how it's relevant.

15 THE COURT: Ms. Pinnock.

16 MS. CAMPBELL: We just ask that you make it
17 reciprocal if you're going to ask it.

18 MS. PINNOCK: We would ask that you do ask that
19 question, but ask it in the reciprocal.

20 THE COURT: Okay.

21 MS. CAMPBELL: Moving on to number 11, I believe
22 is the next one.

23 THE COURT: Yes, ma'am.

24 MS. CAMPBELL: The victim in this case was
25 working at a bakery owned by the Carolina Cafe and

1 Catering Company. If you want to ask if that would be
2 relevant.

3 THE COURT: The one potential juror that worked
4 there is gone, right?

5 MS. PINNOCK: Yes, sir.

6 THE COURT: Did you pick up on that?

7 MS. CAMPBELL: That was my understanding.

8 THE COURT: I was going to strike --- I wouldn't
9 have even allowed him to be put in the panel out of an
10 abundance of caution, but there was another reason to
11 remove him anyway. We don't even have to cross that
12 bridge. Number 12.

13 MS. CAMPBELL: Number 12, Your Honor, if you
14 asked between 12 and 13 basically is this case
15 involves the use of a weapon. If that concerns
16 anybody, if we could make a little more general or
17 that a gun was involved in this case.

18 THE COURT: What about that, Ms. Pinnock?

19 MS. PINNOCK: Well, Your Honor, I believe because
20 of the facts that are alleged in this case I do think
21 it's relevant to ask a juror, if any, of them
22 personally or anybody they're close to has been in a
23 situation involving a weapon or a gun of any kind.
24 It's directly related to this case. People have very
25 strong opinions about gun use and gun possession,

1 which is why we included it in number 12 and 13
2 because it is a very --- it's a very hot topic in
3 politics and every aspect of life. It is relevant to
4 this case to know whether people have any sort of
5 involvement with guns.

6 THE COURT: I think what I'll probably do is add
7 victim of a gun related incident into violent crime
8 category.

9 MS. CAMPBELL: To number two?

10 THE COURT: I'll ask the group question just for
11 informational purposes more than anything.

12 MS. CAMPBELL: Number 14, Your Honor. I don't
13 know that they can get into what the verdict was or
14 what happened in the jury room or things of the
15 nature. I think that should be limited.

16 THE COURT: Ms. Pinnock.

17 MS. PINNOCK: Sir?

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

19 MS. PINNOCK: Your Honor, 14 and 15 are kind of
20 intertwined, as well. It is asking the jurors,
21 potential jurors, questions about if they would uphold
22 the standards that are required in this courtroom
23 because somebody is innocent until proven guilty. I
24 do believe if they have served on a jury before, first
25 they should have mentioned it in the qualification

1 round, but if they didn't ---

2 THE COURT: That's not true, Ms. Pinnock.

3 MS. PINNOCK: They didn't.

4 THE COURT: That's not a question.

5 MS. PINNOCK: I do apologize, Judge.

6 THE COURT: I'll ask them if they served on a
7 criminal jury before, but that's it just for
8 informational purposes. Number 15 is part of the
9 standard charge.

10 MS. CAMPBELL: Thank you, Judge.

11 THE COURT: All right. Mr. Barnes' voir dire, so
12 number one is going to be asked.

13 THE COURT: Number two is going to be asked.

14 MS. CAMPBELL: Number three, Your Honor, I do not
15 know the relevance of that. I'm at a loss.

16 MR. SCHNEE: Well, Judge, there are respectfully,
17 there are a lot of allegations at least part of the
18 story that the State is obviously going to be talking
19 about is the fact that Ms. Hunnewell has a bunch of
20 children. There is obviously going to be some sort of
21 emotional response. The ages the children
22 particularly, the age of my client being a juvenile at
23 the time. This information is relevant. I don't know
24 if they have a bias one way or the other.

25 THE COURT: Well, just because they have a child

1 doesn't mean they have a bias.

2 MR. SCHNEE: That's correct, but I'm requesting
3 that Your Honor ask that question.

4 THE COURT: All right. That's denied.

5 MR. SCHNEE: Yes, sir.

6 THE COURT: Number four, that's already in.

7 MS. CAMPBELL: Already in.

8 THE COURT: Number five.

9 MS. CAMPBELL: Already addressed.

10 THE COURT: We're dealing with that.

11 MS. CAMPBELL: Number six addressed.

12 THE COURT: Six we're asking.

13 MS. CAMPBELL: And number seven is part of your
14 general charge.

15 THE COURT: All right. Let's talk about how
16 we're going to do these strikes so everybody
17 understands it. The State is going to have ten
18 strikes, okay. The defense is going to have --- you
19 can do it one of two ways. It doesn't matter to me
20 which way you do it, okay. Way number one is you take
21 ten each. Way number two is you take 20 and do it
22 together, but whichever way you decide, just let me
23 know. It doesn't matter to me.

24 MR. SCHNEE: Can we just have a minute?

25 THE COURT: Yes. Sure.

1 MR. SCHNEE: Judge, we're going to have ten and
2 ten.

3 THE COURT: All right. So the way it will work
4 from a procedural standpoint is we'll just go ---
5 let's just go in alphabetical order. Okay.
6 Mr. Barnes, the first one that comes up, Barnes will
7 go first, then Young. Then we'll alternate back and
8 forth. All right. Jackie, you have that?

9 THE CLERK: Yes, Your Honor.

10 THE COURT: Mr. Schnee has Mr. Barnes, so when
11 the jurors come up, we'll ask you first, Mr. Schnee,
12 Mr. Krzyston and the next one that comes up will
13 switch.

14 MR. SCHNEE: Yes, sir.

15 THE COURT: I can't remember how we did
16 alternates in the last trial. Does anybody remember?
17 Did I do two, two and two?

18 THE CLERK: Two and two, total of four, Your
19 Honor.

20 THE COURT: Okay, so for each of the alternates,
21 and each table will get two. Okay. Two, two, and two
22 for the alternates as we go down. So you have
23 potentially six strikes total on each alternate.
24 Okay. Do you understand that, Mr. Krzyston?

25 MR. KRZYSTON: Yes, sir, Your Honor.

1 THE COURT: Mr. Schnee?

2 MR. SCHNEE: Yes, Your Honor.

3 THE COURT: Jackie, just keep alternating. When
4 we get to the alternates, just keep going through the
5 alternates first.

6 THE CLERK: Yes, Your Honor.

7 THE COURT: Do you have that?

8 THE CLERK: Yes, Your Honor.

9 THE COURT: All right. Does anybody have any
10 major scheduling issues this week other than the
11 holiday tomorrow?

12 MR. KRZYSTON: No, Your Honor.

13 MR. SCHNEE: No, Your Honor.

14 MS. GARFIELD: No, sir.

15 THE COURT: All right. Let's plan on starting at
16 nine every day. Do you want to push this? I mean,
17 I'm not going to go crazy and we're not going to be
18 here till six or seven clock at night. I think
19 starting at nine every day will give us at a 30 minute
20 jump on the day. We'll start at nine each day unless
21 I get significant push back from the jurors about that
22 time. We'll take the breaks that I normally do during
23 that time, but I want to start at nine to try get
24 things in the right direction. That means whoever is
25 transporting them, barefoot, they need to get here

1 early enough to get dressed out, meet with their
2 attorney, talk to them, all that stuff before we
3 start.

4 Okay. Now, let's move on to a couple of
5 substantive things. All right. Have all the pictures
6 been printed off? And marked?

7 MS. SIMPSON: Your Honor, I believe all the
8 photographs have been printed. Mr. Schnee still needs
9 to review, I believe, the photographs from the search
10 warrant conducted at Bronx Street, as well as Lucille
11 Drive. He was not present for the meeting that we had
12 on discovery to go over those photographs, however,
13 Mr. Young's attorneys were present and did note their
14 objections at the last hearing we had. Mr. Schnee
15 said he could look over them this morning and figure
16 out ---

17 THE COURT: All right. So give me every picture
18 that has an objection in one stack so I can look at
19 it, outside of the autopsy photos which I've already
20 seen and the stills from the video which I've already
21 seen. Okay. Not right now. When we break. Okay.
22 All right. As to the defendant's motion to sever the
23 trial, that motion is going to be denied. The law is
24 clear that criminal defendants who are jointly tried
25 for murder and other charges are not entitled to

1 separate trials as a matter of right.

2 The motion for severance is addressed to the
3 discretion of the trial court and a severance should
4 only be granted where there is a serious risk that a
5 joint trial will compromise a specific right of a
6 codefendant or prevent the jury from making a reliable
7 judgment about the codefendant's guilt. The State has
8 informed me that they do not intend on using the audio
9 recorded statement of Mr. Barnes, which would include
10 Bruton material against Mr. Young. The statement ---
11 I don't know if this is a statement, but in the
12 evidence they intend on using against Mr. Barnes
13 includes a letter allegedly written to his mother
14 which does not reference Mr. Young; is that correct?

15 MR. SCHNEE: Judge, that letter does reference
16 Mr. Young quite a bit.

17 THE COURT: In a criminal capacity?

18 MR. SCHNEE: Yes.

19 THE COURT: So what are we doing about that?

20 MS. CAMPBELL: Your Honor, I believe that
21 wouldn't fall under Bruton, since it was not made to
22 law enforcement. That's an intimate writing. We do
23 have the case law on that issue.

24 THE COURT: Well --- okay, give me the case law,
25 but at this point in time the motion for a severance

1 is denied. I do not have a specific writing at this
2 point in time which is going to be hampered and at
3 this point in time the argument of the defense is
4 based on speculation that something could potentially
5 happen as opposed to something actually will happen or
6 may happen. Okay. All right. So you all give me
7 that case or whatever case it is that you have and
8 let's bring up the panel.

9 All right. For our news reporter friends, we're
10 about to bring in the entire jury panel.

11 MS. CAMPBELL: Judge, do you have a position of
12 the copy of the list?

13 THE COURT: I'm going to allow them to have a
14 copy of the list because there are so many strikes. I
15 normally don't give out a copy of the list, but will
16 allow it due to the excessive number of strikes.

17 (WHEREUPON, the jury panel entered the
18 courtroom.)

19 THE BAILIFF: The jury is seated, Your Honor.

20 THE COURT: Thank you very much. Good afternoon,
21 ladies and gentlemen. All right. Thank you for being
22 back with us. Let me give you just couple of things
23 before we get started here. Number one, at no point,
24 and I know there are three video cameras in the
25 courtroom, but at no point during this week in any

1 way, shape or form will any of you ever be on video at
2 all, okay.

3 So as you sit here right now, those cameras are
4 off. I read all of the news agencies the riot act
5 that if they even think of putting one of my jurors,
6 even a potential juror on camera, they're going to be
7 held in contempt of court and held in jail for six
8 months. Okay. You don't have to be in fear for that
9 or concerned about that in any way, shape, or form.
10 Now, I do believe in a society where news media should
11 be able to report on and see what's going on, and I
12 think that's important for an informed community.
13 However, I think that citizens who are willing to give
14 up their time and energy and other things to come into
15 court should do so without having their faces
16 plastered on the media or anything else. You do not
17 need to be concerned about that in any way, shape, or
18 form.

19 Now, before we begin this trial, I need to tell
20 you that this trial will probably be different from
21 what you might expect. Many of you do not have the
22 opportunity to attend actual court sessions as you are
23 doing now. You may think from watching television or
24 movies or from reading books that criminal trials are
25 always full of high drama, intense action, and

1 riveting circumstances. While all of these things may
2 be true at times, this trial which you are potentially
3 going to be selected for is not for entertainment.

4 This is a fundamental part of our democracy. It
5 is a search for the truth in an effort to make sure
6 that justice is done between the parties before the
7 court. Searching for the truth and making sure that
8 justice is done is often slow, deliberate and
9 repetitive, the opposite of what you may have seen on
10 television or in movies or read in books. This
11 courtroom is a place of honor. It is dedicated to the
12 protection and the preservation of citizen's rights
13 through what many have called the greatest justice
14 system than has ever been created.

15 The attorneys that will appear before you this
16 week are advocates for the parties they represent, but
17 first and foremost, they are officers of this court.
18 They are sworn to uphold the integrity and the
19 fairness of our judicial system and to help you in the
20 search for the truth. You should expect the attorneys
21 to be professional, competent and ethical in the
22 representation of their client's interest. If you
23 actually get selected on this jury, you will take an
24 oath to try the case and reach a fair and just
25 verdict. You are also expected to be professional,

1 reasonable and ethical. Thank you for accepting this
2 important responsibility of jury service and for your
3 contribution today and this week to our justice
4 system.

5 Our founding fathers believed that jury service
6 is a key democratic check on our judicial system.
7 This is your control, the citizens' control, of our
8 judicial branch of government. This is your service
9 and participatory democracy, just like last week when
10 you may have voted. That is your opportunity to
11 participate in our democracy. I ask that you look at
12 jury service this week not as a burden, but as another
13 opportunity to participate in the democracy of this
14 great country that we live. We are now ready to
15 select the jury in this case. The State may call
16 their case.

17 MS. GARFIELD: May it please the Court.

18 THE COURT: Yes, ma'am.

19 MS. GARFIELD: At this time, the State calls
20 Lorenzo Young and Trenton Barnes. Lorenzo Young for
21 the charge of murder, indictment number 2014-GS-40-
22 745; kidnapping, 2014-GS-40-746; burglary second
23 degree violent, 2014-GS-40-747 and attempted armed
24 robbery 2014-GS-40-749. In relation to Trenton
25 Barnes, the charge of murder, indictment number

1 2014-GS-40-752; kidnapping, 2014-GS-40-754; burglary
2 second degree, 2014-GS-40-755, and attempted armed
3 robbery 2014-GS-40-756.

4 THE COURT: Thank you, Ms. Garfield.

5 Ladies and gentlemen, the State has called its
6 case. At this point in time, they have told you the
7 charges that these two defendants are charged with.

8 In my hand I hold the indictments that the
9 prosecutor just referenced. Now, these indictments
10 first and foremost are not proof of anything at all.
11 They are not evidence of anything at all. They are
12 merely the documents that allow this court to hear
13 these cases and nothing more.

14 They are simply the vehicle that gets this court
15 authority to hear these cases. The first indictment
16 against Mr. Barnes is for murder. That indictment
17 alleges, and again these are allegations only, that
18 Mr. Trenton Malik Barnes did in Richland County on or
19 about July 1st of 2013 kill the victim, Kelly
20 Hunnewell with malice aforethought either express or
21 implied by means of a gunshot and the victim did die
22 as a proximate result thereof.

23 The second indictment against Mr. Barnes is for
24 kidnapping. Again, each and every one of these
25 indictments are mere allegations by the State. This

1 indictment states that Mr. Barnes did in Richland
2 County on or about July 1st of 2013 unlawfully seize,
3 confine, inveigle, decoy, kidnap, abduct or carry away
4 one Kelly Hunnewell without authority of law in
5 violation of the South Carolina Code of Laws.

6 The third indictment against Mr. Barnes --- again
7 this indictment is an allegation, states that
8 Mr. Barnes did in Richland County on or about July 1,
9 2013, enter without consent and with the intent to
10 commit a crime therein a building of Carolina Cafe
11 located at 93 Tommy Circle and that the defendant
12 Trenton Malik Barnes did enter the building in the
13 nighttime and/or did cause physical injury to a person
14 who is not a participant and/or is armed with a deadly
15 weapon in a crime or uses or threatens the use of a
16 dangerous instrument and/or displays what is or
17 appears to be a pistol or other firearm in violation
18 of the South Carolina Code of Laws. That is an
19 indictment for burglary second degree violent. The
20 last indictment against Mr. Barnes is an allegation of
21 attempted armed robbery. This indictment states that
22 Mr. Barnes did along with codefendants in Richland
23 County on or about July 1st of 2013, while armed with
24 a deadly weapon attempt to take and carry away the
25 personal property from or in the immediate presence of

1 Kelly Hunnewell with the intent to deprive her of
2 possession by use of force, threats or intimidation
3 and/or while alleging either by actions or words
4 Trenton Malik Barnes was armed while using a
5 representative of a deadly weapon or any object which
6 a person present during the commission of a robbery
7 reasonably believed to be a deadly weapon in violation
8 of the South Carolina Code of Laws.

9 The first indictment against Mr. Young, that is
10 Lorenzo Bernard Young is for murder. This is an
11 allegation that Mr. Young did in Richland County on or
12 about July 1st of 2013, kill the victim Kelly
13 Hunnewell with malice aforethought either express or
14 implied by means of a gunshot and the victim did die
15 as a proximate result thereof in violation of the
16 South Carolina Code of Laws.

17 The second indictment against Mr. Young is an
18 allegation of kidnapping, which states that Mr. Young
19 did in Richland County on or about July 1, 2013,
20 unlawfully seize, confine, inveigle, decoy, kidnap,
21 abduct or carry away one Kelly Hunnewell without
22 authority of law in violation of the South Carolina
23 Code of Laws.

24 The third indictment against Mr. Young states
25 that Mr. Young did in Richland County on or about

1 July 1st of 2013, enter without consent and with the
2 intent to commit a crime therein a building of
3 Carolina Cafe located at 93 Tommy Circle and the
4 defendant Lorenzo Bernard Young did enter this
5 building in the nighttime and/or did cause physical
6 injury to any person who is not a participant and/or
7 is armed with a deadly weapon in the crime and/or uses
8 or threatens the use of a dangerous instrument and/or
9 displays what is or what appears to be a pistol or
10 other firearm in violation of the South Carolina Code
11 of Laws.

12 The last indictment against Mr. Young is an
13 allegation of attempted armed robbery.

14 It states that Mr. Young did along with
15 codefendants in Richland County on or about July 1,
16 2013, while armed with a deadly weapon attempt to take
17 and carry away the personal property from or in the
18 immediate presence of Kelly Hunnewell with the intent
19 to deprive her of possession by use of force, threats
20 or intimidation and/or while alleging, either by
21 actions or words, Mr. Young was armed while using a
22 representative of a deadly weapon or any object which
23 a person present during the commission of the robbery
24 reasonably believed to be a deadly weapon in violation
25 of the South Carolina Code of Laws as amended.

1 Now, as I have told you before and throughout the
2 reading of these indictments, these indictments which
3 I hold in my hand are not evidence. They are not
4 proof. They are not to be considered by you as proof
5 or evidence of anything. They are simply the
6 documents that allows this court to hear this case.
7 To these indictments both defendants have pled not
8 guilty and have requested a trial by jury.

9 All right. At this point I will ask each of our
10 potential jurors to stand. Stand where you are.
11 Ms. Pendergrass, if you will swear them in.

12 THE CLERK: Ladies and Gentlemen of the jury,
13 please stand and raise your right hand to be sworn.

14 (WHEREUPON, the jury panel was sworn.)

15 THE CLERK: If you responded by saying I do, you
16 may be seated.

17 (The jury panel was seated.)

18 THE COURT: Thank you very much, ladies and
19 gentlemen. Now, just as I told you this morning,
20 selecting a jury in a case is a key and critical time
21 in a case. It is also critical to the selection of
22 all parties involved to have the most accurate
23 information they can about potential jurors. As I go
24 through these questions if one applies to you or you
25 need to respond to me, you will just need to stand up

1 see what's going on, but don't let 259 leave until I
2 see her today. Thank you very much. Lawyers, 3:30 in
3 my office.

4 (WHEREUPON, Court's Exhibit Number 8 was marked
5 for identification only.)

6 THE COURT: All right. We got a note from a
7 juror, which is marked as Court's Exhibit Number 8
8 stating that he has to use Facebook for work which he
9 will be doing in the evenings. I told him he is not
10 allowed to use Facebook to do any research in any way,
11 shape, or form, or look anybody up involved in the
12 case on Facebook.

13 Okay. Let's start with pictures. All right. Of
14 course, these rulings are assuming all the proper
15 foundation is laid and the objections, if necessary,
16 will need to be renewed at the appropriate time.

17 All right. So I'm looking at 22, 21, 27, 49 and
18 125. Do you all want to see what I'm talking about?
19 You can come up here, see which ones I'm grouping
20 together. These are going to be the photos of the
21 victim on the ground and put 125 --- tell me how these
22 are not all of the same thing or why we need five
23 copies of this shot?

24 MS. CAMPBELL: We can narrow it down, Your Honor.
25 The one that is relevant is this one, showing where

1 the projectile --- showing that in connection with
2 where she ended up.

3 THE COURT: Okay.

4 MS. CAMPBELL: We can withdraw --- this one shows
5 basically --- we may be able to crop it..

6 THE COURT: Okay..

7 MS. CAMPBELL: This shows the dents where some of
8 the bullets hit in the back.

9 THE COURT: So this is a sink area; is that
10 right?

11 MS. CAMPBELL: This is a sink area.

12 THE COURT: Okay.. My review of the videos,
13 that's where she is standing?

14 MS. CAMPBELL: When the attack occurs.

15 THE COURT: Okay. And then --- so like this tiny
16 hole right here ---

17 MS. CAMPBELL: Could be significant.

18 THE COURT: So someone may be able to testify
19 that's where a projectile went?

20 MS. CAMPBELL: Yes, sir, so we could withdraw 49
21 and 22 perhaps, and this one just shows in connection
22 with where the spoon was as seen on the video where it
23 falls. Is that a different one? We can go with that
24 one, so we'll withdraw 21.

25 THE COURT: Okay.

1 MR. SCHNEE: Judge, with respect to 27 and bullet
2 holes, we have received nothing from anyone saying
3 that there were bullet holes recovered or bullets
4 recovered from the bakery.

5 MS. CAMPBELL: I think it's more like where
6 projectiles may have been going.

7 MR. SCHNEE: Right. I would object to relevance
8 if that's how they plan on using that photo.

9 THE COURT: Well, that's a different issue.

10 MS. CAMPBELL: These are all ---

11 THE COURT: Okay. So y'all are --- of course,
12 you would have objected to these, right? Okay. We're
13 going to create a stack.

14 MS. CAMPBELL: If you want me to double check
15 these two to see if there are other angles in
16 different pictures, I can.

17 THE COURT: I tried to group them together by
18 angles. These three are the same. This is a
19 different angle, but these two are kind of from the
20 same angle. You have markers down. What is your
21 objection to 123?

22 MS. PINNOCK: Judge, 123 was actually on a list.
23 I had two pictures that I was going to offer if you
24 kept out the other ones, I withdraw the objection on
25 that one.

1 THE COURT: Okay. So there is no objection to
2 123?

3 MR. KRZYSTON: No.

4 THE COURT: What about you, Mr. Schnee?

5 MR. SCHNEE: I have no reason to object to that.

6 THE COURT: Okay. So 123 --- we're going to
7 create a different stack now, pursuant to the proper
8 foundation being laid.

9 MR. SCHNEE: Okay.

10 MR. KRZYSTON: Go ahead.

11 THE COURT: Go ahead.

12 MR. KRZYSTON: This one to the far left, if we're
13 admitting 123, I think both this one and that far left
14 are cumulative.

15 THE COURT: I'm coming back to that. Hold on.

16 MR. KRZYSTON: Okay.

17 THE COURT: So 123 is in and we're going to come
18 back to these two. What about these two?

19 MS. CAMPBELL: Those show different angles.

20 THE COURT: This is definitely a different angle.

21 MS. CAMPBELL: We can withdraw 23, I guess.

22 THE COURT: Okay. What's your objection to this?

23 MS. PINNOCK: We don't see the relevance of it.

24 There is a video that is going to be played. They
25 will have one picture possibly introduced.

1 THE COURT: Don't say relevance. It's relevant.
2 It's the victim lying on the ground, so it's
3 definitely relevant.

4 MS. PINNOCK: But it's cumulative at this point.

5 THE COURT: That's a different argument, okay.

6 MS. PINNOCK: It's a picture of her lying on the
7 ground. I mean, I don't see...

8 THE COURT: Mr. Schnee?

9 MR. SCHNEE: I would object to the same thing. I
10 don't see how that will enhance the jury's
11 understanding of what happened compared to the other
12 photos.

13 MS. CAMPBELL: Basically these are closer up of
14 this photo, which we usually do something different to
15 --- I mean, it's not something you could see in the
16 video, as far as looking at this area.

17 MR. SCHNEE: I'm not sure what is in dispute is
18 going to be showing, I guess, is the issue. We're not
19 disputing that she was shot in the bakery or shot and
20 fell down right there.

21 THE COURT: I understand that.

22 MR. SCHNEE: The prejudicial value is humongous.
23 If they want to crop off everything past her --- have
24 her legs and just show the markers, I won't object to
25 that. It's the pools of blood that are a problem.

1 THE COURT: Do you think you have a witness
2 that's going to talk about this projectile?

3 MS. CAMPBELL: He is going to talk about a dent
4 in the area. I can't say that that he is going to say
5 that's caused by a bullet. I don't think anybody can
6 say that.

7 MR. KRZYSTON: What witness is going to --- I
8 guess my question would be, what witness?

9 MS. CAMPBELL: The reason he took a picture of it
10 is because it's relevant. This is where she was shot.

11 MS. PINNOCK: If he can't say it's a bullet hole,
12 I don't see how he can say ---

13 MR. KRZYSTON: There is nothing ---

14 MS. PINNOCK: There is nothing to say what it
15 could be.

16 MR. KRZYSTON: No examiner or solicitor provided
17 a report on that.

18 MS. CAMPBELL: You have a list of everything we
19 have.

20 THE COURT: Is your objection to this one, 125,
21 the blood?

22 MR. SCHNEE: Yes.

23 MR. KRZYSTON: And based again on cumulativeness
24 and prejudicial or danger of unfair prejudice.

25 MS. CAMPBELL: Just for the record, we withdrew

1 all the ones where the body had been moved at all. In
2 addition to that, we have minimized the number of
3 photos and limited it to these, but we feel like they
4 are relevant.

5 MS. PINNOCK: I would agree with Mr. Schnee, if
6 they want the markers, we wouldn't object to it being
7 cropped.

8 THE COURT: Can you crop this one?

9 MS. CAMPBELL: Uh-huh.

10 THE COURT: Okay.

11 THE COURT: Because that would then --- 27 would
12 then show the same thing as 125 if I let that in. You
13 get the same angle, right, if you crop it? That
14 version of the picture.

15 MS. CAMPBELL: Yes, this would hold --- if you
16 crop it, that would make those two different.

17 THE COURT: All right. So 123 is going to be in.
18 There is no objection to 123 being in.

19 I mean, this is all pursuant to the proper
20 foundation. 125 is in. It goes directly to the
21 probative value of the elements of the crime which the
22 State has to prove and really going to be as far as
23 crime scene photos the only one that has any
24 significant amount of blood, and it's not that
25 significant amount of blood compared to normal crime

1 scene photos. Twenty-seven is going to be cropped
2 from the body up.

3 MS. CAMPBELL: Just the bottom of the sink.

4 THE COURT: Right, the bottom of the sink up, and
5 whether or not he can testify that that's a whatever
6 is a different argument than whether or not the
7 picture is admissible and 126 is going to be in. It's
8 a pull out shot from 113. I mean, it's close-up shot
9 from 113 as to 125 is and the amount of blood in that
10 picture is very minimal, so all four of these are in
11 pursuant to the proper foundation and the cropping of
12 the one with the sink and the dent.

13 MS. GARFIELD: And their objection 123 is
14 withdrawn?

15 THE COURT: Yes.

16 MS. PINNOCK: I also have 122 and 124 on my list
17 unless they are ---

18 MR. SCHNEE: That will work.

19 THE COURT: I've taken --- they're agreeing not
20 to submit 23, 22, 49, 21. For the record, all of
21 those have a --- is a --- the majority of those are
22 much, much, much more close up view of the bloody
23 area, which I think that --- I believe, that based
24 upon the photos that I've admitted, the State will
25 still be able to produce or be able to show the

1 elements that they need to show without up close
2 bloodier pictures than the other ones.

3 THE COURT: All right. Where are the next ones
4 that there are objections to?

5 MS. CAMPBELL: Your Honor, I will point out the
6 photographs from Lucille Drive, which is the
7 Stevenson's --- or the Barnes' residence, there were
8 photos and markers done of a long gun that has nothing
9 do with this case. We made sure we did not put any of
10 those photos in and additionally, we will instruct
11 them to leave that out. That was the only gun found
12 in that house. That wasn't relevant to this case.

13 THE COURT: There was a long gun found in whose
14 house?

15 MS. CAMPBELL: Mr. Barnes and Mr. Stevenson, the
16 other codefendant's house on Lucille street.

17 THE COURT: So who collected that gun?

18 MS. CAMPBELL: The investigator although that
19 crime scene was Paul Nelson.

20 THE COURT: Paul Nelson. Okay, so was he the one
21 --- so no one is going into the long gun at that
22 house, right?

23 MS. CAMPBELL: If they want me to go into it, I
24 will go into it, but I'm assuming there would be an
25 objection to it.

1 MR. SCHNEE: Certainly not.

2 MS. PINNOCK: We're not.

3 THE COURT: Okay. So the long gun at the Lucille
4 Drive house ---

5 MS. CAMPBELL: We do not intend to offer that,
6 assuming they have objections.

7 THE COURT: All right. What else? Other
8 pictures that are objected to?

9 MS. CAMPBELL: I believe they are objecting to
10 all of the photographs on Bronx street based on their
11 argument about the search warrant.

12 THE COURT: Okay. We're coming back to the
13 search warrant. What else?

14 MS. CAMPBELL: I believe that's it, that I know
15 of on the photos.

16 MS. SIMPSON: The autopsy photos that we
17 submitted to you for your review.

18 THE COURT: Do I still have those?

19 MS. SIMPSON: I believe you do.

20 MS. CAMPBELL: I'm sorry, there's lots of stuff.

21 THE COURT: Are you objecting to all the autopsy
22 photos?

23 MS. PINNOCK: We have withdrawn the objection
24 that showed the bullet after it was --- yes, that one
25 and then the --- there was one of an entry wound.

1 THE COURT: All right. Mr. Schnee, do you have
2 an objection to that one?

3 MR. SCHNEE: No. Like I said, we already
4 covered. That one is not ---

5 THE COURT: Okay. I'm doing them one at a time,
6 State's Exhibit Number 7, there is no objection to and
7 what's the other one?

8 MS. PINNOCK: It's the entry wound. It's a close
9 up.

10 THE COURT: Okay. What about this one?

11 MR. SCHNEE: That's correct.

12 THE COURT: Okay. State's Exhibit Number 6 there
13 is no objection to.

14 All right. Have you seen these enough to talk
15 about them or do you need them back?

16 MS. CAMPBELL: I need to look just quickly.

17 THE COURT: Okay.

18 THE COURT: So help me with the medical relevance
19 of that as it relates to the autopsy.

20 MS. CAMPBELL: Your Honor, we did ask the
21 pathologist herself to go through the ones that she
22 thought would be helpful to the jury and to explain
23 those. The ones to the face and near where the wound
24 is, there is stippling involved in this case, Your
25 Honor, which you can clearly see on her face in

1 State's Exhibits 4 and 5, as well as in 3. State's
2 Exhibit 3 is an overview showing how close the wound
3 is to her actual face. Then the stippling is shown
4 clearly in the other two. That is only reason. There
5 are some 200 photographs, Your Honor, that we are not
6 offering.

7 THE COURT: Okay.

8 MS. CAMPBELL: So we have been able to narrow it
9 down to these. That's based on what she actually
10 reviewed and picked out.

11 THE COURT: By she, you are referring to Dr.
12 Durso?

13 MS. CAMPBELL: Yes, sir.

14 THE COURT: That's your potential pathologist or
15 top pathology witness in the case?

16 MS. CAMPBELL: Yes, sir.

17 THE COURT: What says the defense as to exhibits
18 3, 4, and 5?

19 MS. PINNOCK: Your Honor, if it pleases the
20 court.

21 THE COURT: Do you need to see them or do you
22 know what I'm talking about?

23 MS. PINNOCK: I know which ones they are.

24 THE COURT: Okay.

25 MS. PINNOCK: Dr. Durso also prepared a chart

1 that shows all of the injures to Ms. Hunnewell's body.
2 It indicates where the injuries --- this is not a case
3 that involves any dispute over what the cause of death
4 was. She has testified in a previous case using only
5 the diagram. I would just ---

6 THE COURT: What case was that?

7 MS. PINNOCK: It was State vs. Maurice Roberts
8 and State vs. Demetrius James, Judge. She testified
9 using only her diagram explaining where the injury
10 wounds were. She testified to --- she did the
11 diagonals for the projectiles going through body in
12 that case. She is quite capable of testifying from a
13 diagram. I would say that she probably needs to be
14 here to explain if there is any more explanation that
15 Your Honor would require as to why she need those
16 pictures. The cause of death is not an issue.

17 You can clearly see the --- Ms. Hunnewell fall to
18 the floor in the video. It's not --- these facts are
19 not at issue. I don't believe the pictures are going
20 to lend any more understanding to her testimony to the
21 jury. She can describe where the stippling is. She
22 can describe where the wound was. I do think it would
23 be a adequate for her to only use the diagram. I
24 think the pictures are necessary, and I think they are
25 --- the prejudicial value of those is substantially

1 outweighing any probative value because it's a close
2 up of Ms. Hunnewell's face lying on the autopsy table.
3 I understand the need for them to present the
4 pathologist in their case in chief. I understand that
5 completely, but I do believe based on her history that
6 she is going to be able to testify fully and explain
7 to the jury fully using the diagram that does not have
8 those graphic shots.

9 MS. CAMPBELL: May I approach? I would hand up
10 State vs. Henry Gray and Bentley Collins the two most
11 recent cases on this issue. In those cases I believe
12 one of the photographs showed at autopsy the person's
13 skull, the skin actually peeled back from the skull
14 showing some injuries in the brain. In addition, the
15 other case, Your Honor, showed injuries that were done
16 by a dog to a ten-year-old, I believe, boy where he
17 was torn apart and partially eaten by dogs. The court
18 found in those cases, as we have here, that the
19 pathologist found it was necessary in order to explain
20 things to the jury that they were extremely relevant
21 and the prejudicial effect is not outweighed by the
22 probative value.

23 THE COURT: Mr. Schnee.

24 MR. SCHNEE: Judge, I would join with Ms.
25 Pinnock's motion in her arguments. You can see the

1 gunshots on the video itself. For a pathologist or
2 even anyone else to explain how the stippling got
3 there or the fact there is stippling, that is --- it's
4 completely not in dispute. You can actually witness
5 it live on video, the close up graphic photo, I
6 believe, is completely unnecessary.

7 The issue isn't how this is really going to help
8 the pathologist, but how it helps the State's theory
9 of the case. There is no dispute as to cause of death
10 at all. There is no dispute as to the distance the
11 shots were fired from, location of the shots, location
12 of shooters, location of the victim or anything else.

13 I fail to see how it will assist the jury in
14 doing anything other than them seeing the woman's face
15 on an operating room table.

16 THE COURT: Tell me where she is shot. I don't
17 understand that from the pathologist standpoint.

18 MS. CAMPBELL: She was shot right --- the
19 entrance wound, Your Honor?

20 THE COURT: Is this it right here?

21 MS. CAMPBELL: I have may be on the wrong side.
22 It's coming in her collar bone. The shot actually
23 enters and goes through --- and does not exit, but
24 it's lodged below the skin on her very upper back.

25 THE COURT: Okay. So she is just struck once?

1 MS. CAMPBELL: Struck once, yes.

2 THE COURT: Struck once. Okay.

3 MS. CAMPBELL: But there are multiple shots.

4 THE COURT: I've seen the video. There are
5 multiple shots, but she is just struck one of those
6 times and that's the --- so what is the mark up the
7 neck?

8 MS. CAMPBELL: The mark on the neck is an
9 abrasion, Your Honor, that she thinks would be
10 consistent with perhaps the way she was twisted. It
11 would have grazed on that skin on entry depending on
12 how she --- it all depends on how she is bent at the
13 time of entry.

14 THE COURT: Right.

15 MS. CAMPBELL: That's what she is attempting to
16 show there, as well as the stippling, Your Honor.

17 THE COURT: And what is the difference between 4
18 and 5, if you want to come look at them?

19 MS. CAMPBELL: Actually, I believe that 4 and 5
20 are --- we can withdraw 5.

21 THE COURT: Okay. All right. Anything else,
22 Ms. Pinnock?

23 MS. PINNOCK: Yes, Your Honor. I would just add
24 that Collins V. --- it was a Court of Appeals case
25 where --- until the Supreme Court heard it, and they

1 did overturn it, but what the Collins case does not do
2 is say that autopsy pictures are just automatically
3 admissible into evidence. It's still in Your Honor's
4 discretion. The court is very clear about that. They
5 made a ruling on that based on the cause of death in
6 that case. They decided the pictures that were kept
7 out of the evidence should have been introduced for
8 that reason. It was a dog attack on a child.

9 They said that the --- the court said the State
10 did have a right to introduce those pictures to go
11 along with the pathologist's testimony to further
12 assist the jurors in making a determination. It did
13 not take discretion out, Your Honor. You still have
14 all the discretion in the world to keep these pictures
15 out. These pictures do not, in our opinion, these
16 pictures do not add anything to the cause of death.
17 The cause of death is not at issue. It's a gunshot
18 wound and nobody is arguing that it's not.

19 Again, Dr. Durso has testified in the past using
20 a diagram. It explains stippling. It explains the
21 entrance wound. It explains the trajectory of the
22 bullet. The pictures are going to do nothing but
23 inflame the jury.

24 Your Honor, it's my understanding, and I could be
25 wrong and have to review the autopsy report, but the

1 mark you asked about, I believe was a bruise from the
2 sweat shirt she was wearing or where she was laying on
3 it.

4 THE COURT: Anything else, Ms. Campbell?

5 MS. CAMPBELL: Your Honor, another thing I would
6 say is that I believe she has mischaracterized what
7 the Supreme Court held in the Bentley Collins case.
8 They talk about courts and juries cannot be too
9 squeamish about looking at unpleasant things, objects
10 or circumstances in proceedings to enforce the law and
11 especially if the truth is on trial. The mere fact
12 that an item of evidence is gruesome or revolting, if
13 it sheds light on, strengthens or gives character to
14 other evidence, sustaining the issues in the case,
15 should not exclude it.

16 Your Honor, specifically in that case, that was
17 just an involuntary manslaughter case. Here we have
18 to prove malice. Thereafter the circumstances and
19 events surrounding, as well as the pathologist's
20 findings are extremely probative to us being able to
21 prove malice in this case, Your Honor.

22 We have limited it down from, I don't know how
23 many autopsy pictures that were taken, but we have
24 limited to --- and specifically asked her to limit it
25 to the ones she felt would be helpful. We also could

1 put her up before admitting any photographs or showing
2 to a jury to make sure she feels it is --- if you deem
3 appropriate, Your Honor.

4 THE COURT: Ms. Pinnock.

5 MS. PINNOCK: I would just add lastly, Judge, it
6 was not only an involuntary manslaughter case in
7 Collins. It was also three counts of owning a
8 dangerous animal, which is why the court decided that
9 the pictures were essential to the State to help prove
10 the elements of the charge. He was not only charged
11 with involuntary manslaughter. There was also the
12 harboring of a dangerous animal and that's what the
13 court decided those pictures are relevant for.

14 THE COURT: All right. I'm going to admit
15 State's Exhibit Numbers 3 and 4 over the defense
16 objection. I find they are relevant under South
17 Carolina Rules of Evidence in that their probative
18 value does outweigh any potential prejudicial effect
19 there may be. For the record, these photos are ---
20 one is of an up close picture of Ms. Hunnewell's face.
21 It looks like there is a really bad bruise with very
22 little minor bleeding on her face and I believe that I
23 can see stippling although I'm not an expert. I think
24 that's what that is attempting to show.

25 State's Exhibit Number 4 is admissible. State's

1 Exhibit Number 3 is also admissible. It shows the
2 entrance wound and the collateral damage that was
3 caused by that entrance wound. It does show
4 Ms. Hunnewell laying down really from the chest up and
5 her face and her hair. While there is blood in the
6 picture and there is an entrance wound, it is not so
7 overly prejudicial that I think it would raise any of
8 the passions to create an unjust result and that the
9 probative effect with the distance and the entrance
10 wound, which would go to corroborate the State's other
11 evidence in the video would make it admissible under
12 403, so State's Exhibit Number 5 is out, and it's
13 basically just a closer up view of State's Exhibit
14 Number 4 and I find it to be cumulative to that issue.
15 Okay.

16 Any other photos other than the search warrant
17 photos?

18 MS. SIMPSON: Your Honor, I believe that there
19 were --- we are didn't mark these or address them, but
20 we did provide them to you. They had a motion with
21 respect to the still photographs from the images
22 downloaded from the crime scene video from Lexington.

23 THE COURT: All right. I reviewed all the still
24 photos that are taken from the video. Tell me why we
25 need all those photos. I mean, there's so many of

1 them, I can't see straight.

2 MS. CAMPBELL: Your Honor, we would --- pretty
3 much, unless there are issues that come up during the
4 trial, I don't know what of those we would offer. You
5 did ask to just be able to review them so you would be
6 prepared on this and so you could see them ahead of
7 time, but unless things become relevant that we aren't
8 aware of at this point, we would bring that up to the
9 court at the time, before we ---

10 THE COURT: All right. Anything as to the still
11 photos besides that, Ms. Pinnock?

12 MS. PINNOCK: Your Honor, we would just reserve
13 the right to object ---

14 THE COURT: Yes, sure. Yes.

15 MS. PINNOCK: --- if I --- not knowing which ones
16 they're going try to introduce.

17 THE COURT: Well, I reviewed every single one of
18 them. There were some of them I thought I was looking
19 at the same picture over and over again. If we get to
20 the point that we're looking at still photos we can
21 take a break and all look at the still photos. You're
22 not waiving the right to object or anything at all.

23 MR. SCHNEE: I know, Your Honor.

24 THE COURT: All right. Very good. All right.
25 Now, let's go to the --- is there a motion as to the

1 videos?

2 MS. PINNOCK: Well Judge, I'm sorry, but to go
3 back to the pictures.

4 THE COURT: Sure.

5 MS. PINNOCK: There were some pictures that were
6 provided to us from the cell phone.

7 THE COURT: Yeah, the phone --- we're going to
8 come back to the phone.

9 MS. PINNOCK: Yes, sir.

10 THE COURT: I got that right here.

11 MS. PINNOCK: Yes, sir.

12 THE COURT: Okay. So let's go to the videos from
13 inside the bakery, okay. All right. So there's one
14 video that is the actual video; is that correct?

15 MS. GARFIELD: From the bakery, from the bakery.

16 THE COURT: Yes, ma'am. That's right. Okay. And
17 that basically has four different views; is that
18 right?

19 MS. GARFIELD: That's correct, Judge.

20 THE COURT: And then there is --- I call it the
21 Zmroczek enhancement; is that right?

22 MS. GARFIELD: That's right.

23 THE COURT: That's the video that Ms. Zmroczek
24 had enhanced from what she was given in discovery.
25 That's the same thing that's on the original bakery;

1 video.

2 MS. GARFIELD: Yes, sir.

3 THE COURT: Have I stated all that correct?

4 MS. GARFIELD: Yes, sir.

5 THE COURT: All right. So. Which one does the
6 State intend on introducing?

7 MS. GARFIELD: We're not entirely sure yet, but I
8 believe we were leaning towards using Ms. Zmroczek's
9 enhanced video. If you recall, she employed the
10 services of --- what's his name, Michael Watkins?

11 MS. CAMPBELL: Christopher Watkins.

12 MS. GARFIELD: Christopher Watkins. I have
13 spoken to him. He will be prepared to testify and
14 explain how he made the video.

15 MS. ZMROCZEK: Your Honor, I did --- and I'm not
16 part of the trial, but just for the transcript, I did
17 waive any confidentiality when we turned it over. I
18 spoke with him and did hire him as my private
19 investigator.

20 THE COURT: Okay.

21 MS. ZMROCZEK: I just wanted the court to know
22 that I did waive any confidentiality when I turned it
23 over.

24 THE COURT: Thank you, Ms. Zmroczek. Let's start
25 with any video in and of itself. Is there an

1 objection to the video as it stands in the original
2 format? Let's call it that.

3 MR. KRZYSTON: I don't believe we have an
4 objection to the video in its original format.

5 THE COURT: How about you, Mr. Schnee?

6 MR. SCHNEE: The original four separate files, no
7 objection to that at all.

8 THE COURT: Do you have any objection to the
9 enhancement?

10 MR. KRZYSTON: No, Your Honor, subject to the
11 proper foundation, we would have no objection.

12 THE COURT: Okay.

13 MR. SCHNEE: Judge, I have no objection to that
14 video if the original four were put in. The only
15 concern I have is essentially if we are dealing with
16 four smaller views at the same time, I think that's
17 more useful to the jury, but I think if they want to
18 look at one particular frame, the original is probably
19 more useful in terms of it being a larger image.

20 THE COURT: So you don't really care as long as
21 they introduce both.

22 MR. SCHNEE: Yes, sir. That would be a fair
23 assessment.

24 THE COURT: What about --- how do you feel about
25 that?

1 MR. KRZYSTON: I don't have a problem with that.

2 THE COURT: All subject to someone coming in and
3 laying the foundation that's proper for the
4 admissibility of the evidence.

5 MR. SCHNEE: Yes, sir.

6 THE COURT: Does the State have an objection to
7 that?

8 MS. GARFIELD: No, sir.

9 THE COURT: Okay. Now, I've viewed them both.
10 One is a little clearer than the other. It's not to
11 the level of where you can pick somebody out or
12 determine something or, you know --- I mean, it is
13 clearer, but it's not to the level of there's
14 something shocking in the enhancement that's not in
15 the original video. It's just a little bit clearer
16 frame. Okay.

17 All right. Are these what you plan on
18 introducing, what you gave me or do you have your own
19 copies of them?

20 MS. CAMPBELL: We can use those. We'll mark
21 them.

22 THE COURT: Okay. Well, I've written on them, so
23 you may want to get your own copies. I've made my own
24 notes on them.

25 Okay. The Ale House video. Does the State

1 intend on introducing that?

2 MS. GARFIELD: Yes, sir.

3 THE COURT: Okay. What's the purpose of
4 introducing that?

5 MS. GARFIELD: It just shows them all arriving
6 and hanging out in the parking lot. It will go
7 towards our theory they were there for the purposes of
8 robbing another establishment and then changed the
9 course.

10 THE COURT: All right. Mr. Krzyston, do you have
11 an objection to the Ale House video?

12 MR. KRZYSTON: Subject to the proper foundation,
13 no, Your Honor.

14 THE COURT: Fair enough. Mr. Schnee?

15 MR. SCHNEE: Not to the video, but certainly any
16 mention of attempted robbery or plan of a robbery,
17 since it's uncharged conduct, but the video itself,
18 no.

19 THE COURT: That's a different issue.

20 MR. SCHNEE: Yes, sir.

21 THE COURT: All right. So here is the Ale House
22 video.

23 So now let's move to the phone dumps. Let's talk
24 about the photos from the phone dumps. Other than the
25 pictures with the red hat or the red sweater, I can't

1 remember which one it is.

2 MS. SIMPSON: It's a red hoodie. Lorenzo is the
3 one wearing it. It's dated --- those photos were
4 actually taken on June 28th, which would be two days
5 prior to this murder. As far as relevance goes, we
6 definitely deem it to be relevant. I anticipate that
7 identity will be an issue in this case as to whether
8 he is the person that did it. These are taken from
9 the phone that he had in his possession at the time of
10 his arrest and that Ms. Coleman, his --- the mother of
11 this child who he is living with at the time as well,
12 will testify that he had that phone and, of course,
13 these are selfies of him. Admittedly, I believe there
14 are five pictures. We would offer them all into
15 evidence, but understand that we can limit them
16 because I do believe that he is doing gang signs with
17 respect to signing out Blood.

18 THE COURT: All right. Show me specific pictures
19 you intend on introducing.

20 MS. SIMPSON: And Your Honor, we had better
21 quality photos, so I apologize. I do not have those
22 in front of me now. These are two of the photographs
23 on there, which are not premarked, but they're on the
24 videos. We would offer all five into evidence, but
25 those --- we're getting better resolution of them.

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22 in front of me now. These are two of the photographs
23 on there, which are not premarked, but they're on the
24 videos. We would offer all five into evidence, but
25 those --- we're getting better resolution of them.

1 THE COURT: I thought I had better resolution.

2 MS. SIMPSON: You may have better ones, but the
3 actual ones that we ---

4 THE COURT: They would have been in Karen's
5 stack.

6 MS. CAMPBELL: That's in the bakery.

7 MS. SIMPSON: Those would be the ones that we
8 would be offering as far as still shots.

9 MS. CAMPBELL: They aren't in here.

10 MS. SIMPSON: Your Honor, we actually did submit
11 these in the format of a disc, as well. You may have
12 viewed it with the three videos on the phone, as well
13 as the actual photos.

14 THE COURT: I know I did.

15 Do you have an objection to the red hat and
16 hoodie?

17 MS. BAMBACH: It's all of the pictures of him
18 wearing the red hoodie. First we already ruled. I
19 believe the State already consented to the no-gang
20 activity unless we opened the door. Every single one
21 of those five photos there is an alleged gang sign
22 used in all of them. I don't know how ---

23 THE COURT: What's the gang sign in this?

24 MS. BAMBACH: An "O" for Bloods.

25 THE COURT: Okay.

1 MS. BAMBACH: And Ms. Simpson just said it was
2 gang.

3 MS. SIMPSON: Your Honor, I believe in all five
4 or six photos that he is spelling out with his hands
5 the different possessions for Blood, which I am not
6 super familiar with gang activity and things of that
7 nature so we would limit it, but each individual photo
8 in itself, I do not think reflects gang. Now, if we
9 were to show all five spelling out Blood, that might
10 be different. We can limit it to two of the
11 photographs. Our main purpose, as I said, is to put
12 Lorenzo Young in a red hoodie, which he clearly has
13 distanced himself and defense counsel is aware of that
14 throughout the discovery in this case.

15 MS. BAMBACH: Again, these are all gang signs in
16 every single one of the pictures.

17 THE COURT: Do you have any substantiation for
18 that? I mean, I'm not an expert on gang signs, but
19 how do you know that's a gang sign? It looks like the
20 sign language for "O".

21 MS. BAMBACH: Well, I don't know who the person
22 in that picture is well versed in sign language.
23 Also, authenticating that that is Mr. Young in the
24 picture. It was on Ms. Coleman's phone and yes, they
25 can say he was using her phone, but how do we know

1 that was actually him in that photo.

2 THE COURT: Well, Ms. Coleman would need to come
3 in and say that's him.

4 MS. SIMPSON: Or Investigator McCoy.

5 THE COURT: Right.

6 MS. SIMPSON: Or Investigator Jimenez, all of
7 whom we indicate will identify Lorenzo in one of the
8 videos, but clearly it's a selfie of him, and we do
9 have witnesses who can identify him in those videos or
10 photos, my apologies.

11 THE COURT: So your objection to the red hoodie
12 is identification and gang signs?

13 MS. BAMBACH: Identification and gang signs.

14 THE COURT: Okay.

15 MS. BAMBACH: And also this was taken two days
16 before and it's just a red hooded sweatshirt. I think
17 it's highly prejudicial.

18 THE COURT: You can't just say it's highly
19 prejudicial. You have to say why it's prejudicial.

20 MS. BAMBACH: Because it is --- other than the
21 gang signs, it is the picture of the person wearing
22 the red hooded sweatshirt two days before. It's not
23 tying him to the bakery whatsoever. The picture is
24 not at the bakery. He is not with anyone else
25 involved in this case. I don't see how it's relevant

1 that he has on a plain red hooded sweat shirt two days
2 before this incident occurred where someone with a red
3 hooded sweat shirt was in the bakery. We don't know
4 where that picture was taken. I mean, it's in a car,
5 but we don't know exactly where, and I would just
6 offer these up. They're are some of the ---

7 MS. SIMPSON: Your Honor, if I could just look at
8 what she is saying. We haven't seen these yet.

9 MS. BAMBACH: It's just these.

10 MR. KRZYSTON: Judge, just for the record there's
11 are from a packet entitled Institute of Police
12 Technology and Management. The packet is entitled
13 "Basic Street Gangs Hand Signs." It looks to be
14 authored by Michael Bishop Brown. We would offer not
15 only those images but the document as to whole as a
16 Court's exhibit so that --- we feel it may be
17 instructive in determining that the sign language or
18 hand gestures are in fact gang related.

19 THE COURT: Where did you get that?

20 MR. KRZYSTON: That was actually disclosed in
21 Mr. Stevenson's reciprocal Rule 5 to the State.

22 THE COURT: So you got it from Ms. Zmroczek?

23 MR. KRZYSTON: I believe it was disclosed to
24 Mr. Schnee, us, and the State.

25 MS. SIMPSON: By Ms. Zmroczek, correct.

1 THE COURT: That's not going to be made a Court's
2 exhibit. There is no foundation for it in any way,
3 shape, or form. So...

4 MR. KRZYSTON: Okay. Your Honor.

5 THE COURT: Okay. All right. Well, I need to
6 see the pictures in their, whatever format you intend
7 on introducing them, and then I'll rule on the
8 admissibility of the red hoodie.

9 All right. Is that the only two photos from the
10 phone?

11 MS. SIMPSON: Now, there are a total of five.

12 THE COURT: I thought ---

13 MS. SIMPSON: But we'll limit how many we offer.

14 THE COURT: Well, I need to see them.

15 MS. SIMPSON: I will get those to you as soon as
16 possible. I don't ---

17 THE COURT: How about the videos from the phone
18 dump?

19 MS. SIMPSON: The videos, Your Honor, and I have
20 spoken with defense counsel, there are a total of
21 three. Initially, the first video which you would
22 have reviewed, is one of Mr. Young where he is
23 pointing several different guns and certain
24 individuals are rapping, however you want to term it.
25 I --- my request or the State's request, we are had a

1 firearms examiner, Ms. Suzann Cromer from SLED review
2 these videos. Upon her review and the ability to
3 actually see the guns in the video, she cannot say
4 whether they are consistent with one of the weapons
5 that would have been used in this crime. So with
6 respect to that video, we are not offering any portion
7 of it or any still photographs from that video.

8 THE COURT: All right. Fair enough.

9 MS. SIMPSON: The second video, Your Honor, this
10 is a video that was taken on ---

11 THE COURT: There is one where he is sitting down
12 and there is one kind of outside.

13 MS. SIMPSON: Right.

14 THE COURT: Yeah.

15 MS. SIMPSON: The one where he is sitting down
16 with the guns in his lap and pointing, that one we're
17 not offering at this time unless they ---

18 THE COURT: All right.

19 MS. SIMPSON: --- unless they open the door. The
20 second video where they are in the street and
21 investigators will identify Mr. Young as being the
22 individual in the camo jacket, they're walking through
23 the in the streets in the Belvedere area holding out
24 their firearms and discussing their firearms. At
25 approximately 44 seconds into that video, they

1 specifically began discussing the gun he has is a
2 Glock, we take Glocks around here. Hey, put that
3 Glock 45 up to the camera.

4 At that point, the phone --- they zoom in and it
5 is a Glock. I had Ms. Cromer review that. She is
6 here and available to testify on anything that the
7 Court needs additional testimony on that that is
8 consistent with a Glock and it would have been
9 consistent with a firearm that could have fired the
10 ammunition which was a 45 GAP ammunition, somewhat
11 rare, typically only seen in law enforcement, that was
12 found at the scene, such as the shell casings. Also
13 ammunition that was located in Mr. Young's room during
14 a search warrant on Broad Street.

15 So we deem that evidence highly relevant and its
16 probative value is definitely not substantially out
17 weighed by any danger of unfair prejudice because in
18 this case, the firearm was never recovered. There are
19 two firearms that were used. One to shoot a
20 40 caliber bullet and then this GAP 45 ammunition, so
21 it's highly relevant and puts the potential murder
22 weapon in Mr. Young's hand. As I said, without the
23 firearm in front of her to actually examine it, she
24 cannot say that this is the firearm that was used.
25 She can definitely say it was consistent. This is

1 close in time just right before the murder occurs,
2 just two days prior --- four days prior to the murder
3 on this specific video.

4 THE COURT: All right. Come on up.

5 SUZANN CROMER,

6 after being duly sworn, testified as follows:

7 THE CLERK: Please have a seat. State your full
8 name for the record.

9 THE WITNESS: My name is Suzann Cromer, spelled
10 C-R-O-M-E-R.

11 THE COURT: How long have your worked at SLED?

12 THE WITNESS: It will be sixteen years next
13 month.

14 THE COURT: What do you do at SLED?

15 THE WITNESS: I'm a firearm and tool marks
16 examiner.

17 THE COURT: How long have your been doing that?

18 THE WITNESS: Fourteen years.

19 THE COURT: Have you reviewed the discovery in
20 this case?

21 THE WITNESS: Yes, sir, I have.

22 THE COURT: Have you reviewed the video with the
23 gentlemen on the street holding guns?

24 THE WITNESS: Yes, sir, I have.

25 THE COURT: What do you know about the shell

1 4-5." Ms. Coleman says "Yes," and then Mr. ---
2 Investigator Reese asks, "Okay, that's the same
3 gun..." So I think there is some question to what
4 Ms. Coleman actually said. I think before we proffer
5 an argument, I'd just like to understand exactly what
6 the State intends to offer in regards to that.

7 THE COURT: Is there anything that you plan on
8 getting into with Ms. Coleman involving a gun prior to
9 the incident other than she has seen him with a gun,
10 just one. He got it a month or two before the
11 incident.

12 MS. GARFIELD: And that he told her it was a
13 Glock.

14 THE COURT: Because the majority of the
15 information that you summarized that she is going to
16 provide was post incident.

17 MS. GARFIELD: Yes, sir.

18 MR. KRZYSTON: And, Judge, if I'm reading our
19 transcript right, Coleman's statement may have been
20 post incident, but I believe the statements to which
21 he is discussing, Investigator Reese and potentially
22 Investigator McCoy, predate the incident. I mean, I
23 think there are some foundational issues, and
24 potentially some ---

25 THE COURT: This says, "He came into the house

1 with it after the murder."

2 MR. KRZYSTON: Okay, then again I was focusing on
3 a different ---

4 THE COURT: "Wrapped in his shirt."

5 MR. KRZYSTON: Okay. I was focusing on a
6 different subsection of her statement. I would note
7 for the record that I do not believe Ms. Coleman ever
8 specifically said it was a Glock. I believe
9 Investigator Reese probably had a Glock on his belt
10 and said that it may have looked similar to that.
11 That's the extent of that.

12 Okay. All right. Anything else?

13 MS. GARFIELD: No, sir.

14 THE COURT: Mr. Krzyston?

15 MR. KRZYSTON: Yes, Your Honor.

16 THE COURT: Anything else?

17 MR. KRZYSTON: Other than the obvious renewal of
18 Riddle, Brady, all those and its progeny, we would
19 have nothing further for Your Honor at this point.

20 THE COURT: All right. Mr. Schnee?

21 MR. SCHNEE: Judge, I would also renew all my
22 prior motions and requests for discovery. Apparently
23 they are claiming to have identities of various people
24 on those videos, and I don't know who they're claiming
25 they are. The only other issue I'd bring up, Your

1 Honor, is sequestration. We apparently have state
2 witnesses sitting in here now. We have a SLED
3 firearms person.

4 MS. CAMPBELL: Expert.

5 THE COURT: She is an expert.

6 MR. SCHNEE: I was under the impression that all
7 witnesses were sequestered.

8 THE COURT: Sequestration never applies to
9 experts.

10 MR. SCHNEE: I wanted bring it up and bring it to
11 the court's attention and make sure people were
12 watching their witnesses.

13 MR. KRZYSTON: We would like to renew all
14 previously made motions and objections.

15 THE COURT: Okay.

16 MS. GARFIELD: We just renew our reciprocal
17 motions, as well. We learned on Friday that Mr.
18 Krzyston that he may or that Mr. Schnee has an expert
19 on the witness list and we would like CVs or reports
20 on any of them.

21 MR. KRZYSTON: Judge, just to clarify from the
22 beginning of this morning and this afternoon, we do
23 not intend to offer any such witnesses. If we do and
24 that changes, we will certainly let the prosecutor's
25 office know as soon as we know.

1 THE JUROR: No, I just only know her. That's all
2 I know is her.

3 THE COURT: Okay. All right. She can be put
4 back in the standard jury pool. Do you understand,
5 Jackie?

6 THE CLERK: Yes, Your Honor.

7 THE COURT: Okay. Thank you very much. All
8 right. We'll see you all Wednesday morning at
9 9:00 A.M.

10 (WHEREUPON, Court was adjourned for the day.)

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12 (WHEREUPON, Court's Exhibit Number 9 was marked
13 for identification only.)

14 THE COURT: All right. So we need to do a Denno
15 hearing; is that right?

16 MS. SIMPSON: There are two issues, Your Honor.
17 Denno, as well as --- and I don't know if you actually
18 want to do the Denno hearing now. I don't believe
19 it's going to be addressed in opening statements by
20 the State as far as Mr. Barnes' statement, but there
21 were two other issues that Your Honor requested, the
22 still photos ---

23 THE COURT: Right.

24 MS. SIMPSON: --- and I'm showing these to the
25 defense. It's State's 390 through 394 would be what

1 we would be offering.

2 THE COURT: And these pictures were taken on what
3 phone?

4 MS. SIMPSON: They were taken from the phone of
5 Lorenzo at the time of his arrest. It was attributed
6 to Lorenzo through the testimony of Rolanda Coleman.
7 The photos themselves were taken on June 28th, which
8 would be two days prior to this incident occurring and
9 the relevance of these photos, of course, is Lorenzo
10 in the red hoodie, which was never recovered and, of
11 course, that is the --- one of the shooters identified
12 in the video from the murder.

13 THE COURT: Outside of the alleged gang signs, do
14 you have an objection to those photos?

15 MS. PINNOCK: Yes, Your Honor. We would renew
16 our original objection to it. And then we object to
17 the number of photographs. I don't see the relevance
18 or the necessity of having five different photographs
19 of the same thing. So if Your Honor is still inclined
20 to deny our motion based on the hand signs that are
21 being made, we would ask that you only allow them to
22 admit one because it is cumulative at that the point
23 if there's multiple pictures of the exact same thing.
24 We would renew our objection as a whole.

25 I believe everybody --- at this point, we do not

1 know if foundation will be laid as to who took the
2 pictures. It was not Mr. Young's phone. That was
3 told to the investigators originally back in 2013.
4 That was a phone that he used occasionally, but it was
5 not his phone. We renew our original objection. We
6 would object based on no foundation at this point, and
7 we would also argue that ---

8 THE COURT: Well, we're not dealing with the
9 foundation right now. We are just dealing with
10 general nature of the photos.

11 Okay, so 390 is out, 391 is out, 394 is out, 393
12 is out. 392 is subject to the proper foundation will
13 be admitted, but I want the right hand that's in the
14 picture cut out so you have the full hoodie and the
15 hat subject to the proper foundation, but I don't know
16 what that is. It looks like he's making an "o" with
17 his hand. I'm not going to pretend like it's not a
18 gang sign, but out of an abundance of caution of
19 occasion I'm going to order that part of the hand be
20 cut out so that really the only part --- you still
21 would be able to see Mr. Young, assuming they could
22 make the proper foundation wearing the red hoodie and
23 the hat.

24 Okay.

25 MS. PINNOCK: Thank you, Your Honor.

1 THE COURT: All right. So I've removed any
2 reference to the alleged gang sign. I don't know if
3 that's a gang sign or not, but out of an abundance of
4 caution, let's cut it out. I don't know that there's
5 any probative value to the hand sign in it. I find
6 there is probative value assuming they can lay the
7 foundation as to time and place and who it is and
8 everything else. Based on my review of the video,
9 that would be relevant. Okay.

10 MS. SIMPSON: Your Honor, the final matter would
11 be with respect to the videos from the phone, which
12 Ms. Cromer testified to.

13 THE COURT: Right.

14 MS. SIMPSON: I've spoken with the defense. We
15 were actually able to yesterday redact down a total of
16 four different portions from those two videos that we
17 would seek to introduce.

18 The defense was fine with reviewing it along with
19 Your Honor. There are issues playing from the
20 computer. However, it's my understanding that we have
21 it queued up and we can play it from the big TV for
22 Your Honor to review.

23 THE COURT: Okay.

24 MR. KRZYSTON: And, Your Honor, we are would just
25 ask that the State position the TV in such a way so it

1 obviously only faces you.

2 THE COURT: I need to see it.

3 MS. SIMPSON: Yes.

4 THE COURT: These are the videos from the phone;
5 is that right?

6 MS. SIMPSON: Yes, Your Honor. These are the
7 portions with respect to each one. The primary reason
8 we want the video offered with the audio, it actually
9 puts a 45 in Lorenzo Young's hand where he is
10 referring to it and speaks about it on the video, as
11 well as showing the gun while it's in his hand.
12 Another portion that you will see references Lorenzo
13 by name. It's very limited portion. And then the
14 final refers to the Glock that Ms. Cromer testified
15 to.

16 THE COURT: Do them one at a time. Mr. Barnes is
17 not in these videos, correct?

18 MS. SIMPSON: Correct. Not that we're aware of.

19 THE COURT: Is Mr. Stevenson?

20 MS. SIMPSON: Arguably, but I don't believe so.

21 THE COURT: Okay, but you don't have ---

22 MS. SIMPSON: Nobody can identify him.

23 THE COURT: You don't have anybody that can say
24 that's Troy Stevenson?

25 MS. SIMPSON: No.

1 THE COURT: Okay.

2 MS. SIMPSON: And my apologies, Your Honor. It
3 looks like we're having issues with the audio, which
4 is the important portion of this video. And the audio
5 will be played through Windows Media Player, but the
6 video portion doesn't show, but I believe we can also
7 address this later if Your Honor wants to. I don't
8 believe it's referenced in the opening statements
9 either.

10 THE COURT: Is there audio in this?

11 MS. SIMPSON: Yes, there is audio. I was
12 actually able to play the audio portion through my
13 Windows Media Player, however the video portion did
14 not show, with respect to it, but as I said, we can
15 address this unless you want to play the audio.

16 THE COURT: No. If no one is going to mention it
17 in opening then we can deal with it later.

18 MS. SIMPSON: Okay. Did you want to see the
19 portions or just wait?

20 MR. KRZYSTON: We can wait.

21 MS. BAMBACH: We can wait.

22 THE COURT: Okay. All right. Anything else? Do
23 we have all the jurors, Mr. Dye?

24 THE BAILIFF: Yes, sir.

25 MS. PINNOCK: If Ms. Simpson is finished, just

1 for housekeeping, Judge, we understand you did rule on
2 our motion to sever yesterday. We understand the
3 ruling was based on the State's representations to us
4 that they were not going to be using certain pieces of
5 evidence and because there was no more Bruton issues
6 involved in this case, Your Honor did hand down a
7 ruling. We would respectfully ask that you reconsider
8 that ruling, now, because you're apparently going to
9 be dealing with statements made by Mr. Barnes to law
10 enforcement. More importantly, Judge, I believe
11 everybody has been made aware in this case that there
12 is going to be competing constitutional protections at
13 issue.

14 Mr. Young has a constitutional right to a fair
15 trial. He is guaranteed that through the federal and
16 state constitution. Mr. Barnes also has
17 constitutional rights that are guaranteed to him. I
18 think at this point starting the trial, those
19 constitutional rights are going to be competing with
20 each other. I think there are going to have to be
21 rulings weighing whose rights are more important than
22 somebody else's. I don't see how we can go forward
23 for Mr. Young or Mr. Barnes and ensure their right to
24 a fair trial, their right to a defense. It's a
25 fundamental due process protection that's provided to

1 both of them. So for Mr. Young, Your Honor, we would
2 just renew our request that you do sever these cases.
3 Again, we understand that you did rule. We're just
4 asking you to reconsider that ruling and sever these
5 cases.

6 THE COURT: All right. Your motion is denied.
7 Yes?

8 MR. SCHNEE: Thank you, Your Honor. May it
9 please the Court. I just have a couple of brief
10 things. First, based on the information that I've
11 been provided in the past day or so in doing some
12 research, I also would, at this point, just for the
13 record --- I know Your Honor is going to rule --- what
14 Your Honor's ruling is, I also would move for a
15 severance based on the same issues.

16 Additionally, Your Honor, I handed up to your
17 bench before you arrived --- I did provide a motion, a
18 memorandum of law dealing with hearsay statements.

19 Without Troy Stevenson testifying, which has now
20 been announced, additionally with Donald Moore
21 indicating through his lawyer to me that his intention
22 is to plead the Fifth, there are numerous problems
23 with statements that are --- that the State is going
24 to attempt to introduce pursuant to rule 804(b)(3). I
25 ask Your Honor to read through the memo specifically

1 dealing with Williamson v. United States, Lilly v.
2 Virginia. There are two State cases on point in
3 this, the Fuller and Holmes.

4 Essentially what this comes down to is any
5 statement that's been made by another person whether
6 it's a co-conspirator or codefendant or anyone who is
7 not testifying, every single phrase has to be analyzed
8 by Your Honor, prior to its admissibility to determine
9 if it's actually a self-inculpatory statement. If it
10 exonerates that person or exonerates another or
11 inculcates another, the courts have ruled that they
12 are wholly inadmissible. I would ask that Your Honor
13 limit the State to prevent any of that testimony from
14 being elicited improperly and/or reviewing in-camera
15 any witnesses ahead of time to ensure that none of
16 this happens.

17 THE COURT: I read your whole memo, Mr. Schnee,
18 but it doesn't tell me anything specific about what
19 about you're talking about.

20 MR. SCHNEE: Perhaps one of the best examples
21 would be Rolanda Coleman. She was discussed
22 yesterday. She was one of the State's main witnesses.
23 It's Lorenzo Young's girlfriend or common-law wife,
24 I'm not exactly sure. All the information she has
25 about this case came directly from Lorenzo. Anything

1 that she talks about involving Lorenzo and anyone
2 else, the parts about anyone else would be
3 inadmissible under Rule 804(b)(3). That would be
4 improper as hearsay, and I'm seeking to exclude that
5 information.

6 THE COURT: Now, you still haven't told me
7 anything.

8 MR. SCHNEE: Well, Judge, I'm not exactly sure
9 what she is going to testify to.

10 THE COURT: Okay.

11 MR. SCHNEE: But I know she is going to be
12 talking about that Troy was --- I'm sorry, that
13 Trenton was with Lorenzo that night. That fact by
14 itself would be inadmissible because they're talking
15 about my client now and that would be impermissible
16 hearsay.

17 THE COURT: Okay. Does the State want to respond
18 to that?

19 MS. SIMPSON: Your Honor, I think that's an
20 objection made at the appropriate time when she
21 actually testifies. We're familiar with the hearsay
22 rules. As far as --- I'm a little confused as to what
23 exactly he is referring to, but, you know, if the
24 appropriate objection has been made, we'll address it
25 at that time with respect to any hearsay issues.

1 THE COURT: All right. You'll need to bring that
2 up when it happens. I mean, I can't rule on it in the
3 abstract.

4 MR. SCHNEE: I understand, Your Honor.

5 MS. SIMPSON: Your Honor, just briefly the State
6 would renew at this time its reciprocal Rule 5 motion.
7 We have not obtained any information from Mr. Young's
8 counsel or from Mr. Barnes' counsel, while we did
9 receive reciprocal Rule 5 from Troy Stevenson, who is
10 not on trial here today, so I would renew that.
11 Additionally, Mr. Schnee did provide us a witness
12 list, but we asked for dates of birth so that we could
13 actually run their criminal history and identify who
14 they are. Those have not been provided yet, and we
15 have already settled the record or provided records
16 for our witnesses.

17 THE COURT: Okay. Where are you on dates of
18 birth?

19 MR. SCHNEE: Judge, there is only one potential
20 lay witness and I do not have his date of birth.

21 THE COURT: Okay.

22 MR. SCHNEE: The other two witnesses that I
23 listed, one is a teacher on the juvenile wing of Alvin
24 S. Glenn and the other is a doctor who may or may not
25 testify.

1 THE COURT: Okay.

2 MR. SCHNEE: I don't have his date of birth.
3 either, obviously.

4 THE COURT: So you have a witness that's a lay
5 witness, but you're not talking to them?

6 MR. SCHNEE: I'm not sure I'm going to call them
7 as a witness yet.

8 THE COURT: That's not the question, Mr. Schnee.
9 The question is: have you talked to the lay witness?

10 MR. SCHNEE: I have not personally talked to him,
11 no.

12 THE COURT: Okay. Has anybody?

13 MR. SCHNEE: Yes, a brief phone conversation with
14 an investigator.

15 THE COURT: Okay. The investigator --- whoever
16 is talking to your potential witnesses, needs to call
17 every single one of them and get their dates of birth
18 and turn it over to the State by the end of the day.

19 MR. SCHNEE: All right. We'll work on that, Your
20 Honor.

21 THE COURT: That's not a work on, that's a you're
22 going to make it happen during a break. Do you
23 understand?

24 MR. SCHNEE: Yes, sir.

25 MR. KRZYSTON: Judge, with respect to our

1 requirements under Rule 5, we have nothing that
2 qualifies.

3 THE COURT: Okay. Anything else?

4 MS. SIMPSON: Nothing from the State, Your Honor.

5 MR. KRZYSTON: Nothing from Mr. Young, Your
6 Honor.

7 THE COURT: Mr. Schnee?

8 MS. BAMBACH: Nothing else, Your Honor.

9 THE COURT: All right. Let me say this to all
10 these people out here in the audience. I'm glad that
11 you're here. I'm happy you're here. I'm happy for
12 you to be here, okay. I've done a bunch of trials
13 that are of the nature and the sensitivity that this
14 one is. I understand that, and I'm very respectful as
15 to that. However, if you cannot control your behavior
16 in this courtroom, I will have you removed from the
17 courtroom. Okay.

18 Now, it is a natural emotion during some things
19 that are present or that may come up during this trial
20 to cry, be upset or to be emotional. I understand
21 that. I'm not going to allow any behavior from anyone
22 in the courtroom that would disturb the proceedings or
23 the jurors during their process of this case, so if
24 something is about to happen or something is happening
25 and you do not feel that you can appropriately control

1 your emotions, then you just need to quietly go out
2 the back door. No one is going to look down on you
3 for that or think anything about that. You just need
4 to quietly slip out the back door so as not to disturb
5 any jurors.

6 I understand these cases are emotional. I
7 understand there are multiple families present in the
8 courtroom and this is a very important case for
9 involved. I understand that. I will do my best to be
10 respectfully of that. What I cannot have is the court
11 being disturbed because of situations like that. So
12 if at any time you think this is just too much or I'm
13 getting upset or, you know, I'm not going to be able
14 to control my emotions. You can just slowly slide out
15 and slide back in when you need to when we move on to
16 the next witness or whatever it may be.

17 Okay. Thank you very much.

18 All right. Bring them in.

19 THE BAILIFF: Thank you, Your Honor.

20 (WHEREUPON, the jury entered the courtroom at
21 9:26 A.M.)

22 MS. SIMPSON: Your Honor, may we approach?

23 THE COURT: Sure.

24 (WHEREUPON, a bench conference was held in the
25 presence, but not within the hearing of the

1 jury.)

2 THE BAILIFF: The jury is seated, Your Honor.

3 THE COURT: Thank you very much, Mr. Dye.

4 All right. Good morning, ladies and gentlemen.

5 I hope you had a nice day off yesterday or you were
6 able to get work done or whatever you needed to do to
7 come in here today ready to start this trial.

8 The first thing that we are going to do this
9 morning is you are going to be sworn in. Now, the
10 other day or Monday you took a couple of different
11 oaths to provide accurately information or truthful
12 information to everybody to try the case. This
13 morning's oath is different. This morning's oath
14 truly encompasses what we expect of you as jurors and
15 what the system expects of you as jurors. It truly
16 embodies, as you sit here and you review this case
17 this week, your duty and your responsibility to be
18 fair and impartial to both sides with nobody to punish
19 or nobody to reward, setting aside any bias or
20 prejudice that you may have against anyone involved in
21 the case to reach a fair and just verdict. We've
22 literally been using this oath for hundreds of years.
23 It truly encompasses your duty and your responsibility
24 this week. At this time, if you will please stand and
25 the clerk will swear you in.

1 THE CLERK: Ladies and gentlemen of the jury,
2 please stand and raise your right hand to be sworn.
3 At the end of the statement that I'm about to give
4 you, please respond by saying "I do."

5 Do you swear or affirm that you shall well and
6 truly try and true deliverance make, between the State
7 of South Carolina and the defendants at bar, whom you
8 shall have in charge, and a true verdict give,
9 according to the law and the evidence, so help you
10 God?

11 THE JURORS: (in unison) I do.

12 THE CLERK: You may be seated.

13 PRETRIAL CHARGE:

14 THE COURT: All right. Thank you very much,
15 ladies and gentlemen. Before we begin the actual
16 trial of this case, I thought it might be helpful if I
17 explain to you how a trial will proceed.

18 First, the State or the solicitor's office will
19 be allowed to make an opening statement. An opening
20 statement made by any party is not evidence. It is
21 simply an outline to help you understand what that
22 party expects the evidence shows --- will show.

23 The defendants may, if they choose, present
24 opening statements, but they do not have to for
25 reasons that I will explain to you in just a moment.

1 Following the opening statements, you will hear
2 testimony and evidence in the case. This will consist
3 of testimony from the State's witnesses, as well as
4 any physical exhibits which will be introduced into
5 evidence.

6 Following the completion of the testimony, the
7 attorneys will again have an opportunity to make what
8 is called a closing statement or summation to you.
9 This is an opportunity for the attorneys to summarize
10 the case from their respective points of view. Again,
11 the opening statements and the closing statements of
12 the attorneys are not evidence.

13 Following the closing statements by the
14 attorneys, I will tell you what --- or instruct you
15 what the law is in South Carolina as it pertains to
16 the issues that have arisen in this case.

17 When I have completed my instructions to you, you
18 will then be permitted to begin your deliberations in
19 order to reach a verdict.

20 You are now the jury in this case. I need take a
21 few minutes to tell you something about your duty as
22 jurors and to give you some instructions.

23 At the end of the trial, I will give you more
24 detailed instructions that will control your
25 deliberations. It will be your duty to decide from

1 the evidence what the facts are. You and you alone
2 judge the facts. You will hear the evidence, decide
3 what the facts are and then apply those facts to the
4 law that I will give you. That is how you will reach
5 a verdict.

6 In doing so, you must follow the law that I give
7 you whether you agree with it or not.

8 The evidence will consist of testimony of
9 witnesses that will come from this witness stand,
10 documents or other things that are received into
11 evidence as exhibits and any facts in which all
12 parties agree or anything I tell you that you must
13 accept.

14 You should not take anything that I do or
15 anything that I say during this trial as indicating
16 what I think the evidence should be or what the
17 evidence is or what your verdict should be. I am not
18 allowed to take any position as to the facts in this
19 case.

20 Now, that is criminal case brought by the State
21 of South Carolina against the defendants, and the
22 defendants have been charged with murder, attempted
23 armed robbery, burglary in the second degree violent
24 and kidnapping.

25 The defendants --- excuse me, the charges against

1 the defendants are contained in the indictments which
2 I read to you on Monday. These indictments are not
3 evidence of anything. They are not proof of anything.
4 They are merely the documents that gives this the
5 Court the authority to hear this case.

6 To these charges, the defendants have pled not
7 guilty and they are presumed innocent unless and until
8 proven guilty beyond a reasonable doubt. Proof beyond
9 a reasonable doubt is proof that leaves you firmly
10 convinced of the defendant's guilt.

11 A defendant has the right not to testify and
12 never has to prove his innocence or present any
13 evidence. The burden of proof in this case is always
14 upon the State of South Carolina. Now, some things
15 are not evidence and you must not consider them as
16 evidence in deciding the facts of the case.

17 These things are not evidence: number one, the
18 statements and the arguments of the attorneys are not
19 evidence; number two, the questions and the objections
20 of the attorneys are not evidence; number three, any
21 testimony that I tell you to disregard should not be
22 considered by you as evidence.

23 Now, there are two different types of evidence
24 that you will hear during this trial. Evidence may be
25 direct or circumstantial. Direct evidence is

1 testimony by a witness about what that witness saw,
2 heard or did. Circumstantial evidence is indirect
3 evidence. That is, it is a proof of one or more facts
4 from which somebody can find another fact.

5 You are to consider both direct and
6 circumstantial evidence. The law permits you to give
7 equal weight to both, but it is for you to decide how
8 much weight to give any evidence.

9 Now, in this courtroom and throughout this trial,
10 there are Rules of Evidence made by the State of South
11 Carolina, deemed the South Carolina Rules of Evidence,
12 okay.

13 You will see me with this notebook all week.
14 Okay. This is my evidence notebook. Every trial that
15 I ever do, I have my evidence notebook with me, okay.
16 Because in this courtroom, there are procedures and
17 Rules of Evidence that control how you hear things,
18 how you see things, what is admitted and what is not
19 admitted.

20 Now, when a lawyer asks a question or offers an
21 exhibit into evidence, and a lawyer on the other side
22 of the case thinks that it is not permitted by the
23 Rules of Evidence, that lawyer may object, so they
24 would stand up and say, "objection, Your Honor." If I
25 overrule the objection, then the question may be

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

8 Sometimes it may be necessary for me to request
9 that you leave the courtroom while I discuss with the
10 attorneys legal questions that come up during the
11 trial. I'm going to go ahead and tell you now. This
12 happens in every single trial, okay. Whether you are
13 in magistrate's court for a speeding case or you're
14 in circuit court for a case like this, there are times
15 that in every single criminal trial in this state
16 where the Judge has to discuss matters of law outside
17 of your presence.

18 It's not an issue of if this occurs. It's an
19 issue of when it will occur. When it does occur, you
20 should not speculate about what we are discussing or
21 the reason that you were asked to leave the room.
22 This is simply a procedure that the law requires when
23 some legal issues arise. Now, there may also be
24 occasions when I will ask the attorneys to approach
25 the bench so that I can discuss a legal matter with

1 them in private. I will do this as much as possible
2 so that you will not be required to leave the
3 courtroom. Sometimes we end up in a scenario where
4 you feel like you are going out, and coming back in
5 and going out and coming back in. Sometimes I have to
6 do that, okay. Other times it will be okay or
7 permissible for me to bring the attorneys up to the
8 bench to discuss whatever matter needs to be
9 discussed.

10 Again, if I ask the attorneys to step up to the
11 bench or if I ask you to leave the courtroom, please
12 don't think that anybody is trying to hide anything
13 from you or keep anything from you. This is simply a
14 procedure used by all lawyers and by all judges to
15 determine and decide legal questions. Now, I do
16 something a little bit different than most people do,
17 but I think it works out pretty well.

18 Once the trial really starts going, we'll be
19 going for about an hour-and-a-half or so before we
20 take a break. Now, that's not a set rule and I don't
21 have a timer, but the court reporter can only type so
22 much, okay, and you can only sit still for so long,
23 okay.

24 So when the lawyers say, Judge, can I approach,
25 when that happens you all are allowed to stand up

1 where you are, stretch and talk amongst yourselves.
2 Okay. Now, you're not allowed to talk about the case,
3 all right. I've told you that before and that's still
4 the rule, but you can talk about whatever you want to
5 in and amongst yourselves. Sometimes a bench
6 conference lasts 30 second. Sometimes they last three
7 minutes. The first time you do this, you're going to
8 feel funny, okay? So I'll have to remind you, and say
9 stand up, talk amongst yourselves.

10 Use it as an opportunity to stand up, stretch
11 your legs, move around a little bit, and then we'll be
12 right back with you shortly.

13 Now, in deciding the facts of the case you have
14 to decide what witnesses to believe and what witnesses
15 not to believe. You can believe everything a witness
16 says, none of what a witness says, or some of what a
17 witness says. In deciding what to believe, you may
18 consider a number of factors, including but not
19 limited to the following: What was that witness's
20 ability to see, hear or know what he or she testified
21 to? What was the quality of their memory? What was
22 the witness's demeanor on the witness stand? Does the
23 witness have an interest in the outcome of the case or
24 any motive, bias or prejudice? Was the witness
25 contradicted by anything the witness said or wrote

1 before the trial or by other evidence? How reasonable
2 was the witness's testimony when considered in the
3 light of other evidence that you believe?

4 Now, until I advise you to begin your
5 deliberations, you must not discuss this case with
6 anyone including each other, friends, family members
7 or anyone involved in the case. This includes
8 face-to-face, text message, telephone, email, blogs,
9 Facebook, Twitter, Google plus or any other type of
10 social media that I don't even know what it is, you
11 can't discuss this case or do any independent research
12 on this case.

13 Now, you may not use a computer, cell phone or
14 other electronic device with communication
15 capabilities at any time while in the courtroom or
16 during deliberations. During your breaks for meals or
17 overnight, if necessary, you may use these devices.
18 However, you may not at any time use these devices to
19 get information about the case or send information
20 about the case.

21 This includes information about a party, a
22 witness, an attorney, a court officer, news accounts
23 about the case, research on any topics raised or any
24 topic you may think would be helpful in deciding this
25 case or any testimony presented by any witness.

1 The best example I can give you of that is this.
2 It's very simple, but if today during the testimony
3 you hear a word and you do not know the meaning of it,
4 okay. You cannot go home, pull the dusty dictionary
5 off the shelf and look it up, all right. That would
6 be your own independent research of an issue. That's
7 the extent to which I'm taking this. Now, during the
8 trial do not read, listen to or watch any news reports
9 about this case.

10 This includes anything that may be in the
11 newspaper, on the internet, the radio or television,
12 or on the phone for that matter. You must not
13 consider anything that you may have read or heard
14 about the case outside the courtroom whether before or
15 during the trial. Once the case is submitted to you,
16 that will be at the very end, you must discuss it only
17 in the jury room and only with your fellow jurors.

18 The attorneys and the parties in this case have
19 been advised that they are not to talk to you at all.
20 If you see anyone involved in this case and they do
21 not even say hello, they are not being unfriendly.
22 They are merely following my instructions.

23 It is important that you keep an open mind and
24 not decide any issue in the case until all of the
25 evidence has been presented, the parties have made

1 their closing arguments, and I have told you what the
2 law is in this case.

3 It is your sole responsibility to determine the
4 guilt or the innocence of the defendants, and your
5 verdict must be based solely on the evidence as it is
6 presented to you in this trial and on the law that I
7 will give you at the close of the trial.

8 Now, Mr. Foreperson, it is your added duty to
9 preside in the jury room. Some would call you the
10 presiding juror. Now, you don't get paid any extra,
11 okay, and your vote doesn't count any more, but
12 somebody has to preside in the jury room to control
13 what is going on in there, and you will be the jury
14 spokesperson here in court. It will also be your
15 added duty at the conclusion of the trial to write the
16 verdict, but I'll explain all that to you at a later
17 time.

18 Now, let me take just a moment to make sure you
19 know who everybody is. You know who your bailiffs
20 are. They were there waiting for you this morning,
21 right? Okay. They will take good care of you. I
22 have full faith and confidence in them and they know
23 exactly what to do and they can answer any questions
24 you may have.

25 Right here to my left is my law clerk. This is

1 Emily. She has graduated law school. She has passed
2 the bar exam. She is actually my temporary clerk. My
3 main law clerk just had a baby a few weeks ago. Emily
4 is filling in for her. You will see Emily go in and
5 out of the courtroom the whole time. You will see her
6 on her computer most of the time. That's perfectly
7 normal. I'm the chief administrative judge of the
8 circuit, so outside of this trial, I have literally
9 hundreds of other responsibilities that are going on
10 at the same time, so if you see her going out or
11 coming in, she is just working or doing the things
12 that need to be done.

13 At the end of the day, I still have another hour
14 to an hour-and-a-half's day worth of work to be done
15 before I can even start the next day to keep the
16 process of the courthouse here going.

17 Now, seated over here to my right is
18 Ms. Ambroziak. She is our court reporter and she is
19 the most important person in the courtroom, okay.
20 Why? Because she is the only person who is keeping a
21 true and accurate record of everything that happens in
22 the courtroom.

23 So she is literally writing down every word that
24 is said. So when she tells me she needs a break, we
25 take a break, okay, because while --- and I will stop

1 talking here in just a moment and the attorneys will
2 stop talking and once the State stops, the defense may
3 give their opening statements, so there are times when
4 everybody is not working, but she is always working
5 and she is always typing.

6 So if I tell the attorneys to stop talking over
7 each other or if I tell the witness and the attorney
8 to stop talking over each other or if I make them take
9 a little bit of a break while they mark exhibits, all
10 that is so Ms. Ambroziak can make sure we have a true
11 and accurate record that everything going on in here,
12 so when I get evil eye from her that we need take a
13 break, I will usually do that even if it's not the
14 best time because she can only type so much in one
15 sitting before she needs to take a break herself,
16 okay.

17 Then down front is Ms. Pendegrass. She is with
18 the clerk of court's office. She will be swearing
19 witnesses in, dealing with the exhibits and things
20 like that. That's just so you know who everybody is
21 from a court staff perspective that you see. You may
22 be wondering what are they doing or what are they not
23 doing, so that's the reason that I explain that to
24 you.

25 All right. Let me go through my notes. Okay.

1 At this point in time, we will move onto opening
2 statements. The State will be allowed to go first and
3 Ms. Garfield, the floor is yours.

4 MS. GARFIELD: Thank you, Your Honor. May it
5 please the Court.

6 THE COURT: Yes, ma'am.

7 OPENING STATEMENT:

8 MS. GARFIELD: No. No. No. Pleas of mercy
9 followed by screams of terror. Those were the last
10 words and sounds made by 33-year-old Kelly Lynn
11 Hunnewell. They were heard by Theresa Baskin who
12 lived next door to the bakery where Ms. Hunnewell
13 worked, where she was at 3:00 A.M. on July 1, 2013,
14 when the defendants Lorenzo Young and Trenton Barnes
15 shot her, took her life away and fled leaving her to
16 die.

17 Kelly Hunnewell was 33 years of age. She was the
18 mother of four small children. Three daughters and a
19 son. She worked at Carolina Cafe. It's a local
20 popular eatery located right behind the state house on
21 the corner of Pendleton and Sumter Street. Her job
22 was to report every morning at an offsite bakery, a
23 catering kitchen, located on Tommy Circle, which is
24 right off Beltline. She would arrive every morning at
25 3:00 A.M. to make bagels. It's a very popular place,

1 famous for its bagels and its bagel sandwiches. She
2 would arrive every morning to make the bagels and then
3 transport them to the Carolina Cafe behind the State
4 house to serve to the morning customers.

5 She worked until about 11:00 A.M. She purposely
6 chose that shift so that she could then go home and
7 care for her four children. Not only was Kelly a
8 mother, she was a sister. She was a daughter. She
9 was a cousin, she was friend, and she was a coworker.

10 In the early morning hours of July 1, 2013,
11 Lorenzo Young and Trenton Barnes chose to make her a
12 victim of murder. When Kelly went to work that
13 morning, what she didn't know is that Trenton Barnes
14 and Lorenzo Young were planning a robbery. They
15 planned to rob the Original Ale House, which is a
16 restaurant located in the vicinity of the bakery where
17 Kelly was working. Their plan was to arrive and rob
18 the late night customers that were leaving and the
19 employees that were leaving.

20 When they got there, I submit to you they were
21 greatly disappointed because the establishment was
22 already closed. This was a very early Monday morning.
23 It was raining very hard. Lorenzo Young and Trenton
24 Barnes chose to find other prey.

25 Next door, the bakery was there with the lights

1 on, and the door was propped open. Both armed with
2 firearms, they went into the bakery and approached
3 Kelly Hunnewell, who was cooking. Guns were drawn,
4 placed to her head area and a brief struggle ensues.
5 Kelly cannot get away. They begin to fire at her
6 multiple times, and one bullet enters her chest area
7 and lodges in her back. Lorenzo Young and Trenton
8 Barnes flee the bakery leaving Kelly Hunnewell
9 collapsed on the floor drowning in her own blood.

10 Theresa Baskin, the neighbor that lived by the
11 bakery, had gotten up in the middle of the night to go
12 to the bathroom and after she used the bathroom, she
13 went to the kitchen to fix herself some water.
14 Outside her kitchen window she could see the bakery,
15 and she could see the light on. She went back to her
16 room and as she was preparing to get back into her
17 bed, she heard the screams of terror and the pleas for
18 mercy that she will never forget.

19 She immediately called law enforcement and within
20 minutes, police officers from the City of Columbia
21 police department arrived. Investigators arrived.
22 Columbia Fire Department arrives, EMS personnel
23 arrived. They find Ms. Hunnewell dead on the floor.
24 An investigation immediately begins. They collect
25 evidence. They collect projectiles --- shell casings

1 from the floor. They photograph the scene.

2 Investigator McCoy with the Columbia Police
3 Department learns that there is a video. He takes the
4 video to the Columbia Police Department where they are
5 able to see the crime that had just happened hours
6 before.

7 On that video, they see Ms. Hunnewell working,
8 and they see an individual in a red hoodie come in
9 with a gun, followed by a second individual in a gray
10 hoodie come in. They see them put the guns to her.
11 They see them shoot her. They see a third individual
12 in dark clothing come to the door as the shooting
13 begins, and then they see them flee.

14 This video is released to the media, and as a
15 result, law enforcement begins to collect information.
16 The names Lorenzo Young, Trenton Barnes, and Troy
17 Stevenson begin to surface.

18 Law enforcement learned that Trenton Barnes and
19 Troy Stevenson are brothers and they live on Lucille
20 Drive, which is just within walking distance of the
21 bakery.

22 They also learned that Lorenzo Young lives on
23 Bronx Avenue, which is very close near by the bakery,
24 as well. As a result, witnesses start to come in.
25 They hear from Rolanda Coleman, who is the girlfriend

1 of Lorenzo Young.

2 Ms. Coleman gives information that Lorenzo Young
3 came home early that morning with a firearm, he
4 wrapped it in clothing, and he hid it in a crib where
5 his daughter sleeps.

6 Mary Brown comes forward. She gives information
7 that the evening before this happened she saw a person
8 she knows as Lorenzo and he was wearing a red hoodie
9 and he was with another fella, a younger guy, who was
10 wearing a gray hoodie.

11 Also, other people come in, such as Donald Moore,
12 who gives information about the role of Lorenzo Young
13 in this case.

14 A search warrant is executed at the home of
15 Lorenzo Young. During that search, they find
16 ammunition, 45 GAP ammunition. This ammunition would
17 be the same type caliber of shell casings that are
18 left on the floor where Kelly Hunnewell died.

19 There is also a box of gloves found in Lorenzo
20 Young's home that were sent to our state crime
21 laboratory known as SLED. There they test positive
22 for gunshot residue. Rolanda Coleman is also able to
23 view that video with law enforcement. She tells law
24 enforcement that the individual in the gray hoodie,
25 that's Trenton Barnes.

1 Trenton Barnes' mother Latoya Barnes comes
2 forward to law enforcement, and she tells law
3 enforcement that her son Trenton Barnes, he always
4 wears a gray hoodie, wears it all the time.

5 She has seen that video, and she knows her
6 children from their fingers to their toes. She knows
7 the person in the gray hoodie is her son Trenton
8 Barnes.

9 She also tells law enforcement that Trenton
10 Barnes and Lorenzo Young had been together at their
11 home earlier that evening and they had left. She was
12 concerned about them, and she sent her son Troy
13 Stevenson to go get them. She says the person in the
14 dark clothing that approaches the door is her other
15 son, Troy Stevenson.

16 Lastly, once Trenton Barnes is in jail, he sends
17 a letter to his mom where he tells her he did it.
18 Lastly, the spoon that Kelly Hunnewell was holding
19 when she was killed is sent to our state laboratory,
20 as well, and it's tested for DNA. DNA is found on
21 that spoon, and Lorenzo Young and Trenton Barnes
22 cannot be ruled out as having their DNA on that spoon.

23 Trenton Barnes and Lorenzo Young are both charged
24 with murder, attempted armed robbery, burglary in the
25 second degree violent and kidnapping.

1 Ladies and gentlemen, again, I am Dolly Garfield,
2 and I am a prosecutor for the State of South Carolina.
3 Seated at the table to my left is Luck Campbell,
4 senior assistant solicitor and to my right Nicole
5 Simpson, another assistant solicitor. It will be our
6 job in the next few days to prove to you that Lorenzo
7 Young and Trenton Barnes are guilty of these brutal
8 acts of violence.

9 The burden is on the State to prove this case to
10 you, and today in this courtroom in this courthouse,
11 the State of South Carolina, we welcome that burden.

12 We will deliver to you.

13 Now, I just mentioned several crimes that they
14 are charged with. Let me go through each of those
15 crimes and let me explain what those crimes mean in
16 the State of South Carolina.

17 First, I'll start with burglary second violent.
18 It is unlawful in the State of South Carolina to enter
19 a business or a building during the hours of darkness
20 with the intent to commit a crime, like hurting
21 someone, or while armed with a firearm or while
22 displaying a dangerous weapon or while you hurt
23 someone that is not a participant of a crime.

24 The State will submit to you that Lorenzo Young
25 and Trenton Barnes did all of these.

1 They are also charged with attempted armed
2 robbery and that simply means the unlawful taking of
3 something while you're armed with a weapon. In this
4 case it's an attempt. You don't have to successfully
5 take something just as long as you try.

6 They're also charged with kidnapping. Kidnapping
7 is not in the sense where you would think where you
8 see in books where someone has got to be roped up and
9 put it in a trunk or involving a child. Kidnapping
10 just simply means confining someone, keeping them
11 against their will from being able to get away. There
12 is no doubt Kelly Hunnewell cannot get away.

13 Lastly, they are charged with murder. Murder is
14 the intentional killing of another person with malice
15 aforethought either expressed or implied.

16 Now, ladies and gentlemen, how would we prove
17 this case to you? You're going to hear from several
18 witnesses from this witness stand.

19 You're going to hear from police officers.
20 You're going to hear from emergency medical personnel.
21 You're going to hear from investigators, from the fire
22 department. You're going to hear from a DNA expert.
23 You're going to hear from a pathologist. All the
24 evidence will come from this witness stand, and ladies
25 and gentlemen, let me stop here and just express to

1 you, and I know Judge Hood went through this a little
2 bit yesterday, our country as a whole is enthralled
3 with crime dramas. I'm guilty of it myself. Ladies
4 and gentlemen, I want you to keep in mind that the
5 crime dramas you see on television are not real. This
6 is a real courtroom with a real victim, real
7 witnesses, real facts.

8 Crime dramas consist of scripts with paid actors
9 with endings that keep the viewers wanting to watch
10 the next week. It's all by design. This is a real
11 courtroom, and you will hear how real criminal cases
12 unfold.

13 But like all crime dramas, there are directors
14 involved. I submit to you that on July 1, 2013, the
15 directors of the crime that you will learn about were
16 the defendants, Lorenzo Young and Trenton Barnes.
17 They cast the witnesses in this case.

18 I bring that to your attention because there may
19 be some witnesses that you will question their
20 day-to-day life. They might not be the kind of people
21 that you hang out with on a routine basis. Just keep
22 in mind, these witnesses were not chosen by the State.
23 They were chosen by the defendants.

24 You will even hear from some inmates who
25 befriended Lorenzo Young and they will share with you

1 what he told them about his role in this crime.

2 Ladies and gentlemen, everybody in this
3 courtroom, as Judge Hood just went through, has a job
4 to do. We've learned about the bailiffs, the court
5 reporter, our clerk of court. It's our job to present
6 the case to you. Judge Hood's job is to sort of
7 referee the lawyers and make sure that we follow the
8 Rules of Evidence and the law of our state in this
9 court.

10 The defense attorneys have a job do and that is
11 to represent their client to the best of their
12 ability, but ladies and gentlemen, you have a job. It
13 is your job to listen to these witnesses carefully,
14 and I know you will because this is a very important
15 case about a brutal crime that occurred in your
16 community in your county.

17 Now, right now Lorenzo Young and Trenton Barnes
18 sit before you presumed innocent, and that's the way
19 it should be. That's what makes our judicial system
20 the best system in the world.

21 They are wrapped, I like to think, with a cloak
22 of innocence like a coat or a jacket. As every
23 witness takes the stand and as they leave, I submit to
24 you that a piece of that cloak will be torn from them.

25 Some witnesses may tear a small piece, and some

1 witnesses may tear a large piece, but at the
2 conclusion of the case, the defendants Lorenzo Young
3 and Trenton Barnes will be exposed for the burglars
4 that they are, for the robbers that they are, for the
5 kidnappers that they are, for the murderers that they
6 are.

7 Now, in South Carolina, we have a law called the
8 hand of one is the hand of all. That is the law that
9 will prevail in this case. What that means is when
10 two or more people are acting together in committing a
11 crime, they are responsible for the acts of each
12 other, so it doesn't matter if you're the trigger man.
13 It doesn't matter if you're the getaway driver. It
14 doesn't much you or how little you got in the crime.
15 Everybody is guilty of the same thing. That's what
16 applies in this case. Trenton Barnes and Lorenzo
17 Young are responsible for each other's actions.
18 That's why at the conclusion of this case, your job
19 will be simple, and you'll be able to make a decision
20 to find them guilty.

21 Theresa Baskin heard those pleas of mercy and
22 cries from Kelly Hunnewell. So did Lorenzo Young, so
23 did Trenton Barnes.

24 At the conclusion of this case, the State will
25 come back to you and ask you for verdicts of guilty

1 and sending a crime for justice to Lorenzo Young and
2 Trenton Barnes.

3 THE COURT: Thank you, ma'am.

4 Mr. Schnee.

5 MR. SCHNEE: Up the, Your Honor. May it please
6 the Court.

7 THE COURT: Yes, sir.

8 OPENING STATEMENT:

9 MR. SCHNEE: Good morning. I don't think you can
10 be fair. I say that because studies have shown that
11 one-third of you have already made up your minds,
12 which means out of the 15 of you sitting there, one-
13 third of you have already made up your minds based on
14 Dolly Garfield's opening statement and everything
15 you've heard already. You know what, that's
16 understandable. I really do understand that, and it's
17 okay. I don't blame you for that. I'm not going to
18 blame you for having an emotional response to this
19 case.

20 Very often I get up in front of juries and tell
21 them you have to ignore your emotions. Your job is to
22 look at the facts. I know that's not possible. You
23 have a lot of pressure on you. You have pressure on
24 you from the State. You have an audience full of
25 people. You have the victim's family members, and

1 yes, Ms. Hunnewell is absolutely the victim. You have
2 the judge giving you instructions. You have bailiffs
3 taking away your phones, and multiple cameras up there
4 recording every single thing that's being said.
5 You're under pressure. You're under pressure from
6 each other. At the end of this case when you're
7 deliberating, you're going to want to reach some
8 consensus. That's another point of pressure. It's a
9 pressure that you're going to have to be very very
10 conscious of and pay attention to because one of your
11 jobs is to ignore that pressure wherever it is.

12 One of the first things that the solicitor talked
13 to about, she said, "pleas for mercy and screams of
14 terror."

15 That has nothing do with the facts of what
16 happened. Nothing at all. That is purely to make
17 sure that the third of you that have made up your
18 minds are firmly convinced that's what you're going to
19 do at the end. That's what that's for. That's not
20 factual. What's factual? Ms. Garfield talked about
21 DNA. There's a metal spoon. You're going to see that
22 metal spoon on the video now that spoon has DNA on it
23 from a --- and they tested a lot of people. You're
24 going to about that when their DNA expert gets up
25 there. Now, Ms. Garfield told you that Trenton Barnes.

1 and Lorenzo Young could not be excluded.

2 Well, I'll tell you who else could not be
3 excluded. One third of the entire population of this
4 planet. That's the odds that they were able to get
5 based on the quantity of DNA obtained, which means if
6 you go to Williams Brice stadium for USC's next
7 football game, there are going to be more than 30,000
8 people inside of the stadium that are just as likely
9 to have killed Ms. Hunnewell according to the DNA.
10 That's what they consider evidence.

11 You're not to hear anything about fingerprints
12 being found, so what are you left with? You're left
13 with witnesses that are going to get on the stand and
14 testify. You're left with the lead investigator,
15 Matthew McCoy, who is sitting right here. You were
16 introduced to him before. You're going to hear a lot
17 of things that he has done and things he didn't do.
18 You're going to hear how he is hiding evidence, you're
19 going to hear he is lying about witnesses and the
20 existence of witnesses. You're going to hear how he
21 even threatened to kill a suspect to try to get a
22 confession. That's who the State is going to be
23 putting up as their star lead investigator.

24 They're going to call Rolanda Coleman, the
25 girlfriend, the mother of Lorenzo Young's child.

1 MS. GARFIELD: Judge, objection. We have a
2 matter of law.

3 THE COURT: All right. Ladies and gentlemen, if
4 you'll retire to your jury room. Do not discuss the
5 case. Keep an open mind. We'll be back with you in
6 just a few moments.

7 (WHEREUPON, the jury left the courtroom at 10:08
8 A.M.)

9 THE COURT: Yes, ma'am.

10 MS. GARFIELD: Thank you, Your Honor. I
11 apologize. I don't like to object during openings,
12 but I just thought that that opening was going too
13 far. We don't know what he is talking about as far as
14 Investigator McCoy threatening to kill someone, and
15 hiding evidence is completely improper. It was done
16 solely to make the jury immediately just think badly
17 of him. We don't know where he was going.

18 THE COURT: I want your good faith basis for
19 hiding evidence, lying about the existence of
20 witnesses and threatening to kill a suspect.

21 MR. SCHNEE: I'll start with the last one, Your
22 Honor. In the interview with Lorenzo Young,
23 Investigator Moorer threatens Lorenzo Young multiple
24 times and ---

25 THE COURT: Investigator who?

1 MR. SCHNEE: I'm sorry. Investigator McCoy
2 threatens Lorenzo Young with the death penalty, with a
3 needle in his arm and things like that to try to force
4 him to confess. That's a threat of death.

5 THE COURT: All right.

6 MR. SCHNEE: As to hiding evidence and the
7 existence of witnesses, during his interviews of
8 Donald Moore and actually probably a couple of others
9 that he has talked about things, specifically in one
10 of the Donald Moore interviews, he talks to Donald
11 Moore about a completely unrelated rape case that
12 Donald Moore may or may not be able to find out the
13 name. He tells Donald Moore, I think it's on a phone
14 call that if he can find out the name, he will claim
15 that Donald Moore is an informant and not release it
16 because as long as the victim can identify him, they
17 never have to turn that over. That's hiding evidence
18 and concealing the identity of a witness. That's
19 McCoy's own words.

20 THE COURT: I don't understand why you think
21 that's proper in an opening statement even if you
22 think you do have a good faith basis.

23 MR. SCHNEE: It goes to his credibility and
24 veracity.

25 THE COURT: You're not allowed to make arguments

1 in opening statements.

2 MR. SCHNEE: Judge, I'm explaining to the jury
3 what evidence they will hear. I'm not arguing what
4 they should do with it. I'm telling them that what
5 they will hear in the cross-examination. I had
6 actually already moved on to Rolanda Coleman. I was
7 done with Investigator McCoy, so I wasn't going to go
8 back and say anything else about that.

9 THE COURT: None of your opening statement allows
10 anything that's argumentative.

11 MS. GARFIELD: Our position is how is anything he
12 just referenced admissible?

13 THE COURT: I don't even know that it is.

14 MS. GARFIELD: I don't know how we cure that when
15 it's not even anything we can address. It was
16 deliberately done to inflame the passions of the jury.

17 THE COURT: What are you asking for,
18 Ms. Garfield?

19 MS. GARFIELD: Judge, I think we have to ask for
20 a mistrial at this point.

21 THE COURT: Do you want to jump in? What's
22 your --- you're talking about as to Mr. Barnes only or
23 both?

24 MS. GARFIELD: I think it has to apply to both
25 because they're both on trial. He is specifically now

1 referencing Mr. Barnes.

2 THE COURT: What's your position on that,
3 Mr. Schnee?

4 MR. SCHNEE: Judge, what I discussed in my
5 opening statement is my plan of impeaching
6 Investigator McCoy and the effectiveness and the
7 methods of his investigation. That is the cornerstone
8 of cross-examination, so I don't understand how I
9 wouldn't be able to ask that or how it would not be
10 admissible because the jury has to weigh the
11 investigator's credibility and his motives and how he
12 acts. That's the jury's function.

13 Even if I end up not playing the audio, which is
14 not my intent at this point, I'm certainly going to
15 ask him if he threatens Lorenzo Young with the death
16 penalty. I'm certainly going to ask him that.

17 I can't see any way that I would not be allowed
18 to ask that question. I certainly don't understand
19 how this would rise to the level of a mistrial or
20 inflame the passions of the jury when that is pretty
21 much the entire thing the State did in their opening
22 statement talking about screams of terror.

23 MS. GARFIELD: That's what Ms. Baskin would
24 testify to.

25 THE COURT: I understand that. I mean, how is he

1 not going to be able to ask McCoy, did you threaten
2 somebody with the death penalty?

3 MS. GARFIELD: We just don't understand how that
4 can be admissible under any theory. That's
5 something --- it was brought out in the context of a
6 self-serving statement of Lorenzo Young. Lorenzo
7 Young denied all involvement, so I don't understand
8 how that can come in when it's self-serving.

9 MR. SCHNEE: Judge, I'm not seeking to introduce
10 Lorenzo Young's statement. It's McCoy's statement.

11 MS. GARFIELD: Judge, if you want them to hear
12 that, the jury is going to be aware that this could
13 have potentially been a death penalty case, and I
14 don't think that's proper for the jury to consider.

15 THE COURT: Do you want to say anything?

16 MS. PINNOCK: Yes, Your Honor, I would. As far
17 as Mr. Young goes, jeopardy has attached to
18 Mr. Young's case. We have done nothing that would
19 cause a mistrial. My understanding is the State is
20 asking for a mistrial based on Mr. Young and
21 Mr. Barnes. If Your Honor is only inclined to grant a
22 mistrial on Mr. Barnes per their request, they have
23 already submitted information to the jury about
24 statements that Mr. Barnes made, statements of
25 witnesses that they are under --- that they are aware

1 of pleading the Fifth and not testifying, so we have
2 done nothing to cause this request by the State for a
3 mistrial against Mr. Young, so all I'll say is that
4 jeopardy has attached. They have made statements in
5 their opening based on the theory that we were going
6 forward on both codefendants in this case.

7 So they requested the mistrial, Your Honor, and I
8 would let the record reflect we have done nothing
9 cause that on behalf of Mr. Young. They have
10 requested the mistrial for both cases.

11 THE COURT: All right. All the lawyers in the
12 back.

13 (WHEREUPON, a short break was taken.)

14 (WHEREUPON, State's Exhibits Numbers 326 through
15 394 were marked for identification only.)

16 THE COURT: All right. So when we took a break
17 this morning during opening statements, and the State
18 made a motion for mistrial based upon parts of
19 Mr. Schnee's opening statements, the main part being
20 dealing with his statement about Investigator McCoy,
21 who is one of the lead investigators on the case. At
22 this point in time, does the State wish to go forward
23 with that motion?

24 MS. GARFIELD: Your Honor, based on our
25 discussions in chambers, we would be willing to

1 withdraw the motion at this time and go forward on
2 both defendants.

3 THE COURT: All right. Anything from you,
4 Mr. Krzyston?

5 MS. GARFIELD: With obviously a curative
6 instruction to the jury.

7 THE COURT: Right. And anything from you,
8 Mr. Krzyston?

9 MR. KRZYSTON: Not as it stands.

10 THE COURT: Thank you. Mr. Schnee, anything from
11 you?

12 MR. SCHNEE: Yes, Your Honor, very briefly back
13 in chambers during one of our many meetings, Your
14 Honor had informed me that you believed my actions
15 have been entirely improper and outside the rules of
16 evidence and appropriateness and have threatened me
17 with contempt. My client has a Sixth Amendment right
18 to conflict free counsel and the right to present a
19 full and complete defense. At this point, based on
20 Your Honor's assertion that I would be in contempt and
21 quote in a cell with my client, at this point I'm
22 requesting that Your Honor recuse yourself. I'm
23 requesting a mistrial, and I have some cases that I'd
24 like to --- I don't have copies of them. I've just
25 been handed some of these.

1 I'd like to point out to Your Honor State v.
2 Wright, which is 271 S.C. 534. That was dealing
3 specifically with comments outside the presence of the
4 jury made to defense counsel about not having a valid
5 defense, things of that nature.

6 The court ultimately found in that case that
7 while it did not --- they decided not to --- I think
8 they decided not to grant a new trial on that one, in
9 the ultimately findings were they recognize a new
10 trial should be ordered when counsel is so inhibited
11 by the Court's review that counsel feared conduct and
12 therefore affected the defense.

13 At this point, Your Honor --- there are also
14 cases from the US Supreme Court Holt v. Commonwealth
15 of Virginia, which is 85 Supreme Court 1375. Another
16 South Carolina case is Mallet v. Mallet, which is 323
17 S.C. 141. All of those cases deal with the issue of a
18 trial judge recusal based on actions towards the
19 lawyers themselves.

20 I don't believe I can effectively represent my
21 client in this particular situation at this point and
22 provide him with a full and complete defense.

23 Additionally, based on Your Honor's --- I guess
24 for lack of a better term, rulings, regarding what I
25 can and cannot go into based on the fact that Lorenzo

1 Young is on trial at the same time specifically
2 dealing with the bias of Rolanda Coleman, which is one
3 of the State's main witnesses, I am at this time
4 renewing my motion to sever the cases.

5 THE COURT: All right. Your motion for a
6 mistrial is denied. Your motion to recuse myself is
7 denied. The factual scenario that you gave about what
8 transpired in chambers was pretty close to completely
9 inaccurate. I informed you that the information you
10 provided as to your good faith basis for making the
11 statements about Investigator McCoy didn't even rise
12 to the level of the statements that you made, and even
13 if it did, more than likely that would be inadmissible
14 in the trial and was inappropriate.

15 We had moved on from that issue, and the State
16 had informed the judge that they intended on removing
17 their mistrial motion, at which point in time, you
18 informed us all that there would be another mistrial
19 motion within five minutes of going back on the record
20 because you intended in going into Mr. Young's --- and
21 Mr. Young is the co-defendant --- Mr. Young's current
22 pending charges in the opening statements, at which
23 point in time I informed that you that that was not
24 appropriate. It was not admissible under the Rules of
25 Evidence, and you alluded to essentially doing it

1 anyway.

2 At which point in time, I informed you of the
3 contempt power of this court, which is --- and the
4 court does have the ability and the authority to put
5 anyone who violates a direct order of the court in the
6 presence of the court in the county jail.

7 So, your motion for a mistrial is denied. Your
8 motion for me to recuse myself is denied. I have
9 studied during this time Rule (3)(e) of the South
10 Carolina rules, appellate court rules, involving
11 judicial candidates and I have no prejudice or no bias
12 towards you or your client and therefore your motion
13 is denied. The trial will continue. Bring in the
14 jury. You may continue with your opening statement,
15 Mr. Schnee.

16 MR. SCHNEE: If I may continue briefly before the
17 jury comes back in go on the record?

18 THE COURT: Yes.

19 MR. SCHNEE: Judge, I specifically did not say
20 that I would be talking about Lorenzo Young's pending
21 charges.

22 THE COURT: What you said was, "I'm going to go
23 into the credibility of Rolanda" --- is that her name?

24 MS. GARFIELD: Yes, sir.

1 THE COURT: --- "Rolanda Coleman, who has pending
2 charges."

3 THE COURT: I informed you that you can talk
4 about her pending charges as much as you want to. You
5 said, "Her pending charges that she has with
6 Mr. Young." That means that Mr. Young has pending
7 charges, and I would not allow you to go into the
8 information concerning the fact in front of the jury
9 that Mr. Young has pending charges. He hadn't been
10 convicted of any of these charges. They're merely
11 pending charges, and I would deem that to be
12 inadmissible. You said, "I don't understand that
13 ruling." I said, "You don't have to understand it.
14 That's the ruling of the court and you need to follow
15 it."

16 MR. SCHNEE: Judge, if I may for the record, what
17 I indicated in chambers was that my intention was to
18 attack the credibility, motive, and bias of Rolanda
19 Coleman. The fact that she has pending charges is
20 relevant. The fact that she is a witness for the
21 State and originally presented an alibi for Lorenzo
22 Young is relevant. The fact of the pending charges
23 also involve Mr. Young with relation to Ms. Coleman's
24 credibility and her motive to lie are relevant issues.
25 I specifically asked Your Honor if it was a separate

1 trial if that would be admissible. Your Honor
2 indicated that it probably would, which is why I moved
3 for a severance based on that.

4 I did not indicate that I would be trying to
5 impugn the credibility or character of Mr. Young, but
6 in order for me to fully go into the credibility of
7 Rolanda Coleman, it's impossible to do that without
8 indicating that the charges involve her child's
9 father, as well. That's all I have for the record,
10 Judge.

11 THE COURT: Thank you very much. Bring them in.

12 THE BAILIFF: Yes, Your Honor.

13 (WHEREUPON, the jury entered the courtroom at
14 2:09 P.M.)

15 THE BAILIFF: The jury is seated, Your Honor.

16 THE COURT: All right. Thank you very much,
17 Mr. Dye. Thank you, ladies and gentlemen, I apologize
18 for the extended delay. I just wanted to let you know
19 that I take full responsibility for the extended
20 delay. No type of anything by you against any of the
21 parties should be in any way, shape, or form
22 considered. I control the mode of this trial and the
23 timing of this trial. I accept full responsibility
24 for it. You should not lay any blame or anything else
25 upon any of the parties, any of the lawyers or anybody

1 else. I accept full responsibility for that.

2 Now, I do need to remind you of something that I
3 told you earlier this morning. I know I told you that
4 this --- what I told you this morning, and I'm going
5 to tell you again. A lot of things I say to juries I
6 say multiple times in trial to make sure that you
7 understand and to make sure everybody is listening,
8 but there were some statements made in the opening
9 statement about something that the lead investigator
10 had done or not done throughout the course of this
11 trial.

12 That information needs to be disregarded by you.
13 Now, I told you in the very beginning, and I will tell
14 you at the very end that nothing these attorneys say
15 in opening statements is evidence. You haven't heard
16 any evidence.

17 Even though you started the trial this morning,
18 you haven't heard one piece of evidence yet in this
19 courtroom. Evidence comes from where? It comes from
20 the witness stand. Anything the attorneys say in
21 their opening statements or closing argument is not
22 evidence. It is not proof of anything. It's merely
23 their position on something. Therefore it's not to be
24 considered by you as evidence of anything.

25 I told you this morning what was evidence and

1 what was not evidence. One of the things I was very
2 clear is that the opening statements and the closing
3 arguments and the questions of the attorneys are not
4 evidence. The evidence is when someone takes that
5 witness stand, swears to tell the truth and testifies
6 to you, their testimony or the exhibits received
7 through them or any stipulations of all the parties,
8 that's the evidence in the case, so keep that in mind
9 as you proceed today.

10 Again, I apologize for the delay. I accept full
11 responsibility.

12 Mr. Schnee, you may continue.

13 MR. SCHNEE: May it please the Court, Your Honor.

14 THE COURT: Yes, sir.

15 OPENING STATEMENT:

16 (continued)

17 MR. SCHNEE: Good afternoon.

18 THE JURORS: Good afternoon.

19 MR. SCHNEE: Witness credibility is going to be
20 one of the most important issues that you're going to
21 have to decide in this trial.

22 You're going to be hearing from witnesses who are
23 --- some of them are incarcerated. Some of them have
24 pending charges that are unrelated to this. Some of
25 them have family relationships with people involved in

1 this case regardless of which side they are.

2 All of them have their own motives to say what
3 they're going to say, to say what they've said in the
4 past, or to change their story. You're going to hear
5 that a lot of people have changed stories. You're
6 going to hear that from various witnesses. It's not
7 that their memories have changed over time, it's that
8 they're trying to decide what the truth is. You're
9 going to figure that out when you're listening to
10 these witnesses. Rolanda Coleman, as I was saying
11 hours ago, she has pending criminal charges. She is
12 the girlfriend and mother of Lorenzo Young's child.

13 She is going to get up and say various things.
14 She has said various things to law enforcement in the
15 past. I have no idea what she is actually going to
16 get up there and say because I haven't heard her say
17 it yet. All I have is what she said in the past. If
18 she sticks to what she said in the past and that is
19 what is presented, you're going to hear things that
20 don't make any sense. The reason why she is going to
21 be testifying in that way if that's what she actually
22 says is because she is Lorenzo Young's girlfriend,
23 commonlaw wife and mother of his child. She has a
24 motive to protect him and to lie.

25 She also has a motive to incriminate other people

1 as a means of helping that out. You're going to see
2 that throughout the course of this trial. She is
3 certainly not the only witness, but she is one of the
4 main witnesses for the State.

5 There's a lot of pressures that are put on life
6 in people. Trenton Barnes, you heard what he was
7 charged with. In July of last year, he was 16 years
8 old. A lot of pressure put on him by his family, by
9 his brother, by education, by a lot of different
10 circumstances. You're going to hear quite a bit about
11 interactions with him and other people in the events
12 surrounding all of this.

13 Your job is going to be able to determine at the
14 end certain things, certain elements of crimes. One
15 of the most important elements you're going to have to
16 analyze for the murder charge is the element of
17 malice. You're going to have to determine was malice
18 present on any of this situation for anybody at any
19 time.

20 That's going to be especially challenging for you
21 when dealing with a 16-year-old child.

22 Now, the State mentioned a letter that you're
23 going to be hearing about that Trenton Barnes wrote to
24 his mother.

25 Now, when that statement is put before you, I

1 want you to think about a few things. I want you to
2 think about his family relationship. I want you to
3 think about how he treats his brother and what he
4 wants for his brother because his brother, Troy
5 Stevenson, is also charged with this. He is not on
6 trial today, but he is charged with all of this. You
7 also need to think of motives of why people would say
8 things that are not beneficial to themselves.

9 The letter from Trenton Barnes is the best
10 example. Why would he put what's in that letter,
11 which he will be able to --- which you will hear
12 during the trial --- why would he say the things that
13 he says? He is trying to protect his bigger brother.
14 That's as simple as this. He is not making rational
15 decisions. He is not thinking about his future. He
16 certainly didn't think about it when he wrote that
17 letter. What he is thinking about is how to protect
18 an older brother and that's completely understandable.
19 It's also completely --- for the same reason, it's
20 understandable as to why all of you have emotional
21 responses to the fact there's a 32-year-old woman who
22 left four children behind. I understand that
23 completely. I'm not asking you to ignore that. I'm
24 not asking you to pretend it doesn't exist.

25 The only thing I'm asking you to do is analyze

1 the actual evidence and really think about why people
2 have said things they have said or why they didn't say
3 things they said they did, why people have certain
4 actions or why people fail to take certain actions.

5 That's going to be your job for the next week of
6 the trial, and it's going to be a tough one. It's
7 going to be a tough one because there is no forensic
8 evidence that ties anyone to this at all. The State
9 wants to tell you this is not a TV show because they
10 think you've watched shows like CSI or Law and Order
11 where they have 50 DNA swabs and they all come back to
12 the same person. Yep, that's the guy. He did it.
13 They don't have any of that here. They have no
14 forensics. They have a blurry video, which I'm sorry
15 to say you will have to see.

16 There are a lot of things that you're going to
17 have to see that you're not going to want to see. I
18 wish that wasn't the case. You're going to hear a lot
19 of things that you don't want to hear. It's
20 unfortunate that you're put in that position. I'm
21 really sorry for the victim's family because they have
22 heard it and seen it and they have to relive all of
23 this the rest of this week even though they have
24 virtually no part in this trial at all.

25 There is nothing I can do about that to prevent

1 that. There is certainly nothing I can do to prevent
2 what you have to hear as jurors and what you have to
3 see. The only thing I am going to can ask you to do
4 is keep an open mind, pay attention to the witnesses,
5 but concentrate on motivations for liars. There are
6 going to be quite a few getting up there. They all
7 have reasons to lie or to withhold information. Keep
8 that in your mind at the forefront. Thank you.

9 THE COURT: Thank you, Mr. Schnee.
10 Ms. Bambach.

11 MS. BAMBACH: Thank you, Your Honor.

12 OPENING STATEMENT:

13 MS. BAMBACH: On July 1st, 2013, at 3:45 A.M.
14 Kelly Hunnewell's life tragically came to an end. It
15 came to an end for no reason at all. This is about a
16 mother, a mother who left --- who should be with her
17 kids right now and she can't and that's heartbreaking.
18 That's why you're all here. You're here for
19 Ms. Hunnewell. You're here to make sure that justice
20 is served.

21 You're the finders of fact. You're the most
22 important people in this room. And you must do what
23 is right, what is fair, and what is just.

24 It's human nature to be affected by the emotional
25 nature of this case, but you took an oath that you

1 would render a true verdict according to law and
2 according to the evidence.

3 This case has been centered around emotion since
4 the very day that it happened. The video of the
5 shooting was released to the public that same morning.
6 You can all see the news, the newspaper, the public in
7 here now. You can all see that this case created
8 headlines and when head lines exist, it creates
9 pressure, pressure to close this case as quickly as
10 possible.

11 The public wanted this case closed. The chief of
12 police wanted this case closed. The solicitor wanted
13 this case closed. The mayor wanted this case closed.
14 Everyone here in our city wanted this case closed.

15 A rushed investigation that was based on emotions
16 led to the arrest of an innocent teenager, Lorenzo
17 Young. The State wants you to convict Lorenzo. They
18 want you to put this case to rest for once and for
19 all, but the evidence doesn't point to Lorenzo. The
20 evidence doesn't prove that Lorenzo was there.

21 They had to make the pieces fit, but this is a
22 puzzle that can't be put together. You won't see
23 anything definitively connecting Lorenzo Young to this
24 shooting. The normal things that you would see in a
25 murder case are just not there. The arrest of Lorenzo

1 Young was based on a statement of one witness, and
2 credibility is a major issue in this case and
3 credibility is an easy concept. Do you believe the
4 witness or not?

5 You must decide that. You must make that
6 decision. You must think about whether you believe
7 each witness, that what they are saying is true,
8 whether they have a reason to lie. Whether they have
9 something to gain, whether they have something to
10 lose, and again, that decision is up to you.

11 The State must prove beyond a reasonable doubt
12 that Lorenzo Young was at 93 Tommy Circle that night.
13 It is their job to prove to you that Lorenzo was
14 involved and that Lorenzo helped in killing this
15 innocent woman, and it is your responsibility to hold
16 the State to that burden.

17 If you have any doubt that Lorenzo was at the
18 bakery that night, you must find him not guilty.
19 Again, I cannot stress how important your job is here,
20 and remember your oath, to render a true verdict based
21 on the law and the evidence.

22 The evidence in this case does not add up, and
23 there are still to this day many questions left
24 unanswered and that, ladies and gentlemen, is
25 reasonable doubt.

1 If you have any question as to whether or not
2 Lorenzo Young was at the 93 Tommy Circle bakery on
3 July 1, 2013, you must find him not guilty.
4 Convicting Lorenzo Young is not the answer here. It
5 is not justice.

6 Thank you.

7 THE COURT: Thank you very much, Ms. Bambach.

8 The State may call their first witness.

9 MS. SIMPSON: The State calls Officer Jonathan
10 Brayboy.

11 JONATHAN BRAYBOY,

12 after being duly sworn, testified as follows:

13 THE CLERK: Please have a seat. State your full
14 name.

15 THE WITNESS: My name is Jonathan Brayboy.

16 DIRECT EXAMINATION:

17 BY MS. SIMPSON:

18 Q Officer Brayboy, where are you employed?

19 A Columbia Police Department.

20 Q And how long have you been with the Columbia
21 Police Department?

22 A I've been with the city for approximately eight
23 years.

24 Q Eight years and what is your position there?

25 A I am a patrolman with the Columbia Police

1 Department.

2 Q As a patrolman, tell the jury a little bit about
3 your duties in the area that you work.

4 A Basically, we respond to calls for service from
5 the citizens of Columbia.

6 Q Okay. Do you have a particular area that you
7 actually patrol within the city?

8 A Yes. I'm assigned to the metro region.

9 Q And I want to turn your attention back to the
10 early morning hours of July 1, 2013. Did you become
11 involved in this case?

12 A Yes, I did.

13 Q Tell us how you received the call.

14 A On July 1, 2013, approximately at 3:44 A.M., I
15 received a call from dispatch about shots being fired
16 and a complaint about hearing a --- what sounded like
17 a female screaming from the Tommy Circle area.

18 Q And where did you actually respond to when this
19 call came out? Where did you go?

20 A The complainant called from 81 Tommy Circle,
21 which is where I initially made contact.

22 Q And who was that person that was there?

23 A It was an elderly white female. I don't know her
24 name exactly.

25 Q And when you made contact with her, did you speak

1 with her about what she heard?

2 A Yes, I did.

3 Q And as a result of your conversation with her,
4 did you learn that was the actual incident location or
5 what did you do?

6 A That was not the actual incident location. She
7 stated she was.

8 MS. PINNOCK: Objection, Your Honor, that's
9 hearsay.

10 THE COURT: Sustained.

11 BY MS. SIMPSON:

12 Q Without telling me exactly what she said ---

13 A Okay.

14 Q --- as a result of your conversation, what did
15 you do and where did you proceed?

16 A I spoke to her about what she had heard and began
17 paroling the area. That's when I noticed that the
18 door at 93 Tommy Circle was open. I further
19 investigated why the door was open.

20 Q And were there actually vehicles parked outside
21 the location, as well?

22 A Yes, there was.

23 Q Okay. And upon observing the vehicles, what did
24 you do?

25 A I checked the vehicles to make sure no one was

1 outside, nobody was flagging me down. There was
2 nobody outside. Looked inside the vehicles, didn't
3 see anybody.

4 I noticed the door was open, like I said. I
5 entered the building and heard the radio playing.

6 Q Okay. And what did you do next?

7 A I proceeded further inside the building, looked
8 around, called out, you know, announced who I was,
9 with the Columbia Police Department, and that's when I
10 noticed a white female laying on the floor to my right
11 in a pool of blood.

12 Q And after observing her at this point --- and you
13 said this was a shots fired call, correct?

14 A Correct.

15 Q What did you do?

16 A I backed out of the building and called for
17 additional units to assist me and also to have EMS en
18 route.

19 Q Okay. And we're backing up just a little bit.
20 In relation to where you first responded at, I
21 believe, 81 Tommy Circle?

22 A Yes, ma'am.

23 Q Where is that in relation to 93 Tommy Circle?

24 A It's directly diagonal cross the street.

25 Q And so just right across the street from the

1 complainant's home?

2 A Correct.

3 Q What type of location is this area?

4 A It's a residential area.

5 Q And the building at 93 Tommy Circle, what was
6 that building?

7 A It was a bakery.

8 Q A bakery. And did other units arrive fairly
9 quickly?

10 A Yes, they did.

11 Q What happened once they arrived?

12 A Once the other units arrived, we proceeded inside
13 the building to clear the building, make sure there
14 was no one else inside hurt or injured or possible
15 suspects inside. We entered and cleared the building,
16 then stepped back out and secured the location for EMS
17 to arrive on scene.

18 Q Okay. And in securing the location --- I guess
19 let me back up. The security sweep, that is one of
20 your primary goals to make sure there's no one else is
21 in the area?

22 A Yes, it is. It's to provide officers' safety and
23 EMS workers safety.

24 Q And was anybody else located in the building
25 other than the deceased --- the white female that you

1 observed on the floor?

2 A No, there was not.

3 Q Okay. In order to secure the scene, what did you
4 do?

5 A We began to place our crime scene tape around the
6 van and the other patrol cars that were there to kind
7 of cordon off an actual crime scene, because we didn't
8 know what we had at that point.

9 Q So that you would actually serve as the perimeter
10 of the crime scene?

11 A Correct.

12 Q Did EMS arrive fairly quickly?

13 A Yes, they did.

14 Q Were you responsible initially for kind of
15 maintaining the scene as well as the log?

16 A Yes, I was.

17 Q When EMS arrived, did you observe them go inside
18 the building?

19 A Yes, we did. We also informed them --- once we
20 conducted the security sweep and secured the scene, we
21 placed traffic cones next to the rounds so they would
22 not be disturbed or kicked around from their original
23 casing once EMS entered the crime scene.

24 Q So prior to EMS entering, you actually observed
25 --- you said rounds. What do you mean by rounds?

1 A Shell casings.

2 Q Shell casings?

3 A Yes.

4 Q And where were they primarily located?

5 A Right around the --- there was a table sitting in
6 the middle of the room. They were around the table,
7 the two tables in the middle of the room.

8 Q So you marked those so they would not be ---

9 A Disturbed.

10 Q Disturbed. And was investigations also notified?

11 A Yes, they were.

12 Q As well as crime scene investigators?

13 A Yes, ma'am.

14 Q Were you actually there when they did arrive?

15 A Yes, ma'am.

16 Q As a responding officer, is it actually your duty
17 to, I guess, interview witnesses and process the crime
18 scene itself?

19 A No.

20 Q That is actually for the investigators in the
21 crime scene?

22 A Correct. Our basic duties are to preserve the
23 scene as is until the investigators and any crime
24 scene personnel arrive on the scene.

25 Q I'm going to show you what's being marked as

1 was at.

2 Q Okay. So located right next to the bakery you
3 stated that is a bar?

4 A Correct.

5 Q Known as the Ale House Lounge?

6 A Correct.

7 Q And you're pretty familiar with this area when
8 you patrol?

9 A Yes, ma'am.

10 Q Is this area located in Richland County?

11 A Yes, it is.

12 Q And with respect to 81 Tommy Circle, we don't see
13 it on the map, but is it right across the street?

14 A Yes, 81 Tommy Circle would be approximately right
15 in here. (indicating)

16 Q Thank you.

17 A You're welcome.

18 THE COURT: Ladies and gentlemen, as we go
19 throughout the trial and different exhibits will be
20 introduced, all attorneys do it differently, so some
21 of them may hand the exhibits to you and you can pass
22 them around. Some of them will show them to you for a
23 brief second. That's completely up to the attorney
24 and how they want to present it. What you need to
25 understand is at the conclusion of the trial when you

1 go back to deliberate, all of the exhibits that have
2 been admitted into evidence will be sent back to the
3 jury room so you'll be able to spend as much time as
4 you need looking at anything. So no one is trying to
5 keep anything from you. The attorneys can do it in
6 their own style as to how they let you see it. You
7 will have any admitted exhibits with you in the back
8 when you begin deliberations.

9 Go ahead, Ms. Simpson.

10 MS. SIMPSON: Thank you, Your Honor.

11 BY MS. SIMPSON:

12 Q Just briefly, too, with respect to other roads in
13 the area near Tommy Circle, are you familiar with
14 Lucille Drive?

15 A Yes, I am.

16 Q And is that in fairly close proximity to the
17 incident location?

18 A Yes, it is.

19 Q And what about Bronx Road?

20 A Yes, it is.

21 Q Now, at some point did your shift end?

22 A Yes, it did.

23 Q At that point what did you do?

24 A The crime scene log was turned over to an Officer
25 Bunton at that time, and I was properly relieved.

1 Q And would that be the extent of your involvement
2 with respect to this case?

3 A Yes, it is.

4 MS. SIMPSON: Thank you.

5 THE COURT: All right. Cross examination?

6 MS. PINNOCK: I have no questions, Judge.

7 THE COURT: Okay.

8 MR. SCHNEE: No questions, Your Honor.

9 THE COURT: All right. Thank you very much,
10 Officer Brayboy. You may be excused.

11 THE WITNESS: Thank you.

12 THE COURT: All right. I'm going to assume
13 witnesses are excused from their subpoenas. If
14 somebody doesn't want somebody excused, just jump up
15 and let me know. I'll tell them they are not excused
16 from their subpoena, okay.

17 MR. KRZYSTON: Thank you, Judge.

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

19 MR. SCHNEE: Yes, sir.

20 THE COURT: Do you understand?

21 MS. GARFIELD: Yes, sir.

22 THE COURT: Very good. Call your next witness.

23 MS. GARFIELD: Thank you, Your Honor. The State
24 calls Theresa Baskin.

25 THERESA BASKIN,

1 after being duly sworn, testified as follows:

2 THE CLERK: Please have a seat and state your
3 full name for the record.

4 THE BAILIFF: Watch your step, ma'am.

5 THE WITNESS: Theresa Greer Baskin.

6 MS. BAMBACH: Your Honor, may we approach?

7 THE COURT: Sure.

8 All right. Ladies and gentlemen, stand up and
9 stretch your legs. Talk amongst yourselves.

10 (WHEREUPON, a bench conference was held in the
11 presence, but not within the hearing of the
12 jury.)

13 THE COURT: See, that was quick. You have the
14 idea. Whenever we do that, you don't need me to tell
15 you. Sometimes I will remind you. You're free to do
16 that, stretch your legs a little bit.

17 Ms. Garfield.

18 MS. GARFIELD: Thank you, Your Honor.

19 DIRECT EXAMINATION:

20 BY MS. GARFIELD:

21 Q Good afternoon, Ms. Baskin. Ms. Baskin, would you
22 please share with the jury where you live?

23 A 78 Tommy Circle.

24 Q Ms. Baskin, are you nervous today?

25 A Yes.

1 Q Have you ever testified before?

2 A No.

3 Q Ms. Baskin, are you familiar with a bakery that
4 is located near your home?

5 A Yes.

6 Q Were you also familiar with the Original Ale
7 House?

8 A Yes.

9 Q And just explain to the jury in proximity from in
10 your home, where they're located.

11 A The bar is approximately 150 feet from my front
12 door. The bakery is about 125.

13 Q And back in July of last year, were you familiar
14 with any of the employees at the bakery?

15 A No.

16 Q Did you have the occasion to wake up in the
17 middle of the night on July 1, 2013?

18 A Yes.

19 Q And just explain to the jury what woke you up?

20 A I got up to use the restroom, went in the kitchen
21 to get water, was just getting ready to sit down and
22 things happened.

23 Q All right. When you were getting water, did you
24 have a chance to look out your window?

25 A I did.

1 Q Please share with the jury what you observed when
2 you were looking out your window.

3 A When I looked out the window, the bar light was
4 off. There were no cars there. I could see the light
5 from the bakery door open, but I couldn't see the door
6 itself. I could just see the light from the door.

7 Q And after that, did you go back to your bedroom?

8 A I did.

9 Q And when you got to the bedroom, did you hear
10 anything that caught your attention?

11 A As soon as I sat on the edge of the bed, I heard
12 a woman scream.

13 Q What did you hear? Share with the jury exactly
14 what you remember?

15 A I just heard a woman screaming, "No, no, no," and
16 then heard bam, bam, bam, bam. I jumped up, screamed
17 to myself that those were gunshots.

18 Q And were the screams --- did they seem scary?

19 A It was terrifying. I mean, I can't describe the
20 terror that was in the voice.

21 Q And you recall that today just as you did back
22 then?

23 A Yes.

24 Q And based on hearing the gunshots and the
25 screams, Ms. Baskin, tell the jury what you did next?

1 A I jumped up, I grabbed my phone. I have dispatch
2 programmed into my cell phone. I went to call it and
3 accidentally disconnected and had to call again.

4 Q And what did you tell law enforcement when they
5 answered?

6 A That I had heard a woman screaming. I heard
7 gunshots. They asked me if I had seen anything. I
8 told them no.

9 Q And did law enforcement arrive?

10 A Within about two to three minutes.

11 Q And did they come to your home?

12 A Yes.

13 Q And did you tell law enforcement what you had
14 heard?

15 A I did.

16 Q And you told them about the light on in the
17 bakery?

18 A Well, not right at first. I told them that I
19 really could not tell where the sound came from
20 because it echoes in that area. I said it could have
21 been in front of my house. It could have been beside
22 my house, across the street, behind me, that I just
23 didn't know.

24 Q But it caused you such concern that you felt the
25 need to call police?

1 scene?

2 A Yes.

3 Q And once you arrived did they give you some
4 additional information about where the victim may be?

5 A All we were told when we arrived on the scene ---
6 there were several officers on the scene. They had
7 actually already roped off the outside of the
8 building, and the law enforcement officer that I came
9 in contact with said that there was a victim inside
10 the building, just one.

11 Q And did you then proceed inside?

12 A I did.

13 Q What did you observe and what actions did you
14 take?

15 A I walked inside. I had my cardiac monitor. I
16 found a female victim laying under a table, a large
17 pool of blood up underneath her head. There was no
18 response. There was no pulse, she was not breathing.
19 I placed her on the cardiac monitor and confirmed that
20 she was in fact deceased.

21 Q And with respect to, I guess, your movement of
22 the body, when you approached it, did you remove
23 clothing or did you turn the body over? What did you
24 do?

25 A No. When I observed the body and being that it

1 THE WITNESS: At that point in time, I did not
2 dust for prints for this scene.

3 MS. PINNOCK: Okay. You took photographs?

4 THE WITNESS: Yes.

5 MS. PINNOCK: Did you collect the shell casings
6 or did somebody else collect the shell casings?

7 THE WITNESS: I was there. I had assistance from
8 another crime scene officer who was actually in
9 training at the time. He assisted me when I was
10 there, but he collected the shell casings.

11 MS. PINNOCK: Okay.

12 THE WITNESS: And we were both there at the same
13 time.

14 MS. PINNOCK: As far as training, you said you've
15 been qualified as an expert once before.

16 THE WITNESS: I believe I may have testified in
17 federal court in a murder case back then. I believe
18 it was this year. If I recall, I think the lawyers
19 worked out where I was to testify as an expert
20 witness.

21 MS. PINNOCK: Okay. But you were not prepared to
22 testify as an expert when you first got there? They
23 had worked something out.

24 THE WITNESS: I assume so, ma'am, but I cannot
25 recall.

1 Q In State's Exhibit Number 93, is that a close up
2 of 91?

3 A Yes.

4 Q And what does that show that are marked (1) and
5 (2) there?

6 A That would be --- (1) should be --- if I may.

7 Q You can get yours.

8 A Oh, Marker number (1) should be a 45 GAP shell
9 casing.

10 Q When you say it's a 45 GAP shell casing, how were
11 you able to determine that there on the scene that
12 night?

13 A There's a marking on the back of the shell casing
14 to tell you what caliber it is.

15 Q That was actually documented here at Marker
16 number (1); is that correct?

17 A Yes.

18 Q And Marker number (2), what is that?

19 A Marker number (2) would be a projectile or
20 bullet, a fired bullet.

21 Q And you said you were able to determine with the
22 shell casing what the make and model is. Were you
23 able to do that with the projectile?

24 A No.

25 Q And that's where they were located when you got

1 there that night?

2 A Yes.

3 Q And when you go through and mark these ---
4 because we go from one, two, three, four, and five, do
5 you put them in any order or do you have any idea
6 which one got where first?

7 A It's not really a set order. It's just when I
8 come upon them first, I just go ahead and start
9 marking them as one, two, three, four, five.

10 Q And State's Exhibit Number 95, that's Marker (1)?

11 A Yes. That is an empty shell casing.

12 Q And then Marker number (2) is a close up of
13 State's 97 shows ---

14 A That would be the fired bullet or projectile.

15 Q Moving on with some distance shots on State's
16 Exhibit Numbers 98 and 99, is that your --- what
17 number marker is that?

18 A That would be Marker number (3).

19 Q What item did you find at Marker number (3)?

20 A Marker (3) would be a 45 caliber shell casing,
21 empty shell casing.

22 Q And then State's Exhibit Number 104. Is that a
23 close up of that?

24 A Yes.

25 Q Do you also use Marker number (4)?

1 A Yes.

2 Q Okay. So is this --- you can't miss the number
3 here. State's Exhibit Number 106 is that what's
4 located?

5 A Yes.

6 Q You can see it better with State's Exhibit Number
7 107.

8 A Yes.

9 Q And what item did you mark at number (4) that's
10 shown in State's Exhibits 108, 109?

11 A Number (4) would be a 45 empty shell casing.

12 Q Continuing with the markers, what's the next
13 marker?

14 A It should be Marker number (5).

15 Q And in this, I think there are actually two
16 markers on State's Exhibit 110?

17 A Yes, (5) and (6).

18 Q Okay, (5) and (6). And what items did you find
19 at Markers (5) and (6)?

20 A (5) would be 45 empty shell casing. (6) would be
21 a 40 caliber empty shell casing.

22 Q You mentioned there was a 40 caliber shell
23 casing?

24 A Yes.

25 Q As well as a 45?

1 Q Once you had gathered all those items into
2 evidence, did you then transport them back to Columbia
3 Police Department?

4 A Yes.

5 Q During the time that you had any of these items
6 of evidence that you had collected there at the scene,
7 did anyone alter them, tamper with them, or do
8 anything with them in any way?

9 A No.

10 Q When you submitted them into the evidence room or
11 to evidence people, were they packaged properly?

12 A Yes.

13 Q Did anyone have any access to them while they
14 were in your care?

15 A No.

16 Q Also at the scene, I believe you testified
17 earlier that you collected a camcorder and actually I
18 think that you returned to headquarters with that, as
19 well?

20 A Yes. A DVR.

21 Q A DVR. I'm not real good with those fancy terms.
22 Once you collected that, did you make contact with a
23 person in your criminal investigative unit that helped
24 you as far as retrieving some video?

25 A Yes, I made contact with my supervisor, Sergeant

1 Grooms.

2 Q And what was he able to retrieve from the DVR
3 once you had it in your possession?

4 A He was able to hook it up to a monitor, a video
5 monitor. We were able to then view the actual
6 shooting incident.

7 Q And did y'all view that that day?

8 A Yes.

9 Q And once you were actually able to --- the actual
10 shooting is on this video?

11 A Yes.

12 Q Once you were able to view that, did you then
13 return to the scene later that day to collect some
14 additional evidence?

15 A Yes.

16 Q How did you --- how did the video help you in
17 knowing where you might or might not be able to
18 collect evidence?

19 A Basically it just showed how the suspects
20 approached inside the building, what possibly they may
21 have touched or bumped into to give me an idea of what
22 areas I needed to process to get any fingerprints or
23 DNA and the video helped me to decide where these
24 suspects were standing at the time and how they left
25 the scene.

1 swabs, and the projectile at autopsy, did you then
2 after viewing the video proceed back to the scene?

3 A Yes.

4 Q And when you went there later that day, did you
5 collect some additional evidence?

6 A Yes.

7 Q And I'm going to show you State's Exhibit 326 and
8 ask you if you recognize that?

9 A Yes, this was a large spoon that was located
10 beside the victim that was collected.

11 Q And why did you collect that, sir?

12 A If I recall after reviewing the video, the victim
13 used the spoon to strike one of the suspects, and by
14 doing so, she basically touched the suspect, so I was
15 using whatever means I can to hopefully maybe identify
16 the suspect. So the spoon was collected for possible
17 DNA from the suspect.

18 Q And also collected that day is State's Exhibit
19 Number 343, I believe. Is that an item you went back
20 and collected?

21 A Let me see what I did.

22 (Pause.)

23 Yes.

24 Q And was that the purple top that was underneath
25 one of the pieces of equipment?

1 Q Where is your business located?

2 A We have two locations. We have one that's
3 downtown Columbia at the corner of Sumter and
4 Pendleton and we have a new location in West Columbia
5 on Sunset.

6 Q Did you have that location in West Columbia back
7 in July of 2013?

8 A No, ma'am.

9 Q And do you do all your baking on site?

10 A Yes, we do.

11 Q Do you do your baking --- back in July of 2013,
12 did you do all your baking on site?

13 A We did all our baking at a separate bakery
14 facility.

15 Q Where was the separate bakery facility?

16 A It was 93 Tommy Circle.

17 Q Are you familiar with the victim in this case,
18 Ms. Kelly Hunnewell?

19 A Very much, yes.

20 Q How do you know Ms. Hunnewell --- how did you
21 know Ms. Hunnewell?

22 A Kelly was an employee of ours, worked with us for
23 about two-and-a-half years.

24 Q What sort of shift did she work there, Ms.
25 Schleuter?

1 A Her shift was --- it varied. We were very
2 flexible with her because of her children, but
3 primarily she worked anywhere from three to five in
4 the morning until eleven, ten o'clock in the morning.

5 Q And when you say three, that would be 3:00 A.M.?

6 A 3:00 A.M.

7 Q So she came to work around 3:00 A.M.?

8 A She came to work around --- that was up to her.
9 Some days she did come that early, and then she would
10 go home, get her kids off to school and come back to
11 work.

12 Q How many children did Ms. Hunnewell have?

13 A Four.

14 Q Are you familiar with those children?

15 A Yes, she would bring them in on the weekends.

16 Yes, I did know the children.

17 Q What were their ages?

18 A Six, eight, ten and 13.

19 Q And that was back in 2013?

20 A Uh-huh.

21 Q And okay. You said she would come in at
22 3:00 A.M. Would she report to the Tommy Circle
23 bakery?

24 A Yes.

25 Q I'm going to hand you what's been marked as

1 have an opportunity to review any video involved in
2 this case?

3 A Yes, ma'am.

4 Q And please explain to the jury how that came
5 about?

6 A The investigators involved in the case brought me
7 a DVR. They needed the video that was on the DVR,
8 pulled off and put on a CD to preserve for trial.

9 Q And that DVR had been found at the bakery?

10 A Yes, ma'am.

11 Q On Tommy Circle?

12 A Yes, ma'am.

13 Q In Richland County?

14 A Uh-huh.

15 Q And you actually pulled the video off that
16 camera, if you will?

17 A Yes, ma'am.

18 Q I'm going to be hand you what's been marked as
19 State's Exhibit 323. Are you familiar with this video
20 or this DVD?

21 A I am.

22 Q What is contained on that DVD?

23 A It's a video from the DVR. There's several
24 different cameras, several files on here. It's the
25 video.

1 Q From the bakery?

2 A Yes, ma'am.

3 Q How many camera angles were there?

4 A I believe there's four.

5 Q And you've had an opportunity to review this
6 video, correct?

7 A Yes.

8 Q Has it been changed or altered in any way by you?

9 A It hasn't.

10 MS. GARFIELD: Your Honor, at this time, I'd like
11 to introduce State's Exhibit Number 323 into evidence.

12 MR. KRZYSTON: Without objection.

13 MR. SCHNEE: That's the original files? No
14 objection, Your Honor.

15 THE COURT: All right. State's 323 without
16 objection.

17 (WHEREUPON, State's Exhibit Number 323 was
18 admitted into evidence.)

19 BY MS. GARFIELD:

20 Q Sergeant Rose, do you also in your duties with
21 Columbia Police Department assist in transporting
22 evidence to our state law enforcement division?

23 A Yes, ma'am.

24 Q Did you particularly take any items of evidence
25 to SLED in this case?

1 patrol, you were on the streets pretty much every day,
2 correct?

3 A Yes.

4 Q Are you familiar with a number of individuals in
5 the community?

6 A Yes, I am.

7 Q Do you actually know a Donald Moore?

8 A Yes, ma'am.

9 Q Without telling us ---

10 MS. PINNOCK: Your Honor, I'll renew my
11 objection.

12 THE COURT: All right. Overruled.

13 BY MS. SIMPSON:

14 Q On July 2nd, did Mr. Moore actually approach you?

15 A Yes, ma'am.

16 Q Tell us how that occurred.

17 A I was driving on Two Notch Road. Usually if I
18 see him, he usually flags me down until we stop. We
19 have some ---

20 Q You have a relationship with him?

21 A Yes, just some small talk. That day he flagged
22 me down, as well.

23 Q Okay. So he flagged you down and you spoke with
24 him, correct?

25 A Yes, ma'am.

1 Q Without telling me the details of your
2 conversation --- did you have a conversation with him?

3 A Yes, ma'am.

4 Q And in that conversation, again without telling
5 me the details, did he indicate to you that he had
6 some information regarding individuals and their
7 location who may be involved in a recent murder that
8 had occurred?

9 A Yes, ma'am.

10 Q And did he indicate what that murder was or where
11 it was?

12 A Yes.

13 Q And was that murder at Tommy Circle?

14 A Yes.

15 Q And after you were given this information, what
16 did you do with --- what did you do?

17 A I immediately turned it over to my sergeant at
18 the time, Sergeant Shuler.

19 Q Sergeant Shuler?

20 A Yes.

21 Q And is it unusual for people to approach you or
22 provide you with information regarding certain matters
23 that occur in the community?

24 A No.

25 Q And as protocol just you turn it over to

1 somebody, such as your supervisor?

2 A Yes.

3 Q Were you actually working or actively involved in
4 the investigation of the murder ---

5 A No.

6 Q --- at Tommy Circle?

7 A No.

8 Q And once you turned that information over to
9 Sergeant Shuler, are you aware of what he did with
10 that information?

11 A As soon as I turned it over, I was still at the
12 desk. He notified investigations. I cannot recall
13 which investigator he contacted with that.

14 Q So he would have notified possibly one of the
15 investigators involved in the murder case?

16 A Yes.

17 Q Outside of your conversation and contact with Mr.
18 Moore about him having information regarding the
19 murder, was that the extent of your involvement in
20 this case?

21 A Yes, ma'am.

22 Q Thank you, Officer Tull.

23 THE COURT: Ms. Pinnock?

24 MS. PINNOCK: Beg the Court's indulgence.

25 (Pause.)

1 Your Honor, I have no questions. Thank you.

2 THE COURT: Mr. Schnee?

3 MR. SCHNEE: No questions. Thank you.

4 THE WITNESS: Thank you.

5 THE COURT: Have a good day.

6 THE WITNESS: Thank you.

7 THE COURT: Thank you.

8 Call your next witness.

9 MS. GARFIELD: The State calls Investigator
10 Valerie Moorner.

11 INVESTIGATOR VALERIE MOORER,

12 after being duly sworn, testified as follows:

13 THE CLERK: Please have a seat. State your full
14 name for the record.

15 THE WITNESS: Valerie Moorner.

16 DIRECT EXAMINATION:

17 BY MS. GARFIELD:

18 Q Investigator Moorner, please share with the jury
19 where you're employed.

20 A Columbia Police Department.

21 Q What do you do at the Columbia Police Department?

22 A I work as a violent crimes investigator.

23 Q How long have you been in law enforcement?

24 A Since --- well, roughly 15 years.

25 Q Is all of that with the City of Columbia?

1 A No, ma'am.

2 Q Please share with the jury your experience.

3 A I've worked for the department of justice for
4 roughly three, three-and-a-half years. I've been with
5 the City of Columbia since 2003.

6 THE COURT: Okay. You're going to need to scoot
7 closer to that microphone. I can barely hear you.

8 BY MS. GARFIELD:

9 Q And we all know that's not like you.

10 A No.

11 Q How long have you been in investigations?

12 A I've been in investigations probably about six
13 years. I've worked narcotics investigations, as well.

14 Q And specifically in July of 2013, were you in
15 investigations at that time?

16 A Yes, ma'am.

17 Q Are you assigned to any particular area of
18 investigations?

19 A Violent crimes, homicide unit.

20 Q So do you just investigate homicides?

21 A No, ma'am. I investigate any violent crimes,
22 assaults.

23 Q Specifically, did you get a call to report to any
24 investigation on July 1st of last year?

25 A Yes, ma'am.

1 Q Can you explain to the jury how you became
2 involved?

3 A Well, once an incident occurs, you have a lead
4 investigator and you have a few other investigators
5 that respond. I was called by another investigator to
6 assist in this case.

7 Q Who determines who was the lead investigator?

8 A The sergeant.

9 Q Is that on a rotating basis?

10 A Yes, ma'am, kind of sort of.

11 Q Be you were not the lead investigator?

12 A No, ma'am.

13 Q But you did assist?

14 A Yes.

15 Q Did you report to Tommy Circle where the bakery
16 was located?

17 A Yes, ma'am.

18 Q And share with the jury about what time you
19 believe you got there.

20 (Pause.)

21 Investigator Moorer, I see you're pulling out
22 papers. Are those notes you made?

23 A Yes.

24 Q And you made those at the time of your
25 investigation?

1 A Yes.

2 Q They were contemporaneous with what you were
3 doing?

4 A Yes.

5 Q Are you using them today to refresh your memory?

6 A Yes, ma'am.

7 Q Please share with the jury what time you
8 responded?

9 A I arrived at 93 Tommy Circle at 7:15 A.M.

10 Q And when you got there, what other law
11 enforcement was there?

12 A Sergeant Reese was there, Investigator McCoy was
13 there at the time and Investigator Hilton.

14 Q And Sergeant Reese and Investigator McCoy are
15 present in the courtroom?

16 A Yes.

17 Q Sitting at the prosecution table?

18 A Yes.

19 Q And when you got there, were you given any sort
20 of task from your sergeant and Investigator McCoy?

21 A Yes, that morning I was given the task to canvas
22 the area, to check to see what businesses in the area
23 may have had outside cameras.

24 Q And what all businesses did you go to look to see
25 if they had those cameras?

1 A I went to 3126 Beltline Boulevard, which is Foxy
2 Ladies Salon; 12 Tommy Circle, Ale House; 3117
3 Beltline Boulevard, Shell Gas station; 3000 Beltline
4 Boulevard, C&J Auto Sales; 3027 Beltline Boulevard.
5 That's the Beltline Village Apartments.

6 Q And out of those businesses that you went to see
7 if they had video, were you able to obtain any?

8 A Not at that particular time in the morning, no,
9 ma'am.

10 Q At that particular time in the morning, was the
11 Ale House open yet?

12 A No, ma'am.

13 Q And then did you have any contact with the
14 openers of the bakery?

15 A I did.

16 Q And what did you do with that?

17 A I stood by McCoy as he spoke with them.

18 Q Did you obtain their contact information for
19 further developments?

20 A I did.

21 Q Did you do anything as far as with the van that
22 belonged to Ms. Hunnewell?

23 A Yes, Sergeant Reese asked me to follow the tow
24 truck, as collision one as they transported the van
25 back to Columbia Police Department.

1 Q And what was the purpose of that?

2 A Wasn't sure how the van may have been involved,
3 and we knew it belonged to the victim due to the
4 license tag.

5 Q So as the cautionary measure, did you take the
6 van to the Columbia Police Department?

7 A Yes.

8 Q Did you later learn if the van had any relevant
9 value to this case?

10 A We learned that it didn't.

11 Q And then did you also attend the autopsy of
12 Ms. Hunnewell?

13 A Yes.

14 Q And that was done at the hospital?

15 A Yes, ma'am.

16 Q Which hospital?

17 A Richland Memorial.

18 Q And what was your capacity there at the autopsy?

19 A I stood by while CSI George Wise, took photos and
20 collected clothes and the projectile that was removed
21 from the victim's body.

22 Q And so you were there to assist Investigator
23 Wise?

24 A Yes, normally in an autopsy when there is a case,
25 an investigator just stands by and observes in case

1 they have questions.

2 Q And after the autopsy --- do you know about what
3 time the autopsy was held?

4 A I arrived there at nine o'clock. I'm not sure
5 exactly if they started at nine.

6 Q And after the autopsy --- and about how long
7 would an autopsy take place?

8 A Normally it would take an hour.

9 Q And after you --- the autopsy was completed, what
10 did you do next in the investigation of this case?

11 A Around 11:30 we --- I think we had a meeting
12 where we went back out to the location on Beltline,
13 and we canvassed some more because it was later in the
14 morning and the businesses should be open.

15 Q And you say canvassed, can you explain what you
16 mean by canvassing the area?

17 A Canvas means we were walking around knocking on
18 doors trying to get any help that's pertinent to the
19 case.

20 Q Were you able to find any residents in the area
21 that had any information?

22 A I was able to speak to some more of the
23 businesses that were open to see if they had video. A
24 couple of the businesses I wasn't able to get
25 anything.

1 I actually didn't collect anything at that time,
2 but I spoke to the Foxy Ladies Salon. Her cameras
3 only worked when she is ---

4 MR. SCHNEE: Objection, hearsay.

5 THE COURT: Overruled.

6 MS. GARFIELD: Thank you, Your Honor.

7 BY MS. GARFIELD:

8 Q Please continue.

9 A She said her cameras only work while she is
10 inside her business. I went back to the Ale House,
11 but Investigator Hilton had already made contact with
12 them to retrieve whatever video they had. At the
13 Shell station, spoke to the clerk there, but you
14 always have to wait until a manager comes to assist
15 with the video, which that wasn't successful.

16 Beltline Village Apartments, they don't have any
17 cameras. They don't even have an office on site. C&J
18 Autos, they said that the owner is --- wasn't
19 available to give me any type of video, and I haven't
20 heard from him after that.

21 We knocked on several doors. Actually, the
22 majority, all the doors at Beltline Village Apartments
23 to try to make contact with anyone that may have seen
24 anything at that time.

25 Q And did you eventually get asked to do anything

1 from Investigator Gilliam?

2 A From Investigator Gilliam?

3 Q Yes.

4 A Well, Investigator Gilliam and I were tasked with
5 getting photos of the residents of 2834 Blondell Court
6 and 2849 Lucille Avenue.

7 Q And at that time, specifically at Lucille Avenue,
8 were you familiar at that time with who resided
9 there?

10 A Yes, ma'am.

11 Q And who was that?

12 A I think it was the brothers, Troy and Trenton.

13 Q So Trenton Barnes who is on trial today?

14 A Yes.

15 Q And his brother Troy Stevenson?

16 A Yes.

17 Q And what purposes of information --- why are you
18 getting information about that house?

19 A Well, Investigator McCoy received several tips.

20 MR. SCHNEE: Objection, Your Honor, hearsay.

21 THE COURT: Overruled.

22 BY MS. GARFIELD:

23 Q Go ahead.

24 A Investigator McCoy received several tips from
25 Crime Stoppers. At that time when we receive

1 information, we go out and investigate and gain intel.

2 Q And that information gathered would have
3 pertained to Lucille Drive --- I'm sorry, Lucille
4 Avenue?

5 A Yes.

6 Q And you did gather that information for
7 Investigator McCoy?

8 A Yes.

9 Q Okay. Did you then continue on and assist in
10 gathering any information concerning Bronx Road?

11 A I didn't gather information. I think the
12 information was already there. I did assist in the
13 search warrant at ---

14 MR. KRZYSTON: Objection, Your Honor.

15 THE COURT: Previous argument?

16 MR. KRZYSTON: Previous argument.

17 THE COURT: Overruled.

18 BY MS. GARFIELD:

19 Q Did you help in the execution of the search
20 warrants?

21 A Yes.

22 Q And that was at Lucille Drive?

23 A Yes.

24 Q As well as Bronx Road?

25 A Yes.

1 Q Did you know who was a resident at Bronx Road?

2 A Yes, ma'am.

3 Q And who was that?

4 A Lorenzo Young.

5 Q And he had been made --- there was specific
6 information given to y'all to look into Lorenzo Young?

7 A Yes, ma'am.

8 Q And did you eventually or did law enforcement
9 eventually obtain a video from the Ale House?

10 A Yes.

11 Q And was video obtained from the bakery?

12 A Yes.

13 Q And Investigate Moorer, did you have an
14 opportunity to review those videos?

15 A Yes.

16 Q Since then have you also reviewed a video that
17 was made by a Mr. Christopher Watkins that made it
18 where you could see all the videos at once?

19 A Yes.

20 MS. GARFIELD: Your Honor, at this time I'd like
21 to publish the video.

22 THE COURT: All right. Let's do this. Let's go
23 ahead and take our morning break. We've been going
24 for about an hour now. That will give everybody time
25 to get the video equipment set up, and so that's not a

1 THE COURT: When was the false information?

2 MS. CAMPBELL: 2000 to 2001.

3 THE COURT: Ms. Good, that's your client, right?

4 MS. GOOD: Yes, sir.

5 THE COURT: What has he told you about his
6 juvenile record?

7 MS. GOOD: The only information I've been given
8 is that when he was 11 years old ---

9 THE COURT: What is that noise? Is that you?

10 THE DEPUTY: Yes, sir.

11 THE COURT: You're trying to make it work?

12 THE DEPUTY: Yes, sir.

13 THE COURT: Okay. That's fine. Go ahead.

14 MS. GOOD: It was about 2000, 2001 when he was
15 about 11 years old, he said it was originally murder.
16 He got involuntary manslaughter. I'll try to get the
17 exact wording, but it was false communication
18 regarding a bomb, something like that.

19 THE COURT: And what was the sentence?

20 MS. GOOD: I do not know. I can ask.

21 THE COURT: Okay, ask that for me, please. What
22 I need to know is what was his sentence and when was
23 he essentially released from his sentence.

24 MS. CAMPBELL: And, Your Honor, I have some other
25 matters with that witness, as well, that we'll have to

1 take up outside of the presence of the jury, but I
2 don't think they're appropriate. As far as other
3 witnesses coming up, Ms. Rolanda Coleman is a
4 potential witness. I'm not seeing any, but she has
5 are a pending burglary in the first degree, which does
6 carry 15 to life.

7 Your Honor, we would caution the court that is a
8 charge that Mr. Lorenzo Young is also charged with.
9 We do not think under the rules it is permissible for
10 Mr. Schnee to be able to go into the facts and/or
11 circumstances surrounding that case, specifically that
12 Lorenzo Young is her codefendant or anything else
13 about it. That's my understanding of the law.

14 THE COURT: All right. So on Ms. Coleman, do you
15 know anything besides the pending burglary first, Mr.
16 Krzyston?

17 MR. KRZYSTON: I am unaware unless she has
18 juvenile convictions.

19 MS. CAMPBELL: That I don't know.

20 MR. KRZYSTON: Could we perhaps are run a check
21 while we're ---

22 THE COURT: How old is she?

23 MR. KRZYSTON: She is 20.

24 MS. CAMPBELL: We can double check that.

25 THE COURT: Okay.

1 MR. KRZYSTON: She was born in '96.

2 THE COURT: What did you find out, Ms. Good?

3 MS. GOOD: Your Honor, regarding the involuntary
4 manslaughter, he was released in 2003. Clarification
5 on the false information communication regarding the
6 bomb, that was in 2007 and he had two years and he was
7 released in 2009.

8 MR. KRZYSTON: Judge, I would point to the court
9 or note for the Court's attention that we need an
10 exact date of release for his confinement. The
11 incident in question took place on July 1st, 2013.

12 If it's after --- if the release from confinement
13 is after July 1st, 2003....

14 MS. CAMPBELL: Your Honor, the Rules are ten days
15 from the time he testifies.

16 THE COURT: Right. Not ten days from the
17 incident date.

18 MR. KRZYSTON: Sorry.

19 THE COURT: So the information concerning the
20 involuntary manslaughter is out, the information ---
21 the false information ---

22 MS. GOOD: The false information or communication
23 regarding a bomb.

24 THE COURT: Okay. And he says that's in the 2007
25 to 2009 range?

1 MS. GOOD: Yes, sir.

2 THE COURT: Okay. That will be admissible. It
3 falls within the ten years. It is a --- I don't even
4 know what the possible punishment is, but under an
5 issue involving deceit or false statement or
6 dishonesty, is in regardless of the punishment,
7 therefore a 403 analysis is necessary, so what else?

8 MR. KRZYSTON: Judge, I understand your ruling
9 with regard to all of this. I would, however, object
10 for the record based on the fact that we do not have
11 an official determination or printout for Mr. Moore's
12 adjudications. I think it would be more appropriate
13 to make the determination we just made based on
14 official documents from the State of Louisiana so that
15 to the extent that would affect your ruling, I object
16 to that.

17 THE COURT: Well, nobody has those?

18 MS. CAMPBELL: No, it's a juvenile record so we
19 wouldn't have access to it.

20 MR. SCHNEE: Judge, if I may inquire as to if he
21 was on type of supervised release or parole, that
22 would be a continuation of sentence, beyond the 2003
23 date. I just don't know if they did that.

24 MS. CAMPBELL: If that were the case, it would be
25 transferred to South Carolina and we would have a

1 record it.

2 THE COURT: And it says confinement. The rule
3 says confinement.

4 MS. CAMPBELL: Yes, sir.

5 THE COURT: Okay.

6 MS. CAMPBELL: Your Honor.

7 THE COURT: So we're clear on Mr. Moore, burglary
8 second two counts in 2012. He has a pending strong
9 arm robbery. There's some kind of false information
10 about a bomb and that's it. Okay.

11 MS. CAMPBELL: And, Your Honor the final witness
12 we could take up is Ms. Latoya Barnes. Her only prior
13 record is back in 1998 for an AB/HAN for which she got
14 three years probation, so that would not be admissible
15 under the rules.

16 THE COURT: Anything as to that, Mr. Krzyston?

17 MR. KRZYSTON: Ms. Pinnock is going to address
18 that, Your Honor.

19 THE COURT: Okay.

20 MS. PINNOCK: I'm sorry, Your Honor. Again, that
21 was a ---

22 MS. CAMPBELL: 1998 AB/HAN, Your Honor.

23 MS. PINNOCK: I have nothing.

24 THE COURT: Mr. Schnee, on Ms. Barnes?

25 MR. SCHNEE: Nothing regarding her record.

1 However, I have been informed by her attorney that she
2 is intending to plead the Fifth.

3 THE COURT: Okay.

4 MS. CAMPBELL: Your Honor, I have handed up case
5 law on that specific that I thought was going to apply
6 to Mr. Moore.

7 THE COURT: Who is Ms. Barnes' attorney?

8 MR. SCHNEE: Art Aiken.

9 THE COURT: Okay. Okay. Let's go through this
10 pleading the Fifth issue.

11 MS. CAMPBELL: Yes, Your Honor. I've handed up
12 case law, Your Honor. As far as Donald Moore goes,
13 Your Honor, you are familiar with him somewhat.
14 Basically, he is the person who came forward to police
15 and was able to give information to the police.
16 Specifically the bulk of the information he gave to
17 police was information he said he got from Troy
18 Stevenson, who is not on trial today. Of course, that
19 would all be hearsay and we would not be intending to
20 go into all of that because Mr. Stevenson is not on
21 trial today. I don't know how we could go into that.

22 However, in addition to that, he was able to give
23 additional information to law enforcement, and
24 specifically he talks about in his statement to law
25 enforcement when he was interviewed that he became

1 aware of a plan to rob the Ale House that Thursday the
2 week before where Troy Stevenson and the information
3 was from Lorenzo and he specifically said that when
4 asked if he had ever seen Lorenzo with a gun, that
5 Lorenzo showed him a gun the night before or the night
6 of this actual incident between 7:45 and 8:00 o'clock
7 or 7:30 and 8:00 o'clock depending on which part he is
8 talking about. He was also able to --- he indicates
9 he has seen the video and he is able to recognize
10 Lorenzo in the video, that he recognizes the hoodie
11 and the hat specifically as the ones that Lorenzo
12 always wears. He also describes the clothing Lorenzo
13 was wearing when he saw him that evening before
14 between 7:30 and 8:00 o'clock.

15 He is subsequently shown a lineup the next day
16 after giving this information, and we do need to have
17 a hearing on that, Your Honor, where he is shown six
18 photographs and ultimately identifies Lorenzo in the
19 lineup, and I can hand that up to the court. We have
20 not had a hearing on that yet, Your Honor. The
21 defense is requesting one.

22 In addition to that, Your Honor, as you are
23 aware, he was interviewed by our office on
24 October 20th. At that point according to him, he said
25 it was all correct. There was one lie. We then had

1 another hearing where he testified on November 3rd.
2 In that hearing, as I recall, he said he told two
3 lies. You then directed us to inquire further of him,
4 which we did on the next day with his lawyer present,
5 and he then said everything he said was a lie except
6 for two parts and the two parts that were true was
7 that he was in a gang, the Bloods, and the night
8 before he was with a girl in the neighborhood.

9 At that point, he then gives a reason for the
10 purpose of him coming forward and lying about everyone
11 involved. Your Honor, the other thing we need to take
12 up with him too, and I think we'll have to have a
13 hearing on this, if he were allowed to testify is ---
14 in this case we're trying to keep it out that everyone
15 is in a gang. They're all Bloods, including these two
16 defendants and Mr. Troy Stevenson. They're all
17 associated that way.

18 He makes reference to say that, and I would ask
19 the court just to direct him that he cannot refer to
20 being in a gang with him or them being in a gang or
21 anything of that nature. Pursuant to your earlier
22 rulings, I don't want to cause a mistrial at this
23 point or do anything to go outside the realm.

24 The extent of what we would be asking him and we
25 would be impeaching him on the information he came

1 forward with, nothing to do with what Troy Stevenson
2 told him, because that would be hearsay at this point.
3 We don't plan on getting into that. However, his
4 observations of Lorenzo the night before, seeing him
5 with a gun, where he took the gun which was in Troy
6 Stevenson's house, what he was wearing that night, how
7 he recognizes the hoodie that Lorenzo had on, and why
8 he came forward, we feel like are relevant at this
9 point. We got the email from his attorney last night
10 that he plans on asserting the Fifth and, Your Honor,
11 I have handed up case law specifically State vs.
12 McGuire and State vs. Hughes and State vs. Perry. I
13 understand asserting the Fifth if you are a defendant
14 or implicated in this crime, Your Honor, this one is a
15 little bit different because this is a witness.

16 I would imagine the defense is going to say that
17 since he is asserting the Fifth, we can't put him up
18 for that sole purpose to assert the Fifth in front of
19 the jury. We agree with that if he were a defendant.
20 However, here, Your Honor, I'm not quite sure why he
21 is asserting the Fifth. He has already testified as
22 far as giving false information. I guess that would
23 be perjury at this point. That testimony is already
24 done, and I guess I'm just asking the court for
25 guidance on how you want to handle this.

1 In reviewing McGuire, which is a 1979 case, which
2 is quoted in State vs. Hughes and also State vs.
3 Perry, it's well settled that a witness who is not a
4 defendant, who invoked the privilege only after
5 incriminating questions had been asked before them.

6 Your Honor, we do think we have a right to at
7 least impeach him on the information that he came
8 forward with to police.

9 THE COURT: All right. So why is he --- what is
10 he asserting his Fifth Amendment right for, Ms. Good?

11 MS. GOOD: Your Honor, after discussions with him
12 and you've had some history knowing which statements
13 he has given to law enforcement, as well as on the
14 stand previously and subsequently to the solicitor's
15 office, he is pleading the Fifth regarding
16 incriminating himself against giving false information
17 to law enforcement.

18 THE COURT: Well, he has already incriminated
19 himself on that, so he doesn't have a Fifth Amendment
20 right at that point.

21 MS. GOOD: At that time he did that, Your Honor,
22 on the stand, it was only under oath he said that he
23 had only given two lies at that point. Subsequently
24 we found out that he is saying it's more than that,
25 and he has not testified under oath to any of that at

1 this point. That's what he would be asserting,
2 essentially.

3 (Pause.)

4 THE COURT: This McGuire --- in this Hughes case
5 you gave me, it says that neither the State nor the
6 defense is allowed to call a witness if they know the
7 witness will invoke their Fifth Amendment rights.

8 MS. CAMPBELL: In Hughes, Your Honor. I think
9 the Fifth Amendment rights have to be related to the
10 actual --- what we're on trial for. If that's the
11 case, we would never be able to call any witnesses who
12 is slightly hostile towards us because they would all
13 assert the Fifth. The defense counsel, Ms. Good, said
14 specifically he is not asserting the Fifth as far as
15 what this crime is here today, only as to whether or
16 not he would be committing perjury, which has already
17 been done at a prior hearing where he was on the
18 stand.

19 MS. CAMPBELL: I believe the cases that are
20 quoted in here specifically talk about how when a
21 defendant tries to call a codefendant.

22 THE COURT: Well, a codefendant is clearly not
23 allowed.

24 MS. CAMPBELL: Yes, sir.

25 THE COURT: That's not allowed to happen, but

1 that's not what Hughes says. Hughes says calls a
2 witness. It doesn't say call a witness in the case or
3 call a codefendant or call a co-conspirator. It says
4 call a witness.

5 MS. CAMPBELL: And it talks about on the stand
6 solely to allow the jury to draw adverse inferences.
7 Your Honor, we can go so specifically as to limiting
8 our questioning of this witness as who he was, how he
9 knows the people, and did you come forward and give
10 information to the police. I think we should be able
11 to do that at the very least. I don't think that
12 would be incriminating at any point. If you're saying
13 that he has the right to assert because of either
14 perjury or false information to police.

15 Otherwise anybody with any information at any
16 time can just come forward and assert the Fifth.
17 Under that theory, we would always be on guard from
18 being able to impeach. The rules specifically allow
19 for us to impeach our own witness.

20 THE COURT: My issue with Mr. Moore is he has
21 already testified before this court under oath, and he
22 has already admitted to essentially lying to the
23 police, which for the record is a 30-day misdemeanor
24 if he was ever even charged with it, so I don't know
25 that he has any Fifth Amendment right to remain

1 silent.

2 MS. CAMPBELL: That would be our position.

3 THE COURT: I mean, they're not going to be able
4 to charge him for every single lie that he told, if it
5 all happened in one sitting, so I don't understand why
6 he even has a Fifth Amendment right as to the issue of
7 whether or not he lied to the police because he has
8 already testified. He has already subjected himself
9 to cross examination and placed himself before the
10 court and admitted to it. So I don't know what right
11 he is attempting to protect. Can you tell me of some
12 other right he is attempting to protect, Ms. Good?

13 MS. GOOD: Your Honor, I obviously don't know
14 regarding what cross-examination is going to take
15 place of my client. I can't predict what the defense
16 is going to do, or the State for that matter.
17 However, I am aware of phone records that were
18 presented into evidence, Your Honor, that does have
19 any client's number all over them before and after the
20 murder. If those questions came out, we would be
21 asserting the Fifth Amendment right to not to put
22 himself in the middle of this regarding any accessory
23 before or after the fact.

24 THE COURT: Ms. Pinnock.

25 MS. PINNOCK: May it please the Court. Your

1 Honor, I would agree with your interpretation of
2 Hughes. It's not solely narrowed to just
3 codefendants. It's any witness, and all the cases
4 quoted in Hughes say that neither side can call a
5 witness that they would just assert their right to
6 remain silent. All the cases address having an in
7 camera hearing and trying to proffer testimony to see
8 if the witness is going to testify or not. But on the
9 other side of that, Judge, at the end of that hearing
10 if you do decide that Mr. Moore does not have a right
11 as you see it to assert his rights, we would then
12 regardless of how the State decides to limit their
13 questions of him and the topics they want to talk
14 about, the defense has a right to fully and completely
15 cross-examine Mr. Moore.

16 I would ask Your Honor --- I apologize, I only
17 have one copy of this, Douglas v. Alabama. It's US
18 Supreme Court case. It's 380 U.S. 415. It's the
19 exact same situation. A witness was called to the
20 stand. He invoked his right to remain silent.
21 According to that case, they actually allowed the
22 State to treat him as hostile. The prosecutor in that
23 case went through his statement line by line. The
24 witness never acknowledged making it. Would not
25 answer any questions about it and once the prosecutor

1 had finished going through the prior statement of this
2 witness, there was an opportunity for the defense to
3 cross. The witness invoked his privilege. There was
4 no meaningful cross-examination and case was reversed
5 because it violated the defendant's right to confront
6 the witness.

7 So I don't even think declaring him hostile
8 without a hearing and him invoking his right, him
9 refusing to answer questions, then we are being denied
10 the right to confront this witness. It would not be a
11 meaningful cross, if Mr. Moore gets on the stand ---
12 it's our understanding from Ms. Good that he will not
13 be answering questions. He could potentially open
14 himself up to criminal charges, and I think that is
15 his concern.

16 THE COURT: He has already done that.

17 MS. PINNOCK: Yes, sir, but more. There is a
18 possibility of more in the future I would guess, but
19 without ---

20 THE COURT: Let's not guess.

21 MS. PINNOCK: Yes, Judge, but without a
22 meaningful opportunity to cross this witness, we are
23 being denied our right to ---

24 THE COURT: Mr. Schnee.

25 MR. SCHNEE: Yes, Your Honor. May it please the

1 Court. Just as a factual matter with regard to Donald
2 Moore, particularly since --- despite that Troy
3 Stevenson is not participating in this trial in any
4 way, there are many allegations from witnesses that
5 Donald Moore was both at the planning and participated
6 in the alleged planning days before. There are
7 allegations that Mr. Moore received and hid a gun or
8 multiple guns involved in this. There are potentials
9 for conspiracy charges for him, accessory before the
10 fact, accessory after the fact. Based additionally on
11 the fact that Troy Stevenson will have a separate
12 trial, that also opens Mr. Moore up potentially to
13 additional counts of perjury.

14 I would assert that he does have a Fifth
15 Amendment right. The State's contention that they
16 would never be able to call any witness that doesn't
17 want to cooperate --- the simple fact, as Your Honor
18 is aware, in most cases the witnesses don't assert
19 their Fifth Amendment right. They come in and
20 testify. Once someone has a right to assert and they
21 choose to do it, that's something they're allowed to
22 do. The Hughes case makes it very clear. It's on
23 page four on the copy that Ms. Campbell gave me. The
24 cite is S.C. at 152. It goes directly into the issue
25 of not being a proper cross-examination just by the

1 witness getting up there and asserting the Fifth in
2 front of the jury, the jury can draw inferences that
3 both Ms. Pinnock and I would be unable to
4 cross-examine. It specifically deals with Your
5 Honor's job in making sure that doesn't happen and it
6 indicates an in camera hearing is appropriate.

7 If he is going to assert his Fifth Amendment
8 right and has it for any charge, any potential federal
9 charge, based on allegations for guns, potential
10 allegations that he was in the videos taken from
11 Lorenzo's phone that have guns in them. Any of those
12 allegations can subject him to criminal charges, and I
13 would --- I would object to his testimony at all.
14 Considering the number of times he has lied, I would
15 actually request a competency hearing to see if he
16 actually knows what the difference between the truth
17 and a lie is.

18 THE COURT: All right. Let's proffer his
19 testimony.

20 Oh, we're going to finish this witness. We will
21 proffer his testimony during the lunch hour.

22 MS. CAMPBELL: Thank you.

23 THE COURT: All right. Bring them back in.

24 (WHEREUPON, the jury entered the courtroom at
25 10:51 A.M.)

1 MS. GARFIELD: Judge, can we approach while the
2 jury is coming in?

3 (WHEREUPON, a bench conference was held in the
4 presence, but not within the hearing of the
5 jury.)

6 THE BAILIFF: The jurors are seated, Your Honor.

7 THE COURT: Thank you very much. Yes, ma'am.

8 MS. GARFIELD: Thank you, Your Honor. May it
9 please the Court.

10 DIRECT EXAMINATION:

11 (continued)

12 BY MS. GARFIELD:

13 Q Investigator Moorer, you were able to review all
14 the videos that were collected in this case?

15 A Yes, ma'am.

16 Q As well as a video that was taken for editing
17 purposes to Mr. Watkins?

18 A Yes.

19 Q First I want to bring your attention to the video
20 that was obtained from the Ale House. With the
21 assistance of Ms. Brian here to my left because I
22 don't know how to work this, will you please publish
23 this to the jury?

24 THE COURT: What exhibit is this?

25 MS. GARFIELD: 325, Judge.

1 THE COURT: Does this one have audio?

2 MS. GARFIELD: It has audio. All you can hear is
3 rain.

4 THE COURT: Is there anybody that can't see the
5 screen?

6 THE JUROR: I need to get a little bit closer.

7 THE COURT: Okay. Do you want me to turn down the
8 lights. Does that help or hurt?

9 THE JUROR: Helps.

10 THE COURT: Okay. Can you see?

11 THE JUROR: No. Her head is in the way.

12 MS. GARFIELD: Am I in the way? I'll go over
13 here.

14 THE COURT: If anybody needs to move, you'll move
15 to where you can see it. I don't want to take the
16 time to go through playing something if you can't see
17 it.

18 THE JUROR: I'll stand. I'll stand. I'm fine.

19 MS. GARFIELD: Okay.

20 THE COURT: Okay. Go ahead.

21 (WHEREUPON, the video was played for the jury.)

22 BY MS. GARFIELD:

23 Q That door that individual is leaving through, is
24 that the Ale House?

25 A Yes.

1 A It stops and picks back up.

2 Q Investigator Moorer, I see things that appear to
3 be dropping. What were the weather conditions that
4 morning?

5 A It was heavy rain.

6 Q Now, I see the individuals walking. Where are
7 they walking towards?

8 A The bakery.

9 Q Investigator Brian, I'm going to ask you to turn
10 your attention to the videos in State's Exhibit 323
11 and please ask you to show the first video that
12 encompasses the bathroom area.

13 I'll ask you to go to about two minutes --- this
14 is the inside of the bakery, Investigator Moorer?

15 A Yes.

16 Q And who is that person we see?

17 A Ms. Hunnewell.

18 Q What does she appear to be doing?

19 A She is working. She is over there by the stove
20 or that's the washer.

21 Q And did you see two individuals come in?

22 A Yes.

23 Q And the first individual that came in,
24 Investigator Moorer, what was he wearing?

25 A A red hoodie.

1 Q And the second individual that came in, what was
2 he wearing?

3 A A gray hoodie.

4 Q Thank you. Investigator Brian, if you'll
5 continue to the other angle and also go to about a
6 little before two minutes. Investigator Moorer,
7 you've seen this. Is this another angle?

8 A Yes.

9 Q And that's Ms. Hunnewell?

10 A Yes.

11 Q Thank you, Investigator. If you can please go to
12 the third video and before you start it, Investigator
13 Moorer, what does this angle portray?

14 A The front door.

15 Q Is that door is open?

16 A Yes.

17 Q I say all this for purposes of the record.

18 Investigator Brian, if you'll please fast forward to
19 right around two minutes or 1:48. Thank you.

20 Now, do you see a third individual walk up to the
21 door?

22 A Yes.

23 Q And what is he described as wearing?

24 A Dark in color hoodie.

25 Q Thank you, Investigator Brian.

1 THE BAILIFF: Make sure your phone is turned off.

2 MR. SCHNEE: Can we approach briefly, Judge?

3 THE COURT: Yes.

4 (WHEREUPON, there was a bench conference.)

5 (WHEREUPON, the jury entered the courtroom at

6 11:39 A.M.)

7 THE BAILIFF: The jury is seated, Your Honor.

8 THE COURT: All right. Swear in the witness.

9 THE BAILIFF: You have to stand up.

10 (complies.)

11 THE BAILIFF: Place your left hand on the Bible.

12 Raise your right hand and face the clerk.

13 ROLANDA COLEMAN,

14 after being duly sworn, testified as follows:

15 THE WITNESS: Yeah.

16 THE CLERK: Please have a seat, State your full
17 name for the record.

18 THE WITNESS: Rolanda Coleman. Rolanda Coleman.

19 DIRECT EXAMINATION:

20 BY MS. CAMPBELL:

21 Q Ms. Coleman, if you can speak up. How old are
22 you?

23 A Eighteen.

24 Q Eighteen?

25 A No, I'm 20.

1 Q You're 20?

2 A Uh-huh.

3 Q Can you get closer to the microphone? It's hard
4 to hear in here because you're soft spoken. Okay. Do
5 you live here in the Columbia area?

6 A Yes.

7 Q How long have you lived in Columbia?

8 A Ten years.

9 Q Do you have any children?

10 A Yes.

11 Q How many children do you have?

12 A Two.

13 Q And how old are your children?

14 A One and eight months.

15 Q One and eight months?

16 A Uh-huh.

17 Q Do you know Lorenzo Young?

18 A Yes.

19 Q Do you know him by Lorenzo or by a nickname?

20 A Lorenzo.

21 Q And how do you know Lorenzo Young?

22 A He is the father of my kids.

23 Q He is the father of your kids?

24 A Uh-huh.

25 Q Both of them?

1 A Uh-huh.

2 THE COURT: Okay. Ma'am, you can't say uh-huh
3 because this young lady sitting next to you has to
4 take down the words. You're going to have to answer
5 out loud yes or no or whatever your answer may be.
6 Would you do that for me?

7 THE WITNESS: Yes.

8 THE COURT: Thank you very much.

9 BY MS. CAMPBELL:

10 Q Do you know Trenton Barnes?

11 A Yes.

12 Q How do you know Trenton Barnes?

13 A Seen him on the streets.

14 Q Seen him on the streets. Do you know Troy
15 Stevenson?

16 A Yep.

17 Q And what is Troy Stevenson's relationship to
18 Trenton Barnes?

19 A Brother.

20 Q They are brothers?

21 A Yeah.

22 Q Do you know Troy, as well?

23 A Yeah.

24 Q And what was Lorenzo Young's relationship with
25 Trenton Barnes and Troy Stevenson?

1 A Homeboys.

2 Q Homeboys?

3 A Uh-huh.

4 Q And when you say homeboy, what do you mean by
5 that? Are they friends, pals, or do they hang out
6 together?

7 A Yeah.

8 Q All that?

9 A Yeah.

10 Q Back in June and July of last year, where were
11 you living?

12 A With Lorenzo's mother.

13 Q With Lorenzo?

14 A Mother.

15 Q With his mother?

16 A Yes.

17 MR. SCHNEE: Judge, I'm sorry, I really can't
18 hear her.

19 THE COURT: I can barely hear her, too. I need
20 you to stay close to that microphone and speak up,
21 okay.

22 BY MS. CAMPBELL:

23 Q Let me get one thing --- are you here under
24 subpoena today?

25 A (There was no response.)

1 Q Are you under subpoena?

2 A Yes.

3 Q Do you want to be here?

4 A Nope.

5 THE COURT: Can you hear? (indicating).

6 Okay.

7 BY MS. CAMPBELL:

8 Q You were living with Lorenzo's mother back in
9 June and July of last year?

10 A Yes.

11 Q Who all was living in the house with you and
12 Lorenzo's mother?

13 A Me, his mother, his stepfather and my child.

14 Q Your child?

15 A Yes.

16 Q How old was your child back last summer?

17 A Three months.

18 Q Three or four months?

19 A Yes.

20 Q And that was your first child, right?

21 A Yes.

22 Q Where was the house located where y'all were
23 living?

24 A On Bronx Road.

25 Q On Bronx Road?

1 A Uh-huh.

2 Q Is that near Beltline Boulevard?

3 A Yes.

4 Q Kind of near the corner of Beltline and Covenant,
5 that area?

6 A I guess.

7 Q Do you know where the Ale House is?

8 A No.

9 Q How long had you been living with Lorenzo and his
10 mother and his stepfather and your child? How long
11 had y'all been living together in that house?

12 A I don't remember.

13 Q You don't remember?

14 A No.

15 Q Had you --- I want to turn your attention to the
16 end of June, the first of July. At that point, did
17 Lorenzo have a gun?

18 A No.

19 Q You're saying no?

20 A Uh-huh.

21 Q Are you saying you never saw Lorenzo with a gun?

22 A No.

23 Q Do you remember meeting with police and giving a
24 statement?

25 A Yes.

1 Q And that was on July 9th of 2014?

2 A Yeah. I mean, I don't remember.

3 Q You don't remember the exact day?

4 A No.

5 Q Do you remember when you went to headquarters?

6 A Yeah.

7 Q And at headquarters they recorded your statement?

8 A Yep.

9 Q And your lawyer was there that day, as well?

10 A Uh-huh.

11 Q And you talked to, I believe, was it Investigator
12 Reese and McCoy?

13 A Yeah.

14 Q And at that point you told them information,
15 right?

16 A Yep.

17 Q And do you remember telling them back on July 9th
18 that you had seen Lorenzo with a gun, just one of
19 them?

20 A Yep.

21 Q And that he had gotten it a month or two before
22 the incident?

23 A Yep.

24 Q Specifically I want to go into this --- the early
25 morning hours or the evening of June 30th into the

1 early morning hours of July 1st. That was a Sunday
2 night into a Monday morning. Do you remember that
3 night?

4 A Barely.

5 Q Barely. Do you remember where you were that
6 night?

7 A Asleep.

8 Q Asleep and where were you sleeping that night?

9 A At his mother's house.

10 Q At Lorenzo's mother's house?

11 A Yes.

12 Q And do you have a cell phone?

13 A Now?

14 Q No, back then. Did you have a cell phone?

15 A Yeah.

16 Q And who had your cell phone that night?

17 A Lorenzo.

18 Q And where was Lorenzo that night while you were
19 home sleeping?

20 MS. PINNOCK: Objection, calls for speculation.

21 THE COURT: She can answer if she knows, if she
22 has personal knowledge.

23 BY MS. CAMPBELL:

24 Q She does.

25 A From my knowledge, at Troy's house.

1 Q Troy's house?

2 A Yep.

3 Q Was Troy's house located near the Bronx Avenue
4 house where you were staying?

5 A Yeah.

6 Q How did you know he was staying at Troy's house?

7 A That's what I was told.

8 Q By whom?

9 A Him.

10 Q By Lorenzo?

11 A Uh-huh.

12 Q And that night, about what time was it when you
13 went to sleep. Do you remember?

14 A No.

15 Q When was the last time you talked to Lorenzo that
16 night? Do you remember that?

17 A No.

18 Q Were you sleeping through the night and what woke
19 you up the next morning?

20 A What what?

21 Q What woke you up?

22 A A phone call.

23 Q And who did you get a phone call from the next
24 morning?

25 A Lorenzo.

1 Q Lorenzo?

2 A Uh-huh.

3 Q And just to be sure, the Lorenzo we're talking
4 about, where is he sitting here in the courtroom?

5 A You know where he is in the courtroom.

6 Q I know, but for the record I have to have you
7 point him out.

8 THE COURT: Ma'am, you don't get to ask
9 questions. You need to answer questions.

10 BY MS. CAMPBELL:

11 Q Where ---

12 A Over there.

13 Q Is he at this table?

14 A Yep.

15 Q And what is he wearing?

16 A A white shirt.

17 Q Does he have on any kind of tie?

18 A A blue tie.

19 MS. CAMPBELL: May the record reflect that she
20 has identified the defendant, Lorenzo Young.

21 THE COURT: So reflected.

22 BY MS. CAMPBELL:

23 Q When you got the phone call from Lorenzo that
24 morning, what if anything did he say to you?

25 MR. SCHNEE: Judge, I'm going to object to

1 hearsay.

2 THE COURT: Overruled.

3 BY MS. CAMPBELL:

4 Q You can answer.

5 A He told me to tell his mama to come get him from
6 Troy's house.

7 Q From whose house?

8 A Troy.

9 Q Troy's house?

10 A Yep.

11 Q Who all lived there?

12 A I don't know. I didn't stay there.

13 Q Did Trenton live there, as well?

14 A I guess. I don't know.

15 Q Did you pass along that information to Lorenzo's
16 mother that morning?

17 A Yes.

18 Q About what time was that?

19 A Like five or six something.

20 Q Five or six in the morning?

21 A Yeah, I don't remember the time.

22 Q Did Lorenzo' mom leave the house, do you know?

23 A Yeah.

24 Q Did she come back with Lorenzo?

25 A Yeah.

1 Q When Lorenzo came back to the house, did you see
2 him?

3 A Huh?

4 Q Did you see Lorenzo when he came in the house?

5 A Yeah.

6 Q And where were you when you saw Lorenzo?

7 A In the bed.

8 Q You were in the bed?

9 A Yes.

10 Q Is that the room you shared with Lorenzo?

11 A Yes.

12 Q And when Lorenzo came in, how did he look? What
13 was he wearing?

14 A Some basketball shorts and a shirt.

15 Q And a shirt?

16 A Yes.

17 Q Do you remember what color the shirt was?

18 A Red and white.

19 Q Red and white?

20 A Yes.

21 Q Once he came in, did he have anything with him
22 when he came in the room?

23 A Yeah, he had a gun.

24 Q He had a gun, and how was he carrying the gun
25 when he came in the room around six that morning?

1 A He was just holding it his hand.

2 Q He was holding it in his hand?

3 A Yep.

4 Q Did he have anything over it at that point?

5 A No.

6 Q Was he fully dressed at that point?

7 A Uh-huh.

8 THE COURT: Yes or no.

9 THE WITNESS: Yes.

10 BY MS. CAMPBELL:

11 Q Okay. Once he came in the room, what did he do
12 with the gun?

13 A He took it --- well, he took his shirt off,
14 wrapped it up and put it in my baby's crib.

15 Q In your baby's crib?

16 A Yep.

17 Q Where was your baby's crib located?

18 A By the window.

19 Q Was it a crib or a bassinet?

20 A Bassinet.

21 Q Where in the basinet did he put the gun?

22 A He just set it in there.

23 Q He just set it in it?

24 A Uh-huh.

25 Q Where was your baby at that point?

1 A My baby was with my grandmother.

2 Q She was at your grandmother's house?

3 A Yeah.

4 Q That morning did he tell you what kind of gun it
5 was?

6 A No.

7 Q Do you remember talking to the police back on
8 July 9th, 2013?

9 A Yeah.

10 Q At that time, you told them he told you what type
11 of gun it was?

12 A No.

13 Q Do you remember telling the police that he told
14 you ---

15 A Yeah, I told them he told me it was a 45, but I
16 didn't tell them he had that --- that the specific gun
17 he had in his hand was a 45.

18 Q Okay. But you told the police that he said it
19 was a 45?

20 A Yeah.

21 Q What does that mean to you as a 45?

22 A I don't know. I don't know nothing about no
23 guns.

24 Q Okay. But that's what you said?

25 A Uh-huh.

1 Q Once he put the gun into the bassinet, did he
2 talk to you about anything?

3 A Uh-huh, yeah.

4 Q And did he talk to you about events that had
5 happened the night before? You can't say what he said
6 about what happened the night before?

7 A Yeah.

8 Q At some point did y'all leave the house together?

9 A Yes.

10 Q And where did you go?

11 A Work.

12 Q Where were your working?

13 A A meat processing plant.

14 Q I'm sorry. I can't hear you.

15 A A meat processing plant in West Columbia.

16 Q A meat processing plant in West Columbia?

17 A Uh-huh.

18 Q Did y'all stay at work all day?

19 A Yes.

20 Q And where was your cell phone at this point?

21 A He still had it.

22 Q He still had it?

23 A Uh-huh.

24 Q What time of day --- how long did you stay at
25 work that day?

1 A All day.

2 Q What time did you get off, do you remember?

3 A Like three, four.

4 Q About three or four?

5 A Yes.

6 Q Where did you go once you got off?

7 A Home.

8 Q You went home?

9 A Yes.

10 Q And once you got home, did y'all look for the
11 gun?

12 A Yeah.

13 Q Where was the gun?

14 A Nobody know.

15 Q Nobody knew?

16 A No.

17 Q Did Lorenzo look for the gun?

18 A Yeah.

19 Q Did you look for the gun?

20 A Yep.

21 Q And it was gone?

22 A Yep.

23 Q Did Lorenzo ever talk to his mother about what
24 had happened to the gun?

25 MR. SCHNEE: Objection hearsay, conversation

1 between Lorenzo and his mother?

2 THE COURT: Were you present for the
3 conversation?

4 THE WITNESS: Uh-huh. No. I overheard the
5 conversation.

6 THE COURT: So you were able to hear the
7 conversation?

8 THE WITNESS: Not every exact word, but ---

9 THE COURT: She can testify to what she heard.

10 BY MS. CAMPBELL:

11 Q You can talk about what you heard Lorenzo say.
12 What was Lorenzo asking his mother about?

13 A Asking where the gun was.

14 Q What did the gun look like?

15 A It was black.

16 Q It was black?

17 A Uh-huh.

18 Q Did Lorenzo ever keep ammunition in the house?

19 A Yep.

20 Q Where did he keep the ammunition?

21 A In the dresser drawers.

22 Q In which drawers?

23 A The dresser drawers.

24 Q The dresser drawers?

25 A Yes.

1 Q In your bedroom?

2 A Yep.

3 Q When did you find out what had happened to the
4 lady at the bakery?

5 A When the police came and picked me up.

6 Q Do you remember telling the police that you had
7 seen it on TV?

8 A Yeah, I seen it, but I ain't --- it was like bits
9 and pieces of it.

10 Q And once you saw it on TV, did Lorenzo's mother
11 also see it on TV?

12 A No, I don't think so.

13 Q But do you remember a time when Lorenzo's mother
14 and Lorenzo had a conversation about the gun again
15 that you overheard?

16 A No.

17 Q Do you remember telling the police back on
18 July 9th, 2013, when they talked to you at police
19 headquarters that Lorenzo and his mother had a
20 conversation and his mother wanted --- after seeing
21 the video wanted ---

22 MR. SCHNEE: Objection, Your Honor, as to what
23 the mother is saying.

24 THE COURT: Overruled.

25 BY MS. CAMPBELL:

1 Q Do you remember telling police that after the
2 mother --- his mother saw the Ale House --- the bakery
3 video, that she came and told Lorenzo to get rid of
4 that gun?

5 A What are you asking me?

6 Q I'm asking you if you remember saying that to the
7 police and telling them that because you overheard
8 that conversation?

9 A Yeah.

10 Q You knew Trenton?

11 A Yeah, knew of them.

12 Q Did --- you knew Trenton and Troy?

13 A Of them.

14 Q Do you remember telling police what Trenton would
15 always be wearing?

16 A Yep.

17 Q What did you tell the police Trenton would wear?

18 A I said a gray hoodie, I believe.

19 Q Do you remember when you talked to the police
20 that you had seen video from the bakery?

21 A I told them I saw parts of it.

22 Q And do you remember saying your could recognize
23 the guy in the gray hoodie?

24 A Uh-huh, yep.

25 Q Who did you tell them was in the gray hoodie that

1 you recognized?

2 A Trenton.

3 Q And do you see Trenton in the courtroom?

4 A Yep.

5 Q Can you point out where he is sitting?

6 A Yep.

7 Q Can you describe what he is wearing?

8 A A green and black jacket kind of shirt, whatever
9 he have got on.

10 Q Is he sitting on the far table over there?

11 A Yep.

12 Q In the green?

13 A Yep.

14 MS. CAMPBELL: Your Honor, may the record reflect
15 she has identified Trenton Barnes.

16 THE COURT: So reflected.

17 BY MS. CAMPBELL:

18 Q But did you tell the police you could identify
19 who was in the red hoodie on the video?

20 A No.

21 Q You first talked to the police, I believe, on the
22 5th of July when they came in and did a search warrant
23 at your house, didn't you?

24 A Uh-huh.

25 Q And you didn't tell them the truth at that point

1 what about when you had last seen Lorenzo, did you?

2 A No.

3 Q No?

4 A Huh-uh.

5 Q Why didn't you tell them the truth?

6 A Because I didn't want to.

7 Q You don't remember?

8 A I didn't want to.

9 Q You didn't want to?

10 A Huh-uh.

11 Q Do you remember telling them on July 9th, 2013,
12 that you were scared of getting Lorenzo in trouble?

13 A Uh-huh.

14 THE COURT: Is that a yes?

15 THE WITNESS: Yeah.

16 BY MS. CAMPBELL:

17 Q Finally, have you ever seen Trenton with a gun?

18 A No.

19 Q Do you remember --- you talked to the police on
20 July 9th, 2013?

21 A Uh-huh.

22 Q Telling them that you had seen Trenton with a
23 gun, as well?

24 A Yep.

25 Q And that it was a different gun than the one you

1 saw Lorenzo with?

2 A Uh-huh.

3 Q And again, you don't want to be here today at
4 all?

5 A No.

6 Q The phone that you had, the cell phone that
7 Lorenzo had during this time period, whose name was it
8 in?

9 A My grandmother.

10 Q And what is her name?

11 A (unintelligible) Coleman.

12 Q Rolanda, Ms. Coleman, you have a pending charge
13 in our office?

14 A Yep.

15 Q And what is that charge?

16 A Burglary first.

17 Q Burglary in the first degree?

18 A Yes.

19 Q Do you know what the penalties for that are?

20 A Yes.

21 Q What's the penalty?

22 A Fifteen years to life, isn't it?

23 Q Fifteen years to life?

24 A Yeah.

25 Q And your lawyer is here in the courtroom?

1 A Yes.

2 Q And he is seated right there; is that correct?

3 A Yes.

4 Q Have you been made any promises or anything for
5 your testimony here today?

6 A Nope.

7 Q And you're testifying because you're under
8 subpoena?

9 A Yes.

10 Q Thank you.

11 THE COURT: All right. Cross-examination?

12 MS. PINNOCK: May it please the Court.

13 CROSS-EXAMINATION:

14 BY MS. PINNOCK:

15 Q How are you doing, Ms. Coleman?

16 A Good.

17 Q Can you speak up? I'm hard of hearing. Are you
18 okay?

19 A Uh-huh.

20 Q Just so we're clear on a couple of things that
21 Ms. Campbell just asked you, when you spoke to the
22 investigators last year during the summer, you
23 actually told them that when the gun that you had seen
24 a couple months prior, when Lorenzo first got a gun, a
25 couple months before they were questioning you, that's

1 when he said it was a 45, right?

2 A Uh-huh.

3 Q Yes?

4 A Yes.

5 Q You never had a conversation with anybody with
6 this gun that Ms. Campbell asked you about that you're
7 telling her you saw the next day?

8 A Uh-huh.

9 Q You never had a conversation about that, right?

10 A No.

11 Q So you were telling them about something that
12 happened months before?

13 A Yeah.

14 Q Okay. You said you're 20?

15 A Yes.

16 Q Did you say you were originally from here?

17 A Yeah.

18 Q Is your whole family here?

19 A Yeah.

20 Q Yes?

21 A Yeah.

22 Q Who are you living with now? Are you still
23 living with ---

24 A No, I stay everywhere.

25 Q I'm sorry. I can't hear you.

- 1 A A little bit of everywhere.
- 2 Q Okay. So do you have two children?
- 3 A Yep.
- 4 Q One and eight months old?
- 5 A Yeah.
- 6 Q Where do they say?
- 7 A With my grandmother.
- 8 Q And she lives in Columbia, right?
- 9 A Yep.
- 10 Q Who is older, your son or your daughter?
- 11 A My daughter.
- 12 Q Are you working right now?
- 13 A Yep.
- 14 Q Where are you working at?
- 15 A KFC.
- 16 Q What kind of hours do you work?
- 17 A Night.
- 18 Q What time do you go in?
- 19 A Four.
- 20 Q What time do you get off?
- 21 A Eleven.
- 22 Q Four to eleven?
- 23 A Yeah.
- 24 Q How many days a week do you work?
- 25 A Like three or four.

1 Q Do you get to see your children every day?

2 A Yep.

3 Q Do you enjoy spending time with them?

4 A Yep.

5 Q Do y'all do a bunch of stuff together?

6 A Yeah.

7 Q Do you go to the park?

8 A Yeah.

9 Q I can't hear you.

10 A Yeah.

11 Q Do you read stories with them?

12 A Yep. I'm sorry what does this have to do with
13 anything?

14 Q Do you read stories with them?

15 A Yeah.

16 Q Do you help provide for them?

17 A Yeah.

18 Q Because you want to make sure they have
19 everything they need?

20 A Yeah.

21 Q Because you want to make sure they're taken care
22 of?

23 A Yeah.

24 Q You'll do anything in your power to provide for
25 them best you can?

1 A If need be.

2 Q Okay. And your grandma is helping you out a lot
3 as of right now, right?

4 A For the most part.

5 Q Okay.

6 MS. CAMPBELL: What did she say?

7 THE COURT: For the most part.

8 MS. CAMPBELL: Thank you.

9 BY MS. PINNOCK:

10 Q Now, you said that --- we can assume that you
11 adore your children. I've seen the pictures. They're
12 adorable, so you love your children very much, right?

13 A Yep.

14 Q And you said that you had a pending charge with
15 the solicitor's office, right?

16 A Yep.

17 Q And you said it's a burglary in the first degree?

18 A Yep.

19 Q And you said the penalty for that, that you've
20 been told is 15 years to life, right?

21 A Yep.

22 Q And even if you got the minimum sentence on that,
23 your lawyer, Mr. Carson, has told you that it's
24 85 percent of 15 years, right?

25 A Uh-huh.

1 Q So that would be a little over 12 years that you
2 are incarcerated for this charge, right?

3 A Yeah.

4 Q So if you got the minimum 15 years, your son
5 would be 18 --- 15 years old when you got out?

6 A Yeah.

7 Q If you got the minimum, your daughter would be 16
8 when you got out?

9 A Yeah.

10 Q You'd miss their entire lives?

11 A Uh-huh.

12 Q And you discussed coming in here and testifying
13 with your attorney?

14 A Uh-huh.

15 Q Did you meet with the solicitors before you came
16 in here?

17 A Yep.

18 Q You did?

19 A Today, no.

20 Q No, prior to coming in here for testifying, did
21 you and Mr. Carson sit down with the solicitor's
22 office?

23 A Yeah.

24 Q What day was that?

25 A I don't remember.

1 Q Was it within a week?

2 A I don't remember.

3 Q Or two weeks? You don't remember?

4 A No.

5 Q But you sat down in their office with them, with
6 your lawyer, right?

7 A Yep.

8 Q And you discussed what you're going to testify
9 here today about?

10 A With them, no.

11 Q You didn't discuss anything with them? Did your
12 lawyer talk with them?

13 A Yeah.

14 Q About your testimony here today?

15 A Yeah.

16 Q And you said that you weren't expecting --- that
17 nobody has made you any deals or anything coming in
18 here and testifying. You don't want to miss the next
19 15 years of your children's lives, right?

20 A No.

21 Q And the case you had pending with the solicitor's
22 office, that's actually being prosecuted by
23 Ms. Simpson, right?

24 A Yeah.

25 MS. PINNOCK: Beg the Court's indulgence.

1 (Pause.)

2 I have nothing further, Judge.

3 Thank you, Ms. Coleman.

4 MR. SCHNEE: May it please the Court.

5 CROSS-EXAMINATION:

6 BY MR. SCHNEE:

7 Q Ms. Coleman, a few minutes ago you testified that
8 you saw the video on TV and recognized Trenton Barnes.
9 That's what you told the police last year, right?

10 A Uh-huh.

11 Q Yes.

12 A Yeah.

13 Q Okay. You said you could recognize him based on
14 his size and how he walked, right?

15 A Yeah.

16 Q Okay. You couldn't see any faces, right?

17 A No.

18 Q Okay. Now, the police also asked you about the
19 red sweatshirt, right?

20 A Yeah.

21 Q Your couldn't recognize who that was?

22 A No.

23 Q Couldn't recognize based on how they looked and
24 how they moved?

25 A No.

1 Q You understand the police are claiming the red
2 hooded sweatshirt is Lorenzo, right?

3 A Yeah.

4 Q You're very familiar with Lorenzo?

5 A Yeah..

6 Q Okay. So you couldn't recognize anyone in the
7 red sweat shirt, but you could for the gray
8 sweatshirt?

9 A Uh-huh.

10 Q Now, your burglary charge, your attorney is
11 sitting right over here?

12 A Uh-huh.

13 Q Yes.

14 A Yeah.

15 Q In fact. He is sitting with the solicitor's
16 office right now in court?

17 A Yeah.

18 Q Okay. You understand that the only people that
19 have the authority to offer you any deal whatsoever
20 are the solicitors sitting over there?

21 A Yeah.

22 Q You understand that if you don't get any kind of
23 deal and you end up getting convicted, you will not
24 see your kids while they're still children?

25 A Yeah.

1 Q You don't want than to happen, right?

2 A Yeah.

3 MR. SCHNEE: No further questions.

4 THE COURT: Redirect?

5 MS. CAMPBELL: Yes.

6 REDIRECT EXAMINATION:

7 BY MS. CAMPBELL:

8 Q He asked you about you taking care of your
9 children. You said your grandmother helps you out
10 some?

11 A Yeah.

12 Q Does Lorenzo's mother help you out, too?

13 A Yeah.

14 Q So you're still in contact with her and with
15 Lorenzo; is that correct?

16 A With her, not Lorenzo.

17 Q Okay. And that week when all this happened,
18 where was your little girl that week? Who was she
19 staying with?

20 A My grandmother.

21 Q So she was gone that entire week?

22 A Yeah.

23 Q And finally she asked you specifically about when
24 he told you about when the gun --- it was a 45. You
25 told the police back on July 9th that you had seen him

1 with it?

2 A Yeah.

3 Q And you saw him with just one gun?

4 A Yep.

5 Q And he told you it was a 45?

6 A Uh-huh.

7 Q And then you said --- and when did you have that
8 conversation with him. You said that was the day
9 after the incident happened. So that would have been
10 that Monday?

11 A Yep.

12 Q Do you want to see your testimony?

13 A No, I've seen it.

14 Q Okay. And when they asked you about what
15 incident you're talking about, you said this murder.
16 Do you remember that?

17 A Uh-huh.

18 THE COURT: Is that a yes?

19 THE WITNESS: Yep.

20 MS. CAMPBELL: Nothing further.

21 THE COURT: Ms. Pinnock.

22 MS. PINNOCK: I have no follow up, Judge.

23 THE COURT: Mr. Schnee?

24 MR. SCHNEE: No, Your Honor.

25 THE COURT: Have a nice day, ma'am. Thank you

1 very much.

2 All right. Ladies and gentlemen, we're going to
3 stop now for lunch. We're going to take a little bit
4 of an extended lunch break. I have some matters of
5 law that I need to take up before we start back this
6 afternoon. You are not allowed to discuss the case
7 with anyone and not allowed to talk about the case.
8 This may be the last nice day you have before the cold
9 weather comes. Thank you very much for your service.
10 Do not discuss the case. Keep an open mind and we'll
11 see you back at two o'clock. Thank you.

12 THE BAILIFF: Remain seated.

13 (WHEREUPON, the jury left the courtroom at 12:09
14 P.M.)

15 THE COURT: All right. So tell me what all we
16 need to deal with before we come back in.

17 MS. CAMPBELL: Your Honor, the things I would
18 deal with, there are several witnesses coming up.
19 Ms. Latoya Barnes, I think we settled her record. She
20 doesn't have anything.

21 However, in her recorded statement she gave to
22 police --- actually it was a recorded phone call. She
23 does mention and references things that happened
24 around the time that Trenton was on probation or being
25 arrested or things of that nature and we just need to

1 advise her not to mention any of Trenton's prior
2 juvenile adjudications or being on probation or
3 anything of that nature.

4 THE COURT: Mr. Schnee, I assume you're okay with
5 that?

6 MR. SCHNEE: Yes, Your Honor, but again just for
7 the record, Ms. Barnes is intending to assert her
8 Fifth Amendment. Her attorney is in the courtroom and
9 I think that needs to be addressed before ---

10 THE COURT: Whose phone is that? No, no. Stop,
11 stop. Stop.

12 (phone ringing.)

13 Give the phone to the bailiff and leave the
14 courtroom.

15 If you have a phone and I see it, at this point
16 it's going to cost you \$250 to get it back.

17 UNIDENTIFIED MAN: Holy shit.

18 THE COURT: If your don't like it, you don't have
19 to come back. You can pay \$250 or spend night in
20 jail. Take your pick.

21 Now, where is Ms. Barnes' attorney? That's me,
22 Arthur Aiken.

23 THE COURT: All right. Come on up, Mr. Aiken.

24 MR. AIKEN: I'll be happy to, Judge.

25 THE COURT: How are you, sir?

1 MR. AIKEN: I'm doing fine. How about yourself?

2 THE COURT: I'm fine. What do you represent
3 Ms. Barnes on?

4 MR. AIKEN: I represent Ms. Barnes as a witness
5 in this particular case.

6 THE COURT: Okay. On what basis is she asserting
7 her Fifth Amendment rights to remain silent?

8 MR. AIKEN: There's criminal exposure for
9 misprision of a felony, there's criminal exposure for
10 accessory after the fact of a murder, there's criminal
11 exposure for accessory after the fact of attempted
12 highjack, robbery under the federal criminal code.
13 Those are the concerns I have about her testimony.

14 THE COURT: All right. So what is her testimony
15 going to be that could potentially inculcate her?

16 MR. AIKEN: Well, the problem, Your Honor, is
17 that on each of those charges, the misprison charge
18 and the two accessory after the fact charges, one of
19 the elements of the offense is that the underlying
20 crime was actually committed. So to the extent she
21 testifies in a way that incriminates Mr. Barnes or his
22 codefendant, she incriminates herself.

23 THE COURT: All right. So what's her testimony?

24 MS. CAMPBELL: Her testimony is fully cooperative
25 with the State. She basically indicates to what her

1 --- she witnessed part of the events that night. She
2 in no way participated. She wasn't an accessory
3 after. She didn't witness the crime itself and then
4 help them out. She just told the police basically
5 what she observed her son, Lorenzo Young, and her
6 other son Troy Stevenson doing that night coming and
7 going from house. There were two phone calls from
8 Lorenzo Young to her house in which he Basically asked
9 her to talk to Troy. Troy then goes supposedly for
10 the purpose of getting Trenton. Then they come back.

11 She has no other information or anything. I
12 could hand you a transcript of her entire testimony
13 which, Your Honor, at no point does she incriminate
14 herself in anything and she is fully cooperative with
15 police.

16 THE COURT: All right. What about that,
17 Mr. Aiken?

18 MR. AIKEN: Well, Your Honor, without revealing
19 anything protected by the attorney/client privilege, I
20 represent to the court that her testimony in full
21 concerning all of these matters would tend to
22 incriminate her under those three types of crimes.

23 Obviously, I can't say, Judge, this is what she
24 is going to say because I --- if I did that, I would
25 be defeating the privilege itself.

1 THE COURT: Well, it only applies if they ask her
2 a question that's incriminating.

3 MR. AIKEN: That's correct. That's correct. And
4 that's a whole other issue, Judge. I really don't
5 know exactly what she is going to be asked and I don't
6 control what the government asks her, and I certainly
7 don't control what the defense lawyers ask her, but
8 I've advised her on the matters I think that she need
9 to assert the privilege on.

10 I have not told her to come in and just as a
11 blanket matter say I'm not testifying because I think
12 I could be in trouble. I mean, we've been very
13 careful about going over everything and making sure
14 that the assertion of the privilege is legally valid.
15 I mean, I'm not saying she can't testify at all, but I
16 am saying there are matters on which there are
17 significant concern by me as her lawyer about being
18 incriminated.

19 THE COURT: All right. Where is the transcript
20 of her?

21 MS. CAMPBELL: I'm getting you a copy, Your
22 Honor. I've marked up mine. I'll get you a copy of
23 the transcript if you want to review it over lunch.

24 THE COURT: Okay.

25 MS. CAMPBELL: I'll also hand up a copy of the

1 email from Mr. Aiken to me morning basically saying
2 that she would assert her Fifth Amendment privilege in
3 response to some of our questions. At that point he
4 said he would be happy to review the areas where she
5 is trying assert it.

6 MR. SCHNEE: Judge, I have never seen what the
7 State is alleging to be a transcript. I know there is
8 an audio recording, but I don't have a transcript.
9 There is no certified court reporter that has done a
10 transcript.

11 MS. CAMPBELL: I'll be glad to get the audio
12 recording to your to make sure it's accurate.

13 MR. SCHNEE: I have no problems with Your Honor
14 reviewing the audio, but I would object to an alleged
15 transcript.

16 MS. CAMPBELL: I'll hand up both. That will be
17 just be easier.

18 THE COURT: Okay. What are your standing up for.

19 MS. PINNOCK: Your Honor, I would ask the same
20 thing. If they're going to use a transcript, I'd be
21 happy to see it. I think this is going to be a
22 situation where we have to proffer testimony prior to
23 the jury hearing it and that would be my request.

24 THE COURT: So we have to deal with Ms. Barnes.
25 What else do we need to deal with?

1 MS. CAMPBELL: Mr. Moore.

2 THE COURT: Okay. Are those the only two?

3 MS. CAMPBELL: Those are the only two at this
4 point asserting the Fifth Amendment today.

5 THE COURT: Okay. Are those the only two issues
6 we actually need to deal with prior to starting back?

7 MS. CAMPBELL: Your Honor, in addition to that we
8 have served two other witnesses in the case that are
9 refusing to come to court, and we would ask for bench
10 warrants for them at this point.

11 THE COURT: Do they have lawyers?

12 MS. CAMPBELL: No.

13 THE COURT: Okay.

14 MS. CAMPBELL: They aren't anything but fact
15 witnesses so they have no ---

16 THE COURT: Are they material to the case?

17 MS. CAMPBELL: They are very material to the
18 case.

19 THE COURT: All right. Prepare material warrants
20 for their arrest.

21 MR. SCHNEE: Judge, can I inquire as to who those
22 two witnesses are?

23 MS. CAMPBELL: Mary Brown and I think, Marcus ---

24 MS. SIMPSON: Marcus Brown.

25 MR. SCHNEE: All right. Thank you.

1 THE COURT: Okay. So let's start back at 1:15.
2 Have Ms. Barnes here and have Mr. Moore here. Have
3 them waiting outside. I'll take them one at a time.

4 MR. AIKEN: Yes, sir.

5 THE COURT: All right. 1:15.

6 MR. KRZYSTON: Thank you, Judge.

7 (WHEREUPON, a lunch break was taken.)

8 (WHEREUPON, State's Exhibit Number 401 was marked
9 for identification only.)

10 (WHEREUPON, State's Exhibit's 203, 206, 207, 213,
11 214 were withdrawn.)

12 (WHEREUPON, State's Exhibits Numbers 403, 404
13 were marked for identification only.)

14 THE COURT: All right. Let's start with Mr.
15 Moore. Where is he?

16 DONALD MOORE,

17 (Proffered)

18 after being duly sworn, testified as follows:

19 THE CLERK: Please have a seat. State your full
20 name for the record.

21 THE BAILIFF: Watch your step.

22 THE COURT: All right. Who is handling him?

23 MS. CAMPBELL: I'll do it, Your Honor.

24 DIRECT EXAMINATION:

25 (Proffered)

1 A I plead the Fifth.

2 Q They also had phone calls with you after that
3 day, right.

4 A Who did? The police?

5 Q Yes, the investigators called you on the phone.

6 A I don't remember.

7 Q But that was back in July of 2013, correct?

8 A I can't remember.

9 Q Okay. But that wasn't true either? The
10 information that happened, that wasn't true either?

11 A I plead the Fifth.

12 MS. PINNOCK: Your Honor, that's all I have.

13 THE COURT: Okay. Mr. Schnee?

14 MR. SCHNEE: Judge, I have no questions. I don't
15 believe I can meaningfully cross-examination this
16 witness anyway.

17 THE COURT: Well, I want you to attempt to if you
18 think you can. Now, is your opportunity to attempt
19 to.

20 MR. SCHNEE: Beg the Court's indulgence.

21 (Pause.)

22 CROSS-EXAMINATION:

23 (Proffered)

24 BY MR. SCHNEE:

25 Q Back in your original interview in July of 2013,

1 do you remember telling the police that you were sure
2 it was Lorenzo and Troy that were the shooters?

3 A I plead the Fifth.

4 MR. SCHNEE: Judge, I don't have any other
5 questions for this witness about that.

6 THE COURT: Okay.

7 MS. CAMPBELL: I'll clarify just one thing.

8 REDIRECT EXAMINATION:

9 (Proffered)

10 BY MS. CAMPBELL:

11 Q I'm asking this question, I think I used the
12 words, "Do you remember?" If I said the words, "Did
13 you tell the police?" would you still plead the Fifth
14 on all of those?

15 A Yes, ma'am.

16 THE COURT: All right. So what's your position,
17 Mr. Schnee?

18 MR. SCHNEE: My position on this issue, Judge, is
19 the witness is clearly going to plead the Fifth to any
20 relevant question about the case itself. Even if the
21 State goes in and asks him, knowing that he is going
22 to plead the Fifth on every single question about it,
23 I have no way of cross-examining this witness, and it
24 destroys my right to have a meaningful confrontation.

25 I believe it violates my client's Sixth Amendment

1 right to avoid confronting. In order to confront
2 witnesses and have effective assistance of counsel, I
3 think it will do nothing but disaffect the jury,
4 particularly the statement the solicitor is attempting
5 to use, Donald Moore has since said is completely a
6 lie. For them to proffer that in any way in front of
7 a jury, I think, would be inappropriate since they
8 don't know the truth or nontruth of it, and there is j
9 to do that effectively, so I'd ask he be excluded as a
10 witness.

11 THE COURT: What's your position?

12 MS. PINNOCK: Your Honor, we would also be asking
13 for Mr. Moore to be excluded. He is not available for
14 a meaningful cross-examination. Pleading the Fifth in
15 front of the jury is a danger --- there is a danger
16 that is going to create an inference that, you know,
17 he's --- I'll take that back, Judge. Let me start
18 again. We cannot cross-examine him.

19 Every statement that was made to law enforcement
20 has subsequently been admitted to being not true.
21 Now, we don't have the opportunity to get that
22 information from Mr. Moore. What this cross would be
23 is just a back doorway of getting his statement into
24 evidence being offered to the jury as something that
25 is true. They would have the inference that this

1 information is true.

2 THE COURT: You mean what his direct would be?

3 MS. PINNOCK: I'm sorry?

4 THE COURT: You said what his cross would be.

5 You mean what his direct would be.

6 MS. PINNOCK: I'm sorry. When the statement is
7 read into evidence by solicitor's office, they're
8 going to be offering it as true, and the jury will
9 infer that that statement is true. We don't have an
10 opportunity to cross him to attack that veracity of
11 his statement, Judge.

12 We are not able to effectively cross-examine Mr.
13 Moore. It is a violation of our right of
14 confrontation under the Sixth Amendment. We would ask
15 that he be excluded as a witness also.

16 THE COURT: And what's the State's position?

17 MS. CAMPBELL: Your Honor, our position would be
18 first of all he has already testified to this matter
19 and been cross-examined on these issues. We feel like
20 pursuant to that he has waived any right to do it
21 because they did have an opportunity to cross him at a
22 prior hearing on these issues.

23 In addition to that, Your Honor, if the
24 questioning is done in such a way that basically my
25 questions are phrased, "Did you tell the police this

1 on such and such a date," that would not in any way
2 --- I don't see how he can plead the Fifth on that,
3 because basically that would be whether he told the
4 police that, that would be whether he gave them false
5 information or anything of that sort and then, of
6 course, they would have the opportunity to
7 cross-examine. I don't believe he can get up there
8 and just blanketly say I plead the Fifth to every
9 single question, when clearly none of these are
10 incriminating. If they're asked in such a manner,
11 they would not be incriminating. In addition to that,
12 he's already, under his theory, he is saying he has
13 given false information to the police and he has
14 already testified to that and admitted to that. We
15 think he waived it as to that.

16 THE COURT: Okay. So after he testified in front
17 of me on November 3rd, did he meet with anybody from
18 the solicitor's office? If so, who was that?

19 MS. CAMPBELL: Yes, sir. He met the next day. I
20 believe present were --- who was present, Dolly
21 Garfield, Meghan Walker.

22 THE COURT: Was Anna Good there?

23 (WHEREUPON, there was an off-the-record
24 discussion.)

25 THE COURT: Okay. Ms. Garfield, so here is where

1 we are. We had a meeting with Mr. Moore on
2 November 3rd. Then did you speak with him and his
3 attorney the next day?

4 MS. GARFIELD: Yes, I believe it was the next
5 day.

6 THE COURT: And what did he say at that meeting?

7 MS. GARFIELD: He told me at that time ---

8 MS. CAMPBELL: I can hand that up.

9 THE COURT: Okay.

10 MS. GARFIELD: I summarized it afterwards, that
11 all of it was a lie except two things, one being in a
12 gang, one being with a woman the evening before.

13 THE COURT: And you were present for this?

14 MS. GARFIELD: Yes, sir.

15 THE COURT: And Investigator Streeter was present
16 for this?

17 MS. GARFIELD: Yes, sir.

18 THE COURT: And Mr. Good was present?

19 MS. GARFIELD: Yes, sir.

20 THE COURT: And who is Ashley Kent?

21 MS. GARFIELD: My law clerk.

22 THE COURT: Okay. Isn't Meghan Walker an
23 assistant solicitor?

24 MS. GARFIELD: Yes, sir.

25 THE COURT: They were all present?

1 MS. GARFIELD: Yes, sir.

2 THE COURT: Ms. Good, is there anything else you
3 want to add?

4 MS. GOOD: Your Honor, I just want to add that I
5 do believe he has the right to plead the Fifth in this
6 case. You know, while he may have taken the stand
7 previously, at this point there's subsequent
8 statements that they have not been able to
9 cross-examine him about that would potentially
10 implicate him further regarding false information to
11 law enforcement. Like I said, I don't know --- during
12 the proffered cross-examination there were no
13 questions regarding anything subsequent or prior to
14 regarding his involvement potentially in this case, so
15 that's definitely something I'm concerned about when
16 it comes to representing him in any implications
17 regarding this particular case.

18 THE COURT: Do you have any other questions you
19 want to ask him?

20 MS. PINNOCK: Yes, sir.

21 RECROSS-EXAMINATION:

22 (Proffered)

23 BY MS. PINNOCK:

24 Q Mr. Moore, on July 1st of 2013, you made multiple
25 phone calls to Trenton Barnes, right?

1 A I plead the Fifth.

2 Q And you made multiple phone calls to him on
3 June 30th?

4 A I plead the Fifth.

5 Q You made multiple calls to him on the days
6 leading up the July 5th, right?

7 A I plead the Fifth.

8 Q The first three numbers of your phone at that
9 point were 201?

10 A I don't remember.

11 Q You were present at Azo's studio on June 30th?

12 A I plead the Fifth.

13 Q You told investigators that you knew it was
14 Lorenzo on that video?

15 A I plead the Fifth.

16 Q You told the investigators that you knew he was
17 wearing that hat because that's what he always wore?

18 A I plead the Fifth.

19 Q You swore under oath November 3rd and you
20 admitted that you lied?

21 A I plead the Fifth.

22 Q Everything you told the investigators was a lie?

23 A I plead the Fifth.

24 MS. PINNOCK: Beg the Court's indulgence.

25 (Pause.)

1 Your Honor, that's it. That's all I have right
2 now.

3 THE COURT: Anything else you want to ask him?

4 MR. SCHNEE: Yes, just very briefly, Judge.

5 RECROSS-EXAMINATION:

6 (Proffered)

7 BY MR. SCHNEE:

8 Q Did you dispose of any of the guns after this
9 crime happened?

10 A I plead the Fifth.

11 Q Were you participating in the plan along with
12 Marcus Johnson or anyone else in this crime?

13 A I plead the Fifth.

14 Q Were you present with Marcus Johnson the Ale
15 House robbery was discussed?

16 A I plead the Fifth.

17 MR. SCHNEE: Judge, I have no further questions.
18 I do have a brief argument to make.

19 THE COURT: Anybody else want to ask this witness
20 in anything?

21 MS. CAMPBELL: No.

22 THE COURT: Okay. Ms. Good, will you take this
23 witness outside?

24 MS. GOOD: Yes.

25 THE COURT: I need to know the good faith basis

1 for the questions you just asked.

2 MR. SCHNEE: Me, Your Honor?

3 THE COURT: Yes.

4 MR. SCHNEE: That would be based on allegations
5 made by Troy Stevenson, along with a few other
6 witnesses and interviews. I don't know if any of that
7 will come up or come out in trial.

8 THE COURT: I'm not asking what's coming up or
9 out. I want to know what your good faith basis is for
10 asking him if he got rid of any of the guns.

11 MR. SCHNEE: That would be indicated by Troy
12 Stevenson in his last interview in the police.

13 THE COURT: That this witness got rid of the
14 guns?

15 MR. SCHNEE: Or may have. That's what Troy
16 Stevenson was saying, was that he may have.

17 THE COURT: May. That's what I'm wanting to know
18 more than anything.

19 MR. SCHNEE: Yes, sir.

20 THE COURT: All right. What's the State's
21 position on that, since the new line of questioning
22 deals with potential crimes unrelated to those that he
23 has already waived his Fifth Amendment right to?

24 MS. CAMPBELL: Your Honor, I think the only
25 reason that Troy Stevenson thought Donald Moore may

1 have wanted to get rid of the guns was because when
2 Donald Moore first came forward, they met with a
3 police. At that point they were trying to set up a
4 situation Donald Moore would have a conversation with
5 Troy Stevenson and offered to get rid of the guns
6 afterwards. I know that procedure was never
7 culminated because of problems in scheduling or
8 getting a motel room or something like that, and it
9 never came to fruition.

10 In addition, Your Honor, just because he is asked
11 that question, we have no indication that he was doing
12 that at any request other than what law enforcement
13 asked him to try to set up, so if that inference was
14 given to Troy Stevenson, that would be the reason he
15 would have thought that. There was absolutely no
16 evidence in the case that at any point did Donald
17 Moore have any involvement in getting rid of any guns
18 other than what I believe Troy Stevenson may have said
19 happened or may have been a possibility.

20 In addition, Your Honor, I don't know that the
21 questioning on that line would be relevant as far as
22 the guilt of these two defendants that we are going
23 forward on as far as any involvement, and I don't know
24 if this is just a fishing expedition on third party
25 guilt or if that would even be admissible at this.

1 point. I guess if he is trying to give him a part on
2 the accessory after the fact theory that he helped get
3 rid of the guns afterwards --- I just don't think
4 there is a good faith basis to go into that line of
5 questioning even if there was an explanation that's
6 reasonable as far as what the police were trying to
7 get Mr. Moore to do.

8 THE COURT: So why doesn't the State just
9 immunize him? That's my question.

10 MS. CAMPBELL: As far as any perjury or false
11 information?

12 THE COURT: No. I mean, giving false information
13 to the police or being an accessory after the fact of
14 getting rid of guns.

15 MS. CAMPBELL: Your Honor, our position would be
16 that we don't think he has a right to assert a Fifth
17 Amendment right, therefore it wouldn't be necessary,
18 but if it's something the court wants to do as far as
19 to protect him from the perjury, false information, we
20 could consider that.

21 THE COURT: Okay. Let's get Ms. Barnes in here.

22 MS. CAMPBELL: Okay.

23 MR. SCHNEE: Judge, can I just put something on
24 the record before she comes in?

25 THE COURT: Sure.

1 MR. SCHNEE: In terms of the prior hearing we
2 had, I don't believe that would qualify as a
3 meaningful opportunity to cross-examine.

4 THE COURT: I don't think it does. I'm just
5 going under the theory --- I wouldn't --- I'm not
6 saying that's my ruling, but my ruling wouldn't be ---
7 you had a chance to cross him before so that makes up
8 for it.

9 MR. SCHNEE: All right. Thank you, Your Honor.

10 THE COURT: I'm not trying to cut you off.
11 That's not where my mind is thinking.

12 MR. SCHNEE: Yes, sir; yes, sir.

13 MR. AIKEN: This is Ms. Barnes, Your Honor.

14 THE COURT: Okay. Come on down, Ms. Barnes.

15 LATOYA BARNES,
16 after being duly sworn, testified as follows:

17 THE CLERK: Please have a seat, state your full
18 name for the record.

19 THE BAILIFF: Watch your step.

20 THE WITNESS: Latoya Barnes.

21 DIRECT EXAMINATION:

22 (Proffered)

23 BY MS. CAMPBELL:

24 Q Ms. Barnes, how old are you?

25 A Thirty-eight.

1 Q Do you work?

2 A No, ma'am.

3 Q Do you have any children?

4 A Yes, ma'am.

5 Q And who is Troy Stevenson?

6 A My son, Troy Stevenson.

7 Q And, Trenton Barnes, who is he?

8 A My son.

9 Q Do you know Lorenzo Young?

10 A Yes, ma'am.

11 Q Can you tell the court how you know him?

12 A Acquaint (sic) of Troy's.

13 Q Let me turn your attention back to when this
14 occurred. Do you recall that Sunday evening into the
15 early morning hours of Monday? Do you know who all
16 was at your house?

17 A I plead the Fifth.

18 THE COURT: Ma'am, that's not an incriminating
19 question. You need to answer the question.

20 BY MS. CAMPBELL:

21 Q The end of June, first of July. The night in
22 question. The night that everybody has been talking
23 about, do you remember who was at your house that
24 night?

25 A Who was at my house that night?

1 Q Uh-huh.

2 A Meaning what time? That's what I'm ---

3 Q Around midnight.

4 A Midnight because, I mean, the timing, what I told
5 them was like 11 or 12.

6 Q Okay. Around 11 or 12 there was somebody at your
7 house and then they left?

8 A Lorenzo Young, Trenton Barnes and Troy Stevenson.

9 Q They were all at your house then?

10 A Yeah.

11 Q At some point did two of those people leave your
12 house?

13 A I plead the Fifth.

14 THE COURT: Ma'am, that's not an incriminating
15 question. You need to answer the question.

16 MR. AIKEN: Judge, may I make a point about that
17 because under the circumstances of this case, that is
18 an incriminating question in this sense. She has
19 exposure for misprison of a felony and accessory after
20 the fact. One of the elements the government has to
21 prove is that the underlying offense was actually
22 committed, so to the extent that she provides
23 testimony showing that the underlying offense was
24 committed, she is incriminating herself.

25 THE COURT: That's an interesting argument,

1 Mr. Aiken, but I don't think it's right. You need to
2 answer the question. When she asks you an
3 incriminating question, you plead the Fifth when you
4 think you need to, but you answer when I tell you you
5 need to.

6 THE WITNESS: Okay.

7 BY MS. CAMPBELL:

8 Q Who left your house that night around midnight?

9 A Lorenzo and Trenton.

10 Q And Trenton?

11 A Uh-huh.

12 Q A couple hours later --- and was Troy still at
13 your house at that point?

14 A Yes, Troy had already left with some other
15 friends.

16 Q Okay. At some point did Troy come back to your
17 house that evening?

18 A He had went to the club. He didn't even leave
19 with Trenton and Lorenzo.

20 Q He did leave with them?

21 A He did not.

22 Q That's right. And he was at your house later
23 that evening?

24 A Later that night.

25 THE COURT: Who is he? I'm confused.

1 MS. CAMPBELL: Troy.

2 THE COURT: Okay.

3 BY MS. CAMPBELL:

4 Q Later that evening somewhere around three o'clock
5 between three and four, did you get two phone calls
6 from Lorenzo?

7 A Yes, ma'am.

8 Q Did you answer the phone on those phone calls?

9 A Yes, ma'am.

10 Q Did you recognize Lorenzo's voice?

11 A Yes, ma'am.

12 Q And who did Lorenzo want to speak to?

13 A Marquis Johnson.

14 Q Did you give the phone to Marquis?

15 A Yes, ma'am.

16 Q Did he also call back, Lorenzo call back a second
17 time?

18 A Yes, ma'am.

19 Q At that point, did you ask him to tell Trenton
20 something for you?

21 A To come home.

22 Q To come home?

23 A Yes, ma'am.

24 Q At that point did you also hand the phone off to
25 somebody else?

1 A Could you repeat that?

2 Q Did you hand the phone off to somebody else to
3 talk to Lorenzo?

4 A No, to Marquis Johnson, he called for him twice.

5 Q At some point did Troy get on the phone with
6 Lorenzo?

7 A Not that I know of.

8 Q After those two phone calls that evening, did
9 Troy leave your house?

10 A The next day of that day?

11 Q That night.

12 A No.

13 Q Okay. Do you remember talking to the police on
14 the telephone back in August of 2013? August 18th?

15 A Not the date. I remember speaking with her.

16 Q And do you remember --- let me be specific,
17 telling them that Troy was asleep and that Lorenzo
18 called and spoke to Marquis?

19 A Right, correct.

20 Q And then you told them that Troy told you he was
21 leaving?

22 A Troy told me he was leaving. I told him to go
23 look for his brother.

24 Q And he said he was going to go get Trent?

25 A Right.

1 Q And then he left the house at that point?

2 A Correct.

3 Q And after he left the house, did you go to sleep?

4 A I'm pretty sure I did. More than likely. I
5 can't remember.

6 Q Did Lorenzo come back to your house that night?

7 A Yes, ma'am.

8 Q Did Trenton come back to your house that night?

9 A Yes, ma'am.

10 Q Did Troy come back to your house that night?

11 A Yes, ma'am. They didn't come back together. It
12 was like different times.

13 Q The next morning did Lorenzo leave your house?

14 A Yes, ma'am.

15 Q Do you remember how he left?

16 A With a red truck, whatever.

17 Q Somebody came and got him?

18 A Like a Jeep, red truck or something. I thought
19 it was his baby mama.

20 Q Back when you spoke to police, do you remember
21 telling them that you had seen the video at the
22 bakery?

23 A Uh-huh.

24 Q That you had seen the video that was on TV of the
25 bakery?

1 A Right.

2 Q And do you remember telling them that it was
3 Trenton with the gray on?

4 A I don't recall that.

5 Q Did you tell them that you said, "I know my kid's
6 build. I know them from their fingers to their toes.
7 I know my kids"?

8 A Yes. But I never did identify them, say who was
9 who.

10 Q And did Investigator McCoy tell you --- ask you
11 about seeing the gray sweat shirt before and did you
12 tell him, "It was Troy's and when Trenton got
13 arrested, he was on probation. He got snagged on the
14 gate. Troy didn't want it anymore because it got a
15 hole in it. He let his brother have it and told
16 Trenton he could have it"?

17 A I plead the Fifth.

18 Q On the sweatshirt?

19 A On the sweatshirt, whatever, the whole statement,
20 I guess.

21 Q Did you tell police back on that same date that
22 when Lorenzo left the house, he had on a hoodie?

23 A I plead the Fifth.

24 Q Did you tell the police that when Troy left the
25 house, he had on a navy blue hoodie?

1 A I plead the Fifth.

2 Q Do you remember telling the police that Trenton
3 was wearing a jacket when he left with Lorenzo?

4 A I plead the Fifth.

5 Q And he was referring to the gray jacket?

6 A I plead the Fifth.

7 Q And you told them you had already told them that?

8 A I plead the Fifth.

9 Q And then they asked you was he the only one
10 wearing that jacket and then did you tell them, "Yeah,
11 because that's the only person that wears that jacket
12 ----"

13 A I plead the Fifth.

14 Q ---- was Trenton"?

15 Finally, they asked you again about Trenton
16 wearing the gray sweatshirt you saw in the news
17 clipping, and you told them, "Yeah, the gray hoodie is
18 what Trenton was wearing"?

19 A I plead the Fifth.

20 Q Did you tell them when he left earlier, he had
21 the hoodie on?

22 A I plead the Fifth.

23 Q And then you told them that it has just a little
24 snag. Not a big rip, just a small hole?

25 A---- I plead the Fifth.

1 Q Do you recall getting a letter from your son
2 Trenton Barnes?

3 A I plead the Fifth.

4 THE COURT: Getting a letter is not
5 incriminating. You need to answer that question.

6 THE WITNESS: Yes, I received a letter from my
7 son.

8 BY MS. CAMPBELL:

9 Q Do you recall turning that letter over to Troy's
10 lawyer?

11 A Yes, ma'am.

12 Q And I'm going to show you State's Exhibit 404 and
13 403. Do you recognize that?

14 A Yes, ma'am.

15 Q And 403, I believe, is the envelope that goes
16 with it or a copy of it there?

17 A Yes, ma'am.

18 Q And did you recognize the handwriting in this?

19 A Yes, ma'am.

20 Q And whose handwriting is it?

21 A I plead the Fifth.

22 THE COURT: Ma'am, whose handwriting is it?

23 THE WITNESS: It's Trenton Malik Barnes'
24 handwriting.

25 THE COURT: Thank you.

1 BY MS. CAMPBELL:

2 Q And then you turned that over to the lawyer; is
3 that correct?

4 A Yes, ma'am.

5 Q And you don't want to be here, but you're under
6 subpoena?

7 A Yes. And I'm here.

8 THE COURT: All right. Who is cross-examining
9 her?

10 MS. PINNOCK: May it please the Court.

11 CROSS-EXAMINATION:

12 (Proffered)

13 BY MS. PINNOCK:

14 Q Who did you turn the letter over to, Ms. Barnes?

15 A Amy.

16 THE COURT: Is that Ms. Zmroczek?

17 THE WITNESS: Yes, ma'am --- yes, sir. I'm
18 sorry. Amy Zmroczek.

19 THE COURT: Okay. It's okay. I understand
20 you're nervous today. You're talking about --- that
21 would be Troy's lawyer, correct?

22 THE WITNESS: Correct.

23 THE COURT: Sorry, Ms. Pinnock.

24 MS. PINNOCK: No problem, Your Honor.

25 BY MS. PINNOCK:

1 Q You said you remembered --- you spoke to
2 Investigator McCoy after Trenton was arrested, right?

3 A Do I remember speaking with him?

4 Q Uh-huh.

5 A I plead the Fifth.

6 Q You were at headquarters while he was being
7 questioned?

8 A I didn't go with him.

9 Q Okay.

10 A No, I didn't.

11 Q You spoke to Investigator McCoy?

12 A Correct.

13 Q And McCoy told you that one of your sons was
14 going to get a deal out of this, right?

15 A Yes.

16 Q That was on July 1st when you were there at
17 headquarters?

18 A Yes.

19 Q You also had another phone call with him in
20 August. I'm not sure of the date, but your remember
21 speaking to him on the phone again?

22 A I remember speaking to him a lot.

23 THE COURT: And who is him, Investigator McCoy?

24 THE WITNESS: Yes.

25 MS. PINNOCK: Yes, Investigator McCoy.

1 BY MS. PINNOCK:

2 Q Investigator McCoy called you at your house?

3 A Yes, ma'am.

4 Q At that point, you provided him information about
5 a Marcus Johnson, right?

6 A Correct.

7 Q Nickname Shorty?

8 A Uh-huh.

9 THE COURT: Is that a yes?

10 THE WITNESS: Yes. I'm sorry.

11 THE COURT: It's okay.

12 THE WITNESS: Yes, ma'am.

13 BY MS. PINNOCK:

14 Q You told him that he needed to speak to Marcus
15 Johnson?

16 A Correct.

17 Q You told him that Marcus Johnson was in jail at
18 that point?

19 A Yes, ma'am.

20 Q That Marcus Johnson was at the jail and talking
21 about some major details involved in this case?

22 A Yes, ma'am.

23 Q And you felt the need give that to Investigator
24 McCoy ---

25 A Yes, ma'am.

1 Q --- so he could do further investigations?

2 A Yes, ma'am.

3 Q And he assured you at that point that that was
4 the next person on his list that he was going to talk
5 to?

6 A Yes, ma'am.

7 Q He said he was probably going to get that done
8 next week or very soon?

9 A Uh-huh.

10 Q You also gave him a number of people who were at
11 your house on that night?

12 A Uh-huh.

13 Q And he assured you that he was going to speak to
14 those people, as well?

15 A Yes, ma'am.

16 Q And he was going to make sure that he talked to
17 everyone in this case to make sure that his
18 investigation was complete?

19 A Yes, ma'am.

20 Q To make sure that the information he had was
21 right?

22 A Yes, ma'am.

23 Q And you provided him that information. It was
24 within weeks of when ---

25 A Yes, ma'am.

1 Q Within a couple of weeks of Trenton being
2 arrested?

3 A Yes, ma'am.

4 Q After Troy being arrested?

5 A Yes, ma'am.

6 Q And you gave him people's first and last names?

7 A Yes, ma'am.

8 Q And when you --- when he was speaking to you
9 originally about what you had seen on the news, you
10 said that you didn't recall --- you first said that
11 Lorenzo was at your house that evening at some point
12 earlier?

13 A Yes, ma'am.

14 Q You said he had left?

15 A Yes, ma'am.

16 Q But you didn't remember exactly what he was
17 wearing, right?

18 A I plead the Fifth.

19 Q Huh?

20 A I plead the Fifth.

21 MS. PINNOCK: Begging the Court's indulgence.

22 BY MS. PINNOCK:

23 Q And Ms. Barnes, the letter that you said you
24 received from the jail, you identified that as
25 Trenton's handwriting?

1 A Yes, ma'am.

2 Q That letter has at the top of it, do you recall
3 it says, "Your son, Trenton Barnes?"

4 A Yes, ma'am will is.

5 Q Does he always head his letters like that?

6 A Most of them, not all.

7 Q Most of them, not all?

8 A Uh-huh.

9 MS. PINNOCK: Thank you, Your Honor. Nothing
10 further.

11 MR. SCHNEE: Briefly, Your Honor.

12 THE COURT: Yes, sir.

13 CROSS-EXAMINATION:

14 (Proffered)

15 BY MR. SCHNEE:

16 Q Good afternoon, Ms. Barnes.

17 A Good afternoon.

18 Q Is it your intention to plead the Fifth to any
19 question involving the actual incident in this case?

20 A Yes, sir.

21 Q So asking who was wearing what color sweatshirt
22 that night when they left, you're going to plead the
23 Fifth?

24 A Yes, sir.

25 Q Did you alter that letter that you got?

1 A Did I alter it?

2 Q Did you cut and paste it or change the letters or
3 words or anything like that?

4 A No, oh no.

5 Q Who has the original letter?

6 A Who has the original letter?

7 Q Yes, ma'am?

8 A Amy.

9 Q So you don't have it?

10 A No, I don't.

11 Q You haven't seen it since you turned it over to
12 Amy?

13 A I have seen it.

14 Q You've seen the original?

15 A The original, yes, sir.

16 Q Amy still has it?

17 A Yes, sir.

18 MR. SCHNEE: I have no other questions, Judge.

19 THE COURT: Okay. All right. Now, I want you
20 to --- anything else you want to ask her,
21 Ms. Campbell?

22 MS. CAMPBELL: No, Your Honor.

23 REDIRECT EXAMINATION:

24 (Proffered)

25 BY MS. CAMPBELL:

1 Q The only thing I want to clear up, you were
2 actually present when Trenton Barnes was being
3 interviewed by the police on the 5th of July, right?

4 A Was I present? Well, we didn't leave at the same
5 time.

6 Q I understand that, but you were actually there
7 when they were questioning him?

8 A Uh-huh.

9 Q In the room?

10 A Yes, ma'am.

11 Q Because he wanted you there?

12 A Yes, ma'am.

13 THE COURT: Okay. Would you wait outside for us?

14 THE WITNESS: Yes.

15 THE COURT: Thank you, ma'am.

16 All right. The first question is are you willing
17 to skip the clothing questions?

18 MS. CAMPBELL: The clothing questions?

19 THE COURT: Right.

20 MS. CAMPBELL: As far as what they were wearing
21 when they left that night? Yeah. If you tell me to,
22 I will be happy to, but she actually comes forward and
23 talks to them because she recognizes Trenton from what
24 she sees on TV.

25 THE COURT: I know.

1 Okay. Mr. Aiken, approach.

2 (WHEREUPON, there was a bench conference.)

3 THE COURT: Hold on. Yes, ma'am?

4 MS. CAMPBELL: Your Honor, may I approach?

5 THE COURT: Yes, ma'am.

6 (WHEREUPON, there was a bench conference.)

7 THE COURT: All right. Let's get Mr. Moore back
8 in here first.

9 MS. PINNOCK: Your Honor, if I could real quickly
10 --- with Ms. Barnes. You asked the State to maybe
11 skip over the shirt question. Identifying clothing is
12 going to be part of our cross.

13 THE COURT: Yeah. I should have asked you too,
14 but it's fine.

15 MS. PINNOCK: Okay.

16 THE COURT: I'm not going to hamstring you like
17 that.

18 MS. PINNOCK: Okay.

19 THE COURT: I'm glad you brought that to my
20 attention, and you should have. That was proper. I
21 should have asked you, too. Okay.

22 MS. PINNOCK: Thank you.

23 THE COURT: I'm not going to keep you --- yeah, I
24 wouldn't hamstring you like that. Where is Mr. Moore?
25 Did somebody go get him?

1 MS. Good: You want her him back on the stand,
2 Your Honor?

3 THE COURT: That's fine. Come on up, Mr. Moore.
4 Okay. Tell me how old you are?

5 THE WITNESS: Twenty-one.

6 THE COURT: How far did you go in school?

7 THE WITNESS: I didn't go to high school.

8 THE COURT: Didn't go to high school?

9 THE WITNESS: No, sir.

10 THE COURT: Okay. When did you come to South
11 Carolina approximately.

12 THE WITNESS: 2010. That's when I came back.

13 THE COURT: Okay. And you've had some prior
14 convictions; is that correct?

15 THE WITNESS: Yes, sir.

16 THE COURT: You've been --- this isn't your first
17 time in court, right?

18 THE WITNESS: No, sir.

19 THE COURT: And you have a lawyer right,
20 Ms. Good?

21 THE WITNESS: Yes, sir.

22 THE COURT: And she represents you on your now
23 pending charges; is that correct?

24 THE WITNESS: Yes, sir.

25 THE COURT: Okay. You have a pending strong

1 armed robbery; is that right?

2 THE WITNESS: Yes, sir.

3 THE COURT: And she represents you on that,
4 right?

5 THE WITNESS: Yes, sir.

6 THE COURT: And have you met with her about this
7 case? The case that you're here potentially
8 testifying on?

9 THE WITNESS: Yes, sir.

10 THE COURT: I'm not going to ask you the
11 substance of your conversations with her, but have you
12 met with her?

13 THE WITNESS: Yes, sir.

14 THE COURT: Have you talked with her?

15 THE WITNESS: Yes, sir.

16 THE COURT: Have you explained your side of the
17 story or whatever you need explain to her about your
18 situation involving this case that we're here on?

19 THE WITNESS: Yes, sir.

20 THE COURT: And have you understood your
21 conversations with her?

22 THE WITNESS: Yes, sir.

23 THE COURT: During any of those conversations
24 were you under the influence of alcohol or drugs?

25 THE WITNESS: No, sir.

1 THE COURT: Are you under the influence of any
2 alcohol or drugs today?

3 THE WITNESS: No, sir.

4 THE COURT: Were you under the influence of any
5 alcohol or drugs the last time you testified in front
6 of me?

7 THE WITNESS: You're talking about just now?

8 THE COURT: No, I'm talking about back a week
9 ago.

10 THE WITNESS: No, sir.

11 THE COURT: Approximately --- I don't know, maybe
12 November 3rd, about a week or so ago. I don't remember
13 the exact date. Same courtroom, you were in the same
14 seat. Were you under the influence of any alcohol or
15 drugs then?

16 THE WITNESS: No, sir.

17 THE COURT: In your meeting where --- with
18 Investigator Streeter, I guess, the first meeting when
19 you met with him that time, were you under the
20 influence of any alcohol or drugs?

21 THE WITNESS: No, sir.

22 THE COURT: And when you met with Ms. Garfield
23 and Ms. Good and Investigator Streeter after you
24 testified in front of me, were you under the influence
25 of any alcohol or drugs?

1 THE WITNESS: No, sir.

2 THE COURT: All right. Mr. Moore, I'm going to
3 find that you have waived your Fifth Amendment right
4 to remain silent based upon the assertion that you
5 have lied to the police, and I'm going to explain to
6 you why I'm going to do that because I want you to
7 understand what I'm doing and what the requirements of
8 this court are.

9 My issue is this. Number one, you originally
10 gave a statement to law enforcement which, in October
11 of this year, according to you and according to your
12 lawyer, you told a member of the solicitor's office
13 who is an investigator that you lied to the police and
14 you didn't claim any Fifth Amendment right to remain
15 silent in that meeting.

16 You then came before this court on November 3rd,
17 swore to tell the truth, and you admitted to me with
18 your lawyer present and with the court reporter
19 present that your statement --- I don't remember if
20 you said your entire statement or portions of your
21 statement, but that something you had originally told
22 the police back in July of 2013 thereabouts was a lie
23 or portions of it were a lie.

24 In that hearing, you didn't invoke your right to
25 remain silent. You didn't invoke your Fifth Amendment

1 against privilege --- against self-incrimination and
2 your lawyer was present for that.

3 When you then again met with the solicitor's
4 office and two assist solicitors and a criminal
5 investigator, you again told them that your statement
6 was a lie without ever invoking your Fifth Amendment
7 right to remain silent or refusing to answer any
8 questions based upon self-incrimination.

9 So as it goes to the idea that your original
10 statement to police was a lie or was not a lie, you
11 have waived your Fifth Amendment right to remain
12 silent, and you are going to need to answer the
13 questions from the State and from the defense
14 concerning this case and your knowledge about this
15 case. Do you understand that?

16 THE WITNESS: Yes, sir.

17 THE COURT: Do you have any questions about that?

18 THE WITNESS: No, sir.

19 THE COURT: Okay. Do you want to confer with
20 Ms. Good and then determine if you need to ask me any
21 questions?

22 THE WITNESS: Uh-huh.

23 THE COURT: Okay. Why don't you walk up to her
24 and talk to her right now. I'll --- I want to make
25 sure you don't have any questions about what I'm

1 ordering you to do, okay.

2 THE WITNESS: All right.

3 MS. GOOD: Just to clarify, Your Honor, before I
4 speak with him, you're saying that's just as to lying
5 to the police, not other issues regarding the Fifth
6 Amendment right? The cross-examination of the phone
7 calls and ---

8 THE COURT: Well, the phone calls are not
9 incriminating. Meeting with people is not
10 incriminating. Being at someone's place of business
11 is not incriminating. Potentially whether or not he
12 disposed of any weapons in the case, that I'm still
13 thinking about.

14 MS. CAMPBELL: He has already been asked that and
15 denied that before.

16 THE COURT: Who did he deny that to?

17 MS. CAMPBELL: That was in his second interview,
18 Your Honor. That should have been in what I handed up
19 to you.

20 THE COURT: I'm sorry. I have that.

21 MS. CAMPBELL: You have that? Here it is.

22 THE COURT: I think you took it back. I'll hand
23 it back to the court.

24 And that was information that was turned over to
25 defense counsel.

1 THE COURT: Yeah, he needs to come back up here.

2 THE BAILIFF: Quiet, please. Quiet.

3 Okay. You can just stay right there.

4 THE COURT: That's fine. I don't need you to
5 walk all the way back up here. Did you understand
6 your conversation with your lawyer?

7 THE WITNESS: Yes, sir.

8 THE COURT: Now, you are going to be required by
9 this court to answer the questions that are proposed
10 to you today. Do you understand that?

11 THE WITNESS: Yes, sir.

12 THE COURT: And you will be under oath when you
13 are asked those questions. Do you understand that?

14 THE WITNESS: Yes, sir.

15 THE COURT: Do you have any questions about that?

16 THE WITNESS: No, sir.

17 THE COURT: I know that's not what you want to do
18 and I understand that, but do you understand the
19 ruling of this court?

20 THE WITNESS: Yes, sir.

21 THE COURT: Do you understand that I'm going to
22 require you to answer those questions?

23 THE WITNESS: Yes, sir.

24 THE COURT: Okay. Thank you very much. You can
25 go back outside. I don't know who the next witness

1 is, but thank you very much. Do not leave.

2 All right. Now, bring in Ms. Barnes.

3 Oh. I need to --- get him again. I'm sorry. I
4 completely forget something. All right. Mr. Moore,
5 you can just stay right there. That's fine. I'm
6 sorry. I forget something I needed to tell you, okay.
7 Can you hear me okay?

8 THE WITNESS: Yes, sir.

9 THE COURT: Okay. Now, I know that there's been
10 some information in the different statements that you
11 have given about gang activity, okay, and you're not
12 going to be allowed to say anything about any gang
13 activity. Do you understand that?

14 THE WITNESS: Yes, sir.

15 THE COURT: Do you have any questions about that?

16 THE WITNESS: No, sir.

17 THE COURT: Okay. Thank you very much. Didn't
18 somebody request that earlier?

19 MS. CAMPBELL: I did.

20 MS. GOOD: And I had already counseled him about
21 that earlier.

22 THE COURT: Okay. Great. Thank you, Ms. Good.
23 Okay, Ms. Barnes, have you had an opportunity to talk
24 to Mr. Aiken?

25 THE WITNESS: Yes, sir.

1 THE COURT: That's your lawyer?

2 THE WITNESS: Yes.

3 THE COURT: Are you under the influence of any
4 alcohol or drugs today?

5 THE WITNESS: No, sir, no, sir.

6 THE COURT: All right. Ms. Barnes, I'm going to
7 order that you answer the questions that have been
8 proposed to you today, all the questions that have
9 been proposed to you thus far. Okay?

10 THE WITNESS: Okay.

11 THE COURT: None of those questions in my
12 opinion, based upon the information that's been
13 provided to me and the questions that you were asked,
14 while I know that you do not want to answer them, and
15 you do not want to be here, none of those questions
16 incriminate you personally. They do not rise to the
17 level of anything that the State could prosecute you
18 for or that you would be exposing yourself to criminal
19 liability.

20 Okay. I know that you do not want to answer
21 those questions, and I understand that. I know that
22 in this case, you would rather be sitting behind your
23 son instead of having to wait outside to testify, and
24 I understand that. I appreciate that and respect
25 that, okay, but you are going to be required to answer

1 the questions put forth to you by both the State and
2 the defense as proposed when we did the in camera
3 hearing, which means outside the presence of the jury
4 just a little while ago. That same line of
5 questioning, you'll need to answer each one of those
6 questions. Do you understand that?

7 THE WITNESS: Yes, sir.

8 THE COURT: My basis for that is telling who was
9 at your house or what they had on is not --- it
10 doesn't incriminate you. It's not something that
11 looks --- that a prosecutor or a law enforcement
12 officer could look at you and say I'm going to
13 prosecute you based upon the way that you answered
14 those questions. Does that make sense?

15 THE WITNESS: Yes.

16 THE COURT: Thank you very much. You can go
17 back. Do you have any questions about that?

18 THE WITNESS: No.

19 THE COURT: Anything else, Ms. Campbell?

20 MS. CAMPBELL: The part that I want to make sure
21 we don't go there is ---the hoodie that Trenton has on
22 that she identifies, she talks about the snag or the
23 rip in it, she knows that's the hoodie because he
24 knows that's the hoodie because that's the hoodie the
25 hoodie he had on when he got arrested for running from

1 police ---

2 THE COURT: Right. Okay.

3 MS. CAMPBELL: So we just don't need to mention
4 that he was on probation or arrested on a prior
5 occasion.

6 THE COURT: Do you understand what Ms. Campbell
7 is saying?

8 THE WITNESS: Uh-huh.

9 THE COURT: Here is one of the things that I
10 don't want the jury to know, okay. I don't want ---
11 and I don't even know this to be a fact, okay, but I
12 don't want the jury to have any inference that your
13 son --- either one of your sons or Mr. Young was in
14 any type of gang. Now, I have no personal knowledge
15 as to whether they were or not. Does that make sense?

16 THE WITNESS: Yes, sir.

17 THE COURT: Now, if the hoodie, the gray hoodie
18 for lack of a better term, got ripped while somebody
19 was running from the police, I don't want the jury to
20 know that, okay.

21 THE WITNESS: All right.

22 THE COURT: I want them to make a decision based
23 upon the evidence in this case, not anything that may
24 have happened in the past or may not have happened in
25 the past, so don't go --- if you're asked about that,

1 you don't need to go into, well so and so ripped it
2 while they were running from the police because they
3 were about to get arrested. That's information that
4 would not be beneficial to Mr. Barnes in this case.
5 Does that make sense?

6 THE WITNESS: Yes, sir.

7 THE COURT: Okay. Do you understand that?

8 THE WITNESS: Yes, sir.

9 THE COURT: Okay. Thank you very much. You may
10 wait back outside. Okay.

11 Here is what we're going do. All right. It's
12 2:30. We've had our jurors waiting for a little
13 while. Let's take a short break so everybody can kind
14 of regroup. Who is the next witness?

15 MS. CAMPBELL: Mr. Moore.

16 THE COURT: Mr. Moore. Okay, and is Ms. Barnes
17 coming up this afternoon?

18 MS. CAMPBELL: Yes, sir.

19 THE COURT: Okay. So if everybody can kind of
20 regroup, process through what we just went through.

21 All right. Now --- we're just going to make a
22 new rule for this point forward. The new rule for the
23 audience is this. Mr. Dye, are you listening?

24 THE BAILIFF: Yes, sir.

25 THE COURT: Okay. - So unless you're a lawyer, and

1 that means an active member of the South Carolina Bar
2 or in the media, I don't want any cell phones in the
3 courtroom at all. We're going to put a form of the
4 Judge Lee rule into effect. If you're with the media,
5 you're allowed to have a cell phone because I have you
6 under court order if I hear your phone go off, and if
7 you're a lawyer, you're an officer of this court and
8 you know your phone is not allowed to go off.

9 Otherwise, no one in the courtroom is going to
10 get to have a phone. You need to leave it in the car,
11 put it in the car, do whatever your need do with it.
12 That way we're just not going to have anymore cell
13 phone issues. It's not fair to this jury to be having
14 all this movement out here, and it's not fair to the
15 parties either. It's not fair to either defendant or
16 the State that a juror could miss something going on
17 because I got bailiffs running all over the place
18 looking for phones. Okay. So unless you're a lawyer
19 or you're a member of the media or you worked with
20 Mr. Schnee's office, the Public Defender's office or
21 the solicitor's office, no phones in the courtroom at
22 all. Okay.

23 Now, some of you may have phones right now, and I
24 understand that. So you will be given an opportunity
25 to go do whatever you need to do with those phones.

1 Whose phone is this (indicating).

2 THE COURT: Okay. All right. Now. You got me?

3 UNIDENTIFIED WOMAN: Okay.

4 THE COURT: You can get this back to her. So
5 when someone comes in here, Mr. Dye, if they're not a
6 lawyer, you tell them they can't come in with a phone.
7 They have to put it somewhere else.

8 THE BAILIFF: Yes, Your Honor.

9 THE COURT: I'm doing that so everybody knows,
10 out of fairness to the defendant and the State so the
11 jurors don't lose focus on what's going on the witness
12 stand because everybody and their mama is running
13 around trying to get phones out of the courtroom.

14 Let's take about ten minutes. Everybody kind of
15 regroup and then we'll come back and get started.
16 Thank you very much.

17 (WHEREUPON, a short break was taken.)

18 (WHEREUPON, State's Exhibit Numbers 405-419 were
19 marked for identification only.)

20 THE COURT: Are you good?

21 MR. SCHNEE: I have a completely separate issue.

22 THE COURT: Do you have anything?

23 MR. KRZYSTON: No, Your Honor.

24 THE COURT: Okay. Do you have anything before we
25 start back?

1 MS. GARFIELD: No, sir.

2 THE COURT: Okay. Go ahead.

3 MR. SCHNEE: May it please the Court, Your Honor.

4 Over the lunch break, I was given an email by
5 Ms. Garfield. Apparently, it looks like on
6 October 22nd, a couple weeks ago, solicitors met with
7 a witness by the name of Carlos Smith.

8 I had previously been given a written statement
9 that he had given a long time ago or sometime ago, and
10 the entirety of the written statement contains
11 information that he got from Troy Stevenson allegedly
12 at jail.

13 The new version that I got just today says,
14 according to the investigators, that he also talked
15 with Lorenzo and that Carlos Smith also talked to
16 Trenton Barnes. Specifically, when he says he talked
17 to Trenton Barnes in the yard quote unquote on August
18 19th, 2014 --- August 14th, I'm sorry, August 19th at
19 the jail.

20 THE COURT: Of what year?

21 MR. SCHNEE: This year.

22 THE COURT: Okay.

23 MR. SCHNEE: And apparently then Trenton told him
24 that he shot the lady, he tried to pin it on his
25 brother first, and then Lorenzo finally admitted to

1 doing it. I've never been given that information
2 before. This was still during our lunch break. I
3 talked to Dolly about it, and I asked her to pull the
4 housing records from Alvin S. Glenn Detention Center.
5 The housing records show that Trenton Barnes for that
6 entire time that Mr. Smith claims this conversation
7 could have taken place, my client was housed in the
8 Kilo dorm at Alvin S. Glenn.

9 As for --- I'm sorry, not Kilo, India. Carlos
10 Smith, however, for that entire period of time was in
11 Kilo and then moved on August 19th to SHU, which is
12 the secure housing disciplinary unit.

13 The problem I have, Your Honor, in terms of
14 cross-examination is that this is the first time I'm
15 hearing it. I don't have witnesses available to
16 refute this. Clearly, I would want a map of the jail.
17 I would want the jail staff here to authenticate these
18 records in order to prove that Mr. Smith is clearly
19 lying about when this conversation could have taken
20 place. They've never been in the same dorm together.
21 Based on the fact that I've been given this today, I'm
22 moving to exclude Mr. Smith as a witness against my
23 client or in the alternative, I would need a
24 continuance for at least some amount of time before he
25 testified in order subpoena the jail and get a proper

1 map showing all the dorms, showing where the exercise
2 yards are, the recreational yard, and how far apart
3 those dorms are. They are in completely separate
4 wings.

5 THE COURT: I know where they are, yes.

6 MR. SCHNEE: It kind of leaves me in a difficult
7 spot cross-examining a witness with information that I
8 got less than an hour ago.

9 THE COURT: When is he up as a witness?

10 MS. GARFIELD: We're not anticipating calling him
11 today. And, Judge, just for the record, I found this
12 --- it was given to defense counsel in email fashion.
13 I went to my email to provide one to Mr. Smith's
14 attorney, Tivis Sutherland, just to make sure we
15 didn't have any further Riddle issue or anything of
16 that nature. At that time, I realized that my email
17 whatever date he referenced, I had sent it to Mark
18 Schnee, but I sent to the wrong email address. I
19 caught that and sent it to him.

20 THE COURT: Okay. We'll deal with this issue
21 later. Let's get through this afternoon. I'm not
22 making any decision, but I'm just letting him process
23 through it and get through where we are right now and
24 we'll circle back.

25 MR. SCHNEE: Yes, sir, Your Honor. I'm just

1 wanted to bring that to the Court's attention. I'm
2 not blaming the solicitor for trying to withhold this
3 information.

4 THE COURT: I understand.

5 MR. SCHNEE: I'm sure it was an oversight, but it
6 just generates a problem.

7 THE COURT: I didn't take it as you blaming
8 anyone.

9 THE COURT: Okay. Are you Mr. Schleuter?

10 THE WITNESS: Yes, sir.

11 MS. GARFIELD: We are not calling him. He was on
12 the witness list, but we will not be calling him.

13 THE COURT: I'm sorry if I'm saying your last
14 name wrong. I apologize, but I just remember the
15 female witness, and I remember two names on the list,
16 but the State is not calling him; is that right?

17 MS. GARFIELD: That's correct.

18 THE COURT: Do you plan on calling him that you
19 would need him excluded, Mr. Krzyston?

20 MR. KRZYSTON: No, Your Honor.

21 THE COURT: How about you, Mr. Schnee?

22 MR. SCHNEE: No, sir.

23 THE COURT: I just wanted to double check. I
24 didn't want to get started and then...

25 MS. GARFIELD: I apologize, Judge. I knew he was

1 coming. I did not know he was in here.

2 THE COURT: That's okay. All right.

3 MS. SIMPSON: I went ahead and told her we were
4 withdrawing those photographs.

5 THE COURT: Okay.

6 (WHEREUPON, the jury entered the courtroom at
7 2:53 P.M.)

8 THE BAILIFF: The jury is seated, Your Honor.

9 THE COURT: Ladies and gentlemen, I apologize for
10 keeping you outside so long. Most of the time, when
11 we are doing things outside of your presence, which
12 are legal matters, I'm trying to accomplish as much as
13 possible so that when I do have you in here, we can
14 move along as smoothly as possible. Now, as you know,
15 some things are out of my control. You understand
16 that, but I wouldn't keep you out for an extended
17 period of time if it wasn't an attempt to keep things
18 moving once you come back in instead of us having to
19 take multiple breaks.

20 I apologize. I accept responsibility. Nothing
21 should be thought or assumed against any of the
22 parties or anything else. It was me merely handling
23 issues that I'm required to handle outside of your
24 presence. Thank you.

25 You may call your next witness.

1 MS. CAMPBELL: May it please the Court. The
2 state calls Donald Moore.

3 DONALD MOORE,
4 after being duly sworn, testified as follows:

5 THE CLERK: Please have a seat. State your full
6 name for the record.

7 THE WITNESS: Donald DeAngelo Moore.

8 DIRECT EXAMINATION:

9 BY MS. CAMPBELL:

10 Q Mr. Moore, how old are you?

11 A Twenty-one.

12 Q Do you work?

13 A No.

14 Q Do you live in the Columbia area?

15 A Yes, ma'am.

16 Q How long have you been living in Columbia?

17 A Four years.

18 Q All right and prior to being in Columbia where
19 did you live?

20 A New Orleans, Louisiana.

21 Q Is that where you grew up?

22 A Yes, ma'am.

23 Q Do you know Lorenzo Young?

24 A Yes, ma'am.

25 Q Can you tell the jury how you know him?

1 A From the street.

2 Q And when you say from the street, do y'all
3 frequent the same area?

4 A I only seen him one time before.

5 Q On the street?

6 A Yeah.

7 Q Do you know Trenton Barnes?

8 A Yeah, that's my boy.

9 Q That's your boy?

10 A Yeah.

11 Q What you mean when you say that's your boy?

12 A We was friends.

13 Q You are friends?

14 A Yeah.

15 Q And did you know his brother, Troy Stevenson?

16 A Yes, ma'am.

17 Q How did you know Troy?

18 A He was my boy, too.

19 Q Did you live near them?

20 A Yes, ma'am.

21 Q What street do you live on?

22 A Lily Avenue.

23 Q Lily Avenue?

24 A Uh-huh.

25 Q And what street do Trenton and Troy live on?

1 A I don't know the name of the street, I just know
2 how to get there.

3 Q Do you know what the house looks like?

4 A Burgundy and white.

5 Q It's a white house with burgundy trim?

6 A Yes, ma'am.

7 Q It's near, it's within walking distance from your
8 house, right?

9 A Yes, ma'am.

10 Q I want to talk to you a little bit about what you
11 know about this case. I want to turn your attention
12 back to the Thursday before this murder occurred.

13 A I told them I lied about all that. There wasn't
14 nothing in that confession true.

15 Q Okay. So none of it was true?

16 A None of it.

17 Q Well, let me ask you this. Do you remember
18 talking to the police on Tuesday, July 2, 2013, around
19 6:44?

20 A Yeah.

21 Q Do you remember when you talked to them that they
22 recorded your statement?

23 A Yeah.

24 Q Do you remember when you came forward and talked
25 to them that that was at the Columbia Police

1 Department, I believe?

2 A Yes, ma'am.

3 Q In fact, they came and picked you up that day; is
4 that correct?

5 A Uh-huh.

6 Q How did they know to come pick you up?

7 A I called them.

8 Q Had you called anybody before you actually called
9 the police themselves?

10 A I called the number on the TV.

11 Q The number on the TV?

12 A Yeah.

13 Q And the reason you called the number on the TV is
14 because you had information?

15 A I lied in my story.

16 Q Okay. Let me ask you this. Do you remember in
17 that conversation with them --- who were you speaking
18 with? Do you remember Investigator McCoy?

19 A Yeah, right there.

20 Q Sergeant Reese?

21 A Those two right there.

22 Q Those two on either end of the table?

23 A Yes, ma'am.

24 Q Do you remember telling them that last Thursday
25 that you had seen Lorenzo and Troy?

1 A I probably did. All this is a lie. I don't
2 know.

3 Q Do you remember telling them that you had seen
4 them off Bonner Avenue, there is a cul-de-sac right
5 there?

6 A Yeah.

7 Q And there was Troy, Tyreek, and Lorenzo?

8 A Yeah.

9 Q So that would be Lorenzo Young and Troy Stevenson
10 and they were talking about the Ale House. Do you
11 remember that? Did you tell them that?

12 A Yeah, I told them that.

13 Q And that they told you about an operation they
14 had going on with the Ale House?

15 A That was a lie.

16 MR. SCHNEE: Judge, may we approach?

17 THE COURT: Yes, sir.

18 (WHEREUPON, a bench conference was held in the
19 presence, but not within the hearing of the
20 jury.)

21 MR. SCHNEE: Judge, I object for the record, and
22 I'll be putting the exact reason on later.

23 THE COURT: Overruled.

24 MR. SCHNEE: Thank you.

25 MR. KRZYSTON: I'll join in that objection,

1 Judge.

2 THE COURT: Very well.

3 MR. KRZYSTON: It's State v. Bottoms, Judge, is
4 the case.

5 BY MS. CAMPBELL:

6 Q And do you remember telling them, the police
7 officers you were talking to, did you tell them that
8 they were talking about doing a robbery at the Ale
9 House?

10 A Yeah, it was a lie though.

11 Q I'll get back to that part. And do you remember
12 telling them that they were trying get you to come in
13 and do the robbery with them?

14 A No, I don't recall that.

15 Q So you deny saying that?

16 A Yeah.

17 Q In that same conversation back on July 2nd, do
18 you remember telling --- did you tell them that
19 Lorenzo, he had bought a 40, a Glock 40 all black
20 because he had it out the door when I was walking down
21 the street?

22 A That's a lie.

23 Q You didn't tell him that or you did tell them
24 that?

25 A Yeah. That's what I said.

1 Q You did tell them that?

2 A Yeah.

3 Q Do you remember telling them it was black with
4 white down sites?

5 A I said everything that you got on that paper
6 right there, everything.

7 Q You just have to answer my questions, okay?

8 THE COURT: Here is how this works, Mr. Moore.
9 You need to answer her question and you'll be allowed
10 to explain yourself. Okay. I won't let her cut you
11 off, okay?

12 THE WITNESS: Okay.

13 THE COURT: But you need to answer the question
14 she asks you. If you need to explain yourself, you'll
15 be given that opportunity, okay?

16 THE WITNESS: Yes, sir.

17 MS. CAMPBELL: Thank you.

18 THE WITNESS: Yes, ma'am.

19 BY MS. CAMPBELL:

20 Q That that gun he showed it to you. Do you
21 remember telling them that?

22 A Yes, ma'am.

23 Q Because you got mad at him. You told him because
24 there was some kids on the street.

25 A Yes, ma'am.

1 Q And you asked him --- and this is your
2 terminology --- do you remember telling them that you
3 asked him what the fuck you're your pointing that gun
4 over here for?

5 A Yes, ma'am.

6 Q That you got real with him?

7 A Yes, ma'am.

8 Q And you called him my bad bro?

9 A Yes, ma'am.

10 Q And then you told them that --- did you tell them
11 that you told him to put the shit up and go in the
12 house?

13 A Yes, ma'am.

14 Q And that he did?

15 A Yes, ma'am.

16 Q Did you tell them that he, being Lorenzo, knew
17 better than to point that at your face?

18 A I don't remember saying that. I probably did
19 though.

20 Q You don't remember?

21 A I probably did.

22 Q Okay. Do you remember telling them that if you
23 wanted to punch him, you could have punched him?

24 A Yeah.

25 Q And that that was on that Sunday. That would

1 have been three days before you're talking about him
2 around 7:45, 8:00 o'clock at night?

3 A Yes, ma'am.

4 Q That's what you told them?

5 A Uh-huh, yes, ma'am.

6 Q Did you tell them that you were right under a
7 street light so you could see the gun?

8 A I probably --- yeah. Yes, ma'am.

9 Q And that when you told him to take the gun in the
10 house, you told the police officers back on July 2nd
11 that Lorenzo took the gun into Troy's house on
12 Lucille?

13 A Yes, ma'am.

14 Q Is that what you told them?

15 A Yes, ma'am.

16 Q And that you told them that the house was
17 burgundy and white?

18 A Yes, ma'am.

19 Q I'm going to move on. In that same conversation
20 you were having with the police back on July 2nd of
21 2013, do you remember talking to them about what you
22 had seen on the news as far as the bakery video?

23 A Yes, ma'am.

24 Q Did you tell them that the hat Lorenzo had on is
25 the one --- that he wears that hat all the time,

1 that's a red grizzly hat, the hoodie and all that. He
2 had that shit on all the time. Is that what you told
3 them?

4 A Probably, yeah.

5 Q And that you told them you had seen him with that
6 on plenty of times?

7 A Yes, ma'am.

8 Q And then they asked you about talking about the
9 hoodie. You said, "Snap back, no. Snap back. He had
10 it on under there. You can see him clutching it. You
11 got the video?"

12 A Yeah.

13 Q That's what you told them? You said the first
14 time basically you saw him, he had that hoodie on?

15 A Yes, ma'am.

16 Q And then they asked you about seeing the video
17 again and about the gray jacket in the video?

18 A Yes, ma'am.

19 Q And you said that Troy wears that all the time?

20 A Yes, ma'am.

21 Q And you told them that based on your view, you
22 thought it was Troy and Lorenzo in that video?

23 A Yes, ma'am.

24 Q Sorry. I just have to flip this.

25 (Pause.)

1 much.

2 All right. Call your next witness.

3 MS. CAMPBELL: The State calls Latoya Barnes.

4 MS. GARFIELD: Judge, may I approach while she is
5 coming up?

6 THE COURT: Yes, ma'am.

7 (WHEREUPON, a bench conference was held in the
8 presence, but not within the hearing of the
9 jury.)

10 THE COURT: Yes, ma'am. I'm sorry. I didn't see
11 you down there. I apologize. Come on up.

12 LATOYA BARNES,
13 after being duly sworn, testified as follows:

14 THE CLERK: Have a seat, state your full name for
15 the record.

16 THE BAILIFF: Watch your step. Slide up a little
17 bit forward. All right.

18 DIRECT EXAMINATION:

19 BY MS. CAMPBELL:

20 Q Good afternoon, Ms. Barnes.

21 A Hi.

22 Q Are you from the Columbia area?

23 A Yes, ma'am.

24 Q How long have you been living here?

25 A All my life.

1 Q Do you work?

2 A No, ma'am.

3 Q Where do you live?

4 A 2849 Lucille Drive.

5 Q How long have you been living at 2849 Lucille
6 Drive?

7 A Five years.

8 Q Five years?

9 A Yes, ma'am.

10 Q And do you have any children?

11 A Yes, ma'am.

12 Q And is one of your children Trenton Barnes?

13 A Yes, ma'am.

14 Q And is another one of your children Troy
15 Stevenson?

16 A Yes, ma'am.

17 Q And back in July of last year, were Trenton and
18 Troy living with you?

19 A Yes, ma'am.

20 Q Would that be at the Lucille Street address?

21 A Yes, ma'am.

22 Q Do you know Lorenzo Young?

23 A Yes, I did do.

24 Q Can you tell the jury what Lorenzo Young's
25 relationship is to your family?

1 A He is a friend of my son Troy.

2 Q He is a friend of your son Troy?

3 A Yes, ma'am.

4 Q Is it unusual for Lorenzo to come over to your
5 house?

6 A No, it wasn't unusual.

7 Q In fact, was it unusual for him to stay over at
8 your house?

9 A No, ma'am.

10 Q I want to turn your attention to that Sunday
11 evening, June 30th into the early morning hours of
12 July 1st that we're talking about?

13 A Yes, ma'am.

14 Q Were you at home that night, ma'am?

15 A Yes, ma'am.

16 Q What were you doing at home that night?

17 A Just home.

18 Q Okay. Were there other people in your home, too?

19 A Yes, ma'am.

20 Q At some point earlier in the evening, were
21 Lorenzo and Troy ---

22 A And Trenton.

23 Q And Trenton all there?

24 A Yes, ma'am.

25 Q And were there also some other young men staying

1 at that your house?

2 A Marquis Johnson.

3 Q Marquis Johnson?

4 A Yes, ma'am.

5 Q At some point though did any of these people
6 leave the house that evening?

7 A That night?

8 Q That night, I'm sorry.

9 A Trenton and Lorenzo left that night.

10 Q Do you remember what time that was?

11 A Like eleven, twelve, something like that.

12 Q Eleven or twelve, so that would that be close to
13 midnight?

14 A Yes, ma'am.

15 Q And did you know where they were going at that
16 point?

17 A No, ma'am.

18 Q Was Troy still in your house at that point?

19 A He had already left with other friends.

20 Q With other friends?

21 A He didn't leave with them so it was like a party
22 or whatever.

23 Q But at some point in the early morning hours did
24 Troy come home?

25 A Yes, ma'am.

- 1 Q And were Trenton and Lorenzo still were not home?
- 2 A Correct.
- 3 Q Was Marquis still in your house?
- 4 A He was like with Troy.
- 5 Q Okay.
- 6 A With that group.
- 7 Q With that group. Okay. So they came back and
- 8 came to your home?
- 9 A Yes, ma'am.
- 10 Q Later in the early morning hours going now to
- 11 like two or three in the morning were Trenton and
- 12 Lorenzo still gone?
- 13 A Yes, ma'am.
- 14 Q At some point did you receive a phone call that
- 15 morning around two or three in the morning?
- 16 A Yes, ma'am.
- 17 Q You tell me what time was it?
- 18 A Like two or three in the morning. I'd say about
- 19 three'ish.
- 20 Q Three'ish. Okay. And who did you get the first
- 21 phone call from that morning?
- 22 A Lorenzo Young.
- 23 Q And did you actually answer the phone that day?
- 24 A Yes, ma'am.
- 25 Q And what if anything did Lorenzo want?

- 1 A He wanted Marquis Johnson.
- 2 Q Marquis Johnson?
- 3 A Yes, ma'am.
- 4 Q What did you do as a result of what he asked you?
- 5 A I just gave him the phone. He asked to speak to
- 6 him.
- 7 Q Where was Marquis at that point?
- 8 A Asleep in Troy's room.
- 9 Q And where was Troy?
- 10 A Asleep in his room.
- 11 Q And again were Lorenzo and Trenton still not home
- 12 at that point?
- 13 A No, ma'am.
- 14 Q Once you gave Marquis the phone, did you take it
- 15 actually to him in the room?
- 16 A Yes, ma'am.
- 17 Q What did you do?
- 18 A I went back in my room.
- 19 Q Okay.
- 20 A Yes, ma'am.
- 21 Q And then a little while later did you get another
- 22 phone call?
- 23 A Yes, ma'am.
- 24 Q Did you answer that one?
- 25 A Yes, ma'am.

1 Q Who was it?

2 A Lorenzo Young.

3 Q At that point what if anything did you say to
4 Lorenzo about your other son Trenton?

5 A Where is Trenton? He said that we're right down
6 the street, Ms. Barnes. And I was like tell Trenton
7 to come on home.

8 Q At that point what did you do with the phone?

9 A Gave the phone to Marquis Johnson.

10 Q And, again, did you walk it down to the room
11 where Troy was?

12 A Well, across the hall.

13 Q Across the hall, I'm sorry. Please don't let me
14 put words in your mouth, okay.

15 At that point, did you leave the phone with
16 Marquis?

17 A Yes, ma'am.

18 Q And where did you go?

19 A Back to my room.

20 Q Did you go to sleep that night?

21 A Yeah, I went to sleep.

22 Q At some point, do you know when or if Trenton ---
23 oh, excuse me. At some point, did you know if anybody
24 else the house that evening?

25 A No, ma'am.

1 Q What about Troy?

2 A When I --- he went to go get his brother.

3 Q That's why I'm getting at. Was that after the
4 second phone call?

5 A Yes, ma'am.

6 Q Okay.

7 A Not like after or whatever. When it took a
8 minute for him not to come home after I spoke to
9 Mr. Young.

10 Q After you spoke to Mr. Young?

11 A And told him to come home. It was a good little
12 minute, so I told him to go get your brother.

13 Q And who did you tell to get his brother?

14 A Troy Stevenson.

15 Q What did Troy do as a result of what you told him
16 to do?

17 A He went to go look for his brother.

18 Q So this would have been sometime after
19 three o'clock in the morning?

20 A Yes, ma'am.

21 Q And when he left, what did you do?

22 A I just went back to my room.

23 Q At some point, did you see Troy or Lorenzo or
24 Trenton anymore that night?

25 A No, ma'am.

1 Q The next morning, who is the first one you saw
2 the next morning?

3 A Oh, gosh.

4 Q Do you remember?

5 A All three of them was at my own home.

6 Q At your home?

7 A Right. All three of them was in there. So I
8 don't know who I seen first.

9 Q Okay. But they were all there the next morning
10 when you got up?

11 A Yes, ma'am.

12 Q Do you remember about what time it was when you
13 got up?

14 A About six or seven.

15 Q Six or seven in the morning?

16 A Yes, ma'am.

17 Q At some point did one of them leave?

18 A Yes, ma'am.

19 Q Who was it that actually left?

20 A Lorenzo Young.

21 Q Do you know how he left?

22 A A ride picked him up.

23 Q A ride picked him up?

24 A Yes, ma'am.

25 Q That night, do you remember what each of them was

1 wearing when they left the house?

2 A Around 11 or 12?

3 Q Yeah, when Trenton and Lorenzo left, do you
4 remember what they were wearing?

5 A Trenton had a gray jacket and Lorenzo had a red
6 jacket or hoodie.

7 Q Lorenzo had on a red jacket or hoodie?

8 A Uh-huh.

9 Q And Trenton had on what?

10 A A gray jacket or hoodie. It was gray.

11 Q Was that something he wore a lot?

12 A Yeah. You know, they're brothers and friends.
13 They share clothes, but he wears it a lot.

14 Q Was there anything specific about that hoodie, a
15 certain tear in it that he wore it and Troy didn't
16 like to wear it anymore?

17 A Yeah, it had a little hole in it.

18 Q Is that why Troy didn't like to wear it anymore?

19 A Correct.

20 Q So Trenton wore that. That's what he was wearing
21 that night when he left?

22 A That's what he had on, the gray jacket.

23 Q And then later on, several hours later, when Troy
24 left to go look for him, when you asked him to leave
25 and go look for Trenton?

1 A Yes, ma'am.

2 Q What was he wearing?

3 A It was dark. I couldn't see if it was Navy blue
4 or black.

5 Q But it was a dark jacket.

6 A Yeah.

7 Q But it wasn't gray one?

8 A No, ma'am.

9 Q And again, you didn't see any of them come back
10 in the house?

11 A No, ma'am.

12 Q Okay. How did you become aware of what had
13 happened at the bakery? Is the bakery near your
14 house?

15 A Yes, ma'am.

16 Q In fact, is it within walking distance?

17 A Yes, ma'am.

18 Q How did you become aware of what had happened at
19 the bakery?

20 A The news.

21 Q The news?

22 A I still didn't know where, what bakery, because I
23 used to go to the bar.

24 Q Okay.

25 A So it was never a bakery when I was going to the

1 bar so...

2 Q So let me backup for a minute. You're familiar
3 with the bar that's next door?

4 A Yes, ma'am.

5 Q And what's the name of that bar?

6 A Ale House.

7 Q Ale House?

8 A Yes, ma'am.

9 Q And you had been there before?

10 A Yes, ma'am.

11 Q You knew there was a building next door. Did you
12 know what it was?

13 A No, ma'am.

14 Q But once video was on the news, did you see it?

15 A Yes, ma'am.

16 Q When you saw the video, did you recognize who was
17 on it?

18 A No, I didn't.

19 Q Okay. I'll get back to that. Several days later
20 on the 5th, did the police come to your home?

21 A Yes, ma'am.

22 Q And what were they there for?

23 A To arrest --- I guess, to arrest my kids. I
24 don't know. They just came. I didn't know what was
25 going on. I was in shock.

1 Q You were in shock?

2 A Yes, ma'am.

3 Q At that point, did they execute, I think, a
4 search warrant at your home?

5 A Yes, ma'am.

6 Q To look for things?

7 A Yes, ma'am.

8 Q At that point when the police came, was Troy at
9 your home?

10 A No, ma'am.

11 Q Was Trenton at your home?

12 A Yes, ma'am.

13 Q Was Lorenzo at your home?

14 A No, ma'am.

15 Q And once they came, did they then want to talk to
16 Trenton?

17 A Did they want to talk to Trenton? Yes, ma'am.

18 Q Did Trenton end up going with them down to the
19 police station?

20 A Yes, ma'am.

21 Q Later on did you end up going to the police
22 station, as well?

23 A Yes, ma'am.

24 Q At some point did you contact Troy?

25 A Yes, ma'am.

1 Q And let him know the police were looking for him?

2 A Yes, ma'am.

3 Q And he actually went to the police station, as
4 well?

5 A Yes, ma'am.

6 Q Later on, do you recall having a conversation
7 with Investigator McCoy about a month later or six
8 weeks later?

9 A Yes, ma'am.

10 Q Over the phone and you and he discussed some
11 things that you had had an opportunity to see at that
12 point; is that correct?

13 Do you remember?

14 A Ma'am?

15 Q Y'all had a conversation?

16 A Yes, ma'am.

17 Q And you told them just like you told this jury
18 about what they were wearing that night when they
19 left?

20 A Yes, ma'am.

21 Q And you told them about the phone calls?

22 A Yes, ma'am.

23 Q And about the tear in the hoodie?

24 A Yes, ma'am.

25 Q And about Troy leaving to go get Trenton?

1 A Yes, ma'am.

2 Q Do you remember telling them at that time that
3 Trenton was the only one that ever wore that gray
4 hoodie?

5 A Telling them that, yeah, Troy put it on but he
6 wore it more than Trent --- than Troy.

7 Q And do you remember telling them in that
8 conversation that Trenton was the one on the video in
9 the gray sweatshirt?

10 A Do you recall telling him that?

11 Q Uh-huh.

12 A I never told him that.

13 Q But do you remember having the recorded
14 conversation in August of 2013?

15 A Yes.

16 Q With Investigator McCoy?

17 A Yes, ma'am.

18 Q And you were cooperating with them?

19 A Yes, ma'am.

20 Q And at that point both Troy and Trenton were
21 under arrest; is that correct?

22 A Yes, ma'am.

23 Q Do you remember telling them --- and I'm just
24 going to okay say what was in the recorded
25 conversation, "I mean, yeah, it was ---

1 MR. SCHNEE: Judge, I'm going to object to
2 Ms. Campbell reading from that. That's not a valid
3 transcript.

4 THE COURT: She can read from it.

5 MS. CAMPBELL: Thank you. "Yeah, I mean, yeah,
6 it was Trenton with the gray on. Like I said, I know
7 my kids' build. I know them from their fingers to
8 their toes. I know my kids."

9 A I never stated that's Trenton, never. I said I
10 know my kid's body build, yes, I did.

11 Q Okay.

12 A Clearly, that is not Troy. When he was
13 questioning me about the video.

14 Q Do you remember saying it was Trenton with the
15 gray on?

16 A I never stated that to Mr. McCoy.

17 Q So you didn't say that?

18 A No.

19 Q Okay. And do you remember telling him about the
20 gray sweatshirt, that Troy didn't want it anymore
21 cause it got a hole in it?

22 A Yeah, I told him that, yes.

23 Q So he let his brother have it and told Trenton he
24 could just have it?

25 A Right.

1 Q Okay. Later on, did you get a letter from your
2 son Trenton?

3 A Yes, ma'am.

4 Q I'm going to show you'll what's been marked as
5 State's Exhibit Number 404 and 403, are these copies
6 of the letter and the actual envelope it came in? Do
7 you want to look at those?

8 A Thank you.

9 Q Is that a copy of the letter?

10 A Yes, ma'am.

11 Q And at the top of State's Exhibit 404, who does
12 it say is writing you?

13 A Your son, Trenton Barnes, well, Trenton B.

14 Q Trenton B. and is this a copy of the letter you
15 actually got from him?

16 A Yes, ma'am.

17 Q And do you actually recognize the handwriting?

18 A Yes, ma'am.

19 Q Whose handwriting is it?

20 A Trenton.

21 Q Your son Trenton.

22 A Yes, ma'am.

23 MS. CAMPBELL: Your Honor, at this time we'd
24 offer State's Exhibit 404 and 403 into evidence.

25 MS. PINNOCK: Your Honor, we would object. We

1 have a matter of law.

2 THE COURT: All right. Ladies and gentlemen,
3 return to your jury room. Do not discuss the case.
4 Keep an open mind.

5 (WHEREUPON, the jury left the courtroom at 3:46
6 P.M.)

7 MS. PINNOCK: May it please the court, Your
8 Honor. The item that the solicitor is attempting to
9 introduce is a letter written by Trenton Barnes to his
10 mother that includes Lorenzo Young in the body of the
11 letter. This was brought Your Honor's attention
12 earlier this week in chambers. There was mention of
13 them trying or suggesting it be redacted to remove any
14 mention of Mr. Young, but it is a statement written by
15 Mr. Barnes. We are not going to be cross-examining
16 about Mr. Young and things that he did or alleged to
17 have done, and it's a --- it's a due process violation
18 at this point.

19 It's not a statement that was taken by law
20 enforcement, but it is still a statement against our
21 client offered by a witness that we do not have the
22 opportunity to cross-examine, so it is a due process
23 issue at this point and a fundamental fairness
24 violation with our right to a fair trial. They're
25 introducing a statement written by a non-testifying

1 witness. So as far as Mr. Young's case, that letter
2 in its entirety is hearsay.

3 I understand it's admissible against Mr. Barnes,
4 but it's not admissible against Mr. Young. The only
5 solution I can come up with is either exclude it from
6 evidence because we are being tried jointly, it is a
7 violation of his constitutional rights to have that
8 introduced into evidence. I don't believe that any
9 curative instruction would be able to only get a jury
10 to consider that only against Mr. Barnes and not
11 Mr. Young, so our right to a fair trial at this point
12 is going to be violated when that letter is
13 introduced.

14 THE COURT: Ms. Campbell.

15 MS. CAMPBELL: May it please the Court. This was
16 non-testimonial. This was not taken by police
17 officers. This was mentioned in court the other day.
18 Quite frankly, I thought they might make a motion on
19 this, but there was no pretrial motion to exclude
20 this. We did hand up case law. We handed up United
21 States Supreme Court, I believe, in the Garvin case.

22 THE COURT: Fourth Circuit Court of Appeals.

23 MS. CAMPBELL: I'm sorry, yes, Fourth Circuit.

24 MS. PINNOCK: Your Honor, can I see your copy so
25 I can ---

1 MS. CAMPBELL: I gave it to you.

2 THE COURT: US vs Garvin 738 ---

3 MS. PINNOCK: That was a few days ago.

4 MS. CAMPBELL: I believe, pursuant to that case,
5 Your Honor, the letter would come in in its entirety.

6 MS. PINNOCK: And, Your Honor, I would cite
7 Williamson vs. United States. It's a US Supreme Court
8 case 512 US 594, as well as State vs. Fuller. The
9 Supreme Court of South Carolina 1999. It's 337 S.C.
10 236 and Lilly vs. Virginia. I do apologize. I don't
11 have the cite for that one, but I could get the cite.
12 I can't seem to find it.

13 THE COURT: Do any of those deal with --- are
14 those all statements to law enforcement?

15 MS. PINNOCK: No, sir, these are statements made
16 --- they are inculpatory as to one person's
17 involvement, but still references a codefendant. They
18 are not any statements given to law enforcement.
19 That's not a situation that these cases deal with.

20 They are situations where just because a
21 statement may be considered a statement against
22 interests with the person who is making the statement,
23 it does not necessarily mean that it's admissible
24 against the other people who are involved. This was
25 brought up Wednesday morning, I believe.

1 Your Honor did say that you would address these
2 issues because they came up during the course of the
3 testimony from the witnesses.

4 I believe Mr. Schnee actually submitted a written
5 motion on this, but this is a situation that we all
6 predicted was going to come up.

7 Your Honor, this letter --- again, I admit that
8 yes, everybody can agree that this letter is
9 admissible against Mr. Barnes, but the body of letter,
10 I would ask Your Honor to review it.

11 It fully implicates our client. We would not
12 have an opportunity to cross-examine Ms. Barnes, so it
13 is inadmissible against Mr. Young. If they were being
14 tried separately, this letter would not be introduced
15 into evidence.

16 The only reason it's got the possibility of being
17 introduced is because Mr. Barnes is in here with us.

18 MS. CAMPBELL: Can I get a copy of the cases you
19 just mentioned?

20 MS. PINNOCK: I only have one.

21 MS. CAMPBELL: You don't have them?

22 MS. PINNOCK: I only have one.

23 MS. CAMPBELL: Your Honor, could I just make
24 copies real quick of their cases?

25 THE COURT: Sure.

1 MS. PINNOCK: You can have those.

2 THE COURT: I need copies of those cases.

3 MS. PINNOCK: I want you to have these.

4 Your Honor, we can --- we are going to go print
5 copies for you.

6 THE COURT: My question is --- the Garvin case
7 wasn't a joint trial.

8 MS. CAMPBELL: But I believe it addresses even if
9 it is a joint trial in the body.

10 I guess I'm at a little bit of a loss as to why
11 this wasn't brought up in pretrial matters.

12 MS. PINNOCK: Your Honor, I did actually bring
13 this up about evidence that would be introduced that
14 was admissible against Mr. Barnes that was not
15 introducible against Mr. Young in our motion to sever.

16 THE COURT: So how is this statement testimonial?

17 MS. PINNOCK: Your Honor, I'm not saying the
18 statement itself is testimonial. The only reason ---

19 THE COURT: It has to be testimonial for the
20 confrontation clause to apply.

21 MS. PINNOCK: Your Honor, the only reason that
22 this statement is admissible against Mr. Barnes is
23 because of the interviews and the statement against
24 interest.

25 The interest that --- the interest that is at

1 issue is Mr. Barnes' interest. The exceptions to
2 hearsay do not apply to Mr. Young when they are using
3 the exceptions to the hearsay rule against Mr. Barnes
4 and that's the situation we have. It is not
5 admissible against Mr. Young. It fully implicates
6 him, but they're going about it through any exception
7 to the evidence rules that allows them to get it in
8 against Mr. Barnes.

9 THE COURT: So how is the statement testimonial
10 or is your position that it's not?

11 MS. PINNOCK: I'm not arguing that it's
12 testimonial.

13 THE COURT: Your position is that it's not
14 testimonial.

15 MS. PINNOCK: No. I'm not arguing that the
16 statement itself is testimonial. I'm acknowledge that
17 it's not given to law enforcement. It's a letter that
18 was written by Mr. Barnes and sent to his mother. The
19 letter is admissible with Mr. Barnes' case under the
20 hearsay exceptions. The statement against interest
21 for Mr. Barnes does not apply to Mr. Young.

22 In those cases, Judge --- and again, I apologize.
23 I don't have extra copies, but Lilly vs. Virginia
24 was --- Lilly vs. Virginia, Judge, was reversed.

25 All of these cases that we're going to be

1 providing you in just a moment all deal with the
2 804(3) exception to the hearsay rule in dealing with
3 statements against interests with multiple parties, so
4 I guess for clarity purposes my objection is hearsay
5 for Mr. Young.

6 THE COURT: So your objection is hearsay?

7 MS. PINNOCK: Yes, sir, the objection to that
8 letter for Mr. Young is hearsay, and for his situation
9 it does not fall under any of the exceptions to the
10 hearsay rule.

11 THE COURT: Is somebody going to get those
12 copies?

13 MS. PINNOCK: Yes, sir, Mr. Krzyston just ran
14 downstairs to speed things up a bit.

15 THE COURT: What's your response to the hearsay
16 argument?

17 MS. CAMPBELL: Your Honor, it's not hearsay
18 because it's an issue against interest against
19 Mr. Barnes. It is non-testimonial. She's admitted
20 that. Therefore it comes in its entirety the same way
21 a jail phone call would, Your Honor. It's being
22 offered against Mr. Barnes. If she wants a limiting
23 instruction, I have no problem with that.

24 MS. PINNOCK: Your Honor, to cite Lilly, the
25 court said that when dealing with the admission

1 against penal interest we have taken great care to ---

2 THE COURT: That's not the rule she cited.

3 MS. PINNOCK: I'm sorry?

4 THE COURT: That's not the rule she is saying.

5 She is saying it's not hearsay because it's an
6 admission by a party opponent. She is not even making
7 to it 804.

8 MS. CAMPBELL: You're, right.

9 MS. PINNOCK: It has to fall under some
10 exception.

11 THE COURT: Well, it can be just not hearsay.

12 MS. PINNOCK: For Mr. Barnes, yes, but not
13 Mr. Young. This is one of the reasons we were asking
14 for a severance because there is evidence they are
15 trying to introduce this. It's not admissible against
16 Mr. Young. Being admitted as presented in its
17 entirety denies us the right to a fair trial. He is
18 being implicated by a letter ---

19 THE COURT: You can't just say a fair trial.
20 Courts have held over and over again that you have to
21 point to a specific constitutional right. You can't
22 just say fair trial. The specific constitutional
23 right is the confrontation clause, which is not
24 implicated because the statement is not testimonial
25 according to your own admission and the law is very

1 clear that non-testimonial statements do not invoke
2 the confrontation clause. Therefore, there is no
3 Bruton issue.

4 MS. PINNOCK: He is being denied due process,
5 Judge.

6 THE COURT: You can't just say due process.

7 MS. PINNOCK: It's fundamental fairness.

8 THE COURT: You can't just say due process. The
9 law says you have to point to a specific
10 constitutional right. You just can't say due process,
11 fair trial. It's like answering fundamental fairness
12 on the bar exam. It doesn't work. There has to be
13 something concrete. So your argument is that it falls
14 under --- or it doesn't fall under 804(d)(3). Is that
15 it?

16 MS. PINNOCK: Your Honor, the objection is
17 hearsay. As applied to Mr. Young, it is hearsay.

18 MR. KRZYSTON: Permission to approach, Judge.

19 MS. PINNOCK: Your Honor, I would just note Lilly
20 talks about a recorded statement by police, not a
21 codefendant.

22 MS. CAMPBELL: It talks about confessions.

23 (Pause.)

24 THE COURT: So where do you want me to read in
25 Lilly?

1 MS. PINNOCK: Sir?

2 THE COURT: What do you want me to read in Lilly?

3 MS. PINNOCK: Well, Lilly because it's been
4 represented they're not offering it against a penal
5 interest, that's what Lilly dealt with, but it's still
6 a hearsay statement against Mr. Young.

7 They are offering this letter for its truth. We
8 are being denied the right to question the witnesses.

9 THE COURT: So you're back to confrontation.

10 MS. PINNOCK: Your Honor, we have a Fourteenth
11 Amendment right to confront the witnesses against us.

12 THE COURT: Actually, you have a Sixth Amendment
13 given to you by the Fourteenth Amendment.

14 MS. PINNOCK: Yes.

15 THE COURT: But are you back to confrontation?
16 Just a minute ago you said it was hearsay.

17 MS. PINNOCK: Your Honor, it is hearsay and the
18 fact it is hearsay is a statement from somebody else
19 being offered into evidence, and they're offering it
20 for the truth. That is the definition of hearsay, and
21 if it's introduced into evidence. We are then being
22 denied the right to question the witness making the
23 statement. That is why hearsay is not admissible in
24 court because we have a right to question witnesses
25 who make statements. When they're out-of-court

1 statements, we have a right to do that.

2 THE COURT: But not when they're non-testimonial.

3 MS. PINNOCK: Your Honor, I would argue that we
4 do have the right to question witnesses who make out
5 of court statements --- that's why the solicitor can't
6 call a witness to say Ryan told me this. They would
7 have to bring Ryan into court. We do have the right
8 to question witnesses who make statements.

9 THE COURT: I'm talking about when it's
10 non-testimonial.

11 MS. PINNOCK: That would be the situation when it
12 is non-testimonial, Judge. We still have the right to
13 cross-examine witnesses called against us. It doesn't
14 only apply to statements made to law enforcement. It
15 applies to any witness who makes any statement.
16 Again, Steve can't come in here and say that Ryan told
17 him something.

18 THE COURT: That's not necessarily true, but
19 okay.

20 MR. KRZYSTON: Your Honor, if I may approach. I
21 have State vs. Holmes here.

22 MS. CAMPBELL: Holmes and Crawford specifically
23 are confrontational.

24 THE COURT: This case says our court has rejected
25 the Lilly decision.

1 MS. CAMPBELL: Uh-huh.

2 MS. PINNOCK: Your Honor, I would direct --- I
3 would ask you to direct your attention to Williamson.

4 THE COURT: So now I'm not reading this because
5 it says we declined to adopt the reasoning of the
6 Lilly plurality, which would be the Lilly case you
7 just told me about.

8 MS. PINNOCK: You're referring to Holmes?

9 THE COURT: Yes.

10 Now you want me to read the 11th Circuit Court of
11 Appeals Williamson case?

12 MS. PINNOCK: Sir, I'm sorry. It's a US Supreme
13 Court case.

14 THE COURT: Which one?

15 MS. PINNOCK: Williamson.

16 THE COURT: I have an 11th Circuit Court of
17 Appeals case called Williamson. Oh no, no, no. Yeah,
18 they're Supreme Court. I'm sorry. I read it wrong.
19 Hold on. Let me pull it up on here so I can see it
20 easier.

21 MS. CAMPBELL: And I would just point out, Your
22 Honor, while you're pulling it up in Williamson, we're
23 talking about two custodial interviews by police, so
24 clearly those are testimonial.

25 MS. PINNOCK: Your Honor, clearly the case is not

1 hinged on the confrontation clause. It only addressed
2 the hearsay issue.

3 THE COURT: Let me read it. Hold on. That is
4 drug case?

5 MS. CAMPBELL: Yes, sir.

6 THE COURT: Okay. I wanted to make sure I was
7 reading the right one.

8 Can somebody give me the actual letter so I can
9 see that?

10 MS. CAMPBELL: Yes, sir.

11 (Pause.)

12 THE COURT: How is the statement admissible
13 against Mr. Young? That's my question.

14 MS. CAMPBELL: How is it admissible against
15 Mr. Young?

16 THE COURT: Right.

17 MS. CAMPBELL: It's admissible against the
18 codefendant in this case. It's a non-testimonial
19 statement. Therefore it's not subject to the
20 safeguards of a testimonial statement.

21 THE COURT: All right. But how is it admissible
22 under the --- how is it not hearsay?

23 MS. CAMPBELL: It's not ---

24 THE COURT: I mean, as to Mr. Young. I
25 understand how it's not as to Mr. Barnes.

1 MS. CAMPBELL: I don't think we have to preempt
2 it from being hearsay against Mr. Young. I mean, if a
3 limiting instruction were given, if they could
4 consider it, that would limit any prejudice to
5 Mr. Young since it is non-testimonial, and I believe,
6 and I don't have the case before me, Your Honor, the
7 but the Garvin case we handed up does address this
8 issue.

9 THE COURT: The Garvin case addresses the
10 confrontation issue and the Bruton issue and the
11 non-testimonial issue. It doesn't discuss the hearsay
12 issue.

13 What is it you want me to read in Williamson?

14 MS. PINNOCK: Your Honor, actually Williamson
15 deals with --- it's dealing with an exception to the
16 hearsay rule.

17 THE COURT: 804(d)(3).

18 MS. PINNOCK: Yes, sir, and the court went
19 through the analysis and made the determination on it
20 pretty much a line by line basis whether or not the
21 self --- the interest against the writer exists and if
22 it didn't, they had to then decide if it was a
23 statement against the other party's interest.

24 They made --- they went through that analysis.
25 There is a difference when dealing with statements by

1 a codefendant or statements by other witnesses, and in
2 that case they use the --- the exception to the rule,
3 but I think the analysis they went through and the
4 whole ruling they came to shows that there is supposed
5 to be a separation. They're not one in the same.
6 It's not just because it's admissible against Barnes
7 it's admissible against Young. There is an analysis
8 and it's a separate issue.

9 As to Mr. Young again, this letter falls under
10 none of the exceptions to the hearsay rule. They are
11 offering this letter for its truth. There is no other
12 reason this letter would be introduced into evidence.
13 That is --- by definition that is hearsay and there is
14 no exception that applies to Mr. Young.

15 (Pause.)

16 THE COURT: All right. Ms. Campbell, what's your
17 argument?

18 MS. CAMPBELL: Your Honor, I just had a chance to
19 glance at Williamson. I'm not familiar with it.
20 However, in this case, it's very case-specific. This
21 is where a codefendant alone was on trial. They
22 called up the codefendant in the case and implicated
23 him. He refused to testify, and they allowed it to
24 come in. They specifically talk about the
25 trustworthiness of ---

1 THE COURT: They allowed the cop to testify.

2 MS. CAMPBELL: The cop to testify as to what the
3 witness would have testified to.

4 THE COURT: Right.

5 MS. CAMPBELL: And again, they don't even reach
6 the confrontation clause issue. They do another
7 thing, and they talk specifically about what's an
8 admission against interest. In this case, Your Honor,
9 they also note that a forced statement may be
10 admissible under other previous positions of rules
11 like under 801(d)(2)(E) and other statements that you
12 guarantee circumstantial evidence of trustworthiness
13 and 804(b)(5), which is the hearsay exception.

14 Specifically they talk about co-conspirator
15 statements. If you read this letter, in addition to
16 our position that it would be admissible because it is
17 a statement against interest against the codefendant.
18 Number two, even if you find that not to be enough,
19 then a limiting instruction would be enough to make
20 sure that the jury did not consider it against
21 Mr. Young. Number three, if you don't find that in
22 this confession, he specifically talks about the
23 conversation he had with Lorenzo Young that night in
24 furtherance of this conspiracy to commit the crime,
25 the robbery, the conversation between the two of them.

1 So that would be an additional exception it could come
2 under if you were to find the others didn't put up.

3 We feel the cases we handed up and the law ---
4 since this is non-testimonial, which the defense
5 admits it should come in under the exception for
6 804(b)(3), but if you go back to 801 to the conspiracy
7 and you read the actual part, in Williamson, they
8 specifically about how it wasn't fair to Williamson
9 because they're using the codefendants statements,
10 which basically minimize what the codefendant did but
11 implicate Mr. Williamson as the broader person.

12 In this case, Your Honor, an additional exception
13 as co-conspirator, what the defendant in this case
14 talks about Mr. Barnes about what about Mr. Young said
15 to him would be a co-conspirator statement in
16 furtherance of the conspiracy that night. Basically
17 he outlines the conversation that he had in addition
18 to other exceptions that follows against the party
19 opponent exception line. Your Honor, and if --- I
20 just haven't had a lot of time to read through
21 Williamson, but that's my take in glancing at it.

22 MS. PINNOCK: Judge, the Lilly court does address
23 this. The case was based on a confrontation clause,
24 but the court did address this exact issue. They said
25 that had the non-testifying codefendant been in trial,

1 the use of the non-testifying codefendant's confession
2 to prove his guilt might have had an adverse impact on
3 the rights of the accomplices. The court also stated
4 in this regard that when dealing with the admissions
5 against penal interest, the courts have taken great
6 care to separate using admissions against the
7 declarant from using them against another criminal
8 defendant.

9 So if they're now arguing 804(b)(3) for the
10 exception, it's still a statement made by Mr. Barnes
11 that would be a statement against his interest, but
12 it's not applied to Mr. Young's interest, so if
13 they're going to be arguing that that exception
14 applies, then we have come full circle.

15 THE COURT: What did he say about Troy in this
16 letter?

17 MR. SCHNEE: He said Troy had nothing to do with
18 it, that he simply went down there to get him. He
19 completely takes Troy out of the picture as to any
20 culpability.

21 THE COURT: So the letter, State's 404, would be
22 exculpatory as to Troy.

23 MR. SCHNEE: 100 percent exculpatory, yes.

24 THE COURT: Okay. But it would be inculpatory,
25 self-inculpatory against himself.

1 MR. SCHNEE: Yes, Your Honor..

2 THE COURT: And inculpatory against Mr. Young.

3 MR. SCHNEE: Correct.

4 MS. CAMPBELL: Your Honor, the only other thing I
5 would point out in having reviewed their Holmes
6 decision, they talk about ---

7 THE COURT: Which one?

8 MS. CAMPBELL: If it's just a truly
9 self-inculpatory statement, it could be offered as
10 relevant to further a co-conspirator liability theory.
11 We are going under the theory of a hand of one, hand
12 of all in this case.

13 MS. PINNOCK: Judge, if the State is now going to
14 argue co-conspirator theory. Before it's introduced,
15 the letter itself indicates that Mr. Barnes didn't
16 even want to do it. That is not in furtherance of any
17 conspiracy of me saying he was never planning on doing
18 it.

19 MS. CAMPBELL: I don't think anybody is going to
20 get up here and say this statement is not an admission
21 against interest against Mr. Barnes, which is what
22 Williamson's focus is on.

23 THE COURT: How about the notes on Federal Rules
24 of Evidence on 804(b)(3) that says the statement
25 admitting guilt and implicating another person ---

1 that would be Mr. Young --- made while in custody may
2 well be motivated by a desire to curry favor with
3 authorities and hence fail to qualify as against
4 interest, but the same word spoken under different
5 circumstances, for example to an acquaintance would
6 have no difficulty in qualifying under 804(b)(3).

7 MS. PINNOCK: I'm sorry, can you say the last
8 part again?

9 THE COURT: The same statements given under
10 different circumstances, meaning not to the police,
11 for example to an acquaintance, would have no
12 difficulty in qualifying under this rule.

13 All right. The letter is in. I find --- I'm
14 going to overrule the hearsay objection. It's
15 non-testimonial. It's non-testimonial, thus there is
16 no confrontation clause issue. Thus there is no
17 Bruton issue. I don't even know that they're arguing
18 that, but I'm ruling that anyway, and I find that it
19 falls under a hearsay exception, that being 804(b)(3).
20 It has an inherent level of trustworthiness and based
21 on the corroborating circumstances, the State's 404 is
22 in over Defendant Young's objection.

23 We're going to take about a five minute quick
24 bathroom break and then we'll be right back.

25 MS. PINNOCK: Your Honor, if I could, just for

1 the record, we will object to any sort of jury
2 instruction. The Bruton court did address that. They
3 recognized the practical limitations on juries. So, I
4 think in this situation, there is no curative
5 instruction.

6 THE COURT: So you don't want a curative
7 instruction?

8 MS. PINNOCK: Well, Your Honor, if you choose to
9 give it, we're going to be objecting to the
10 sufficiency.

11 THE COURT: So the question is do you want a
12 curative instruction or a --- it's not actually a
13 curative instruction. It's a limiting instruction.
14 Do you want a limiting instruction that the statement
15 could not be used against your client?

16 MS. PINNOCK: Yes, Your Honor.

17 THE COURT: Okay. Draft it up. Okay. Five
18 minutes. Ms. Barnes, I'm sorry. I forgot you were
19 sitting there. I really do apologize. I would have
20 let you get down. I literally did forget that you
21 were there. I apologize. That was completely my
22 fault. You were free to use whatever facilities you
23 need to. You are not allowed to discuss your
24 testimony with anyone in any way, shape, or form.
25 When we come back into court if you'll just be sitting

1 right there for me. Is that okay?

2 THE WITNESS: Yes.

3 THE COURT: I apologize, Ms. Barnes.

4 THE WITNESS: Okay

5 THE COURT: Thank you for being here and ready to
6 go.

7 THE WITNESS: Okay.

8 THE COURT: Okay. You can bring them in,
9 Mr. Tolbert.

10 (WHEREUPON, the jury entered the courtroom at
11 4:53 P.M.)

12 THE BAILIFF: The jury is seated, Your Honor.

13 THE COURT: All right. Thank you. Hold on just
14 a moment, ladies and gentlemen. I lost a lawyer.
15 They have so many different things going on, so I've
16 sent for them. They should be right here.

17 (Pause.)

18 THE COURT: We didn't do anything without you.
19 Okay, Ms. Campbell, you may continue.

20 MS. CAMPBELL: Thank you. Your Honor, I believe
21 we were offering State's Exhibit 403 and 05 --- 404,
22 excuse me.

23 THE COURT: Over Defendant Young's objection.

24 (WHEREUPON, State's Exhibit Numbers 403 and 404
25 were admitted into evidence.)

DIRECT EXAMINATION:

(continued)

BY MS. CAMPBELL:

Q This is your son's Trenton's handwriting?

A Yes, ma'am.

Q That would be his signature up here?

A Yes, ma'am.

Q Just so I can be sure for the record, on August 9th of 2014, you had a phone conversation with Investigator McCoy?

A Yes, ma'am.

Q From the Columbia Police Department?

A Yes, ma'am.

Q And that phone conversation, it was recorded?

A Yep.

Q Okay, and basically you told them some of the things we talked about in front of the jury here today. Where were you when that conversation took place. Were you at home?

A Yes.

Q He was returning your phone call?

A Yes, ma'am.

Q At that point --- and I just want to be sure for the record. You didn't say "Yeah, I mean, it was Trenton with the gray on. Like I said, I know my

1 kid's build. I know them from their fingers to their
2 toes. I know my kids."

3 A Did I say that?

4 Q You did say that.

5 A About the fingers and the toes?

6 Q Yes. And about it being Trenton with the gray
7 on.

8 A I never said that to him. No, ma'am.

9 Q So you did not at that point?

10 A No, ma'am.

11 Q And finally did you tell him that Trenton was
12 wearing the jacket when he left with Lorenzo?

13 A He was wearing a gray jacket.

14 Q That was the gray jacket?

15 A He had on a gray jacket when he left with
16 Lorenzo, yes, ma'am.

17 Q You also told him that he was the only person
18 that wears that jacket?

19 A Wears a gray jacket, yes, ma'am.

20 Q Thank you. The people in the courtroom that
21 we're talking about, Lorenzo Young, do you see him
22 here in the courtroom?

23 A Yes, ma'am.

24 Q Can you point him out for the jury?

25 A Sitting right there.

1 Q At the table with the white shirt?

2 A Yes, ma'am.

3 Q And then your son Trenton Barnes, whose
4 handwriting you recognized. Do you see him here?

5 A Yes, ma'am.

6 Q Where is he seated?

7 A Right there.

8 Q To the far left with his lawyer, wearing the kind
9 of dark sweater?

10 A Yes, ma'am.

11 MS. CAMPBELL: Your Honor, may the record reflect
12 she has identified the defendants.

13 Thank you very much, Ms. Barnes.

14 THE COURT: Okay. Cross-examination?

15 MS. PINNOCK: May it please the Court, Your
16 Honor.

17 CROSS-EXAMINATION:

18 BY MS. PINNOCK:

19 Q How are you doing, Ms. Barnes?

20 A Hey.

21 Q Ms. Campbell asked you a lot about some phone
22 calls you had with the investigators?

23 A Yes, ma'am.

24 Q That was back in August?

25 A Yes, ma'am.

1 Q And she asked you about a clothing description
2 you gave at that point?

3 A Yes, ma'am.

4 Q She asked you if you said that Lorenzo was
5 wearing red. Do you remember her asking you that?

6 A Yes, ma'am.

7 Q But didn't you tell Investigator McCoy back in
8 August that you can't remember what the color was?

9 A I don't remember.

10 Q You don't recall him asking you?

11 A I just said what they had on when they left my
12 house.

13 Q You don't recall him asking you was it red, was
14 it orange, was it something like that?

15 A Yeah, he did ask me.

16 Q And you told him ---

17 A --- wasn't a ---

18 Q And you told him it wasn't ---

19 THE COURT: Hold on, now.

20 THE WITNESS: Okay.

21 THE COURT: You both can't talk at the same time.

22 THE WITNESS: Okay.

23 THE COURT: The court reporter can only take one
24 down at a time, so she will let you finish.

25 THE WITNESS: Okay.

1 THE COURT: You let her finish. If she asks you
2 a question, you have the right to answer it.

3 THE WITNESS: Okay.

4 THE COURT: And you have the right to explain
5 your answer.

6 THE WITNESS: Okay.

7 THE COURT: I won't let her cut you off from
8 doing that, but if you talk over each other, we can't
9 accurately get down what anybody says, okay.

10 THE WITNESS: Okay.

11 THE COURT: Go ahead, Ms. Pinnock.

12 MS. PINNOCK: Thank you, Your Honor.

13 BY MS. PINNOCK:

14 Q Do you remember telling him it was not a dark
15 color, but you weren't 100 percent sure what it was?

16 A Right.

17 Q And you said that Lorenzo and Trenton were at
18 your house earlier that night?

19 A Yes, ma'am.

20 Q And they left anywhere between 11 and 12?

21 A Yes, ma'am.

22 Q You don't know where they went?

23 A No, ma'am.

24 Q You don't know who they were with?

25 A No.

- 1 Q You don't know really even if they were together?
- 2 A Exactly, they just left together.
- 3 Q You said that Troy had gone out separately?
- 4 A Yes, ma'am.
- 5 Q And when he got back, you still didn't know the
- 6 whereabouts of Lorenzo or Trenton?
- 7 A Correct.
- 8 Q They just were not at the house?
- 9 A No, ma'am.
- 10 Q Now, I want to ask you about some conversations
- 11 you had with Investigator McCoy after arrests were
- 12 made, and that would have been back in August.
- 13 A Okay.
- 14 Q He called you at your house?
- 15 A Yes, ma'am.
- 16 Q And you were trying to get in touch with him,
- 17 right?
- 18 A Yes, ma'am.
- 19 Q Because you had come across some information that
- 20 you wanted to give him?
- 21 A Yes, ma'am.
- 22 Q Some information you felt was important?
- 23 A Yes, ma'am.
- 24 Q Some information that you wanted to pass along to
- 25 him because you knew he was investigating this case?

1 A Exactly, yes, ma'am.

2 Q And you called him about somebody named Marcus
3 Johnson?

4 A Yes, ma'am.

5 Q His nickname is Shorty?

6 A Yes, ma'am.

7 Q The reason you called him is you heard he had
8 some details about what happened that night?

9 A Yes, ma'am.

10 Q And that caused you concern?

11 A Yes, ma'am.

12 Q He was in the jail at that point?

13 A Yes, ma'am.

14 Q Mr. Johnson was in the jail?

15 A Yes, ma'am.

16 Q You told Investigator McCoy that?

17 A Yes, ma'am.

18 Q And you told him, you know, something is --- this
19 doesn't feel right to me. Something is going on. You
20 need to talk to Marquis Johnson?

21 A Yes, ma'am.

22 Q Again, his nickname is Shorty?

23 A Yes, ma'am.

24 Q At that point Investigator McCoy told you he was
25 going to talk to him?

1 A Yes, ma'am.

2 Q It was really important he was going to talk to
3 him?

4 A Yes, ma'am.

5 Q He was the next person on his list to go talk to
6 him?

7 A Yes, ma'am.

8 Q He also told you he was going to speak to --- who
9 was at your house, Marquis?

10 A Marquis Johnson.

11 Q Marquis Johnson. He was at your house?

12 A Yes, ma'am.

13 Q And he told your he was going to talk to Marquis
14 Johnson?

15 A Yes, ma'am.

16 Q He said that was very very important.

17 A Yes, ma'am.

18 Q He told you in August that he was still actively
19 investigating this case?

20 A Yes, ma'am.

21 Q Be he called you and thanked you for letting him
22 know?

23 A Yes, ma'am.

24 Q He even wanted to sit down with you again a week
25 or so after the phone call to take a statement, a

1 written statement?

2 A Yes, ma'am.

3 Q That didn't happen, did it?

4 A No, ma'am.

5 MS. PINNOCK: Beg the Court's indulgence.

6 THE COURT: Yes, ma'am.

7 MS. PINNOCK: Thank you, Your Honor. I have no
8 further questions.

9 Thank you, Ms. Barnes.

10 THE COURT: Okay. Yes, sir.

11 MR. SCHNEE: May it please the Court.

12 CROSS-EXAMINATION:

13 BY MR. SCHNEE:

14 Q Good afternoon.

15 A Good afternoon.

16 Q Ms. Barnes, in August of last year when you were
17 talking with Investigator McCoy, did he indicate to
18 you that one of your sons would have to take a fall
19 for this?

20 A Yes, sir.

21 Q He didn't say which one, but that's what he told
22 you?

23 A Yes, sir.

24 Q That was in August of last year?

25 A Yes, sir.

1 Q Now, this letter that was written, State's 404.

2 Could you read the date on that letter?

3 A March 31st of '14.

4 Q So approximately six, seven months after ---

5 A Yes, sir.

6 Q --- your conversation with McCoy?

7 A Yes, sir.

8 Q When Lorenzo --- you said Lorenzo and Trenton
9 left somewhere around eleven o'clock, midnight?

10 A Yes, sir.

11 Q Okay. Troy was already gone at that point?

12 A Yes, sir.

13 Q He was out doing things with other friends?

14 A Yes, sir.

15 Q At some point later, Troy comes back and that's
16 when the phone calls from Lorenzo comes?

17 A Well, Troy wasn't even home yet.

18 Q Oh, Troy wasn't even home?

19 A He was like asleep or he wasn't even home.

20 Because I was asleep. It was like three or four in
21 the morning. It was like three or four in the morning
22 when Lorenzo called for Marquis.

23 Q At some point after that, Troy is there and you
24 sent Troy to go get Trenton?

25 A Yes, exactly.

1 Q You don't go with Troy?

2 A (There was no response.)

3 Q You don't go with Troy, do you?

4 A To go get him? No, sir.

5 Q So you send Troy out to get your other son

6 Trenton?

7 A Yes, sir.

8 Q Do you have any idea --- do you have personal
9 knowledge as to what actually happened?

10 A No, sir.

11 Q You weren't physically there?

12 A No, sir.

13 Q Does Trenton love his older brother? Does
14 Trenton love his older brother?

15 A Yes, sir.

16 Q Does he want to protect his older brother?

17 A I don't know.

18 Q I mean, you're his mother, right?

19 A Yeah. I'm his mother, but I can't feel what he
20 feels.

21 Q But you're sure that he loves him?

22 A Yeah.

23 Q And he wants to do anything he could to help him,
24 right?

25 A Yes.

1 MR. SCHNEE: That's all I have.

2 THE COURT: Ms. Campbell?

3 MS. CAMPBELL: Just a minute, Your Honor.

4 REDIRECT EXAMINATION:

5 BY MS. CAMPBELL:

6 Q You were just asked one question about you didn't
7 know who was with whom after Lorenzo and Trenton left
8 the house?

9 A Yeah.

10 Q You don't even know if they were together?

11 A I stated that they left together.

12 Q They left together, but you don't know what
13 happened after that?

14 A Yeah, I don't know if they parted or what.

15 Q But on that second phone call, you testified
16 earlier that you told Lorenzo to tell Trenton to come
17 home?

18 A Yes, ma'am.

19 Q And that was the second phone call after 3:00
20 A.M.?

21 A Yes, ma'am. The question was asked so apparently
22 they were still together.

23 MS. CAMPBELL: Thank you, ma'am. I don't have
24 anything further.

25 MS. PINNOCK: Beg the Court's indulgence.

1 (Pause:)

2 Nothing further, Judge.

3 MR. SCHNEE: No more questions.

4 THE COURT: Have a nice day, Ms. Barnes. Have a
5 nice day, ma'am.

6 MR. AIKEN: Your Honor, since she testified, I
7 think your rule was if she leaves and nobody says
8 anything she is free of her subpoena. May she be in
9 the courtroom for the remainder of the trial?

10 THE COURT: Yes, sir. Yes, sir.

11 MR. AIKEN: Thank you, sir.

12 THE WITNESS: Thank you.

13 THE COURT: Yes, ma'am.

14 Do you have a short one or do you want to...

15 MS. SIMPSON: Your Honor, that's what I was about
16 to approach about scheduling issues.

17 THE COURT: Do you want to stop?

18 MS. SIMPSON: We actually have two witnesses
19 available, but can I approach?

20 THE COURT: Sure.

21 (WHEREUPON, a bench conference was held in the
22 presence, but not within the hearing of the
23 jury.)

24 THE COURT: All right. We're going to do one
25 more witness, and I'll get you out of here tonight.

1 I've already looked at the time for tomorrow night..
2 We're going to shoot to stop tomorrow about 4:30 to
3 make sure everybody gets home in time for whatever. I
4 know there's football games and all those things that
5 people go to on Friday night, so we're going to push
6 to stop a little closer to 4:30 tomorrow night to make
7 sure everybody gets to whatever they need to

8 All right. You can call your next witness.

9 MS. GARFIELD: Thank you, Your Honor, Your Honor..
10 The State calls Gail Heath.

11 THE COURT: Okay.

12 BRENDA GAIL HEATH,
13 after being duly sworn, testified as follows:

14 THE CLERK: State your full name for the record
15 and have a seat.

16 THE WITNESS: My name is Brenda Gail Heath
17 H-E-A-T-H.

18 DIRECT EXAMINATION:

19 BY MS. GARFIELD:

20 Q Good afternoon, Ms. Heath.

21 A Good afternoon.

22 Q Please share with the jury what your profession
23 is.

24 A I am a forensic document examiner, that is, I
25 look at handwriting, hand printing, any form of

1 instruction.

2 Okay. I'll give the limiting instruction. I
3 have it sitting here with a big fat note on it saying
4 to give the limiting instruction first thing in the
5 morning.

6 MR. KRZYSTON: I'm also going to have a motion
7 concerning the limiting instruction, as well, as some
8 additional stuff.

9 THE COURT: Okay. What is that?

10 MR. KRZYSTON: Judge, I would at this point move
11 for a mistrial based on what has just happened.
12 Earlier we objected to the introduction of the letter
13 that was just published to the jury against Mr. Young.
14 Specifically we cited USC Williamson. In that case,
15 the court noted that the most favorable ruling of
16 804(b)(3) is that it does not allow the admission of
17 non self-inculpatory statements even if they are made
18 within a broader narrative that is generally self-
19 inculpatory. The court may not just assume for
20 purposes of 804(b)(3) that a statement is
21 self-inculpatory because it is part of a fuller
22 confession and this is especially true when the
23 statement implicates somebody else. The court goes on
24 to note that the trial courts should engage in a
25 phrase by phrase analysis of the statement in order to

1 sanitize the statement so that in enjoined trials such
2 as this inadmissible evidence is not admitted.

3 That letter was admitted to this trial or into
4 evidence on the basis of the --- an exception ---
5 excuse me, a statement against interest to exception
6 to hearsay. That hearsay exception specifically
7 requires the unavailability of the defendant. State
8 v. Cheeseboro is instructive on this, Your Honor.

9 THE COURT: I know what Cheeseboro says. I don't
10 need it. I've read it already.

11 MR. KRZYSTON: State v. Cheeseboro is instructive
12 on this and says that where it a defendant or
13 codefendant pleads the Fifth Amendment or hides under
14 his Fifth Amendment protection, he is not unavailable
15 for purposes of the State against interest. Based on
16 that, Your Honor, I would ask that a mistrial be
17 granted. I would assert that manifest necessity
18 dictates as much. And further, Your Honor, I would
19 move --- and I understand you have not given the
20 limiting instruction.

21 When you do give it, I am going to have
22 additional objections for the preservation of the
23 record.

24 THE COURT: All right. So you're going to object
25 to your own limiting instruction?

1 MR. KRZYSTON: Judge, I'm in kind of a tough
2 position because Bruton is instructive on limiting
3 instructions. Bruton has --- the US Supreme Court in
4 Bruton has recognized explicitly the common sense and
5 practical limitations that the jury not be --- excuse
6 me. Bruton has recognized there is a common sense
7 limit on what the jury can do. I believe they have
8 said it's impractical for the jury to consider
9 evidence against one defendant and not the other. For
10 that reason in Bruton, the limiting instructions were
11 found insufficient to cure the prejudice that was
12 imposed upon the petitioner.

13 In this case, I have got to object to the
14 limiting instruction, but I have also got to ask for
15 it. I can't waive an objection to a limiting
16 instruction which I think is by its very nature
17 insufficient without seeding my preservation of the
18 appeal. So for that record --- based on that I have
19 to ask for you to give the limiting instruction and
20 then object to the sufficiency of the overall remedy.

21 THE COURT: Just for the record, you wrote the
22 limiting instruction that I'm going to give.

23 MR. KRZYSTON: It was a collaboration between
24 Mr. Young's counsel, yes.

25 THE COURT: Okay. All right. What else?

1 MR. KRZYSTON: Additionally, Your Honor, I would
2 ask for a curative instruction. The jury was seated
3 outside the presence of me and Ms. Pinnock when we
4 arrived back in the courtroom after writing the
5 limiting instruction. The entire courtroom was full.
6 All parties were here save for Ms. Pinnock and myself.

7 I would ask that --- I think there is a possible
8 negative inference that the jury would draw from that.
9 I would ask for some type of curative instruction.

10 THE COURT: All right. Your motion for a
11 mistrial is denied. We haven't reached the level of
12 manifest necessity, and in fact we are not even close
13 to it. I am going to give the limiting instruction
14 because somebody in the room --- I am required to
15 protect your client in this case and I think he needs
16 to be protected via a limiting instruction. I'm going
17 to give the limiting instruction that you have given
18 me.

19 Furthermore, as to you not being in here when
20 court started, I told the break was seven minutes. I
21 gave you ten minutes and you still weren't in here. I
22 told them that lawyers have a million different things
23 going on and we are getting other lawyers here and
24 nothing took place outside of their presence. It's
25 impossible to draw any kind of negative inference from

1 you or Ms. Pinnock not being here. I specifically
2 gave a very reasonable reason as to why you were not
3 here, but in regards to that, you were both
4 disregarding a court order. I told you a seven minute
5 break. I came back in ten minutes and neither one of
6 you were here.

7 All right. 9:00 o'clock.

8 MR. KRZYSTON: Thank you, Judge.

9 MS. SIMPSON: Thank you, Your Honor, Your Honor.

10 (WHEREUPON, Court was adjourned for the day.)

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12 THE COURT: Okay. We got another note from a
13 juror about an end date so they can adjust
14 appointments as needed. Does anybody want to give a
15 proposed end date?

16 MS. CAMPBELL: Our case should be through Monday.

17 MR. KRZYSTON: We don't have anything.

18 THE COURT: Okay.

19 MR. SCHNEE: If I put up anyone, I would not
20 anticipate it being long.

21 THE COURT: Okay.

22 MR. SCHNEE: If they finish Monday, it will wrap
23 up Tuesday maybe.

24 MS. CAMPBELL: Tuesday or Wednesday with closing
25 arguments.

1 MR. SCHNEE: Tuesday or Wednesday at the latest, I
2 would guess.

3 THE COURT: What I'll tell them if it's okay with
4 y'all when we come back in, at this point we're not
5 going to work Saturday or Sunday. They have asked
6 about travel on the weekends and that best case
7 scenario probably Tuesday would be the earliest that
8 we would finish. I am not holding any of the lawyers
9 to that. If things change, I'm just asking you to
10 give an estimate. I know you're doing the best you
11 can. Things change and cases change and that's
12 normal, but just to kind of --- I don't want them to
13 think anything is set in stone or anything like that.
14 I don't want any of you all feeling hampered by me
15 giving any time frame, but I'll probably say Tuesday,
16 early Wednesday next week.

17 (WHEREUPON, Court's Exhibit Number 13 was marked
18 for identification only.)

19 MR. KRZYSTON: Judge, while we're on issue of
20 jurors, I need to put something on the record. This
21 morning, I was walking out of the public defender's
22 office at a rather brisk pace in order to make it to
23 court on time and I bolted through the door. There
24 was a lady within a couple inches of the door. Before
25 she even turned around, her back was to me, I began to

1 say, "I'm sorry, ma'am." She turned around. It was
2 one of the jurors. Her and I locked eyes. She did
3 not speak to me. Took me about a second-and-a-half to
4 realize it was her. I turned around and went back
5 into the office. I told Ms. Garfield prior to a
6 tribunal convening and just wanted to put it on the
7 record.

8 THE COURT: Did you say tribunal?

9 MR. KRZYSTON: I did. I've been wanting to say
10 it for awhile.

11 THE COURT: Mr. Li is laughing at you. I think
12 it's hilarious.

13 THE COURT: Okay. That's fine. That was
14 appropriate for you to turn around and go back in and
15 not have any conversation, so that's good. Okay. All
16 right. Anything from the State before we get started?

17 MS. CAMPBELL: Yes, Your Honor. If we could
18 settle the records on a couple of witnesses real
19 quick.

20 THE COURT: Okay.

21 MS. CAMPBELL: Also, Your Honor, yesterday I
22 moved for a bench warrant on Mary Brown. We got in
23 contact with her last night. She has been ill and
24 back and forth in the emergency room. She is here
25 today. She came here voluntarily, we would ask to

1 (WHEREUPON, State's Exhibit Numbers 201 and 202
2 were withdrawn.)

3 THE COURT: Okay. Anything else on settling
4 records for today?

5 MS. SIMPSON: Nothing from the State at this
6 time.

7 THE COURT: On records? Okay.

8 MR. KRZYSTON: Your Honor, Your Honor at this
9 point I'm going to again renew my mistrial motion I
10 made yesterday. I certainly understand and respect
11 Your Honor's ruling. I do feel that I need to make an
12 additional motion for mistrial on the grounds that the
13 limiting instruction which I, for the record, object
14 to the sufficiency of. I feel that, you know --- this
15 is through no fault I think of anybody here. It was a
16 long day, and we neglected to give the limiting
17 instruction yesterday after the letter was introduced.
18 The letter that was introduced was extremely
19 prejudicial to my client.

20 The taint of that evidence has sat in their mind
21 for over eight hours at this point. I think based on
22 the failure to give a timely instruction, I do think
23 it warrants a mistrial and so on those grounds --- on
24 those additional grounds, I'm also moving for a
25 mistrial. I certainly do understand Your Honor's

1 ruling.

2 THE COURT: All right. Your motion is denied. I
3 believe that the jury has the ability to listen to and
4 follow instructions. They have paid attention
5 throughout this entire trial, and I have no knowledge
6 that they would disregard my instructions or fail to
7 follow my instructions, so your motion for a mistrial
8 is denied.

9 MR. KRZYSTON: Thank you, Your Honor.

10 MR. SCHNEE: Judge, I have a couple of things
11 from yesterday ---

12 THE COURT: Okay.

13 MR. SCHNEE: --- that we did at sidebar that I
14 need to put on the record.

15 THE COURT: Okay.

16 MR. SCHNEE: First would be the testimony of
17 Donald Moore. I would direct Your Honor to State v.
18 Bottoms. It's 260 S.C. 187. Essentially after the in
19 camera hearing of Donald Moore, Your Honor ordered
20 that he was required to testify, could not plead the
21 Fifth. Donald Moore got up there. The solicitor
22 called him to the stand knowing full well he was going
23 to say that everything in his prior statements to
24 police were lies, which is exactly what he did.

25 The solicitor then pretty much ripped through all

1 the actual statements he made to law enforcement. He
2 continued to deny them saying they were lies.

3 State v. Bottoms is pretty clear on this. The
4 witness was called for the express purpose of
5 impeachment.

6 What Bottoms really describes is the fact that
7 the questions by the lawyer are not evidence.
8 Impeachment of a witness is not actual substantive
9 evidence.

10 The only purpose of impeachment is to show the
11 jury that the witness may or may not be credible, but
12 not to actually introduce that evidence as substantive
13 evidence.

14 Considering Donald Moore's testimony, every
15 single question or almost every question asked by the
16 State, he said, "Well, that was a lie." That was the
17 entire line.

18 I believe the jury is going to have a very hard
19 time understanding that. I don't believe there was
20 ever an instruction regarding that, and I believe that
21 would require that this witness should be struck from
22 the record entirely. Based on that, I don't believe
23 you could remove the taint from the jury. I would
24 request a mistrial from that.

25 MS. CAMPBELL: Your Honor, if I could be provided

1 a copy of the case law he is relying on.

2 THE COURT: It's from 1973.

3 MS. CAMPBELL: The rules have even changed since
4 1973, Your Honor.

5 THE COURT: Right. The Rules of Evidence weren't
6 even in effect when that case was decided.

7 MS. CAMPBELL: Your Honor, clearly State v.
8 Bottoms doesn't apply. The Rules have changed.
9 Specifically, the Rule now allows that either party
10 can impeach a witness. Additionally, Your Honor it's
11 not that we also impeached him. We also just asked
12 him and he did say voluntarily that he believed he
13 made those statements to police, so he admitted to
14 doing that.

15 THE COURT: Right. He admitted to making all the
16 statements.

17 MS. CAMPBELL: Yes.

18 THE COURT: He just said when he made them they
19 were a lie.

20 MS. CAMPBELL: Yes.

21 THE COURT: But he did not deny making all the
22 statements. So your motion under Bottoms is overruled
23 and the testimony will stand.

24 Bottoms was early 1970's before the Rules of
25 Evidence we are in effect. The Rules of Evidence are

1 very clear now that either side can impeach a witness.
2 You can actually impeach your own witness now pursuant
3 to some rule in the 600 range in the Rules of Evidence
4 and I think it was proper. It's for the jury to
5 determine the believability and the credibility and
6 the weight of the evidence that is presented and your
7 motion for a mistrial is denied.

8 MR. SCHNEE: Thank you, Your Honor. Secondly
9 dealing with the handwriting expert, Ms. Heath,
10 yesterday, I'm again --- I know we did this sidebar.
11 I'm objecting to the actual exhibits that were
12 introduced, the blow ups. That's particularly
13 important because the only thing that was shown to the
14 jury on those blow ups, at least the main thing was
15 the original letter that was received by the
16 solicitor's office and then the sample, and those were
17 the only things shown to the jury and that's exactly
18 the fear that I had when this was the request from the
19 SLED agent to take that type of sample as opposed to
20 any other type of valid writing sample, so now the
21 jury was forced to look at two copies of an identical
22 letter. I believe that's highly prejudicial, and I
23 would request that it be stricken from the record and
24 I request a mistrial for that. I understand Your
25 Honor's ruling. You already ruled on it yesterday. I

1 just wanted to put it on the record.

2 The only other issue that I would raise very
3 briefly is if there is some reason the court
4 determines that Mr. Krzyston's motion for a mistrial
5 should be granted, I would, of course, join in at this
6 point. If he would be separated from the trial I
7 would have a --- would be unable to continue the
8 trial, so I would request a mistrial with him.

9 THE COURT: Your motions are denied. An expert
10 is allowed to go into the information that they used,
11 gathered, created, collected. It was never presented
12 to the jury that he had on a separate occasion written
13 this letter in some confession or anything. She
14 explained very clearly that she collected this as part
15 of her gathering process to determine the validity of
16 the question document and that it was given at her
17 request or that he gave the sample at her request and
18 therefore I can't really even see or understand any
19 prejudicial effect. Any prejudicial effect that is
20 made is outweighed by the probative value of documents
21 and concerning that and concerning the existence of
22 the information about who penned the letter, so your
23 motion for a mistrial is denied.

24 MR. SCHNEE: Yes, Your Honor.

25 THE COURT: Thank you very much.

1 MR. SCHNEE: The only other brief thing I would
2 ask at this point is I'm going to renew my pretrial
3 motion and memorandum that I gave Your Honor on
4 Wednesday. That would be dealing with the 804(b)(3)
5 hearsay evidence. I know there are a number of
6 jailhouse witnesses coming up or in the next few
7 minutes I believe the very first one even gets
8 information from people other than my client.
9 Anything that would be tending to inculcate my client,
10 exonerate the client or shift blame in any way, shape,
11 or form is inadmissible by those rules. My notice has
12 been discussed ad nauseam. Just wanted to point out
13 for the record that I'm renewing that objection to any
14 such hearsay testimony.

15 THE COURT: Okay. I'll have to hear it. I can't
16 make that decision in the abstract.

17 Where is Ms. Heath on the witness list?

18 MR. SCHNEE: I don't believe she is, Your Honor.

19 MS. GARFIELD: She should have been, Judge. If
20 she is not, that was a complete oversight.

21 Okay. Let's bring in the jury.

22 (WHEREUPON, the jury entered the courtroom at
23 9:33 A.M.)

24 MS. CAMPBELL: May we approach?

25 (WHEREUPON, a bench conference was held in the

1 presence, but not within the hearing of the
2 jury.)

3 THE BAILIFF: The jury panel is present, Your
4 Honor.

5 THE COURT: All right. Good morning. Welcome
6 back. Thanks for being on time. It's completely
7 different weather today and tomorrow, so make sure you
8 dress appropriately.

9 THE JUROR: Yes, it is.

10 THE COURT: All right. Ladies and gentlemen, one
11 of the things that I told you in my opening
12 information to you or what we call the opening on the
13 law is that certainly things are not evidence. I know
14 we have talked about that since then. One of those
15 categories of things that are not evidence is anything
16 that I tell you to disregard. So there's been a
17 couple of times throughout this trial, I don't
18 remember specifically when, that I ordered you to
19 disregard certain information and so I want you to
20 understand that backdrop as I read this information
21 I'm about to read to you.

22 Members of the jury, the State has introduced a
23 letter purported to be written by Trenton Barnes.
24 Now, you heard about this letter last night. The
25 admission of this evidence, the admission of the

1 letter is only to be considered against Trenton
2 Barnes. This evidence cannot be considered against
3 Mr. Young at all.

4 You are not to weigh this evidence whatsoever
5 when considering if the State has met their burden of
6 proof against Lorenzo Young, so that's a further
7 instruction that I'm giving you on things that are not
8 evidence. Essentially the letter would not be
9 evidence against Mr. Young, and so you are to
10 disregard the letter in regards to Mr. Young's
11 involvement.

12 Okay. All right. You may call your next
13 witness.

14 MS. SIMPSON: The State calls Alfred Dominique
15 Wright.

16 THE BAILIFF: Raise your right hand, place your
17 left hand on the Bible.

18 ALFRED DOMINIQUE WRIGHT,
19 after being duly sworn, testified as follows:

20 THE CLERK: Have a seat. State your full name
21 for the record.

22 THE WITNESS: Dominique Wright.

23 DIRECT EXAMINATION:

24 BY MS. SIMPSON:

25 Q Can you state your full name for the record?

1 A Alfred Dominique Wright.

2 Q Mr. Wright, how old are you?

3 A Thirty-four.

4 Q And are you from Columbia?

5 A Not originally, but I've lived here since '94.

6 Q Ninety-four. So did you go to school here in
7 Columbia?

8 A Yes, ma'am.

9 Q Where did you go to school?

10 A Hammond.

11 Q Hammond and how far did you go in school?

12 A About a year into college.

13 Q A year into college. Where did you attend
14 college?

15 A South Carolina. I want to turn your attention to
16 this case. Do you know the defendant, Lorenzo Young?

17 A I met him on one occasion.

18 Q How did you come to meet him? How did you know
19 him?

20 A They have a law library at Alvin S. Glenn, and I
21 happened to be in there one time when he was also in
22 there.

23 Q Are you in the law library a good bit?

24 A Yes, ma'am.

25 Q And at the time, did you know Lorenzo by his

1 name, Lorenzo Young, or did you know him by a
2 nickname?

3 A I heard his nickname, you know, through other
4 people.

5 Q Okay. And tell us about your conversation with
6 Mr. Young.

7 A Well, I was helping an individual with some legal
8 work, and he came up to me and asked me if I knew some
9 people that were in my dorm that he knew and then
10 asked for some assistance with his situation.

11 Q And how did you respond to that statement --- did
12 you know anybody he knew?

13 A Yes, ma'am.

14 Q Were you friends with some of those people?

15 A Yes, ma'am.

16 Q So Mr. Young actually asked you for some help
17 with the legal portion of his case?

18 A Yes, ma'am.

19 Q In that process, tell us what occurred and what
20 you learned.

21 A He told me that he was with two other individuals
22 and that ---

23 MR. SCHNEE: Objection, Your Honor. My prior
24 hearsay objection.

25 THE COURT: Overruled.

1 MR. SCHNEE: Thank you.

2 BY MS. SIMPSON:

3 Q You can continue. What did he tell you about his
4 case?

5 A That he was with two other individuals that he
6 called Trigg and Trap, and I later got their names
7 from somebody else, but not from him. He just gave me
8 their nicknames. He said they went to rob a club, but
9 the club was closed, so they went next door to a
10 bakery where Trap stayed outside as a look out and he
11 and Trigg went in. A woman resisted when they
12 demanded for money and swung a knife at them, and he
13 shot her two times.

14 Q And backing up just a little bit, you said he
15 mentioned that he did this with two other individuals?

16 A Right.

17 Q Did you learn who Trigg was?

18 A I was told by someone else, not him, that Trigg
19 was Troy Stevenson and Trap was Trenton Barnes and
20 they were both brothers.

21 Q They were both brothers?

22 A Uh-huh.

23 Q So Mr. Young actually said to you that he and
24 Stevenson were the was who went in with guns?

25 A Yes, ma'am.

1 Q At that point he also indicated that he himself
2 is one of the people that actually shot the
3 individual?

4 A Yes, ma'am.

5 Q What was his purpose again for telling you this
6 information?

7 A I was speaking with another individual on ways
8 to, you know --- recently the individual was using the
9 stand your ground law. I think it was State v. Isaac
10 case because it was about a year ago.

11 Q So he was just asking for advice, essentially, on
12 this case?

13 A I told him he could try the stand your ground and
14 maybe he could get a better chance at voluntary
15 manslaughter or something like that.

16 Q So he was willing to talk to you and he gave this
17 information?

18 A Yes, ma'am.

19 Q Did you actually know Trenton Barnes or ever meet
20 him?

21 A No.

22 Q What about Troy Stevenson? Did you ever have any
23 conversations or meet him?

24 A I never had any conversations, but I saw him
25 quite frequently because we were both in programs. We

1 were in the same section at the jailhouse. We would
2 often have to walk down the hallway, but I never
3 talked to him.

4 Q Again, Trap or who your later learned was
5 Trenton, was the look out?

6 A Yes, ma'am.

7 Q According to Mr. Young?

8 A Yes, ma'am.

9 Q But Mr. Young went in with the gun?

10 A Yes, ma'am.

11 Q And their initial plan, you said, was to rob a
12 club?

13 A Right, but the club was closed.

14 Q What was Mr. Young's demeanor as he was talking
15 to you and telling you about his case?

16 A It was pretty calm.

17 Q It was calm? He was just asking you questions?

18 A Yes, ma'am.

19 Q And did you actually kind of record this
20 conversation or document the conversation that you had
21 with Mr. Young in some way?

22 A I wrote it down later. I just tried to remember
23 it.

24 Q Okay. And what did you do with that information?

25 A I handed it over to an investigator.

1 Q Okay. And in the form of a letter?

2 A --- handwritten, yes.

3 Q And you sent that letter to our office?

4 A Well, to the investigator, and then it got there
5 to your office.

6 Q Okay. And did you also --- are you currently
7 facing some charges yourself?

8 A Yes, ma'am.

9 Q What are your current charges?

10 A Murder, first degree burglary, criminal
11 conspiracy and armed robbery or attempted robbery.

12 Q So for murder, you're actually looking at a
13 minimum of 30 years up to life, correct?

14 A I believe so.

15 Q And for burglary first, do you know what amount
16 of time you're facing?

17 A Fifteen to life, I believe.

18 Q Fifteen years to life? And with respect to your
19 armed robbery, what are you facing on those charges?

20 A I know armed robbery is ten to 30, but I have
21 attempted armed robbery, so I don't know if there is a
22 difference.

23 Q So it's attempted armed robbery, but up to 30
24 years?

25 A Yes, ma'am.

1 Q And then criminal conspiracy is?

2 A Zero to five.

3 Q Do you actually have an attorney?

4 A Yes, ma'am.

5 Q Who are you represented by?

6 A Right now I'm being represented by Barney Geise.

7 At the time I wrote these statements, I think ---

8 Q Well, you were actually represented by someone
9 else at the time of the statements, right?

10 A Yes, ma'am.

11 Q But right now you were presented by Mr. Geise?

12 A Yes, ma'am.

13 Q Is he actually present in the courtroom today?

14 A Yes, ma'am.

15 Q Along with one of your other attorneys, Justin

16 Kata?

17 A Yes, ma'am.

18 Q And you turned that information over to them, as
19 well?

20 A Right.

21 Q At some point did you also meet with an
22 investigator, along with your lawyers, from my office?

23 A Yes, ma'am.

24 Q To discuss the case?

25 A Yes.

1 Q But you've never talked to me, right?

2 A Right.

3 Q And you actually dealt with law enforcement and
4 been in the penitentiary before, correct?

5 A I'm still serving my sentence right now.

6 Q You're currently actually in federal custody, I
7 believe?

8 A Yes, ma'am.

9 Q For drugs and a weapons charge?

10 A Firearm, yes, ma'am.

11 Q That's from 2008?

12 A Yeah. I was arrested in 2007, but sentenced in
13 2008.

14 Q And you also have a prior conviction for
15 possession with intent to distribute cocaine?

16 A Yes, ma'am.

17 Q And did you actually know the victim in this case
18 or anyone else involved in this case?

19 A Not at all.

20 MS. SIMPSON: Beg the Court's indulgence.

21 (Pause.)

22 BY MS. SIMPSON:

23 Q Finally, the individual that you met in the law
24 library who indicated to you that he shot the woman in
25 the bakery, do you see him here in the courtroom

1 today?

2 A Yes, ma'am.

3 Q Can you point him out for the jury and tell them
4 what he is wearing?

5 A A blue suit with a cup in his hand right now.

6 Q Is he sitting at the center table?

7 A Yes, ma'am.

8 MS. SIMPSON: Your Honor, let the record reflect
9 that the witness has identified the defendant Lorenzo
10 Young.

11 THE COURT: So redirected.

12 MS. SIMPSON: Thank you.

13 THE COURT: All right. Mr. Krzyston or --- I'm
14 sorry. I apologize, Ms. Bambach.

15 MS. BAMBACH: Thank you, Your Honor. May it
16 please the Court.

17 THE COURT: Yes, ma'am.

18 CROSS-EXAMINATION:

19 BY MS. BAMBACH:

20 Q Mr. Wright, you had this conversation with
21 Lorenzo on February 28th?

22 A Yeah.

23 Q 2014, correct?

24 A I believe before the end of February, yes, ma'am.

25 Q Yes. Your letter states February 28th, 2014.

1 You met him in the law library at the jail?

2 A Yes, ma'am.

3 Q You only met him that one day, right?

4 A That's it.

5 Q You were never in the same dorm as him?

6 A No.

7 Q So the only interaction was in the law library at
8 the jail?

9 A Yes, ma'am.

10 Q And after meeting you for the first time he
11 wanted your advice?

12 A Well, as I mentioned, I knew some people he knew,
13 and he heard me helping someone else with the same ---
14 well, a similar situation.

15 Q Okay. So you've been in the Mike dorm almost the
16 entire time you've been at Alvin S. Glenn, right?

17 A Yes, ma'am.

18 Q So that would be from March 2013 until today,
19 you're still in Mike dorm?

20 A No, sir.

21 Q You're not at Mike?

22 A I'm not at Alvin S. Glenn right now.

23 Q Oh, I'm sorry. You moved, right? You know
24 Michael Schaefer, don't you?

25 A He was in my dorm, as well.

1 Q And he was in the same dorm as you for about 11
2 months then?

3 A Off and on.

4 Q Back and forth?

5 A He went back and forth.

6 Q Do you know Michael Schaefer and Lorenzo were in
7 Juliette together?

8 A I believe so. Yeah, of course, because that's
9 one of the people he actually asked me about and asked
10 did I know when I was --- when we had the whole
11 conversation.

12 Q Okay.

13 A They used to play cards. They were friends or
14 something.

15 Q Okay. You were in the jail in July of 2013,
16 right?

17 A Yes, ma'am.

18 Q When this incident happened?

19 A Yes, ma'am.

20 Q Okay. And during this time you were in Mike dorm
21 so you did have access to television, right?

22 A Yes, ma'am. They do watch TV there a lot.

23 Q I know in each pod they have the TVs in each pod
24 at Mike, right?

25 A Right.

1 Q So there is cable in Mike dorm?

2 A Yes, there is.

3 Q And as Ms. Simpson said, you're currently in jail
4 for a pending murder, burglary, armed robbery ---
5 attempted armed robbery and conspiracy, right?

6 A Yes, ma'am.

7 Q And murder carries up to life?

8 A Yes, it does.

9 Q Day for day?

10 A Yes, it does.

11 Q And burglary first carries up to life, and the
12 solicitor's office is prosecuting your case, right?

13 A Yes, ma'am.

14 Q Actually, the Deputy Solicitor is prosecuting
15 your case. And you met with the solicitors a few
16 weeks ago to discuss your testimony, right?

17 A Yes, ma'am.

18 Q So on February 28th, 2014, you were in the law
19 library. Would it surprise you to know that you're
20 not able to go to the law library if your in SHU dorm?

21 A That wouldn't surprise me, but I'm confused what
22 is a dorm right now.

23 Q Okay. Well, just if your in SHU dorm, you aren't
24 allowed to go ---

25 A Right.

1 Q --- to the law library?

2 A I do know that.

3 Q Also, did you know that you're not allowed to go
4 to the library for 30 days after you get out of the
5 SHU dorm?

6 A Yes, I do know that.

7 MS. BAMBACH: I have nothing further.

8 THE COURT: Mr. Schnee?

9 MR. SCHNEE: May it please the Court, Your Honor.

10 THE COURT: Yes, sir.

11 CROSS-EXAMINATION:

12 BY MR. SCHNEE:

13 Q Mr. Wright, do you recognize the man sitting over
14 there?

15 A No.

16 Q Never seen him before? Sitting at the table
17 where I got up from?

18 A I can't really see with his hand covering his
19 face, sir.

20 Q Trenton, move your hand.

21 A No.

22 Q Never seen him before?

23 A No.

24 Q Never talked to him?

25 A Pretty sure I haven't.

1 Q Okay. All the information you have about this
2 case you're saying came from Lorenzo Young?

3 A Yes, sir.

4 Q And he told you that it was him inside with Troy
5 Stevenson?

6 A Yes, sir.

7 Q Okay. And Trenton never went inside according to
8 the Lorenzo?

9 A Yes, sir.

10 Q Okay.

11 MR. SCHNEE: No further questions.

12 MS. SIMPSON: Brief redirect, Your Honor.

13 THE COURT: Yes, ma'am.

14 REDIRECT EXAMINATION:

15 BY MS. SIMPSON:

16 Q Have you actually spoken with either myself,
17 Ms. Campbell or Ms. Garfield?

18 A No.

19 Q About your case or about this case?

20 A No.

21 Q And were you threatened or coerced to come
22 forward in any way?

23 A No, not at all.

24 Q And have you been made any promises or offered
25 any deals ---

1 A Not at all.

2 Q --- in this case with respect to your charges?

3 A Not at all.

4 Q But you're hoping for some benefit or help down
5 the road or consideration by either my office or a
6 Judge?

7 A Of course.

8 Q Additionally, you said Lorenzo told you that she
9 had resisted with a knife?

10 A Uh-huh.

11 Q And again you were in jail during July?

12 A Right.

13 Q And had seen something on the news to about this
14 case?

15 A I mean, I heard about it. I actually missed it
16 because I was playing cards at the time. I just know
17 I didn't see it on TV, but I heard about it.

18 Q But he told you that she resisted with a knife?

19 A No, sir yeah.

20 Q And he and Troy are the ones that went in?

21 A Yes, ma'am.

22 MS. SIMPSON: Thank you.

23 THE COURT: Ms. Bambach.

24 RECROSS-EXAMINATION:

25 BY MS. BAMBACH:

1 Q Mr. Wright, would it surprise you to learn that
2 Lorenzo Young was in SHU dorm on February 19th, 2014?

3 A It would. Maybe I put down the wrong date. I
4 was pretty sure it was toward the end of February.

5 Q Okay. February 28th he was in Juliette. Would
6 that surprise you?

7 A Not at all.

8 Q And per the policy at Alvin S. Glenn, you're not
9 allowed to go to the library ---

10 A Thirty days.

11 Q --- for 30 days?

12 A Yes, ma'am.

13 Q And February 19th to February 28th is nine days?

14 A It is not 30 days.

15 Q It is not 30 days.

16 A I understand that.

17 MS. BAMBACH: Thank you.

18 R. SCHNEE: Thank you, no further questions,
19 Judge.

20 THE COURT: Have a good day, sir.

21 Call your next witness.

22 MS. SIMPSON: The State calls Investigator
23 Gaston.

24 INVESTIGATOR JOHNSON GASTON, JR.,
25 after being duly sworn, testified as follows:

1 THE CLERK: Please have a seat, state your full
2 name for the record.

3 THE BAILIFF: Pull your chair up. Thank you.

4 DIRECT EXAMINATION:

5 BY MS. SIMPSON:

6 Q Can you state your name for the record?

7 A Officer Gaston from the CPD.

8 Q And your first name?

9 A Johnny Gaston, Jr.

10 Q Investigator Gaston, how long have you been with
11 the Columbia Police Department?

12 A Eight-and-a-half years.

13 Q Eight-and-a-half years?

14 A Yes, ma'am.

15 Q And what position do you currently hold?

16 A I'm a crime scene investigator.

17 Q And prior to being a crime scene investigator,
18 did you work some other aspect within the department?

19 A I was on patrol for about six years.

20 Q For about six years?

21 A Yes, ma'am.

22 Q During your time on patrol, what types of cases
23 did you respond to?

24 A Murders, attempted murders, burglaries, auto
25 break-ins, just domestics, basically anything you

1 A Yes, ma'am.

2 Q And what was located in that box in the top of
3 Lorenzo Young's closet?

4 A It was several pairs of black gloves.

5 Q And let me show you first State's 160 and 161.
6 When you found these gloves, were they all packaged
7 together?

8 A Yes, ma'am, they were.

9 Q And they're all what, black gloves?

10 A Correct.

11 Q In the same box?

12 A Same box.

13 Q And then turning your attention to State's 162,
14 did you actually take those gloves out?

15 A Yes, ma'am.

16 Q In order to document them?

17 A Yes, I did.

18 Q And here we see a number of the gloves that was
19 in Lorenzo's closet?

20 A Correct.

21 Q And were those items ultimately collected?

22 A Yes. They were.

23 Q And turned into evidence?

24 A Yes, ma'am.

25 Q And when you collect items and turn them in to

1 evidence, do investigators decide what to later
2 process or send off for testing?

3 A Yes. They do.

4 Q I'm going to show you --- backtrack at Marker
5 (3), is that the placement of the box in the closet?

6 A Yes, ma'am.

7 Q So that's where you found it?

8 A Yes, sir.

9 Q And then moving to Markers (1) and (2), I'm going
10 to show you State's 164 and 165. What's depicted in
11 these photographs?

12 A It's going to be this dresser right here where
13 the drawers were open.

14 Q Did you later find something in that dresser?

15 A Yes, I did.

16 Q And we'll start first with Marker (1) in State's
17 165. There are a number of clothes in the dresser,
18 correct?

19 A Correct.

20 Q But you actually searched the dresser and located
21 another item?

22 A The investigator did and made me aware of that
23 item.

24 Q And so you documented that item, as well?

25 A Yes, ma'am.

1 Q I'm going to show you State's 166 and 167. What
2 item did you document?

3 A It was an unfired cartridge.

4 Q An unfired cartridge and that was found in the
5 dresser drawer?

6 A Correct.

7 Q Is that actually a lot --- you said unfired so a
8 live round?

9 A Correct.

10 Q And since it is a live round, did you also
11 document, I guess, the caliber?

12 A Correct, the headstamp.

13 Q The headstamp?

14 A Manufacturer and caliber.

15 Q Is that noted in State's 168?

16 A Yes, ma'am, it is.

17 Q What is the caliber on that one?

18 A 40 caliber.

19 Q 40 caliber, Smith and Wesson?

20 A Correct. Headstamp was an ELO.

21 Q And then Marker (2), which I believe is also
22 found in the dresser in State's 169, does this show
23 just the general area again?

24 A Correct.

25 Q Okay. Underneath those items in State's 170?

1 A Correct.

2 Q What is there?

3 A It's an unfired cartridge.

4 Q Unfired cartridge. And did you also document the
5 headstamp on that, as well?

6 A Correct.

7 Q And what was that?

8 A It was a nine millimeter Luger Winchester.

9 Q And then State's 171, is that ---

10 A Yes, ma'am, that's it.

11 Q --- what we see? You said that's a nine
12 millimeter Luger?

13 A Correct.

14 Q Moving to Marker (4) and on our diagram, I
15 believe that's actually --- there it is behind the
16 bed.

17 Showing you State's 174. Is that Marker (4)?

18 A Yes, ma'am.

19 Q And what was actually located at Marker (4)?

20 A It was a glass jar containing empty shell
21 casings. When you buy bullets, it comes in a plastic
22 container that their individual bullets sits in. It
23 contains that.

24 Q Okay. So State's Exhibit 175 and 176, we
25 actually see a close up of that container, correct?

1 A Correct.

2 Q And does it also contain additional items in the
3 cup?

4 A Correct.

5 Q What are those items at Marker (4) in the
6 ammunition?

7 A It's a 45 GAP, C.B.C headstamp and one Magtech
8 ammunition box with tray.

9 Q Okay.

10 Q And you said that round, was it a live round or a
11 casing or what was it?

12 A Live round.

13 Q Live round and it was for what caliber of a gun?

14 A That was for a 45.

15 Q The 45 GAP?

16 A Yes, ma'am.

17 Q Then in State's 177, what is that?

18 A That would be the Magtech ammunition box.

19 Q And what type of ammunition, if you recall --- I
20 don't know if we can see it in the picture?

21 A I can't recall.

22 Q Was that for?

23 A I can't recall.

24 Q Okay. But you're actually collected that box?

25 A Correct.

1 Q And we'll get to that momentarily. I'm going to
2 show you --- let's move to Markers (5) and (6). Where
3 are their locations in the room?

4 A That would be on the dresser right there, edge of
5 the dresser and on top of the dresser.

6 Q Okay. I'm going to show you State's 178 and 179.
7 Are these the markers?

8 A Yes.

9 Q That you placed down?

10 A Yes.

11 Q What items were actually located at --- I guess
12 that you documented as number (5) and (6)?

13 A That would be two fired rifle cartridges
14 headstamped ELO.

15 Q Let's see if I can find that. State's 180, is
16 that a close up?

17 A Correct.

18 Q Of that cartridge, as well, or is that --- I'm
19 sorry, a live round?

20 A Cartridge.

21 Q Okay.

22 A Fired round.

23 Q And then, again, Marker (6) is showing it up
24 closer up in 188, a little closer. So you actually
25 found a number of different types of ammunition in

1 this room?

2 A Yes, ma'am.

3 Q I'm going to move on to State's 183 and 184.

4 What is contained in these photographs?

5 A That is a Columbia Farms ID for Lorenzo Young and

6 a lanyard attached to it, as well.

7 Q So this was some identifying information with

8 respect to Mr. Young that you located?

9 A Yes, ma'am.

10 Q And it was for Columbia Farms?

11 A Yes, ma'am.

12 Q Was that located on the dresser area or where?

13 A On top of the dresser right here marked number

14 (6).

15 Q The dresser where some of the ---

16 A Shell casings were.

17 Q --- shell casings were found. Moving to Marker

18 (7), which I believe --- where is that located in our

19 diagram here? Is that beside the bed area?

20 A Beside the bed area right in front of the wall.

21 Q And in Marker number(7), I'll show you far away,

22 State's 186 what were you actually documenting at

23 Marker number (7)?

24 A The pocketbook.

25 Q A pocketbook that was found?

1 A Right.

2 Q In that pocketbook --- is that the pocketbook in
3 State's 190?

4 A Correct.

5 Q Whose identification have you indicated there?

6 A I can't see it.

7 Q Is Coleman listed?

8 A I can see Coleman, but I can't see the first
9 name.

10 Q It's definitely a female's purse?

11 A Right.

12 Q With a driver's license and Coleman indicated.

13 Q Then moving to State's 191, is that inside the
14 purse?

15 A Yes. It is.

16 Q And we'll move --- what exactly are you
17 documenting inside the purse?

18 A A ---

19 Q In State's 192?

20 A A Glock magazine.

21 Q A Glock magazine?

22 A Yes, ma'am.

23 Q What exactly is a Glock magazine?

24 A It's a magazine that holds a firearm, unfired
25 shell casings, for a pistol.

1 Q For a pistol? In this one, was that actually
2 loaded at the time or was it empty?

3 A It was empty.

4 Q And that item was ultimately collected by you?

5 A Correct.

6 Q And the magazine was found in Ms. Coleman's
7 purse?

8 A Yes, ma'am.

9 Q And I believe you documented --- I don't know
10 what portion of the magazine that's called, but
11 State's 193. What do we see?

12 A Yeah, that's part of the magazine showing it is a
13 Glock magazine.

14 Q Okay. And then moving to Marker (8), where is
15 that indicated on our diagram? Actually, I don't know
16 that it is.

17 That's because that's the parents' bedroom with
18 the shoes.

19 A Yes.

20 Q My apologies. And in State's 194 and 195 and
21 those shoes were pointed out to you by investigators?

22 A Correct.

23 Q Moving to Marker number (9) which you noted,
24 where is this on our diagram?

25 A This would be under the bed.

1 Q What do you we see in 196 and 197 at Marker (9)?

2 A A pair of black tennis shoes.

3 Q And those were just collected. When you arrive
4 at the scene, do you necessarily know what will be
5 pertinent to an investigation later down the road?

6 A No, I sure don't.

7 Q And then in Marker (10) --- actually, I want to
8 say Markers (10) --- what do you see in State's 199
9 and 200, what were you're actually noting there?

10 A Okay. That was the Visa debit card that was
11 there with a name on it.

12 Q And what's the name on that card?

13 A Lorenzo Young.

14 Q Lorenzo Young. So you found identifying
15 information for a Ms. Coleman and Mr. Young ---

16 A Correct.

17 Q --- in this room. Marker (12), what did you
18 document at Marker number (12) and where was that
19 located?

20 A That was a shoe box that was located in the
21 closet here between the two bedrooms.

22 Q So that closet is actually over here?

23 A No. It's ---

24 Q --- this closet over here.

25 A Yes.

1 Q And again, just more shoes that were as
2 documented in the residence?

3 A No, actually that was a manila envelope with
4 Lorenzo Young's name on it.

5 Q Oh, another with paperwork and things of that
6 nature. Moving to State's --- Marker (14) and State's
7 210 and 211, what is at Marker (14)?

8 A It is a San Disk thumb drive.

9 Q And on this we see a number of items on the
10 dresser to include, I guess, baby lotion and things of
11 that nature, as well?

12 A Correct.

13 Q Moving to Marker (15) in State's 212 and 215,
14 what was that?

15 A That is a little camcorder, a JVC camcorder that
16 was located on the dresser right here.

17 Q And you documented that item, as well?

18 A Correct.

19 Q And moving to Marker (16), let me show you in
20 State's 216, what was that item?

21 A That is a laptop that was under some paperwork
22 here on the dresser, as well.

23 Q And then at Marker (17) and --- I'm going to show
24 you State's 218 and 219, what is that Marker (17) that
25 you're documenting here?

1 A That is a cell phone.

2 Q A cell phone?

3 A Correct.

4 Q And again, phones sometimes may become important
5 in an investigation. You don't really know?

6 A Right.

7 Q But those are often items that are collected and
8 documented by a crime scene investigators, right?

9 A Correct.

10 Q And Marker (18), was there actually another cell
11 phone located?

12 A Yes, ma'am, there is.

13 Q Okay. Is that documented in State's 220 and 221?
14 That's a different cell phone?

15 A Correct. The first one, I believe, was located
16 on this dresser over here, and the second one was over
17 here.

18 Q Okay. And outside of those items, was anything
19 else documented in that room?

20 A No.

21 Q While you were in that room, did you also note
22 that there was kind of a crib or basinet, as well?

23 A I don't believe --- I don't remember that it was
24 in this room. I remember that it was in this room
25 right here. I could be mistaken. I'd have to look at

1 my photos again. I'd have to recall.

2 Q Okay. But there was a crib located in that home?

3 A Yes.

4 Q Okay. You can have a seat.

5 Q The items that we just went through, did you
6 actually collect those items?

7 A Yes, ma'am, I did.

8 Q I'll go through them and show you State's 174. I
9 don't know if you want gloves for this?

10 A Yeah, please.

11 Q Excuse me, State's 374. They may be a little
12 small. Sorry, I think they're for smaller sized
13 hands.

14 A These are Nike shoes.

15 Q Okay. Are those the Nike shoes that you
16 collected?

17 A Yes, ma'am.

18 MS. SIMPSON: Okay. Your Honor, at this time,
19 I'd offer State's 374 into evidence.

20 MS. BAMBACH: We would renew our previous
21 objection.

22 MR. SCHNEE: No objection.

23 THE COURT: Those are admitted over objection.

24 (WHEREUPON, State's Exhibit Number 374 was
25 admitted into evidence.)

1 BY MS. SIMPSON:

2 Q Okay. Let me show you what's been marked as
3 State's 369. Do you recognize that, as well?

4 A Yes, I do.

5 Q Okay. And what is that item?

6 A One pair of clean shoes.

7 Q And that would be one of the pairs that you
8 collected?

9 A Correct.

10 Q And documented in the photographs that we just
11 saw?

12 A Correct.

13 MS. SIMPSON: Your Honor, at this time we would
14 offer State's 369 into evidence.

15 MS. BAMBACH: We renew our previous objection.

16 MR. SCHNEE: No objection.

17 THE COURT: All right. Admitted.

18 (WHEREUPON, State's Exhibit Number 369 was
19 admitted into evidence.)

20 BY MS. SIMPSON:

21 Q And then State's 377, I believe we actually have
22 three cell phones located in State's 377?

23 A Correct.

24 Q And are those items that you collected from the
25 residence, as well?

1 A Yes, ma'am.

2 Q Again, do you actually conduct any phone
3 examinations or determine what items will be tested in
4 a certain case down the road?

5 A No, I sure don't.

6 Q When you collect these items are they properly
7 collected?

8 A Correct.

9 Q And when they're bagged and in your custody, are
10 they tampered or altered in any way?

11 A No, ma'am.

12 Q Moving to State's 375, do you recognize the items
13 in State's 375?

14 A Yes, ma'am, I do.

15 Q Okay. What are those items?

16 A That's a plastic cup with a part of the
17 ammunition box that holds the bullets.

18 MS. SIMPSON: And, Your Honor at this time I
19 would offer State's 375 into evidence.

20 MS. BAMBACH: I would renew our previous
21 objection.

22 MR. SCHNEE: No objection.

23 THE COURT: Very well. State's 375 is in.

24 (WHEREUPON, State's Exhibit Number 375 was
25 admitted into evidence.)

1 BY MS. SIMPSON:

2 Q Okay. Is this the cup and --- what is this?

3 A It's a cartridge holder that goes inside of an
4 ammunition box.

5 Q And that was actually found under the bed, and
6 we'll get to the rounds that were found, as well, but
7 that's the cup and the tray?

8 A Correct.

9 Q And then State's 1 --- excuse me, 373, do you
10 recognize these items and there are several items
11 contained in 373.

12 A Yes, ma'am, I do.

13 Q Are those some of the items that you collected
14 for this case?

15 A Yes, ma'am.

16 MS. SIMPSON: Your Honor, at this time, I would
17 offer State's 373 into evidence,

18 MS. BAMBACH: Renew our previous objection.

19 MR. SCHNEE: No objection.

20 (WHEREUPON, State's Exhibit Number 373 was
21 admitted into evidence.)

22 THE COURT: Admitted over objection, 373. Go
23 ahead.

24 BY MS. SIMPSON:

25 Q In this you have one nine millimeter cartridge,

1 (WHEREUPON, State's Exhibit Number 389 was
2 admitted into evidence.)

3 BY MS. CAMPBELL: .

4 Q You mentioned you would take a lift, one from the
5 front and one from the back?

6 A Yes, ma'am.

7 Q Taking the gloves in whatever order you think is
8 appropriate what were your findings when you did the
9 testing as far as gunshot residue?

10 A I found that gunshot residue was found on the
11 gloves.

12 Q On each and every glove?

13 A Yes, ma'am, particles of gunshot residue was
14 found.

15 Q And in your experience, what does that indicate
16 to you as far as where these gloves were in proximity
17 when a gun was perhaps fired?

18 A They were within three feet of the gun when it
19 was discharged.

20 Q And you can't tell the jury how long it had been
21 since they had been within three feet of when a gun
22 was discharged?

23 A No, ma'am.

24 Q Because it can, as you mentioned, stay on there
25 for a long time?

1 next witness.

2 MS. SIMPSON: The State calls Michael Peterson.

3 THE COURT: All right. Mr. Peterson, come
4 forward and be sworn.

5 MICHAEL PETERSON,
6 after being duly sworn, testified as follows:

7 THE CLERK: Please have a seat, state your full
8 name for the record.

9 THE WITNESS: Have a seat?

10 THE BAILIFF: Right here. Watch your step.

11 DIRECT EXAMINATION:

12 BY MS. SIMPSON:

13 Q Mr. Peterson, can you state your full name for
14 the record so the court reporter can take it down?

15 A Michael Peterson.

16 Q How old are you, Mr. Peterson?

17 A Forty-seven.

18 Q Are you from Columbia?

19 A Yes, ma'am.

20 Q Born and raised?

21 A Yes, ma'am.

22 Q Did you go to school here?

23 A Yes, ma'am.

24 Q Where did you go to school?

25 A C.A. Johnson High School.

1 Q Did you actually finish school?

2 A Yes, I graduated.

3 Q I want to talk to you about how you know some of
4 the people involved in this case. Do you know the
5 defendant Lorenzo Young?

6 A Yes, ma'am.

7 Q Do you also know the codefendant Trenton Barnes?

8 A Yes, ma'am.

9 Q And do you know Troy Stevenson?

10 A I met him, yes.

11 Q And how do you know --- we'll start first with
12 Mr. Young?

13 A We was in the same unit and I drew a portrait of
14 his daughter for him.

15 Q So you actually do artwork and things of that
16 nature?

17 A Yes.

18 Q And you say you were in the same unit. What do
19 you mean by that?

20 A We was in the Juliette unit.

21 Q So you were incarcerated together?

22 A Yes, we was incarcerated together at Alvin S.
23 Glenn.

24 Q And at some point during your time with
25 Mr. Young, did you all have a conversation about the

1 murder case?

2 A Yes, ma'am.

3 Q Can you tell the jury how that was initiated and
4 how that occurred?

5 A Mr. Young --- somebody must have told him I do a
6 little law work because I go to the law library all
7 the time. He asked me, he said that he heard I knew a
8 lot about the law. I said, "Not really," so I said,
9 "What you need to know?" He said, "Well, we went on
10 this lick." I said that, yeah ---

11 MR. SCHNEE: Objection, Your Honor, as to the
12 same hearsay.

13 THE COURT: Overruled.

14 MR. SCHNEE: Thank you.

15 THE COURT: You may continue, Mr. Peterson.

16 BY MS. SIMPSON:

17 Q And so ---

18 A He said, "We went on this lick." I said, "Oh,
19 the bakery job on Beltline?" He says --- he
20 hesitated. I said, "Yeah, it was all over the news."
21 He said, "Yeah." He said, "We went up in the bakery.
22 It was an in and out job. They --- uh--- we --- I
23 asked the lady to give me the money, and she said the
24 money was in the back. So I said --- I said, "In the
25 back?" He said, "Yeah, in the back." He said, "We

1 went back in the back and she acted like she was using
2 her cell phone. She acted like she was using her cell
3 phone, so I thought she was trying to call the police,
4 so I started shooting." I said, "You started
5 shooting?" He said, "Yeah, I started shooting." He
6 said, "I must have got scared. I got a little scared,
7 so I started shooting," so I said --- I just shook my
8 head. He said, "Yeah, my homies must have seen the
9 blood and started running, so I turned around and
10 started running, too." I said, "Man, you didn't have
11 to kill the lady." He said, "I panicked." He said,
12 "The police don't have nothing. We had on mask and
13 gloves."

14 I said, "Man, I that's kind of bad, man. That's
15 kind of bad." He said, "Well, they don't have
16 nothing. I said, "Well, they must have had something
17 because they came and got y'all." He said, "I think
18 some people in the neighborhood told them what we had
19 on. I just kept shaking my head. I said, "Well,
20 that's pretty bad." I said, "That's kind of messed up
21 because she had small kids." I said, "With a case
22 like this here you're going to get somebody like Luck
23 Campbell. That's not good at all."

24 Q Let me back you up just a minute. He indicated
25 ~~"we" set up this lick. At that point did he say who~~

1 was with him or did he just indicate "we"?

2 A Actually, he said his little homey.

3 Q His little homey?

4 A Yeah, his little homey.

5 Q One of the things he said is that the police
6 don't have anything?

7 A He said, "The police don't have anything because
8 we had on masks and gloves."

9 Q And that all they found were shell casings?

10 A Shell casings.

11 Q And so they couldn't prove anything?

12 A He said, "They can't prove nothing."

13 Q And what --- I apologize. What was his demeanor
14 like when he was telling you what was happening or
15 about this case?

16 A I mean, he was just --- acted like he was ---
17 like nothing happened really.

18 Q So he was just kind of matter of fact and
19 indifferent?

20 A Yeah, I just did that, you know. Didn't really
21 mean too much to him I don't think at the time.

22 Q And he also indicated to you that some of the
23 people in the hood or on the streets must have told
24 them about the clothes?

25 A Yes, just told him about the clothes he had on

1 that day.

2 Q Did he seem too concerned to you about what
3 evidence the police had on him?

4 A He just made it seem like they didn't really have
5 nothing but by saying they didn't have nothing but
6 shell casings.

7 Q And was that the extent of your conversation with
8 Mr. Young at that point about his case?

9 A No.

10 Q Okay. You talked further about it?

11 A Yeah, we are talked a little bit further.

12 Q Was that on the same day or a different day?

13 A Same day.

14 Q What else did he tell you?

15 A He said --- no, I had told him. I said, "Yeah,
16 you're going to get Luck Campbell." I said, "If you
17 get Luck Campbell, that's going to be real bad." I
18 said, "You're going to have to wait to see what they
19 really got because you said they didn't have nothing.
20 You're going to have to wait and see what they got.
21 He said, "Okay, thanks, Big Unc."

22 Q And you said Big Unc; is that a nickname?

23 A Yeah, that's what they call me, Big Unc or Big
24 Mike or something like that.

25 Q So you've being around there for a little while,

1 right?

2 A Yes.

3 Q And continue, what was your response or his
4 response?

5 A Went, his --- he said, "Thanks, Big Unc." I
6 said, "Yeah, man, that was messed up. The lady had
7 small kids." I said, "That was just messed up."

8 Q A few days later, did you actually go to lock up?

9 A Yes.

10 Q And how is lock up different from being, I guess,
11 in the ---

12 A The unit?

13 Q The regular units or the general population?

14 A Well, I was in the SHU, in lock up. The SHU has
15 got like bars at the door. They brought Lorenzo down
16 there for --- they call it cool down period when you
17 start trouble in the dorm.

18 MS. PINNOCK: Objection, Your Honor. Can we ---

19 THE COURT: Yes, stop talking. Approach. Talk
20 amongst yourselves. Stand up.

21 (WHEREUPON, a bench conference was held in the
22 presence, but not within the hearing of the
23 jury.)

24 THE COURT: All right. Ladies and gentlemen, we
25 are back on the record. You will disregard

1 Mr. Peterson's last statement and go ahead, Ms.

2 Simpson.

3 BY MS. SIMPSON:

4 Q Okay. Without telling me why, were y'all
5 together, I guess, in lock-up for a period? Was
6 someone else involved in this case there, as well?

7 A Yes. Troy.

8 Q Troy?

9 A That's the name I knew at the time, Troy.

10 Q Troy, and you later learned his last name?

11 A Yes.

12 Q And tell us what occurred down there?

13 A We.

14 MS. PINNOCK: Your Honor, at this time, I would
15 object to hearsay.

16 MR. SCHNEE: I would also object to hearsay from
17 Troy, as well.

18 THE COURT: Well, he can't say what Troy said.

19 MS. SIMPSON: Your Honor, with respect to that,
20 we would argue that ---

21 MS. PINNOCK: We could object.

22 MS. SIMPSON: It's a matter of law.

23 THE COURT: All right. Step back to your jury
24 room. Do not discuss the case. Keep an open mind.

25 (WHEREUPON, the jury left the courtroom at 11:50)

1 A.M.)

2 THE COURT: All right. Tell me what you
3 overheard.

4 THE WITNESS: Well, Troy --- he hollered out. He
5 said, "Lorenzo," you know, he was like in a room. He
6 was about 70 feet away from us. He said, "Lorenzo,
7 why did you and my brother go down to that bakery and
8 did that?" He said, "Man, they don't have nothing but
9 shell casings." Troy said, "Man, my mama got messed
10 up with that, too. My little brother told everything
11 and my mother got messed up, too. The only way my
12 mother got out of it is when she said that --- she
13 sent me down there to get y'all."

14 THE COURT: All right. Did you hear anything
15 else?

16 THE WITNESS: That was it.

17 THE COURT: Okay.

18 THE WITNESS: Lorenzo said, "Man, they don't have
19 nothing." Troy later stated that --- he later stated
20 that when he got to the bakery that they was running
21 out. His brother was running out first and Lorenzo
22 was coming out behind him with a gun.

23 THE COURT: Who said that?

24 THE WITNESS: Troy.

25 THE COURT: When did he say that to you?

1 THE WITNESS: He said that to me right --- while
2 Lorenzo was still in the cell and we was at the
3 shower.

4 THE COURT: Okay.

5 MS. SIMPSON: And, Your Honor, there is
6 additional testimony with respect to Mr. Peterson that
7 he has acknowledged --- how in going to certain
8 notations that you made about this, when Troy made
9 those statements, what was Lorenzo's response and
10 reaction?

11 THE WITNESS: Well, Lorenzo's reaction was that
12 they don't have nothing but shell casings. I looked
13 over there where he was. He was over there at the
14 door biting his fingernails.

15 MS. SIMPSON: Okay. He also --- did he indicate
16 Mr. Young further to you why he shot or anything about
17 a knife?

18 THE WITNESS: No, he didn't say nothing about why
19 he shot and all.

20 MS. SIMPSON: Your Honor, we would --- if you're
21 ready for our argument.

22 THE COURT: I am.

23 MS. SIMPSON: Essentially, we're offering this as
24 an admission by a party opponent under 801(d)(2) with
25 respect to Troy's statements. -- Your Honor, these were

1 not hearsay. We would be offering it for purposes to
2 show Lorenzo's response to those, and he essentially
3 manifested a belief in those statements based on the
4 testimony of Mr. Peterson.

5 THE COURT: All right. Anything that Troy said
6 is out.

7 MS. SIMPSON: But he can say what Lorenzo said,
8 correct?

9 THE COURT: Yes. All right. Bring in the jury.
10 You can't say what Troy said, do you understand
11 that?

12 THE WITNESS: Yes, sir.

13 (WHEREUPON, the jury entered the courtroom at
14 11:53 A.M.)

15 THE COURT: All right. Welcome back. You may
16 continue.

17 MS. SIMPSON: Thank you, Your Honor.

18 BY MS. SIMPSON:

19 Q Mr. Peterson, backing up, this second
20 conversation that you overheard between Troy and
21 Lorenzo, were y'all separated by bars so that you kind
22 of had to holler if you wanted to communicate with one
23 another?

24 A Yes, we was in the shower and Lorenzo was in the
25 room.

1 Q And without telling me what Troy said, did they
2 begin hollering back and forth at one another?

3 A Yes, ma'am.

4 Q And what was Lorenzo's response to what Troy
5 initiated as far as what Lorenzo said?

6 A Like he got real nervous and started biting his
7 fingernails.

8 Q Okay. And did he also indicate something about
9 the evidence that police had to Troy?

10 A Yeah, he said they don't have nothing but --- the
11 police ain't found nothing but shell casings.

12 Q Again, without telling me what else Troy said,
13 did he continue to talk to Lorenzo? I guess, holler
14 at Lorenzo about the case?

15 A Yeah, he kept hollering.

16 Q And what was Lorenzo's kind of continued reaction
17 during this conversation?

18 A Just like he was nervous.

19 Q Just nervous?

20 A Yeah.

21 Q And again he talked about what evidence the
22 police had?

23 A Yeah.

24 Q Or didn't have?

25 A Just shell casings.

1 Q Did he mention, Lorenzo mention, anything else at
2 time about the case?

3 A Not at that time.

4 Q Okay. And did Troy ever talk to you about the
5 case other than just ---

6 MS. PINNOCK: Objection, Your Honor.

7 MS. SIMPSON: I apologize, Your Honor.

8 BY MS. SIMPSON:

9 Q I apologize, did Trenton Barnes ever talk to you
10 about the case?

11 A No Trenton Barnes never did.

12 Q So the only person you ever really had contact
13 with directly was Mr. Young?

14 A Mr. Young.

15 Q And overhearing ---

16 A Right.

17 Q --- Young and Troy. The person who spoke to you
18 and indicated he shot the lady at the bakery and that
19 the police essentially had nothing but shell casings
20 because they had masks and gloves on, do you see him
21 here in the courtroom today?

22 A Lorenzo Young, yes, ma'am.

23 Q Where is he seated?

24 A Right there with the blue shirt on.

25 MS. SIMPSON: Your Honor, let the record reflect

1 he has identified the defendant.

2 THE COURT: So reflected.

3 BY MS. SIMPSON:

4 Q Now, you've been in the Alvin S. Glenn Detention
5 Center or incarcerated before, right?

6 A Yes, ma'am.

7 Q You've actually had a prior conviction from 2007
8 for assault and battery of a high and aggravated
9 nature?

10 A Yes, ma'am.

11 Q And you also had, I believe from 2000, a burglary
12 second degree nonviolent, as well as strong armed
13 robbery?

14 A Yes, ma'am.

15 Q And you currently have pending charges in our
16 office, as well?

17 A Yes, ma'am.

18 Q And that would be for murder, correct?

19 A Yes, ma'am.

20 Q And do you know the penalty you're facing for
21 murder?

22 A Yes, ma'am.

23 Q What is that?

24 A Life in prison.

25 Q Life. And you're facing a minimum of 30 years,

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

ORIGINAL

Appeal from Richland County
Robert E. Hood, Circuit Court Judge

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SC Court of Appeals

THE STATE,

RESPONDENT,

V.

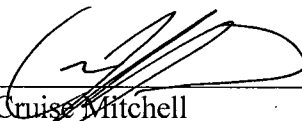
TRENTON MALIK BARNES,

APPELLANT

APPELLATE CASE NO. 2014-002771

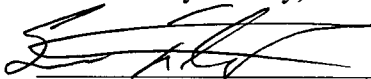
CERTIFICATE OF SERVICE

I certify that a true copy of the Record on Appeal in the above referenced case has been served upon Donald J. Zelenka, Esquire, at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, this 12th day of May, 2016.



Cruise Mitchell
Administrative Specialist

SUBSCRIBED AND SWORN TO before me
this 12th day of May, 2016.



(L.S.)
Notary Public for South Carolina
My Commission Expires: October 30, 2022.