

STATE OF SOUTH CAROLINA

In The Court of Appeals

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

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)

1 correct?

2 A Thirty years.

3 Q So 30 years up life?

4 A To life.

5 Q And you also have a kidnapping?

6 A Yes, ma'am.

7 Q And what are you facing on that?

8 A 30 years.

9 Q Thirty years. Is it zero to 30 years for those
10 charges?

11 A Kidnapping, I think it's just 30.

12 Q You know the maximum is 30?

13 A Yeah, I know the max is 30.

14 Q And with respect to this case, did you meet
15 with --- you are actually represented by an attorney
16 for your charges, correct?

17 A Yes.

18 Q Is that Mr. Victor Li?

19 A Yes, ma'am.

20 Q Is he present here in the courtroom today?

21 A Yes, ma'am.

22 Q Did you have a conversation along with Mr. Li and
23 one of our investigators about this case?

24 A Yes, ma'am.

25 Q Was I present for that conversation?

1 A No.

2 Q Or Ms. Campbell or Ms. Garfield?

3 A No, ma'am.

4 Q Were you threatened or coerced in any way to give
5 a statement?

6 A No, ma'am.

7 Q Did you actually write this information down and
8 provide it to someone?

9 A The information that I'm speaking on?

10 Q Yes.

11 A Yes, ma'am.

12 Q And you did that voluntarily?

13 A Yes, ma'am.

14 Q And you haven't been made any promises or offers
15 with ---

16 A No, ma'am.

17 Q --- respect to your testimony here today?

18 A No, ma'am.

19 Q But you are hoping for some benefit or
20 consideration by either my office or a judge down the
21 road?

22 A Not necessarily.

23 Q Not necessarily?

24 A Yes.

25 MS. SIMPSON: Thank you, Mr. Peterson.

1 MS. PINNOCK: May it please the court.

2 CROSS-EXAMINATION:

3 BY MS. PINNOCK:

4 Q All right. Mr. Peterson, this case was on the
5 news, right?

6 A Ma'am.

7 Q You knew this case was on the news?

8 A Yes, ma'am.

9 Q Right, it was on the news starting July 1st,
10 2013?

11 A Yes.

12 Q And it's been on the news pretty much continually
13 over the past year?

14 A Yes, ma'am.

15 Q And you watched TV at the jail?

16 A Not too much.

17 Q Are there TVs in the jail?

18 A Yeah, there's TV in the jail.

19 Q You told Lorenzo, according to you, when you
20 spoke to him, that it was on the news?

21 A I knew it was on the news before he came in the
22 unit, yeah.

23 Q So you knew?

24 A Yeah.

25 Q You were watching TV on that day?

1 A Yeah.

2 Q And you said --- one of the times you said you
3 heard a conversation, you were in SHU, S-H-U, right?

4 A Yes.

5 Q You said Lorenzo was there?

6 A Yes.

7 Q You said Troy was there?

8 A Yes.

9 Q And that's how you overheard this conversation?

10 A Right.

11 Q And you were in the shower?

12 A Yes.

13 Q Okay. Now I want to talk about the layout of
14 this dorm, okay.

15 A Okay.

16 Q Let's assume this is the door, the sally port
17 door?

18 A Right.

19 Q Where is the guard shack, where the CO sits?

20 A The CO --- that's the sally port door?

21 Q Uh-huh. This is how you come in.

22 A Go to your --- go to your left, over there.

23 Q They're right here or are they a little farther
24 up?

25 A It would be further up probably about 30,

1 40 feet.

2 Q Would you say about right there?

3 A Yeah.

4 Q And where are the showers?

5 A The showers would be before you get there, before
6 your get to that CO post right there.

7 Q In this area?

8 A Right there.

9 Q But isn't there a closet, sort of storage area
10 right there?

11 A Yeah, there's a smaller storage area there.

12 Q And that's right beside ---

13 A The offices, right.

14 Q So this is a closet and the showers you said are
15 right there?

16 A Yeah.

17 Q How many showers are there, one or two on the
18 first floor?

19 A Three at the bottom.

20 Q Three at the bottom?

21 A There's three.

22 Q And there's also showers upstairs, right?

23 A Yes.

24 Q How many upstairs?

25 A One, two, three.

1 Q Three upstairs?

2 A Yes.

3 Q So when your overheard this conversation, which
4 shower were you in? We'll call this one, two and
5 three.

6 A I was in the middle.

7 Q In the middle. Where are the cells?

8 A Okay. From the office ---

9 Q Uh-huh.

10 A --- over to your middle right here, yeah, it
11 would be right here.

12 Q The cells are about here?

13 A He was in cell about five or six, right up in
14 there, yeah.

15 Q Aren't the cells in SHU along the wall?

16 A That's coming to you right from the office.

17 Q Okay. Is there a stairwell between the office
18 and the ---

19 A The stairwell.

20 Q And the ---

21 A There's a stairwell there, and then along the
22 wall there in front of the stairwell would be the
23 rooms.

24 Q Isn't it true there are cells on this side, kind
25 of underneath the stairwell?

1 A Well, it's one, two, yeah.

2 Q Okay. So the cells start over here, right?

3 A Yeah, but that's kind of too far away from the
4 steps.

5 Q Okay.

6 A Because the steps --- it would be approximately
7 3 feet to the first door --- I mean, you know, if
8 you're going straight from the steps to the door, it's
9 about three feet.

10 Q Tell me where is a good place to start the cells.

11 A Right there.

12 Q Okay.

13 A Coming from my left to right.

14 Q And they go all the way down the dorm, right?

15 A Right.

16 Q And then there are cells on the back wall?

17 A Yeah, I think it's 18.

18 Q Okay.

19 A It's 18 cells going straight in that straight
20 line.

21 Q On this side?

22 A Yeah, it's 18.

23 Q And on this hall, this hall right here, how many
24 cells are there?

25 A First you get --- or there's not anything but

1 like two right there in the middle.

2 Q Okay.

3 A And they turn.

4 Q They turn and come back this way?

5 A Yeah, right.

6 Q Isn't it true that there is a an exercise yard
7 right about here?

8 A Yes.

9 Q Okay. So these cells don't continue all the way
10 down?

11 A Okay.

12 Q Right.

13 A They start up about this direction.

14 Q Okay, so we'll say this is outside, right.
15 That's a stairwell coming right here?

16 A Yeah.

17 Q Okay.

18 A Actually, it would be down here by the sally
19 port. The stairs --- I mean, the rec center is to the
20 right of the sally port.

21 Q Right. Underneath those stairs?

22 A Right.

23 Q When you walk in, this is the --- we'll just make
24 this longer. Is that fair enough?

25 A That's still just open, it's open.

1 Q Okay. So where was Troy?

2 A Troy was.

3 Q In the 18 cells --- you said 18, right?

4 A Troy was not in a cell. Troy was in a shower
5 next to me.

6 Q Which one was he in?

7 A That first shower.

8 Q This one?

9 A Yeah.

10 Q Okay. And you're here?

11 A Yeah.

12 Q And you said that they were hollering back and
13 forth?

14 A Right.

15 Q Okay. We'll come back to that. Now, some of the
16 things you said you spoke to Lorenzo about were that
17 he pretty much came to you for legal advice?

18 A Right.

19 Q You said that he came to you for legal advice and
20 the first thing he asked you was, "I heard you're good
21 with the law." Right?

22 A I know a lot about the law, right.

23 Q And you told him, "No, not really?"

24 A Yeah.

25 Q But then he still proceeded to ask you legal

1 questions?

2 A Right.

3 Q All right. You said that he went --- he had an
4 in and out job, right?

5 A That's what he said, he had an in and out job.

6 Q You said he told you he went up into the bakery
7 and I told the lady to give me the money, right?

8 A Right.

9 Q You said that she said the money was in the back?

10 A Right.

11 Q You said, "So we go in the back," right?

12 A Right.

13 Q "We go in the back."

14 A Right.

15 Q "And it looks like she's trying to use the
16 phone."

17 A Right, a phone.

18 Q Trying to use a phone?

19 A Right.

20 Q That's what you said Lorenzo told you?

21 A That's what I said he told me.

22 Q All right. Now, the only information that you
23 have is from what was put on the news; is that right?

24 A Excuse me?

25 Q And the only information that you had about this

1 case prior to this conversation that you had with
2 Lorenzo ---

3 A Uh-huh.

4 Q --- was what was on the news?

5 A No.

6 Q You didn't have any information from the news?

7 A No.

8 Q So now you don't know it was on the news?

9 A No, I seen the news, but that information wasn't
10 on the news.

11 Q You're right. It wasn't on the news. Would you
12 be surprised to know that it's not in the video they
13 took out of this incident location either?

14 A I haven't heard this information from no one but
15 him.

16 Q Did you know there was a video?

17 A Yeah, I seen the video.

18 Q Okay. The whole video?

19 A No.

20 Q Now, you said that you had a pending charge for
21 murder?

22 A Correct.

23 Q You've been sitting in the Alvin S. Glenn
24 Detention Center since 2011, right?

25 A That's true.

1 Q That's --- December it's going to be three years
2 for you?

3 A Right.

4 Q It's a long time.

5 A Right.

6 Q Waiting to go to court?

7 A I don't know what ---

8 Q You're not trying go to court?

9 A You're asking me ---

10 Q No, I said are you waiting to go to court?

11 A Yes, waiting to go to court.

12 Q And this is not the first time you've written a
13 letter to the solicitor's office, is it?

14 A No.

15 Q No. You tried to testify against somebody else
16 before?

17 A Yeah, back in --- years ago.

18 Q Okay. And you want us to believe that you don't
19 want anything out of this?

20 A Correct.

21 Q Okay.

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

23 (Pause.)

24 BY MS. PINNOCK:

25 Q Now, explain to me --- I'm going to go back to

1 this dorm that you were in when you say you overheard
2 this hollering back and forth. This dorm doesn't
3 actually have bars, does it?

4 A Yes. Well, not at the cells but at the showers.

5 Q Right. The doors to the cells are closed?

6 A Correct.

7 Q There is no speaking gate. The only sliding
8 opening on this door is for when somebody comes to
9 bring you food or something like that, right?

10 A There is not a sliding open --- yeah, it has an
11 open flap.

12 Q Right. But the CO has to open that?

13 A Right.

14 Q That's not sitting open?

15 A Right.

16 Q The only window on these doors is a Plexiglas?

17 A Right.

18 Q So you're not in an open cell if you're in your
19 room?

20 A No, but you can holler through the door and
21 somebody hear your though.

22 Q I'm sorry?

23 A You can holler through the door, the crack of the
24 door, the side of the door and somebody can hear you.

25 Q Right. I've been in there. I know.

1 A Okay.

2 Q But Lorenzo wasn't in the shower?

3 A No, he wasn't in the shower.

4 Q Okay. But you're saying Troy was?

5 A Yes, he was next to me because it was our shower
6 day.

7 Q Got you. And again the doors are shut?

8 A Yeah, the door are shut.

9 Q And you want us to believe you don't want
10 anything out of this?

11 A No, not really.

12 Q Have you been to prison before?

13 A Yes.

14 Q It's not all that great, right?

15 A Huh.

16 Q It's not that great?

17 A No.

18 Q You're in a tiny cell?

19 A I'm in who?

20 Q A tiny cell?

21 A Yeah, it's about the same as the county jail.

22 Q You have at least one roommate?

23 A Yes.

24 Q Sometimes more?

25 A No, just one.

1 Q Is it bunk bed or single beds?

2 A Bunk beds, so if you're not lucky enough to get
3 on the top, you're going to be on the bottom?

4 A Correct.

5 Q There is one sink?

6 A One sink.

7 Q There is one toilet?

8 A One toilet.

9 Q And that toilet is right beside your pillow,
10 isn't it?

11 A No.

12 Q Depending on what side of the room you sleep on,
13 right?

14 A No.

15 Q No, it's not?

16 A No. The toilet is on the opposite side of the
17 room.

18 Q And somebody tells you when you can eat?

19 A Yeah.

20 Q They tell you when you have to sleep?

21 A Yeah.

22 Q Your can't walk around freely?

23 A No, in the dorm you can, but you know, they lock
24 you down just like in a prison.

25 Q And you're looking at a minimum of 30 years day

1 for day, right?

2 A No, I'm looking at a minimum of life plus 30.

3 Q Minimum. Minimum.

4 A Oh, okay.

5 Q Thirty years day for day?

6 A Yeah.

7 Q You don't get good time?

8 A That's right.

9 Q You don't get parole?

10 A No, not on a life sentence.

11 Q When you serve ---

12 A Yeah, when you get you get a regular life
13 sentence you get parole in like 20 years, I'm sure.
14 Thirty --- they got 20 year lifes and 30 lifes.

15 Q Would you be surprised in South Carolina life is
16 life.

17 A Well, yeah, that's natural life. They have that
18 sentence, too.

19 MS. PINNOCK: Begging the Court's indulgence.

20 (Pause.)

21 I have nothing further, Judge. Thank you.

22 MR. SCHNEE: May it please the Court.

23 THE COURT: Yes, sir.

24 CROSS-EXAMINATION:

25 BY MR. SCHNEE:

1 Q You never talked to Trenton Barnes?

2 A Yes, I talked to him, yeah. We're in the same
3 unit together.

4 Q I thought you testified a few minutes ago you
5 haven't talked to him about this case.

6 A No, not about the case.

7 Q Okay.

8 A I talked to him, but not about the case.

9 Q So you know him, but you never talked about the
10 case?

11 A Yeah, we ain't never talked about the case.

12 Q And you said you were 47 years old?

13 A Yes, sir.

14 Q You've been to prison before, a couple of times,
15 right?

16 A Yes, sir.

17 Q How long did you serve when you were there
18 before?

19 A The last time I served five years and three
20 months.

21 Q That's how long you were physically in prison?

22 A Yes.

23 Q You're 47 now?

24 A Yes, sir.

25 Q And if you get convicted of murder ---

1 A Right.

2 Q --- the absolute minimum you could get no matter
3 what any judge wanted to do, is 30 years?

4 A Correct.

5 Q Absolute minimum?

6 A Correct.

7 Q So the earliest you would get out --- and you
8 have been there for there three years now?

9 A Yes, I been in county for three years now, yeah.

10 Q And you get credit for those three years, right?

11 A Yes, sir.

12 Q You're looking at a minimum of 27 more?

13 A That's right.

14 Q That puts you out at 74 years old at the absolute
15 earliest?

16 A Yes, sir.

17 Q Would you be surprised to hear what the life
18 expectancy for South Carolina is?

19 MS. SIMPSON: Objection, Your Honor.

20 THE COURT: Sustained. Move on.

21 THE WITNESS: Sixty-three years, isn't it?

22 BY MR. SCHNEE:

23 Q Okay. Seventy-four is past that?

24 MS. SIMPSON: Objection, Your Honor.

25 THE COURT: Sustained. Move on.

1 BY MR. SCHNEE:

2 Q Now, you are also subject to life without parole?

3 A Yes, sir.

4 Q You're subject to life without parole for your
5 burglary charge, as well?

6 A That's correct --- wait, who?

7 Q Oh, wait, I'm sorry. You have a kidnapping
8 charge.

9 A That's correct.

10 Q You served for a burglary before, right?

11 A Yes, sir.

12 Q You have a kidnapping charge you're facing 30 for
13 that also?

14 A Correct.

15 Q Those can be served consecutively, right?

16 A Of course, they can.

17 Q Which means you have to serving everything for
18 the murder and whatever it is for the kidnapping?

19 A Correct.

20 Q It could be technically life, as you said, plus
21 30?

22 A Yeah, plus 30.

23 Q And you understand that South Carolina law it is
24 life is life and you get out in a box?

25 A Correct.

1 Q And you have no desire for assistance from the
2 solicitor's office because of your testimony?

3 A No, sir, not for my testimony. I face my own
4 charges.

5 Q Okay. So you're just doing this out of the
6 goodness of your heart?

7 A Actually, my mother died when I was 13 years old,
8 too, and I know how it feels to miss your mother.

9 Q Okay. So you're doing this for the victim's
10 family?

11 A Yes.

12 Q Okay. And your testimony is that Lorenzo Young
13 said that he went into the bakery, right?

14 A Yes, sir.

15 Q Went up to Ms. Hunnewell ---

16 A Right.

17 Q --- and demanded money?

18 A Yes, sir.

19 Q She said the money is in the back?

20 A Right.

21 Q Are you aware there's actually no back room in
22 that bakery?

23 A I don't know how the bakery looks on the inside,
24 sir.

25 Q Okay. And then they're went to the back room?

1 A That's what he said.

2 Q Okay. And he said that she pulled out the phone?

3 A Yeah.

4 Q Okay.

5 A He thought she was trying to use a phone.

6 Q Trying to use a phone?

7 A Right. He didn't say she pulled out a phone.

8 Q Right. And he saw, as they were walking to the
9 back that she was trying to use the phone?

10 A Right.

11 Q That's when he got scared and shot?

12 A Right because he thought she was trying to tell
13 the police.

14 Q That's your understanding of what he said?

15 A That's exactly what he said.

16 Q All right. I've got nothing else.

17 THE COURT: Redirect?

18 MS. SIMPSON: Nothing further, Your Honor.

19 THE COURT: Have a nice day, Mr. Peterson. Thank
20 you very much.

21 THE WITNESS: Thank you.

22 THE COURT: All right, ladies and gentlemen, your
23 lunch is here, so we're going to go ahead and take a
24 break so that you can eat lunch.

25 Thank you, Mr. Peterson.

1 THE WITNESS: You're welcome, sir.

2 THE COURT: All right. The jury is going to
3 disregard any testimony that was just given concerning
4 life expectancy in the South Carolina Department of
5 Corrections.

6 It's 12:15. We're going to start back at
7 one o'clock so you can have 45 minutes for lunch.
8 Your lunch is already here. Do not discuss the case.
9 Keep an open mind. We'll see you back in 45 minutes.

10 (WHEREUPON, the jury left the courtroom at 12:15
11 P.M.)

12 THE COURT: Everyone remain seated.

13 Now, listen, you incorrectly stated the
14 punishment for murder and kidnapping: it's not life
15 plus 30 years.

16 MR. SCHNEE: But ---

17 THE COURT: That's incorrect under 16-3-910, if
18 you're convicted of murder and you are convicted of
19 kidnapping, the kidnapping goes into the murder and
20 you cannot be considered --- sentenced consecutively
21 on the murder or pursuant to the kidnapping statute,
22 so that's actually an incorrect statement of the law.

23 MR. SCHNEE: That was his understanding, Judge.

24 THE COURT: But you asked the question.

25 MR. SCHNEE: He had said that on direct, I

1 believe, also.

2 THE COURT: He did not say that. He said he was
3 facing life on the murder charge, which is true, but
4 you brought up the word consecutive, which was an
5 inaccurate statement of the law. No one objected so
6 I'm not doing anything with it. But with future
7 witnesses, if you're convicted of murder, anyone is
8 convicted of murder and kidnapping, you cannot be
9 sentenced to consecutive time on the kidnapping. The
10 law is very clear according to the kidnapping statute
11 that the kidnapping conviction is, I think the word
12 they used is, succumbed, into the murder sentence and
13 the kidnapping sentence is essentially automatically
14 vacated. So all right. One o'clock.

15 MS. SIMPSON: Thank you, Your Honor.

16 (WHEREUPON, a lunch break was taken.)

17 (WHEREUPON, State's Exhibit Number 421 was marked
18 for identification only.)

19 (WHEREUPON, Court was called to order.)

20 THE COURT: Okay.

21 MS. SIMPSON: Thank you, Your Honor. May it
22 please the Court. One of our next witnesses is going
23 to be Mary Brown. She initially came forward, I
24 believe, the day after, the next day, to police with
25 some information. Subsequent to that, she has a phone

1 conversation, which is recorded, with Investigator
2 McCoy. Her testimony --- we're seeking to amend and
3 exclude any reference to statements made by
4 Investigator McCoy to her as inadmissible hearsay and,
5 of course, we'll also be seeking to exclude any
6 testimony which would affect, I guess, Troy but
7 regarding knowing Troy via a DJJ incident involving
8 her daughter, and that's how they met, so any
9 reference to DJJ or truancy and that's how she knew of
10 any of the individuals prior to the crime, we would be
11 asking that that be excluded, as well.

12 MR. KRZYSTON: Thank you, Your Honor. May it
13 please the Court. With regards to the first issue,
14 the State, as I understand it, is moving to exclude
15 any reference to statements made by Investigator
16 McCoy?

17 MS. SIMPSON: Yes, Your Honor.

18 MR. KRZYSTON: Your Honor, I would contend that
19 is a statement of a party opponent. In addition to
20 that, if Your Honor was to bar us from going into the
21 actual statements that were made by Investigator
22 McCoy, you would deny us a full and fair opportunity
23 to cross Ms. Brown. Specifically with regard to
24 Ms. Brown's call with Investigator McCoy, she says a
25 number of things. One of those things, which was

1 elicited, and McCoy kind of went into it was whether
2 or not Ms. Brown actually knew Lorenzo Young prior to
3 the night where she allegedly identifies him. I think
4 his statements are relevant to the issues at hand, and
5 again, I would fall back on the notion or contention
6 that limiting what we would be able to cross McCoy on
7 with regard to his statements would be improper
8 because, again, they are the statements of a party
9 opponent.

10 THE COURT: I'm not sure I understand what you're
11 asking me.

12 MS. SIMPSON: Your Honor, there is a recorded
13 phone conversation which Ms. Brown has with
14 Investigator McCoy, and I can hand up a copy, as well.

15 What we're actually ---

16 MR. KRZYSTON: Where is that?

17 MS. SIMPSON: She initially gives a tip to law
18 enforcement.

19 THE COURT: It's in their notes.

20 MS. SIMPSON: She follows up with that in August
21 in regards to getting a tip number. Investigator
22 McCoy makes a number of statements, essentially that
23 would not be relevant, but they are inadmissible
24 hearsay. I don't think she can testify to what
25 Investigator McCoy told her or said to her and we just

1 feel that questions regarding what she saw and what
2 she observed --- and did she give police that
3 information.

4 MR. KRZYSTON: Judge, Your Honor, specifically of
5 interest in this, particular statement are
6 Investigator McCoy's statements and Mary Brown's
7 responses to --- Mary Brown is asking about getting
8 paid basically based on the information that she
9 provided to CPD.

10 THE COURT: Okay.

11 MR. KRZYSTON: In addition to that, Investigator
12 McCoy is asking her questions and she is responding on
13 the issue of whether or not she actually knew Lorenzo
14 Young when she identified him.

15 I think there are a number of things that he
16 says, and if Your Honor would like, we can provide a
17 copy --- our office did a transcript. It is an
18 unofficial transcript, but I would be willing to pass
19 a clean copy of the transcript up to Your Honor. It's
20 a relatively short call, 13 minutes in duration
21 approximately. Again, Investigator McCoy is an agent
22 of the state. He is a party opponent to this matter.
23 His statements are not only admissible, relevant, but
24 completely necessary for the opportunity of Mr. Young
25 to cross-examine him. It's basic confrontation.

1 MS. SIMPSON: Your Honor, it's the State's
2 position that these absolutely are not admissions by a
3 party opponent. Statements by law enforcement would
4 not fall under that or qualify. Especially with
5 respect to this witness and this conversation. As I
6 stated, it is inadmissible hearsay. Investigator
7 McCoy will take the stand and, of course, they can
8 address their issue with him in his investigation at
9 that time, but trying to back door in information
10 through Ms. Brown is completely inadmissible, just as
11 earlier we couldn't go into what Troy had stated, I
12 don't think they should be able to into what
13 Investigator McCoy said to her and her responses.

14 MR. KRZYSTON: Your Honor, I agree there's back
15 dooring going on, but it's certainly not by the
16 defense. I think in this circumstance and in this
17 instance, everything that Mr. McCoy said to Ms. Brown
18 and in everything that Ms. Brown said in response, is
19 fair game.

20 MS. SIMPSON: And, Your Honor, this is not the
21 first conversation. This is the second conversation
22 she has with law enforcement.

23 THE COURT: Is that different than what I'm
24 looking at?

25 MS. SIMPSON: No, the first one is not recorded.

1 At that time, she only gives her last name. She
2 doesn't want to be involved. She did want to come
3 forward with information and she does at that time on
4 July 3rd. This call was actually made on the 21st.
5 Counsel can certainly ask her did she call in a tip or
6 did she want to be paid and make a subsequent call to
7 law enforcement, that's fair game for cross. However,
8 what Investigator McCoy said to her, I know of no
9 hearsay exception.

10 THE COURT: How is that offered for the truth of
11 the matter asserted?

12 MR. KRZYSTON: Your Honor, it goes directly to
13 the integrity of the investigation.

14 THE COURT: How it offered for the truth of the
15 matter asserted?

16 MR. KRZYSTON: It's not. That's why I'm saying
17 it's not hearsay.

18 THE COURT: I understand that. How is that not
19 offered for the truth of the matter asserted?

20 MS. CAMPBELL: We might be able to resolve this
21 if he tells me what he wants to get into.

22 THE COURT: What is it you want to get into that
23 McDonald's said?

24 MS. CAMPBELL: What do you want to get into,
25 everything he said?

1 MR. KRZYSTON: Yes, everything he said.

2 THE COURT: Everything he said?

3 MR. KRZYSTON: I mean, I don't want to be
4 constrained. Specifically, the information about her
5 being paid. Specifically about her basis of knowledge
6 for identifying Mr. Young. She identifies Mr. Young
7 in this call. She says, "I saw Lorenzo Young out
8 there on that night."

9 THE COURT: Okay.

10 MR. KRZYSTON: McCoy then follows up and asks
11 relevant questions, which would tend to indicate that
12 Ms. Brown may not actually have the knowledge for
13 identifying Mr. Young. For that reason, I think it's
14 extremely relevant and appropriate for us to go into
15 that on cross.

16 MS. SIMPSON: Your Honor, what ---

17 THE COURT: Can somebody point me to where these
18 questions are so I can actually read it?

19 MR. KRZYSTON: The first part of relevant
20 information, I have times from the tape, which would
21 be 2:45 so it's going to be relatively soon in. Let
22 me take a minute to page --- let me pass up my
23 transcript for you, if you don't mind.

24 THE COURT: Go ahead.

25 MS. SIMPSON: Your Honor, with respect to what

1 counsel has just represented that he would be going
2 into, we don't really have an issue with those
3 statements from Investigator McCoy. It would be later
4 in the conversation where he talks about the
5 willingness of individuals in the community to come
6 forward, you know, the potential life sentences that
7 they --- the gentleman, the defendants would be
8 facing. Also, I think at one point she is aware that
9 they have committed or states that she might have
10 knowledge of other burglaries and things of that
11 nature and that they are just generally bad kids in
12 the neighborhood, as well. So Investigator McCoy's
13 statements and even Ms. Brown's statements on that
14 issue are not really relevant or proper and admissible
15 in this case.

16 MR. KRZYSTON: Well, Your Honor ---

17 THE COURT: Let's start with one thing at a time
18 because you all are confusing. What is the first
19 thing you want to get to on this transcript?

20 MR. KRZYSTON: The first thing would be page two
21 about two thirds of the way down well, and the ---
22 "Well, I knew the one named Troy, the first name."

23 THE COURT: Hold on. Hold on.

24 Well, I see --- "I knew the one named Troy,"
25 okay, "because my daughter had gotten into a little

1 situation."

2 MR. KRZYSTON: I'm sorry. It's actually right
3 above that where Investigator McCoy says, "So let me
4 ask you this question. Let me ask you this question.
5 So you knew their first names before this incident or
6 your kids told you what their first names were."

7 THE COURT: Okay.

8 MR. KRZYSTON: "Well, I knew the one named Troy
9 first before this incident because my daughter had
10 gotten into a little situation where she was up for
11 truancy so we had to go through some classes at DJJ.
12 So him and his mom were there, so I knew his first
13 name from going to classes and seeing him before.

14 THE COURT: Okay.

15 MR. KRZYSTON: Now, instead of following up with
16 regard to Mr. Young, the investigator changes topic
17 and says, "What was he wearing; what was he wearing?"

18 THE COURT: I don't understand why you need to
19 ask her a question about what he said on that.

20 MR. KRZYSTON: My question wouldn't be directed
21 to what he said. It would be if he inquired further
22 upon the issue of whether or not she had firsthand
23 knowledge of who Mr. Young was.

24 THE COURT: Okay. That's a fair question.

25 MR. KRZYSTON: And just to rebut the State's

1 contention, it seems like they're trying to pick and
2 choose. Some things are okay for us to go into. Some
3 are not. I mean, it's kind of an all or nothing
4 situation.

5 THE COURT: No, it's not. What else do you want
6 to go into? I think you can say, did he ask you
7 anything else about how you knew him and you're stuck
8 with her answer, but I mean...

9 To make this easy, the problem with your thought
10 process, Mr. Krzyston, is that the witness is going to
11 be available, that witness being Mr. McCoy, for you to
12 cross-examine about he said to Mary Brown or what he
13 didn't say to Mary Brown as you want to, so your
14 clients rights aren't being violated. I thin you can
15 say, did McCoy ask you anything about that further and
16 she can answer yes or no, but into this attack on
17 McCoy, as to what --- I mean, the State's already said
18 they're going to call him and he is going to be
19 available for cross-examination, so you'll be able to
20 cross-examine him on what he did or did not say to
21 Mary Brown.

22 MR. KRZYSTON: So that I understand Your Honor's
23 ruling, it's that we are permitted to go into things
24 McCoy has said to other witnesses in this case?

25 THE COURT: No. We're dealing with Mary Brown

1 right now.

2 MR. KRZYSTON: Okay.

3 THE COURT: What I told you is that the State had
4 said Investigator McCoy is going to be called as a
5 witness. So when ---

6 MR. KRZYSTON: I'm sorry. So that's when McCoy
7 takes the stand, I'm sorry.

8 THE COURT: Yeah, when he takes the stand.

9 MR. KRZYSTON: Okay.

10 THE COURT: You can cross-examine McCoy at that
11 point on what he said to Ms. Brown.

12 MR. KRZYSTON: Or any other witness for that
13 matter.

14 THE COURT: Assuming there is some kind of proper
15 foundation.

16 MR. KRZYSTON: Okay.

17 THE COURT: But, I mean, I just don't know
18 where --- what else is it you specifically want to get
19 into with her?

20 MR. KRZYSTON: I think after talking about it, I
21 think I can go into what I need to go into without
22 dealing directly with what McCoy said.

23 THE COURT: I mean, your issue is your ability to
24 confront the witness. If McCoy is going to testify,
25 you're going to have the ability to confront him as to

1 what he did or didn't do with Mary Brown. I mean,
2 assuming that it's relevant, that it falls under 403,
3 I mean, all the other different analyses that ---
4 that's not a blanket that you're going to be able to
5 ask him anything that was said. Frankly, I haven't
6 had an opportunity to read all of this. But assuming
7 the other Rules of Evidence are in play, McCoy is
8 going to be available for cross-examination about what
9 he did or didn't do in the case.

10 MR. KRZYSTON: Okay.

11 THE COURT: As cops always are, in these types of
12 situations, I mean, I just don't know that number one
13 expecting Ms. Brown to remember that or not remember
14 that, I just don't know whether that moves the ball
15 for you.

16 MR. KRZYSTON: Okay.

17 THE COURT: I'm not trying to tell you what to
18 do, but I think you may be better suited to trying to
19 get that out of Investigator McCoy. I don't even know
20 when the last time Mary Brown listened to the
21 transcript to even remember. I'm not trying to
22 prevent your cross-examining him, I just want you to
23 be cross-examining the right person.

24 MS. SIMPSON: And, Your Honor, I guess our cause
25 for concern on the transcript that I handed up to you

1 would be the last two pages with respect to relevance.
2 I want to make sure that both defense counsel for
3 Mr. Barnes --- because especially based on his opening
4 statement and where he seems to be attempting to go,
5 eliciting the information stated by McCoy regarding
6 sentencing and the case and the investigation.

7 MR. SCHNEE: Judge, could I ask her for a copy of
8 the transcript that they're ---

9 THE COURT: Yes.

10 MR. SCHNEE: I'm not sure exactly what they're
11 referring to.

12 MS. SIMPSON: And this is not an official
13 transcript either

14 MR. KRZYSTON: Your Honor, with regard to the
15 last two pages ---

16 THE COURT: Hold on, let me read it.

17 MR. KRZYSTON: Sorry.

18 (Pause.)

19 THE COURT: You're talking the paragraph where it
20 says, "That's why we want to put them away."

21 MS. SIMPSON: Actually, it would be this whole
22 line of questioning about people not being willing to
23 come forward when stuff like this happens and the
24 point where Your Honor is being able to put them away,
25 but also where he references, this isn't a gang

1 shooting. This isn't about a drug deal gone bad.
2 Anything of that nature, I don't know how it's
3 relevant or probative of anything at least through
4 this witness.

5 THE COURT: Yeah, I don't know that Ms. Brown can
6 answer the questions as to what was going on in
7 McCoy's mind at that time. We'll deal with McCoy's
8 cross when we get to it.

9 MR. KRZYSTON: And, Your Honor, just one
10 potential issue that I see and not with the last two
11 pages, because I think we will pretty much steer clear
12 of that, but with regard to the truancy and DJJ issue.

13 THE COURT: Yeah.

14 MR. KRZYSTON: Ms. Brown indicates that her
15 daughter was in a DJJ class for truancy with Troy
16 Stevenson. We believe that particular issue goes
17 directly to the basis of knowledge that she may or may
18 not have for identifying Mr. Young.

19 THE COURT: I think that's it. I mean, Troy is
20 not on trial.

21 MR. SCHNEE: I join in with that.

22 THE COURT: Her daughter is not on trial. If
23 that's how she knows somebody, I don't know how
24 anybody is negatively affected.

25 MS. SIMPSON: And just also so we have an answer

1 from Mr. Young's counsel, but Mr. Barnes with respect
2 to the last two pages and the line of questioning. I
3 don't know if he'll be attempting to go into any of
4 that, but just as a cautionary measure prior to
5 Ms. Brown taking the stand because we do need to
6 advise her when she comes in that she cannot reference
7 the prior burglaries or them being involved in
8 anything else. She has been told ---

9 THE COURT: Okay.

10 MS. SIMPSON: --- but I'd like to do it once she
11 gets in here.

12 MR. KRZYSTON: Judge, we're fine with that.

13 MR. SCHNEE: I have no intention of asking
14 Ms. Brown about Troy's statements about gangs or all
15 sorts of other things that she is talking about. I
16 would never want to go into that.

17 THE COURT: What she is talking is Mr. McCoy's
18 statement at the end of the call about we're going to
19 get these people. I'm not even reading it. I'm just
20 paraphrasing it, I'm sorry. That's why we want to put
21 them away. They can't hurt anybody anymore. Their
22 friends are talking about it. That kind of stuff.

23 MR. SCHNEE: I couldn't imagine ever asking
24 Ms. Brown about that.

25 THE COURT: Okay.

1 MR. SCHNEE: In fact, if she testifies as I
2 anticipate, I don't know that I'll have a single
3 question for her.

4 THE COURT: Okay. Even better.

5 MS. CAMPBELL: They have now retracted us --- we
6 told the witness not to talk about Troy being in DJJ
7 or anything about a bad influence.

8 THE COURT: Okay.

9 MS. CAMPBELL: They're now saying they both want
10 it now. We've instructed the witness not to talk
11 about that now. Now, they reversed. I don't know ---

12 MR. KRZYSTON: I'll remind you about this, but I
13 didn't know it was coming up, so I think we're
14 prepared to avoid coming into the DJJ lineup.

15 THE COURT: Where are you on DJJ?

16 MR. SCHNEE: Frankly, Judge, as far as it's
17 concerned to me, I don't think it matters either way.
18 She is using that as the basis of knowledge of why she
19 knows Troy Stevenson.

20 THE COURT: Right, not Mr. Barnes.

21 MR. SCHNEE: I mean, I've been through this.
22 I've been through the report. I don't think she
23 mentioned my client's name even once, so I ---

24 MS. CAMPBELL: So now we're instructing her not
25 to go into that.

1 THE COURT: Right. I'll tell her.

2 MS. CAMPBELL: Okay, thank you.

3 THE COURT: I just don't want that to be ---

4 MS. CAMPBELL: We had instructed her earlier that
5 the topic would be prejudicial, but ---

6 MS. SIMPSON: Do you want to bring her in? She
7 is outside. She is actually our first witness.

8 THE COURT: Yes. Bring her in. So we're not
9 talking about DJJ, gangs, prior burglaries, anything
10 else she said.

11 THE COURT: Where is Ms. Brown? Come on down.

12 Okay. Stay right there. How are you doing
13 today, ma'am?

14 THE WITNESS: Good.

15 THE COURT: How old are you?

16 THE WITNESS: Forty-six.

17 THE COURT: How far did you go in school?

18 THE WITNESS: Twelve.

19 THE COURT: Are you under the influence of any
20 drugs or alcohol right now?

21 THE WITNESS: No.

22 THE COURT: Okay. All right. You've apparently
23 given some information to the police. I know about
24 that much about what you said, okay. Do you
25 understand me?

1 THE WITNESS: Uh-huh.

2 THE COURT: And some of it may involve gangs or
3 people with prior burglary charges or people being at
4 DJJ or being on truancy or anything like that. I
5 don't want anything like that said in front of the
6 jury. Do you understand?

7 THE WITNESS: Yes.

8 THE COURT: Okay. Do you have an issue with
9 doing that? Do you think you can follow that
10 instruction?

11 THE WITNESS: Oh yes, sir.

12 THE COURT: Okay. So I don't want anything that
13 somebody has some burglary charges or they have been
14 in burglaries before or they are bad kids in the
15 neighborhood or any kind of things like that. You can
16 testify to what you saw, heard, did, said, something
17 like that, but nothing --- none of this extraneous
18 kind of information, DJJ, truancy, gangs, burglaries.
19 You know, they're a menace in the neighborhood. I'm
20 making stuff up, but none of that kind of stuff. Do
21 you understand?

22 THE WITNESS: Yes, sir.

23 THE COURT: All right. Very good. Bring them
24 in.

25 (WHEREUPON, the jury entered the courtroom at

1 1:27 P.M.)

2 THE BAILIFF: The jury panel is present.

3 THE COURT: Thank you very much. I hope you
4 enjoyed your lunch.

5 THE JURORS: Yes.

6 THE COURT: All right. Good. I like smiles.
7 All right. Now, we only have so many restaurant
8 locations. Don't blame any of those on me. I don't
9 pick them, but we do our best. You may call your
10 witness.

11 MS. SIMPSON: The State calls Mary Brown.

12 THE COURT: All right. Come on up, Ms. Brown.

13 MARY BROWN,
14 after being duly sworn, testified as follows:

15 THE CLERK: Please have a seat. State your full
16 name.

17 THE WITNESS: It's Mary Brown.

18 THE COURT: Thank you.

19 THE WITNESS: Thank you.

20 DIRECT EXAMINATION:

21 BY MS. SIMPSON:

22 Q Ms. Brown, how old are you?

23 A Forty-six.

24 Q And do you have any children?

25 A Yes.

1 happened.

2 MR. KRZYSTON: Objection.

3 MR. SCHNEE: I'm going to object again based on
4 hearsay.

5 THE COURT: Sustained.

6 BY MS. SIMPSON:

7 Q Let's tell them about --- I want you to tell them
8 about what you saw that night at your sister's?

9 A Okay.

10 Q Not what people were telling you, but what you
11 actually saw.

12 A What I saw that night at the cookout, the boys
13 was just over there and I saw them that day they was
14 talking about jiving around and whatnot and stuff like
15 that. A little later on I saw them and they had
16 dressed in some jackets later on that day when they
17 was leaving, when I was getting ready to leave my
18 sister's house and go to the hospital.

19 Q And did you in particular --- you said they were
20 wearing jackets, and this was like July, June in
21 evening hours?

22 A Uh-huh.

23 Q What did you note about one of the individuals?
24 What was he wearing?

25 A I just know the colors of the jacket I saw. One

1 was gray and one was red.

2 Q One was gray and one was red?

3 A Uh-huh.

4 Q The one in the red hoodie, or red jacket, however
5 you want to describe it, what was he doing? What made
6 you remember him?

7 A I just remember them because it was warm that
8 day.

9 Q So it was kind of odd that they had on a hoodie?

10 A Uh-huh.

11 Q Did he actually try to talk to your daughter, as
12 well?

13 A One of them did, yeah.

14 Q And it's been awhile so you would be more
15 familiar with this at the time you made the call?

16 A Right.

17 Q What about the individual you said was in the
18 gray jacket, what do you remember him doing?

19 A I don't remember. They all was getting ready to
20 go because I was getting ready to go and they was
21 getting ready to leave, too.

22 Q You just remember seeing them.

23 A Uh-huh.

24 Q And did they eventually --- were they in a
25 vehicle? Were they at your sister's? Where were

1 they?

2 A They was standing around this building, but I
3 left.

4 Q And when you made this call to police, you didn't
5 initially give your first name, right?

6 A No.

7 Q But you had some information that you wanted to
8 tell them?

9 A Yes.

10 Q What made you call and give them that information
11 about the clothing?

12 MR. SCHNEE: Objection, relevance.

13 THE COURT: Overruled.

14 BY MS. SIMPSON:

15 Q What made you call and give them the information
16 about the clothing?

17 A After hearing what I heard from the --- I feel
18 like they had something ---

19 MR. SCHNEE: Objection, hearsay..

20 THE COURT: Sustained.

21 MR. SCHNEE: Move to strike.

22 THE COURT: Stricken. Disregard that statement.

23 BY MS. SIMPSON:

24 Q Did you actually observe the video clip on the
25 news?

1 A Yes, I saw it.

2 Q Did you tell the police you had seen it?

3 MR. KRZYSTON: Objection, leading.

4 THE COURT: Overruled.

5 THE WITNESS: Yeah, I think I did.

6 BY MS. SIMPSON:

7 Q And in that video, the two individuals in the
8 video, what were they wearing?

9 MR. KRZYSTON: Objection, leading.

10 THE COURT: She hadn't asked the question yet.
11 Ask the question.

12 MS. SIMPSON: In the video, what were they
13 wearing that you saw on the news?

14 A Well, the red jacket stood out to me on the
15 video.

16 Q And because --- why did it stand out to you?

17 A It was just for hearing the next day from the
18 phone call.

19 Q You can't talk about what you heard.

20 THE COURT: I don't want to hear anything else
21 about what anybody said to you. Do you understand
22 that, ma'am?

23 THE WITNESS: Uh-huh.

24 BY MS. SIMPSON:

25 Q You can't talk about ---

1 A Okay. It's just looked like one of the jackets I
2 saw that night when I was at my sister's house.

3 Q So it looked like the same jacket you saw at your
4 sister's?

5 A Uh-huh.

6 Q Moving on, like I said, you didn't give police
7 your identifying information that night?

8 A No, I didn't.

9 Q Did you make another call or have another
10 conversation with investigators in this case some time
11 in August?

12 A I don't remember. Somebody probably came out and
13 talked to me. I don't remember. I don't recall.

14 Q You don't remember a phone call?

15 A I don't remember, no.

16 Q Do you remember speaking with them about the
17 Crimestoppers tip that you called in?

18 A Yeah.

19 Q Were you actually following up with law
20 enforcement about that?

21 A I don't remember how it came about exactly.

22 Q But you've had a chance to review the information
23 that you told police just before ---

24 A Yes, ma'am.

25 Q --- you came into the courtroom, right?

1 A Uh-huh, uh-huh.

2 Q And so you remember that call being recorded?

3 MR. KRZYSTON: Objection leading.

4 THE COURT: Overruled.

5 BY MS. SIMPSON:

6 Q And at that time, what did you tell police about
7 the individuals and why you wanted to remain
8 anonymous?

9 MR. KRZYSTON: Objection, Your Honor. Approach?

10 THE COURT: Sure.

11 Stand up and stretch your legs.

12 (WHEREUPON, a bench conference was held in the
13 presence, but not within the hearing of the
14 jury.)

15 MR. KRZYSTON: Thank you, Your Honor. Your
16 Honor.

17 THE COURT: All right.

18 BY MS. SIMPSON:

19 Q Did you tell police that night or on that phone
20 call the same information that you had told them?

21 MR. KRZYSTON: Objection, leading.

22 THE COURT: Did you tell is not a leading
23 question, overruled.

24 BY MS. SIMPSON:

25 Q Did you tell police the same information that you.

1 told them when you called?

2 A Yes, I believe so.

3 Q Was it a little more detailed?

4 A I don't recall.

5 Q And if I showed you a copy of a transcript of
6 that call that you just reviewed, would that help
7 refresh your memory?

8 (Pause.)

9 In that conversation with Investigator McCoy, you
10 were able to identify the individuals, correct?

11 MR. KRZYSTON: Objection leading.

12 THE COURT: Sustained.

13 BY MS. SIMPSON:

14 Q Were you able to identify the individuals?

15 A What was the question?

16 Q Were you able to identify the individuals in that
17 conversation?

18 A Yeah.

19 Q Did you tell police who was wearing the red
20 hoodie?

21 A Yes.

22 Q Who did you tell police was wearing the red
23 hoodie?

24 A Well, I think by hearing.

25 Q Not what you heard.

1 MR. SCHNEE: Objection.

2 MS. SIMPSON: You can't go into any of that.

3 THE WITNESS: Because I don't know them.

4 BY MS. SIMPSON:

5 Q You didn't know their names?

6 A No.

7 Q So subsequent to that you learned their names and
8 that was part of your conversation?

9 A Yes.

10 Q But basically what you told the police is that
11 you observed an individual in a red hoodie?

12 MR. SCHNEE: Objection leading.

13 THE COURT: Sustained.

14 MR. KRZYSTON: Move to strike, Your Honor.

15 THE COURT: Stricken. Disregard that statement.

16 MS. SIMPSON: I'll move on from that.

17 MR. KRZYSTON: Your Honor, could we approach?

18 THE COURT: Yes.

19 (WHEREUPON, a bench conference was held in the
20 presence, but not within the hearing of the
21 jury.)

22 MS. SIMPSON: Thank you, Judge.

23 MR. KRZYSTON: Thank you, Judge.

24 BY MS. SIMPSON:

25 Q And Ms. Brown, you weren't actually there when

1 the incident occurred, correct?

2 A No, no.

3 MR. KRZYSTON: Objection leading, move to strike.

4 THE COURT: Overruled.

5 THE WITNESS: No, ma'am, I wasn't.

6 BY MS. SIMPSON:

7 Q You just gave police some information about what
8 you thought you knew?

9 A Yes.

10 Q And you said you didn't recognize any of the
11 individuals by their name?

12 MR. KRZYSTON: Objection leading.

13 THE COURT: Sustained.

14 BY MS. SIMPSON:

15 Q Did you recognize anyone or know their name?

16 A No. I didn't know their names.

17 Q Did you later learn their names?

18 A Uh-huh.

19 MR. KRZYSTON: Objection.

20 THE COURT: Overruled.

21 THE WITNESS: Yes.

22 BY MS. SIMPSON:

23 Q Approximately what time in the evening, going
24 back to June 30th, the night of the cookout, did you
25 actually see the individuals wearing the clothing you

1 MS. GARFIELD: Thank you, Your Honor. The State
2 calls Michael Schaefer.

3 THE COURT: All right. Come on up, Mr. Schaefer.

4 THE BAILIFF: Raise your right hand. Place your
5 left hand on the Bible.

6 MICHAEL SCHAEFER,
7 after being duly sworn, testified as follows:

8 THE CLERK: Thank you. Have a seat in the
9 witness stand, please.

10 State your full name for the record.

11 THE WITNESS: Michael Schaefer.

12 DIRECT EXAMINATION:

13 BY MS. GARFIELD:

14 Q Mr. Schaefer, where are you from?

15 A Sumter, ma'am.

16 Q South Carolina?

17 A Yes, ma'am.

18 Q And what kind of education do you have?

19 A I have some college.

20 Q Some college?

21 A Yeah, I was active duty in the military so I
22 didn't complete it.

23 Q How long were you in the military?

24 A Almost nine years.

25 Q When you got out of the military, what did you

1 do?

2 A I was manager at a restaurant.

3 Q Mr. Schaefer, I'm going to direct your attention
4 back to last year, 2013. Now, currently you are in
5 the Department of Corrections; is that right?

6 A Yes, ma'am.

7 Q Now, back in 2013, were you at the Alvin S. Glenn
8 Detention Center?

9 A Yes.

10 Q And there were you awaiting court on pending
11 charges?

12 A Yes, ma'am.

13 Q We'll get into that in just a little bit.
14 Specifically in 2013 towards the end of the year as in
15 November, December, where were you housed in Alvin S.
16 Glenn?

17 A J dorm, Juliette dorm.

18 Q Juliette dorm?

19 A Yes, ma'am.

20 Q And was Lorenzo Young also housed there?

21 A Yes.

22 Q And did you have an occasion at any time while
23 you were both housed at the Juliette dorm to come into
24 contact with Mr. Young?

25 A Several times a day.

1 Q And explain to the jury what kind of contact you
2 had with him?

3 A I was playing cards, watching TV, just having a
4 conversation outside in the rec yard.

5 Q Would this be in the common areas of your dorm?

6 A Yes.

7 Q And would you have considered you and Mr. Young
8 to have necessarily been friends?

9 A No.

10 Q Why is that?

11 A Just different people. We just knew each other
12 in the dorm together. We just got along. We got
13 along.

14 Q Madam bailiff, if you can pull the mic up just a
15 bit. Maybe it's me.

16 Thank you.

17 Q So Mr. Schaefer, you said you had a conversation
18 with Mr. Young on several occasions?

19 A Yes.

20 Q And specifically did he ever talk to you about
21 why he was in jail?

22 A Yes.

23 Q And specifically did he give you any details
24 concerning a murder that occurred at a particular
25 bakery?

1 A Yes.

2 Q Can you share with the jury what he told you?

3 A He told me that ---

4 MR. SCHNEE: Judge, I'm going to object based on
5 the prior hearsay objections.

6 THE COURT: All right. Overruled. Go ahead.

7 BY MS. GARFIELD:

8 Q Just go ahead and tell the jury what Mr. Young
9 told you.

10 A Okay, he said him and two other people by the
11 name of Trap and Trigg went out to rob a nightclub in
12 the area, but it was closed. They saw the bakery was
13 opened. They took that as an opportunity to go in.

14 The woman was in there.. He said she went for a
15 knife and she was struggling so she shot her twice.
16 He fled the scene. He said he was wearing a red
17 hoodie and jeans.

18 Q Why was he telling you about this?

19 A Because we were talking about our different
20 cases.

21 Q About your case?

22 A Yes. About mine, too.

23 Q And did you confide in him about your case, as
24 well?

25 A Yeah, I told him that I had robbed a bank.

1 Q That you had robbed a bank?

2 A Uh-huh.

3 Q And you just mentioned Trap and Trigg. Did you
4 know who those individuals were?

5 A No, it wasn't until later on. I just knew them
6 by their nicknames.

7 Q And did you determine later who Trap and Trigg
8 were?

9 A Yeah.

10 Q Who was Trap?

11 A A 16-year-old kid named Troy. Yeah, Troy.

12 Q A 16-year-old?

13 A Yes.

14 Q Did you understand who Trigg was?

15 A That's Trenton, Trenton Stevens (sic).

16 Q And do you recall ever giving a statement about
17 this case?

18 A Yes, it was in April.

19 Q And that was to Investigator McCoy?

20 A Correct. I turned in myself, came up and did
21 that.

22 Q Would it help you to have a copy of your
23 statement to refresh your memory today?

24 A I know what was said.

25 Q Do you mind if I approach and show you?

1 MR. KRZYSTON: Objection, Your Honor. There is
2 no foundation for that.

3 THE COURT: There is no foundation for that.

4 BY MS. GARFIELD:

5 Q Did you give a statement to Investigator McCoy?

6 A Yes.

7 Q Have you ever reviewed that statement?

8 A I read it one time about three weeks ago.

9 Q That was when you were preparing for court?

10 A Yes.

11 Q And that was with investigators in my office?

12 A Yes.

13 Q And you've seen a copy of that statement?

14 A Say it again.

15 Q You've seen a copy of that statement?

16 A Yes.

17 Q Initially when you gave a statement, were you
18 given an opportunity to review it?

19 A Yes.

20 Q And make any changes you wanted to make?

21 A Correct.

22 Q In fact, there were some changes, I believe you
23 made. Did you write the statement yourself?

24 A Yeah.

25 Q If there were any changes to be made, you would

1 have made them, correct?

2 MS. GARFIELD: Your Honor, at this time may I
3 approach the witness with his statement?

4 THE COURT: No, ma'am. He hasn't stated that he
5 needs to review the statement.

6 BY MS. GARFIELD:

7 Q Okay. I understand. Moving on, I believe you
8 said you had conversations with Mr. Young several
9 times? Did you ever have any other conversations with
10 him?

11 A No, it was just after that that I kind of sat on
12 that information for a little bit. I struggled with
13 what to do with it. I contacted my lawyer and he
14 advised me that we should probably go ahead and talk
15 to your office.

16 Q And your lawyer --- do you remember your lawyer's
17 name?

18 A It was Joanna Delany at the time, but then I got
19 referred out to William Hodge.

20 Q And you gave that information to Mr. Hodge?

21 A Yes.

22 Q And what was your understanding that Mr. Hodge
23 did?

24 A He contacted your office and set up a meeting.

25 Q Okay. Now, I want to direct your attention

1 towards New Years Eve or around New Years Eve. Are
2 you familiar with any conversation you had with
3 Mr. Young at that time?

4 A Yeah, it was after the holidays. I was kind of
5 being regretful, remorseful for what I did. I made a
6 statement saying I shouldn't have robbed the bank and
7 he said, "Well, I shouldn't have shot that bitch."

8 Q And that was Mr. Young that said that?

9 A Correct.

10 Q What was his demeanor like when he made that
11 statement to you?

12 A He was like don't bother me. It was his whole
13 demeanor was like you couldn't even tell he was in
14 jail.

15 Q I couldn't understand you first. I'm sorry?

16 A His whole demeanor was like he was real cool and
17 calm.

18 Q Cool and calm. Now, I just asked you, you met
19 with investigators in our office, correct?

20 A Correct.

21 Q And that was in preparation for your testimony?

22 A Yes.

23 Q Have you ever met with me before?

24 A No, sir.

25 Q Ever met with any attorney in my office ---

1 A No, ma'am.

2 Q --- seated at the counsel table? Did you know
3 the victim in this case?

4 A No.

5 Q And Mr. Schaefer, let's talk about why you're in
6 the Department of Corrections. What were your charges
7 back when these statements were being made between you
8 and Lorenzo Young?

9 A Three counts of armed robbery.

10 Q Are those charges still pending?

11 A No.

12 Q Did you plead guilty to them?

13 A Yes.

14 Q When did you plead guilty?

15 A It was July, I think July 17th.

16 Q And what sentence did you receive?

17 A I received a 12 year sentence. Three sentences
18 running concurrent.

19 Q Concurrent means no additional time?

20 A No, they're all run together.

21 Q And you are now at the Department of Corrections?

22 A Correct.

23 Q Where are you housed?

24 A Kershaw.

25 Q Now, you gave this information to Investigator

1 McCoy. Do you recall when?

2 A It was in April.

3 Q Of last year?

4 A Yes.

5 Q Were you given any promise or anything of the
6 nature in exchange for your statement?

7 A No.

8 Q Have you been offered any kind of deal or
9 anything of the nature?

10 A No.

11 Q Has anyone approached you about receiving a
12 downward departure in your sentence if you testify
13 today?

14 A No.

15 Q Now, the person that told you that around New
16 Years that he wished he hadn't shot that bitch, do you
17 see him in the courtroom today?

18 A Yeah, he is wearing blue.

19 Q Does he have a tie on?

20 A Yes.

21 MS. GARFIELD: Your Honor, may the record reflect
22 Mr. Schaefer has identified the defendant?

23 THE COURT: So reflected.

24 MS. GARFIELD: Thank you, Mr. Schaefer. Please
25 answer any questions defense counsel may have.

1 THE WITNESS: Thank you.

2 THE COURT: Ms. Bambach.

3 MS. BAMBACH: Thank you, Your Honor. May it
4 please the Court.

5 THE COURT: Yes, ma'am.

6 CROSS-EXAMINATION:

7 BY MS. BAMBACH:

8 Q Mr. Schaefer, you were in Alvin S. Glenn since
9 April 2013, right?

10 A Correct.

11 Q And you met Lorenzo in November 2013?

12 A Correct.

13 Q And a month later he wanted your advice on the
14 case?

15 A Yes.

16 Q So you guys knew each other for about a month and
17 then he talked to you about his case?

18 A That happens quite a bit actually.

19 Q And you said before that he told you that ---
20 well, you came to learn that Trap was Troy?

21 A Yes, the juvenile.

22 Q And Trigg was Trent?

23 A Correct.

24 Q While you were at Alvin S. Glenn, you were in
25 Mike dorm for several months, right, back and forth?

1 A Back and forth, yeah. I broke my elbow.

2 Q Okay.

3 A Fractured my foot.

4 Q That was about probably 11 --- about 11 months of
5 your time there back and forth?

6 A About nine or ten, nine.

7 Q And then you were in Juliette dorm with Lorenzo,
8 correct?

9 A When --- yes.

10 Q And then you were back in Mike in February, from
11 February to April 2014?

12 A Uh-huh.

13 Q And you were in the same dorm as Alfred Wright
14 during the time?

15 A Yes.

16 Q Do you know Alfred Wright?

17 A Yeah, but he was in a different pod.

18 Q But in Mike even if your in different pods you
19 still go out, in and out, to go to recreation?

20 A Occasionally. They keep them in the pods. A lot
21 of officers do that, yes.

22 Q And you were in jail in July of 2013, right?

23 A Yes. And during this time you were in the dorm,
24 you had access to television when you were in Mike,
25 right.

1 A In July, yes.

2 Q And each pod had its own television, right?

3 A Uh-huh.

4 Q You wrote this statement on April 22, 2014?

5 A Yes.

6 Q And at that time you were also in Mike, right?

7 A I think so, yes. I don't know if it was Mike
8 but...

9 Q When you wrote this statement, your attorney
10 Mr. Hodge and Investigator McCoy were present, right?

11 A Yes.

12 Q And at that time, your armed robbery charges were
13 still pending?

14 A Correct.

15 Q You had three counts of armed robbery and armed
16 robbery carries ten to 30 years?

17 A Correct.

18 Q So you're facing 90 years in prison?

19 A Yes, ma'am.

20 Q And you wrote this statement on April 22, 2014?

21 A Yes.

22 Q And you plead guilty July 14, 2014?

23 A July 18th, I believe, but close enough.

24 Q And you got 12 years?

25 A Right, yes.

1 Q Well that's pretty good. Twelve is a lot better
2 than 90?

3 A I think my clean background has something to do
4 with that.

5 MS. BAMBACH: Thank you.

6 MR. SCHNEE: May it please the Court.

7 THE COURT: Yes, sir.

8 CROSS-EXAMINATION:

9 BY MR. SCHNEE:

10 Q Mr. Schaefer, did Lorenzo tell you who went into
11 the bakery with him?

12 A Trigg.

13 Q Okay. Reading your statement, I just want to
14 make sure I understand this correctly. There seems to
15 be some sort of confusion. Did he tell you that Troy
16 went in with him?

17 A No, Troy was ---

18 Q Troy was outside. Do you remember giving a
19 statement?

20 MR. SCHNEE: May I approach the witness, Your
21 Honor, to impeach him?

22 THE COURT: You have to establish his knowledge.

23 BY MR. SCHNEE:

24 Q In the statement that you gave to Investigator
25 McCoy on March 30th --- I'm sorry, on April 22nd, did

1 you say quote, "While," he said --- meaning Lorenzo,
2 "while him and Troy went in, Trap stayed by the door?"

3 A I know the juvenile stayed by the door.

4 Q The juvenile stayed by the door?

5 A Yeah.

6 Q So whatever ---

7 A The nicknames.

8 Q Whatever the nicknames, you know Trigg and Trap,
9 Troy and Trenton, they're brothers, right?

10 A I didn't find that out until I got prepped for
11 court actually.

12 Q Okay.

13 A Three weeks ago.

14 Q Okay.

15 A My memory is Troy Stevens not Trent Stevens.
16 Trent is the juvenile and Troy is Troy Stevens.

17 Q Whatever the nicknames are?

18 A Yes, sir.

19 Q Whatever the nicknames are, your understanding is
20 that the juvenile never came inside?

21 A Right.

22 MR. SCHNEE: That's what I want to ask.

23 THE COURT: Redirect?

24 MS. GARFIELD: Yes, sir.

25 REDIRECT EXAMINATION:

1 BY MS. GARFIELD:

2 Q How many people did Lorenzo Young tell you went
3 to the bakery?

4 A Three.

5 Q And you said you were in court just this past
6 July, correct?

7 A Correct.

8 Q Do you recall what the State recommended for your
9 sentence?

10 A Twenty years.

11 MS. GARFIELD: Thank you.

12 THE COURT: Ms. Bambach.

13 MS. BAMBACH: Nothing further.

14 THE COURT: Mr. Schnee.

15 MR. SCHNEE: Very briefly, actually.

16 RECROSS-EXAMINATION:

17 BY MR. SCHNEE:

18 Q A few minutes ago, Ms. Garfield asked you about a
19 downward departure. Do you know what that is for
20 sentencing?

21 A No.

22 Q Your attorney hasn't told you the State could
23 request that your sentence be reduced?

24 A Well, he brought something up, but after she
25 recommended 20, he said it was very unlikely, so we

1 weren't even going to choose that avenue. I don't
2 even know what it is to be honest with you.

3 Q So you haven't had discussions about that with
4 your attorney?

5 A I mean, I'm no longer represented by Mr. Hodge
6 so...

7 Q So at the time of sentencing?

8 A Yes.

9 Q So no one has talked to you about that since
10 then?

11 A No.

12 MR. SCHNEE: All right. Thank you.

13 THE COURT: Thank you very much, sir. Have a
14 nice day.

15 Call your next witness.

16 MS. CAMPBELL: The State would call Betty Butler.

17 BETTY BUTLER,

18 after being duly sworn, testified as follows:

19 THE CLERK: Have a seat in the witness stand,
20 please. State your full name.

21 THE WITNESS: Betty Walker Butler.

22 DIRECT EXAMINATION:

23 BY MS. CAMPBELL:

24 Q Agent Butler, where are you employed?

25 A I'm employed with the South Carolina Law

1 correct.

2 Q You also mentioned something a little bit, but
3 it's not unusual to get more than one person's DNA
4 from an item of evidence at a crime scene?

5 A Depending on the type of evidence it's very
6 common to get mixtures on things that somebody wore or
7 that multiple people might have handled.

8 Q You mentioned earlier that sometimes you actually
9 do some testing for the presence of blood or other
10 body fluids, as well as the DNA analysis itself?

11 A Sometimes, that's correct.

12 Q In this case, you saw where Agent Butler just
13 testified. Is it unusual for a forensic technician
14 to collect some evidence and forward it to you?

15 A No, it's very common. Our evidence processing
16 technicians typically process larger items and if
17 there's something of possible value, they will collect
18 those items, typically it's a swab or small cutting,
19 and send those items on for DNA testing rather than
20 the DNA analyst receiving large items.

21 Q And did you receive some evidence from Agent
22 Butler, as well as some directly from the agents
23 themselves?

24 A Yes.

25 Q And specifically in this case, did you do any

1 testing for the presence of any body fluids on any of
2 the items that had been directly forwarded to your
3 department?

4 A There were two items that I tested for possible
5 body fluids.

6 Q And what were those items you tested?

7 A I tested item SLED item number 18, which were
8 swabs from the left arm of Kelly Hunnewell, as well as
9 SLED item 19, which were swabs from the right arm of
10 Kelly Hunnewell.

11 Q Did you prepare a report in this case as to your
12 findings and all your testing?

13 A Yes, I did.

14 Q And I want to show you what's been marked as
15 State's Exhibit Numbers 422 and 424.

16 A Yes.

17 Q Is this a summary of your findings in this case
18 that you reviewed before coming in here?

19 A Yes, it is.

20 Q It's actually two pages, is it not, because
21 there's too much to put on one page?

22 A That's correct.

23 Q And would it aid you in presenting your testimony
24 in a concise way to the jury as far as what was
25 submitted, what testing was done, and what the results

1 were?

2 A Yes, it's a summary of the results.

3 MS. CAMPBELL: Your Honor, at this time we'd offer
4 422 and 424 into evidence.

5 THE COURT: Admitted over both defendant's
6 objections.

7 (WHEREUPON, State's Exhibit Number 422 and 424
8 were admitted into evidence.)

9 MS. CAMPBELL: Thank you, Your Honor. Your
10 Honor, may the witness step down?

11 THE WITNESS: May I bring up a copy of my report?

12 MS. CAMPBELL: Bring anything you need.

13 BY MS. CAMPBELL:

14 Q If you'll come over on this side and if you'll
15 talk a little louder. For some reason it's really
16 hard to hear.

17 Can everybody see? If you want to take this,
18 basically this first column is labeled "Items
19 submitted". Is that the actual evidence that was
20 submitted to you either through evidence processing or
21 directly to you once it was put in your evidence room?

22 A That's correct.

23 Q And then the second column we have here, what is
24 that labeled?

25 A Blood indication.

1 Q And what does that mean?

2 A That refers to the testing for possible body
3 fluids and in this particular case, blood.

4 Q Was every single item requested, did you test for
5 blood?

6 A No, I tested the items where the testing for
7 blood was requested and had not already been performed
8 by evidence processing.

9 Q Those were the two and in addition to that Agent
10 Butler did some?

11 A That's correct.

12 Q And in this column --- that's labeled what?

13 A DNA extracted.

14 Q And down here it's either --- it's yes on all of
15 these. What does that mean?

16 A That means that I attempted to develop a DNA
17 profile from those items.

18 Q And whether or not you were able to get a DNA
19 profile?

20 A That is listed under the results.

21 Q And then this final column is the result?

22 A The summary of the results.

23 Q Okay. Whenever doing DNA testing, before you
24 actually do the testing or at the same time you are
25 doing the testing on the actual evidence from the

1 scene, you also request that certain standards be
2 submitted?

3 A That's correct. Whatever a case is submitted and
4 there is evidence that they are trying to determine if
5 it matches an individual or not, we request that they
6 submit standards from those individuals and we request
7 standards from victims, as well as suspects that might
8 have left DNA evidence, and in some cases we request
9 additional standards, which are called elimination
10 standards. These are commonly requested in cases
11 where touch DNA testing is requested because
12 individuals that are commonly around an area could
13 have commonly handled an item, could have left their
14 DNA behind, so if an individual works at the same
15 location, it's possible that they would leave their
16 DNA behind on the same items that are handled by the
17 employee, other employees of the location.

18 Q And in this case, I believe Items 5, 31, 32, 33,
19 34, 37, 48 and 49 are all known standards either by
20 way of, I believe, it was dry blood from the victim
21 herself and the rest of them are what's called buccal
22 swabs?

23 A That's correct, a buccal is just a sterile cotton
24 swab that's taken and rubbed on the inside of the
25 cheek. The reason that we collect buccal swabs or a

1 dry blood standard is so we have what's known as a
2 known standard. We know that the item was taken
3 directly from that individual and therefore we know if
4 we develop a DNA profile from that item, that DNA
5 profile is attributed to that particular individual.
6 We can then compare that DNA profile to profiles from
7 evidence,

8 Q In this case, what were the initial known
9 standards that you got --- who were those gotten from?

10 A I received the dry blood standard from Kelly
11 Hunnewell. Well, originally it was a liquid blood
12 standard and then someone dried it down and I used the
13 dried blood standard for my analysis. I received
14 buccal swabs from Edwin Schleuter, as well as Lauren
15 Schleuter, Julian Lanier, Adam Siler ---

16 Q Again, you said if people worked in that area,
17 you might get samples from them?

18 A That's correct.

19 Q And in addition to those people?

20 A Lorenzo Bernard Young, Troy Stevenson and Trenton
21 Barnes.

22 Q And when those known standards on all those
23 people were submitted to you, were they properly
24 packaged and appeared not to have been tampered with
25 in any way?

1 A That's correct.

2 Q Once you got those standards, at a later time did
3 you request that additional standards be submitted?

4 A I did. If we have a DNA profile that we develop
5 that we don't match to a standard, and it's untouched
6 DNA, sometimes as an extra safeguard we will request
7 profiles from individuals that may have gone to the
8 scene to work the scene, just to eliminate them as a
9 possible source of an unidentified profile.

10 Q Did you also receive profiles, known standards,
11 from some Columbia police officers in this case?

12 A Yes, I did.

13 Q And that's what we've just been talking about?

14 A Correct.

15 Q What officers did you actually receive known
16 standards from?

17 A That information would be over there. I
18 apologize.

19 Q I'm sorry.

20 A I received swabs from a Matthew McCoy, a Tory
21 Smalls, a Johnny Gaston and a George Wise, as well as
22 a Christopher Bollings.

23 Q And you also did analysis on those even though
24 they aren't included on this chart, as far as
25 including them or eliminating them as possible donors?

1 A That's correct. We have a database or a
2 spreadsheet that we keep in our department and when we
3 collect standards from officers from different
4 agencies, as well as people within SLED, we develop
5 their profiles and we put it into this database or
6 spreadsheet so that rather than just checking it
7 against one case, we now have that information
8 available to check against multiple cases. So those
9 profiles are not reported in reports, but they can be
10 used to look for matches if it's suspected that's an
11 unidentified profile that may have come from an
12 officer.

13 Q Now, I'm going to talk about the actual evidence
14 that's submitted for do you do analysis on. The first
15 item is labeled 6.1 and what was that item?

16 A Item 6.1 was swabs from a 45 GAP shell casing.

17 Q A shell casing? And that would be a spent shell
18 casing or the hollow one.

19 A That's correct.

20 Q Okay. Sorry?

21 A Yes, that's one where the bullet has already been
22 ejected and there's no longer powder in it.

23 Q Did you do the actual swabbing in that case?

24 A No, I did not.

25 Q And that would have been Agent Butler that did

1 that?

2 A Forensic technician Butler, correct.

3 Q And, in fact, did you --- did anyone test for the
4 presence of blood?

5 A No, there was no request for testing for blood on
6 that item.

7 Q Finally, were you able to extract any DNA?

8 A DNA extraction was attempted. I did take it
9 through the entire process. However, no DNA profile
10 was developed from that item.

11 Q Is that unusual?

12 A No. Actually, it's because there is so little
13 surface area on a shell casing and typically they're
14 not handled --- bullets aren't handled for very long
15 and they're exposed to a large amount of heat when
16 they're fired, so it's actually very uncommon to
17 develop a DNA profile from a shell casing. It does a
18 happen occasionally, but the more expected result is
19 no DNA profile.

20 Q Even in different kinds of evidence such as even
21 when blood is indicated, sometimes you just simply
22 don't get a DNA profile?

23 A That's correct.

24 Q What are the reasons for that?

25 A There are a number of reasons. It could be that

1 our instrument has a low level of detection. If the
2 amount of DNA present falls below that level of
3 detection, the instrument won't detect it even though
4 it's there. Sometimes DNA will become degraded and
5 that means it's damaged and if DNA is damaged to a
6 certain extent, the DNA test doesn't work, so it won't
7 detect the DNA on the item either. Those are the two
8 most common reasons. Degradation happens sometimes
9 just because the sample is old and starts to break
10 down, it can be exposed to ultraviolet light or
11 exposed to chemicals or extreme heat and those are
12 some of the things that can cause it to degrade and
13 therefore not be detected.

14 Q I want to turn to Item 8.1, which is a swab from
15 a 45 caliber GAP shell casing. What were your results
16 there?

17 A No DNA profile was developed from that item
18 either.

19 Q Moving on to Item 9.1, which is a swab from a 45
20 GAP shell casing?

21 A No DNA profile was developed.

22 Q And Item 10.1, another 45 GAP shell casing?

23 A No DNA profile was developed.

24 Q Item number 11.1, which was the swab from the 40
25 Smith & Wesson shell casing, what was the result

1 there?

2 A 11.1?

3 Q Uh-huh.

4 A No DNA profile was developed from that item.

5 Q Did I skip one?

6 A I don't think so.

7 Q Okay. What he was the next item?

8 A Item 12.1, SLED Item 12.1 was swabs from a 40
9 caliber Smith & Wesson shell casing, and on that item
10 a partial DNA profile was developed from that item.
11 It was from an unidentified male individual. Kelly
12 Hunnewell, Edwin Schleuter, Lauren Schleuter, Julian
13 Lanier, Adam Siler, Lorenzo Young, Troy Stevenson and
14 Trenton Barnes are excluded as possible contributors
15 to that profile.

16 Q Can you tell how long that DNA profile may have
17 been there?

18 A No, I cannot.

19 Q Can you tell how it got there?

20 A No, I cannot.

21 Q If a piece evidence, such as a shell casing falls
22 onto a floor, can DNA actually be transferred on to it
23 after it's expelled from a gun?

24 A It's possible. If there is DNA from an
25 individual on the floor it's what's called secondary

1 transfer. If somebody touches an item like this
2 counter, for instance, and then someone else goes and
3 sits an item on that counter, it's possible DNA could
4 transfer from my hand to the counter and then from the
5 counter to that item.

6 Q In addition to that, did you also in all these
7 cases when you're talking about these people being
8 excluded, did you also run it against the Columbia
9 police officers known standards, as well?

10 A Yes, I compared it to known Columbia police
11 officer standards as well and it did not match the 85
12 officers that I tested.

13 Q Again, you can't say whether that DNA got there
14 before after it was fired, after it was fired or who
15 even handled it?

16 A No, I cannot. Based on the data that I had,
17 there was way for me to determine whether it was
18 before or after it was fired.

19 Q Moving on to Item number 18, which was the swab
20 from Kelly Hunnewell, you tested that yourself for
21 blood, I believe?

22 A Yes, I did.

23 Q Did it come back positive for blood?

24 A Blood was indicated on that item, correct.

25 Q What was the result when you ran the DNA?

1 A The DNA profile developed from that item is
2 attributable to Kelly Hunnewell.

3 Q Moving on to the next item, which is Item number
4 19, which is the swabs from the right arm of Kelly
5 Hunnewell, again, did you do the testing for blood?

6 A Again, I performed presumptive testing and blood
7 was indicated on that item.

8 Q And what was the result when you ran the DNA?

9 A That DNA profile was also attributable to Kelly
10 Hunnewell.

11 Q Moving on to Item number 21.1, 21.2 and 21.3,
12 where were those three swabs collected from?

13 A They were given to me as being collected from a
14 large metal spoon.

15 Q And was any testing for blood done on those
16 items?

17 A I did not perform any testing for blood on those
18 items.

19 Q And once the swabs were collected and forwarded
20 to you, 21.1, which was a swab from what area of the
21 spoon?

22 A 21.1 was a --- the swab was from the back of a
23 large metal spoon.

24 Q And when you ran your DNA testing, what were the
25 results from 21.1?

1 A The DNA profile developed from Item 21.1 is a
2 mixture of at least three individuals and is not
3 suitable for comparison.

4 Q What does that mean?

5 A When we look at a profile, there's a number of
6 things that I have to determine when I'm looking at a
7 profile. The first is it a single source profile. If
8 it is a complete profile and if it's not single
9 source, then it's a mixture profile. Once I determine
10 that it's a mixture profile, then I determine the
11 minimum of people that have to be present in that
12 profile. In this particular case, it was determined
13 that at least three individuals contributed to this
14 DNA profile. I then have to determine are there any
15 locations where I'm confident that all information
16 from all contributors is present. In this particular
17 case, it was a low several sample, which means it was
18 down at the limits of detection of my instrument and
19 because of that, at all the locations, there were
20 indications that I could be missing information and
21 once that happens, it becomes impossible to
22 definitively say that yes someone did contribute to
23 the mixture or someone did not contribute to the
24 mixture. At that point, the profile was declared not
25 suitable for comparison because I would not be able to

1 make a determination one way or the other when I
2 compared it to a known standard.

3 Q Is that unusual for that to happen?

4 A No, that's actually very common with touch DNA
5 samples because they often have mixtures on them.
6 There is such a limited amount of DNA there that it's
7 limited for detection by our instrument.

8 Q Item 21.2, which is a swab, I believe, from the
9 front of a large metal spoon; is that correct?

10 A That's correct.

11 Q What was the result of DNA testing there?

12 A The DNA profile developed from Item 21.2 is a
13 mixture of at least three individuals. Kelly
14 Hunnewell, Lorenzo Young and Trenton Barnes cannot be
15 excluded as contributors to this mixture. The
16 probability of randomly selecting an unrelated
17 individual that could have contributed to this mixture
18 is approximately one in three. Edwin Schleuter,
19 Lauren Schleuter, Julian Lanier, Adam Siler and Troy
20 Stevenson are excluded as possible contributors to
21 this mixture, so as I said before once it's determined
22 that a mixture is present and that there's at least
23 three individuals present, I then have to determine
24 are there any locations that I can use to determine if
25 someone could have possibly contributed to this

1 mixture or if I can definitively exclude someone at
2 these locations. There were three locations that I
3 thought I had enough information to do this. What
4 that means is at those three locations, given the
5 evidence that I had, it appears that all information
6 from all three contributors or possibly four
7 contributors are present at those locations.

8 Because of that information, I can say for
9 instance at a location B-8, if the information that's
10 reported on that profile is a 10, 12, 13, and 14,
11 which profiles are recorded as a set of numbers, then
12 anybody that contributed to that profile, that mixture
13 profile, would have to have those numbers in their
14 profile to be a possible contributor. If they ever
15 other numbers in the profile at that location, they
16 would have to be excluded as a contributor, so I was
17 able to exclude a number of the contributors, but
18 there were three contributors that I was not able to
19 exclude.

20 Now, the stat says we have to give weight to
21 including someone or excluding someone. The
22 probability of randomly selecting an unrelated
23 individual that could have contributed to this mixture
24 is approximately one in three. That means if I were
25 to go out into the population and choose one

1 individual at random, the probability that that
2 individual would, just by chance, be included as a
3 possible contributor to that mixture is approximately
4 one in three.

5 Q And in addition to doing numbers of inclusion,
6 which is one in three, it's 33 percent chance --- did
7 you also run numbers as far as probability of
8 exclusion by certain databases?

9 A Yes, we don't typically put probability of
10 exclusion in our reports. We typically just to do the
11 probability of inclusion, but upon request I did
12 calculate it and I had reviewed it by another DNA
13 analyst, and the probability of exclusion is
14 calculated for four different groups: the Caucasian
15 population, the Black population, the Southwestern
16 Hispanic population and the Southeastern Hispanic
17 population are the names of the four groups that are
18 reported.

19 Q Slow down a minute?

20 A Okay.

21 Q Caucasian, Black, South --- what?

22 A Southwestern Hispanic.

23 Q And then Southeastern?

24 A Southeastern Hispanic, yes. So the --- their ---
25 the probabilities are calculated for four different

1 groups because the results can vary slightly. To be
2 conservative, we typically report the most
3 conservative statistic for that, although all four of
4 these statistics are always calculated.

5 Q What were the calculations in this as far as
6 excluding what percent of the population when you did
7 it by the different --- why is it in different
8 databases?

9 A Well, it's all one database, but it's separated
10 by groups. The database is maintained by the FBI and
11 in population genetics it's determined that you can
12 take a sampling of the population and test them and
13 from that you can estimate what is expected in the
14 population overall. So for these four groups, it's
15 been found that the different groups --- there's a
16 slightly different variation between the different
17 groups, so they tested a set of individuals from each
18 of those groups. The statistics are calculated for
19 each of those groups.

20 Q Starting with the Southeastern Hispanic, what
21 percentage of the population could be excluded as
22 possibly contributing to this?

23 A On the Southwestern --- Southeastern Hispanic
24 approximately 73 percent of the population would be
25 excluded as a possible contributor to this.

1 Q And the Southwestern Hispanic?

2 A Approximately 71 percent of the population.

3 Q Would be excluded?

4 A Correct.

5 Q And the Black?

6 A Approximately 87 percent of the population would
7 be excluded.

8 Q And Caucasian?

9 A Approximately 76 percent of the population would
10 be excluded.

11 Q And that was on Item 26.2, which is the silver
12 spoon?

13 A I believe it was SLED Item 21.2.

14 Q I keep calling it 26; I'm sorry.

15 21.3, which was the swab from the handle of the
16 spoon. What were the results of your testing?

17 A A partial DNA profile was developed from item
18 21.3. Edwin Schleuter, Lauren Schleuter, Julian
19 Lanier, Adam Siler, Lorenzo Young, Troy Stevenson and
20 Trenton Barnes are excluded as possible contributors
21 to this profile. No conclusive statement can be made
22 regarding the inclusion or exclusion of Kelly
23 Hunnewell as a possible contributor to this profile.
24 What that means, no conclusive statement, is that in
25 some profiles when there is a partial profile, there's

1 enough information to say this person is excluded, but
2 in some cases it's not enough information for them to
3 say they are excluded or they are not excluded, just
4 based on the limited amount of information. With this
5 particular profile, there was enough information to
6 exclude most of the individuals, but on Kelly
7 Hunnewell's profile because there are shared
8 similarities but there wasn't enough to say she was
9 definitively in there or she was definitively
10 excluded, no conclusive result was reported.

11 Q Okay. In each of these as we're going through
12 including and excluding people, you're also running
13 against the known standards from the Columbia Police
14 Department, as well?

15 A Correct.

16 Q If it would have been included, you would have
17 been --- it would have been on this chart?

18 A Correct.

19 Q Okay. So they are automatically excluded, as
20 well?

21 A Correct.

22 Q On each one of these.

23 Moving on to Item number 22, which was the swab
24 from the handle of the gray push cart, were you able
25 to do DNA testing on the that?

1 A Yes, I was.

2 Q And what was the result there?

3 A The DNA profile developed from 22 is a mixture of
4 at least three individuals and it is not suitable for
5 comparison.

6 Q And again, what does that mean?

7 A It just means that because of the amount of
8 information that was present, because it was down on
9 the limits of protection and I couldn't be confident
10 the information was present in all of the locations,
11 it was deemed not suitable for comparison.

12 Q Item number 23, swabs from the left side of the
13 gray push cart, again what if any testing did you do?

14 A I attempted to develop a DNA profile from that
15 item, but no DNA profile was involved.

16 Q Is that unusual?

17 A No, not with touch DNA.

18 Q Item number 24?

19 A Yes.

20 Q On the front site side of the gray push cart?

21 A A partial DNA profile was developed from Item 24.
22 Kelly Hunnewell, Edwin Schleuter, Lauren Schleuter,
23 Julian Lanier, Lorenzo Young, Troy Stevenson, and
24 Trenton Barnes are excluded as possible contributors
25 to this item. No conclusive statement can be made

1 regarding the inclusion or exclusion of Adam Siler as
2 a possible contributor to this profile.

3 Q And again for the same reasons that you said
4 earlier about Ms. Hunnewell, it's just not enough
5 information?

6 A It's just not enough information to state a
7 definitive result.

8 Q Again, in each of these you're also comparing it
9 to the Columbia Police Department people and
10 eliminating them, as well?

11 A Correct.

12 Q Item number 25, believe is the final swab from
13 the right side of the gray push cart.

14 A A partial DNA profile was developed from Item 25
15 is a possible mixture and is not suitable for
16 comparison.

17 So basically the information --- again it was a
18 very limited amount of information that was developed.
19 There were indications that there might be more than
20 one person present there. As a result, there was
21 obviously no way to determine that everyone was
22 present or all contributors were present at any one of
23 the locations, which made the profile not suitable for
24 comparison.

25 Q Again, there were also swabs from the scene from

1 a black leather chair and I believe also a strainer
2 pan?

3 A Item 26 and 27, yes. The partial DNA profile
4 from Item 26 is a possible mixture. That was the swab
5 from the backrest of the black leather chair. It's a
6 possible mixture and is not suitable for comparison.

7 Q And again, these --- when you're talking about a
8 partial DNA profile verses a full DNA profile, what's
9 the difference there?

10 A When we test, we don't test the entire strand of
11 DNA or all of the DNA. We test 15 locations plus
12 another one that determines sex. In order to be
13 referred to as a full profile, I have to have a
14 completely result at all of those locations. If I
15 don't have complete results at all of those locations,
16 it's considered to be a partial profile.

17 Q In fact, with this there was a number of partial
18 profiles. Is that unusual?

19 A No. It's very common to develop partial profiles
20 with touch DNA standards.

21 Q And also item number 28 again is this the result?

22 A 28 the partial DNA profile developed from Item is
23 not suitable for comparison.

24 Q Item 29, which were the swabs from a large silver
25 cooker?

1 A No DNA profile was developed from Item 29.

2 Q So there's no DNA at all that could be detected?

3 A It was not at a level of detection for our
4 instruments.

5 Q Sorry. Moving on to Item 30, which is a plastic
6 purple cap from the scene?

7 A Item 30.

8 Q Uh-huh. The partial DNA profile developed from
9 Item 30 is a mixture of at least two individuals,
10 Edwin Schleuter, Lauren Schleuter, Julian Lanier, and
11 Lorenzo Young are excluded as possible contributors to
12 this item. No conclusive statement can be made regard
13 ring the inclusion or exclusion of Kelly Hunnewell,
14 Adam Siler, Troy Stevenson and Trenton Barnes as
15 possible contributors to this mixture.

16 Q And again just because of the limited amount you
17 had?

18 A Right. There was very limited information
19 present and there just wasn't enough to make a
20 definitive determination as far as the DNA.

21 Q I want to move to Item 35.1, which is a swab, I
22 believe, of a 40 Smith and Wesson cartridge. It's
23 unfired?

24 A No DNA profile was developed from Item 35.1.

25 Q And Item 37.1?

1 A No DNA profile was developed from Item 37.1.

2 Q Moving on to Item 39.1, which was a swab from the
3 black fleece jacket?

4 A The DNA profile developed from item 39.1 is a
5 mixture of at least two individuals. The DNA profile
6 of the major contributor is attributable to Kelly
7 Hunnewell. The partial DNA profile of the minor
8 contributor is not suitable for comparison.

9 Q When you talk about major versus minor
10 contributor, what are you saying there?

11 A Sometimes in a mixture, one individual will
12 contribute more DNA than another individual in the
13 mixture. Based on the data we're able to determine
14 what numbers in that mixture profile belong to the
15 major contributor. That was the case in this mixture
16 profile and the major contributor was determined and
17 the DNA profile from that major contributor is
18 attributable to Kelly Hunnewell.

19 Q Moving on to the second swab from the back of the
20 fleece jacket, I believe? Item 39.2.

21 A The partial DNA profile developed from Item 39.2
22 is not suitable for comparison.

23 Q Items 40 through 44, I believe, were items that
24 the testing was done by Ms. Butler; is that correct?

25 A Right, that testing came from --- and Item 45, as

1 well, I believe. She did the testing but I did not
2 receive anything.

3 Q And 45, yes. And moving on to the final items
4 she tested, which is Item 46.1, 46.2, 46.3, 46.4 those
5 are swabs taken from a Nike shoe?

6 A That's correct.

7 Q Taking them in order, what were your conclusions
8 on those?

9 A The DNA profile developed from item 46.1 is a
10 mixture of at least three individuals, Kelly
11 Hunnewell, Edwin Schleuter, Lauren Schleuter, Julian
12 Lanier, Adam Siler, Lorenzo Young, Troy Stevenson and
13 Trenton Barnes are excluded as possible contributors
14 to this item.

15 Q And you also excluded the police officers?

16 A Correct.

17 Q The next one?

18 A The DNA profile developed from Item 46.2 is a
19 mixture of at least two individuals. Trenton Barnes
20 cannot be excluded as a possible contributor to this
21 mixture. The probability of randomly selecting an
22 unrelated individual that could have contributed to
23 this mixture is approximately one in 12. Kelly
24 Hunnewell, Edwin Schleuter, Lauren Schleuter, Julian
25 Lanier, Adam Siler, Lorenzo Young and Troy Stevenson

1 are excluded as possible contributors to this item.

2 Q Did you also do the calculations as to the
3 probability of exclusion on that?

4 A I did upon request, yes.

5 Q And what were those results?

6 A Item 46.2?

7 Q Yes.

8 A Approximately 91 percent of the population would
9 be excluded as a contributor to this item.

10 Q And there are other numbers, but that's the most
11 conservative?

12 A That's the most conservative.

13 Q 46.3 is also a swab from the Nike shoe?

14 A The DNA profile developed from Item 46.3 is a
15 mixture of at least three individuals. Lorenzo Young
16 cannot be excluded as a possible contributor. Trenton
17 Barnes cannot be excluded as a possible contributor to
18 this mixture. The probability of randomly selecting
19 an unrelated individual that could have contributed to
20 this mixture is approximately one in five. Kelly
21 Hunnewell, Edwin Schleuter, Lauren Schleuter, Julian
22 Lanier, Adam Siler, Troy Stevenson and Trenton Barnes
23 are excluded as contributors to this item.

24 Q So the one before this, Trenton Barnes was the
25 only one not excluded in this one, correct?

1 A Correct, I was not able to exclude Lorenzo Young
2 on this, just to make sure.

3 Q And then finally did you also, I believe, do the
4 documentation to the exclusionary on that one?

5 A Yes, the probability of randomly selecting ---
6 oh, the probability of exclusion?

7 Q Yes, ma'am.

8 A For Item 46.3, approximately 79 percent of the
9 population was excluded as contributors.

10 Q In different databases it would be higher.
11 That's the most conservative?

12 A That's the most conservative, yes.

13 Q Finally, 46.4, the swab?

14 A The DNA profile developed from Item 46.4 is a
15 mixture of at least two individuals. The DNA profile
16 developed from the major contributor is from an
17 unidentified individual. The partial DNA profile
18 developed from the minor contributor is not suitable
19 for comparison.

20 Q Again, the testing for blood had been done before
21 you got these items?

22 A That's correct.

23 Q The testing on these items, was it all done at
24 once or was it done over time?

25 A It was done over time.

1 MS. SIMPSON: No, Your Honor.

2 THE COURT: Somebody just ---

3 MS. SIMPSON: Narrow them down.

4 THE COURT: Write down the ones you want me to
5 look at and tell them.

6 MS. SIMPSON: Yes.

7 THE COURT: The defense counsel. I'm sorry.

8 All right. So we had another note from a juror,
9 are we allowed to travel outside the State. I
10 responded yes. We'll mark that as a Court's Exhibit
11 and anything else?

12 MR. SCHNEE: No, Your Honor.

13 MR. KRZYSTON: Nothing, Your Honor.

14 MS. SIMPSON: No, Your Honor.

15 THE COURT: All right. 9:00 A.M. Monday.

16 MR. KRZYSTON: Thank you, Judge.

17 THE COURT: Thank you for your hard work this
18 week.

19 (WHEREUPON, Court's Exhibit Number 14 was marked
20 for identification only.

21 (WHEREUPON, Court was adjourned for the weekend.)

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23 (WHEREUPON, State's Exhibit Numbers 262, 263,
24 266, 282, 223 through 260 were withdrawn.

25 THE COURT: Okay. We're back on the record. Is

1 findings, and in the end to come up with a cause of
2 death.

3 Q Okay. And you stated that you actually performed
4 an autopsy in this case?

5 A I did.

6 Q And who was that on?

7 A Kelly Hunnewell.

8 Q What was the date and time of the autopsy?

9 A I did this autopsy on July 1st, 2013, at
10 nine o'clock in the morning.

11 Q Were you able to determine a cause of death
12 after performing your autopsy?

13 A I was.

14 Q And what was that cause of death?

15 A Her cause of death was a gunshot wound to the
16 upper chest and neck.

17 Q Now, you state that you document your findings
18 through, I guess, a report?

19 A Yes.

20 Q Do you also document the external injuries in
21 some way?

22 A Yeah, I usually have a blank diagram for a male
23 or female where I document all of my external
24 findings.

25 Q Okay. And in addition to that, while you are

1 performing an autopsy, is someone from law enforcement
2 or the coroner's office also present?

3 A Yes. In these kinds of cases usually a law
4 enforcement officer, as well as a member, a deputy
5 from the Richland County coroner's office is usually
6 present and they are taking pictures throughout the
7 autopsy.

8 Q I'm going to show you ---

9 MR. KRZYSTON: Objection, Judge. Approach?

10 THE COURT: What?

11 MR. KRZYSTON: Approach?

12 THE COURT: All right.

13 (WHEREUPON, a bench conference was held in the
14 presence, but not within the hearing of the
15 jury.)

16 BY MS. SIMPSON:

17 Q I'm going to show you what's been marked as
18 State's 421. Do you recognize this?

19 A I do.

20 Q And what is this?

21 A That is blown up version of the diagram that I
22 made at autopsy.

23 Q Okay. Would it assist you in explaining your
24 findings if you could demonstrate this diagram?

25 A Yes.

1 Q And show the jury?

2 A Yes, it would.

3 MS. SIMPSON: Your Honor, at this time, I would
4 offer State's 421 into evidence.

5 MR. KRZYSTON: Based on our previous objections.

6 THE COURT: All right.

7 MR. SCHNEE: One second, Your Honor.

8 (Pause.)

9 MR. SCHNEE: I have no objection to that.

10 (WHEREUPON, State's Exhibit Number 421 was
11 admitted into evidence.)

12 THE COURT: All right. Admitted over defense
13 objections.

14 BY MS. SIMPSON:

15 Q Additionally, I'm going to show you what's been
16 marked as State's 3, 4, 6, and 7.

17 THE COURT: 346 and 347?

18 MS. SIMPSON: No, State's 3, 4, 6, and 7.

19 MR. KRZYSTON: And we would just renew our
20 previous objection, Judge.

21 MR. SCHNEE: I also renew my previous objections,
22 Judge.

23 THE COURT: All right. Admitted over defense
24 objections.

25 (WHEREUPON, State's Exhibit Numbers 3 through 7

1 were admitted into evidence.)

2 BY MS. SIMPSON:

3 Q Are these some of the photographs of the injuries
4 that you documented, as well?

5 A Yes.

6 Q Okay. Tell the jury about your first step with
7 the autopsy with Ms. Hunnewell, what you did?

8 A So again, we identified the body, the coroner's
9 office, you know, make sure we have the right body
10 out, and afterwards we start with the external
11 examination, so I documented her body length, her body
12 weight and began to look for any external marks on
13 her. She did have a gunshot wound that I identified.

14 MS. SIMPSON: Permission for the witness to step
15 down for me, Your Honor?

16 THE COURT: You have to keep your voice up for
17 me, Doctor.

18 THE WITNESS: Yes.

19 THE COURT: Okay.

20 BY MS. SIMPSON:

21 Q If you'll stand on that side so the court
22 reporter can hear you.

23 Explain for the jury, I guess, with respect to
24 Ms. Hunnewell, her weight and weight, your external
25 findings?

1 A Sure. So her weight was 231 pounds. Her body
2 length was 63 inches, so that's 5 foot three. That's
3 a little bit taller than I am. You know, scalp, hair,
4 the color of her hair, all these basic findings, but
5 the major finding that I had on her was this gunshot
6 wound up here on her right upper chest.

7 Q And what did you note, or did you note, any
8 additionally abrasions or lacerations or anything of
9 that nature?

10 A Yes, on her right neck there was kind of a
11 patterned bruise there, a contusion or abrasion, and
12 it matched up with the zipper. She had a sweatshirt
13 on at the time of autopsy, and we were able to match
14 that up, so okay. She had an imprinted kind of a
15 pattern injury from the zipper going on her right neck
16 and also right here kind of where her clavicle is.

17 Q I'm going to show you State's 3. The injury that
18 you're referring to, is it documented in this photo?

19 A Yes.

20 Q Okay, and where in the photograph are you
21 referring to?

22 A So here is the actual gunshot wound entrance here
23 on her right upper chest, so she is laying down here.
24 This is the entrance wound where the projectile goes
25 in and this is the patterned bruise and you can

1 actually see the pattern here that looks like a zipper
2 imprint.

3 Q And then in State's 6, I believe, you said is the
4 entrance wound?

5 A Yes, that is closer up version of the entrance
6 wound, again on her right upper chest. This is her
7 breast down here. Her neck is up here. This is her
8 right arm and again this is the entrance wound where
9 it goes in and this is the bottom part of imprint of
10 the zipper.

11 Q And you noted the entrance wound. Did you see
12 any exit wounds?

13 A There was no exit wound, but we were able to
14 actually feel the bullet back underneath her skin on
15 her left upper back, so I was able to measure where
16 that was located. I just kind of stopped and
17 indicated on my diagram where I was able to feel the
18 bullet sitting right underneath her skin.

19 Q So other than, I guess, the zipper-type abrasion,
20 did you see any more cuts or marks that would indicate
21 possibly defensive wounds or anything?

22 A No, there were no marks.

23 Q And after doing your external examination, what
24 was your second step?

25 A To open the body to make our incisions open up

1 and remove the rib cage and again just see where the
2 projectile actually went through.

3 Q I want to talk about your internal findings with
4 respect to Ms. Hunnewell's examination. Explain to
5 the jury what those findings were?

6 A Sure. So after entering the skin up there on the
7 right part of her chest, it goes kind of through the
8 soft tissue. This is the clavicle here, this bone
9 that kind of sticks out here. It actually went just
10 above that. She had a little more tissue up here than
11 I do, but it went just above the clavicle and then it
12 went through the right side of the thyroid lobes. The
13 thyroid is a gland that sits right here on the top of
14 the air way. And it went through that and it actually
15 went through her airway. So this is what we call the
16 trachea, and it went almost --- it almost completely
17 transected her trachea. He was barely held together
18 just by the flap of tissue in the back. Then it went
19 through the esophagus which is right behind the
20 trachea, so the trachea is your airway, and behind
21 that is your esophagus that carries food from your
22 mouth down to your stomach, so it also went through
23 that and than again, it just went through soft tissue
24 and then it didn't quite --- didn't have enough energy
25 to exit through the back, so it was just underneath

1 the skin on her left back.

2 Q And with respect to the airway, the esophagus and
3 trachea, with that type of injury, would she have
4 suffered a significant amount of blood loss fairly
5 quickly?

6 A The main complication of that injury would be
7 immediate distress because of your airway being
8 severed, so every breath she tried to take to get more
9 air, she would have instead inhaled blood and possibly
10 also things from any food or any fluid that was in her
11 esophagus, so every time she would take a breath in,
12 it was basically like she was drowning in her own
13 blood. She would take a breath in and it would have
14 filled he lungs with more blood. She would have been
15 in extreme distress and collapsed and lost
16 consciousness within say a minute or two and then died
17 very quickly after that, and she did have, when we
18 looked at her lungs, there is always a very distinct
19 pattern when people inhale blood at the end of life.
20 She had that pattern it looked like the lung spaces
21 were filling up with blood.

22 Q So even if, I guess, lifesaving support or EMS
23 had arrived very quickly, would they ---

24 A There was very little they could have done
25 because the blood --- like I said within a minute or

1 A A target number is the number associated to the
2 target. Basically if we have a cell phone that we
3 want to subpoena records for, we look at the number
4 associated with that cell phone and that's out target
5 number. And what is the target number on this
6 exhibit?

7 A The target number is (803)463-0890.

8 Q In the course of this investigation, who was ---
9 who was found to be associated with this?

10 A Lorenzo Young.

11 Q Did you also see him --- phone calls being made
12 from that target number on the early morning hours of
13 July 1st, 2013?

14 A I did.

15 Q Is that what this exhibit represents?

16 A It does.

17 Q Can you explain to the jury what any calls made
18 to a number associated with Lucille Drive?

19 A The first call was on 7/1/2013 at 3:05 in the
20 morning. It was call, the duration of the call was
21 one minute and 40 seconds. Testifies from Lorenzo
22 Young's cell phone number to Lucille Drive.

23 Q And were there any other calls made to Lucille
24 Drive?

25 A There was one other and that was --- that

1 occurred on 7/1/2013 at 03:14 in the morning and the
2 duration of that call was two minutes and four
3 seconds.

4 Q Does this document --- it indicates Lucille
5 Drive. Are you familiar with the particular area or
6 particular home that was made to?

7 A I'm familiar with the home on Lucille Drive.
8 It's the Barnes residence.

9 Q The Barnes residence?

10 A Yes.

11 Q Thank you, Sergeant Pegram. Please answer any
12 questions defense counsel has.

13 THE WITNESS: You're welcome.

14 THE COURT: Cross?

15 MR. KRZYSTON: Thank you, Your Honor. May it
16 please the Court.

17 THE COURT: Yes, sir.

18 MR. KRZYSTON: Court's indulgence.

19 (Pause.)

20 CROSS-EXAMINATION:

21 BY MR. KRZYSTON:

22 Q Investigator or sergeant?

23 A Sergeant.

24 Q Sergeant. I'm sorry. In looking at the phone
25 records that the State just gave you, you can't say

1 for sure that Mr. Young was the one using that phone
2 can you?

3 A No, I cannot.

4 Q And you just pointed out two calls from the
5 number that we --- the 463 number that we were talking
6 about and those were around the time of these
7 allegations, correct?

8 A Yes, sir.

9 Q So you would find it relevant if somebody had
10 called either Mr. Young or Mr. Barnes approximately 38
11 times in the hours after these allegations?

12 A Right.

13 Q No further questions.

14 MR. SCHNEE: No questions.

15 THE COURT: Redirect.

16 MS. GARFIELD: No, sir.

17 THE COURT: Have a good day.

18 THE WITNESS: Thank you, sir.

19 THE COURT: Next witness.

20 MS. CAMPBELL: Your Honor, the State would call
21 Investigator McCoy, but we do have a matter. It might
22 be a good time for a break.

23 THE COURT: Okay. Let's take a morning break.

24 If you'll return to your jury room. Do not discuss
25 the case. Keep an open mind. We'll see you back in

1 about ten or 15 minutes.

2 DEPUTY: Remain seated while the jury leaves,
3 please.

4 (WHEREUPON, the jury left the courtroom at 10:43
5 A.M.)

6 THE COURT: Yes, ma'am.

7 MS. CAMPBELL: Thank you, Your Honor. I just
8 wanted some guidance from the court. With this
9 witness, this is going to be one of the lead
10 investigators in the case. Basically, he is actually
11 the conducted the interviews on the date they were
12 arrested or taken into custody on the 5th. He
13 interviews both Mr. Troy Stevenson, I believe he
14 participates in that. And that's also the day that
15 Trenton Barnes is interviewed, as well as the
16 defendant. We are not offering anything from Lorenzo
17 Young as far as those interviews. We are not offering
18 anything from Trenton Barnes from those interviews.
19 However, based on the opening statement, I what I just
20 want to clarify and get a ruling from Your Honor, is
21 he said this witness threatened to kill witnesses.
22 That would be involving him having to go into a line
23 where I basically think he talks to the defendant
24 Lorenzo Young and mentions something about, "You need
25 tell the truth in order so that you won't get a

1 needle" or something to that effect. He also
2 mentioned in his opening that this witness hides
3 witnesses. I don't know what he plans on getting into
4 as far as the basis of that, and that he also, I
5 believe, mentions that he either lost evidence or hid
6 evidence for witnesses as well.

7 I just wanted to get something from the court,
8 some guidance on how to do that. It's my
9 understanding that he may try to get into the
10 substance of Troy Stevenson's statement as far as him
11 getting statements and names at a later time. We don't
12 have a copy of that, Your Honor. However, I would
13 advise the court that under a completeness doctrine, I
14 believe under Rule 106, we would then be attempting to
15 introduce Mr. Stevenson's entire testimony if he
16 intends on going into part of it. I don't know how he
17 thinks he can get into that, but I just wanted to
18 bring these matters up to the court so we don't get
19 into a big back and forth in front of the jury or
20 again put forth inadmissible evidence before them.

21 THE COURT: All right.

22 MR. SCHNEE: Well, I can speak to that, Judge.

23 THE COURT: Good.

24 MR. SCHNEE: It's probably directed towards me.
25 Judge, I have no intention of playing recordings of

1 other people's voices. My only intention is to
2 question McCoy about what he did and what he said. If
3 he denies it, I would be playing his voice only on a
4 recording, which is in a prior statement, and it's an
5 admission by party opponent. I'm not asking him about
6 what any responses were, I'm not asking him about
7 anything else, but I certainly get to cross-examine
8 him about what he did in his investigation and what he
9 said to other people.

10 So I don't see how that would ever open the door
11 to allow Troy Stevenson's statement from coming in. I
12 don't know how that would happen when I'm only going
13 to be dealing what McCoy has said to other people and
14 there wouldn't be any audio played at all if McCoy
15 actually answers the questions truthfully so I don't
16 even see a problem there.

17 THE COURT: Mr. Krzyston.

18 MR. KRZYSTON: And I just would say I think I
19 agree with Mr. Barnes' lawyer insofar as I don't
20 believe 106 would even be triggered unless some type
21 of audio recording or investigation statement was
22 used. I know here, our side of it is, we're not
23 playing any recording. You know, we're simply asking
24 questions which will go into the integrity of the
25 investigation. We do not intend to use any type of

1 recording to trigger 106. So to the extent that she
2 wants to admit recordings or statements from McCoy, I
3 would object to that.

4 MR. SCHNEE: And just very briefly, introducing a
5 part of a recording or even a part of a statement and
6 publishing it to the jury in the form of impeachment,
7 is not introducing evidence. We have been doing that
8 throughout this entire trial. The State has been
9 doing it through their own witnesses. You know, just
10 because they call one of their witnesses and try to
11 impeach that witness doesn't mean we can automatically
12 say that now the jury has to read the entire
13 statement. No one has made that argument before
14 because it's not right. Impeachment is just that,
15 impeaching the witness with their own prior statement.
16 That doesn't open it up to everything else that was
17 contained within the totality of it.

18 MR. KRZYSTON: Judge, just again from our
19 perspective. If we question McCoy about what he said
20 to Mr. Stevenson, we would not be saying --- we would
21 just basically question him on the substance of the
22 information. We wouldn't say, you know, that you
23 learned this when talking to Mr. Stevenson or identify
24 to the jury in any fashion to whom McCoy said these
25 things and kind of where they came from if it makes

1 any sense.

2 THE COURT: Well, the problem is it doesn't make
3 any sense in regards to the Rules of Evidence.

4 MS. CAMPBELL: Right.

5 THE COURT: Because if you're going to cross
6 somebody on a prior statement of a witness, then you
7 have to tell them when it was made, who it was made
8 to, and where it was made to be able to cross them on
9 it.

10 MR. KRZYSTON: And, Judge, we're not crossing him
11 on a statement a witness made. We're just simply
12 crossing him on the information that he learned during
13 the investigation.

14 THE COURT: What?

15 MR. KRZYSTON: We will not be asking McCoy
16 anything directly related or coming from the mouth of
17 Troy Stevenson. Troy Stevenson --- we will not ask
18 anything about what Troy Stevenson said.

19 THE COURT: But you're going to ask McCoy what he
20 said to Troy Stevenson.

21 MR. KRZYSTON: No, we are simply asking McCoy and
22 crossing McCoy on the information that he learned from
23 Troy Stevenson, but we will not go into the source of
24 that information or where he learned it. I believe in
25 our cross we talked in terms of days, not what witness

1 he learned this from. So it sounds like on --- what's
2 today, 17th. So on November 17th, 2014, you learned
3 such and such and such. There would be no mention of
4 Troy. There would be, I don't believe, any mention of
5 any paraphrasing of his comments. Again, this is only
6 from our perspective.

7 THE COURT: I don't understand how you think the
8 Rule 106 doesn't apply? If you're going to talk about
9 a statement he made to a witness, how does the rest of
10 the statement not come in?

11 MR. SCHNEE: Judge, the specific questions I'll
12 be asking about in terms what statements McCoy has
13 made to witnesses throughout this investigation only
14 go to the integrity of him as an officer and the
15 integrity of his investigation. It's not for the
16 truth of the matter asserted. It's not dealing with
17 actually obtaining content and information from
18 witnesses.

19 None of that is relevant. I'm not going to be
20 playing audio unless he denies making those
21 statements, for example, the death threat to Lorenzo
22 Young. I have no intention of playing McCoy's voice
23 during Lorenzo's interview to have Lorenzo say on
24 audio that he denied it. I have no intention of doing
25 that. If I asked McCoy if he threatened Lorenzo

1 Young's life and he says yes, that's the entirety of
2 the question. That goes to him as an investigator and
3 how he conducted his investigation. It goes to his
4 bias, his motive and his credibility. It has nothing
5 do with the fact that he did or did not threaten
6 Lorenzo Young's life. I don't any of believe that.
7 McCoy would have pulled out a needle and threatened
8 Young at that interview, that's not the point. I'm
9 going for what Investigator McCoy did. I don't
10 understand how that would implicate an entire
11 statement under Rule 106 when the statement is not
12 being introduced or offered in any way into evidence.
13 The only basis of the statement of itself being
14 discussed here because it's an audio recording for
15 potential impeachment.

16 THE COURT: Rule 106 doesn't say it has to be for
17 impeachment or not for impeachment. It just says when
18 a writing or recorded statement is introduced by a
19 party then you would be the one playing it. Then the
20 adverse party can require the introduction at that
21 time or with any part of at any other time of the
22 writing or recorded statement.

23 MR. SCHNEE: Yes, Your Honor. For impeachment
24 it's not being offered into evidence.

25 THE COURT: It doesn't say it has to be offered

1 into evidence. Read Rule 106. It says introduced by
2 a party.

3 MR. SCHNEE: Right. That would be introduced
4 into evidence.

5 THE COURT: It doesn't say that.

6 MS. CAMPBELL: Testimony is evidence. If you're
7 introducing it, that's evidence.

8 MR. SCHNEE: Of course, but impeaching a witness
9 with one part of anything doesn't automatically allow
10 the entirety of that document to come into evidence.
11 That's never been the rule.

12 THE COURT: Are you reading Rule 106?

13 MR. SCHNEE: I've read it, Your Honor, yeah. I'm
14 familiar with it.

15 THE COURT: Do you have your rule book with you?

16 It says, "... which in fairness to be considered
17 contemporaneously with it."

18 MR. SCHNEE: Yes, Your Honor, I see that.

19 THE COURT: It doesn't say this doesn't apply in
20 impeachment scenarios.

21 MR. SCHNEE: Well, Judge, the very first sentence
22 says, "The law in this state has been that when a part
23 of a document or writing has been introduced into
24 evidence, the remainder may be introduced by the other
25 party."

1 THE COURT: What are you reading?

2 MR. SCHNEE: That's in the --- it's the annotated
3 notes and that comes from Dukes v. Smokes 1936. All
4 the annotations continue in the same vein.

5 THE COURT: I guess we'll have to take it up one
6 at a time. I don't know anything else to do.

7 MS. CAMPBELL: My other concern, Judge, is
8 clearly anything Lorenzo Young said was self-serving
9 so it's --- they're going to back door the fact he is
10 denying anything. The gist is it then that it comes
11 in the context of they're telling him to tell the
12 truth, which he doesn't do, so therefore they get to
13 back door in the self-serving statement?

14 MR. SCHNEE: Judge, I'm not trying to introduce
15 Lorenzo Young's statement, not in any way. There is
16 no Lorenzo Young voice.

17 THE COURT: So are you going to say did you
18 threaten to kill Lorenzo Young?

19 MR. SCHNEE: That would be my question to McCoy.
20 If he denies it, I would, if necessary, play just the
21 portion, the entire three-and-a-half second phrase
22 that McCoy has and just that.

23 THE COURT: What is that three-and-a-half second
24 phrase?

25 MR. SCHNEE: The exact phrase, "The only thing

1 that's going to keep a needle from going into your arm
2 is if you're fucking honest with me." That's the
3 entirety of the phrase. There was one point in the
4 middle where Lorenzo Young said "uh-huh". That has
5 been taken out. That has just been eliminated and the
6 rest of it is straight from his mouth.

7 MS. CAMPBELL: So at that point the jury is going
8 to have the before then the fact that he was
9 interviewed he was told that. Therefore, I'm forced
10 to put in his self-serving statement to show he wasn't
11 telling the truth. Isn't this just back dooring in
12 the self-serving statement?

13 MR. KRZYSTON: Judge, just for the record, we're
14 not attempting to introduce anything, so we're not
15 attempting to back door anything.

16 THE COURT: I don't think was implying that you
17 were.

18 MR. KRZYSTON: I'm just making sure.

19 MR. SCHNEE: I wish we could put him up and ask
20 what the response was. I'm not asking anything about
21 Lorenzo Young and his version of events. It doesn't
22 matter to me who was sitting in that room at all. It
23 could have been someone in an entirely unrelated case
24 and I think the impeachment value is exactly the same.
25 It goes to his credibility as a police officer.

1 THE COURT: So if you say, "Did you threaten to
2 kill Lorenzo Young --- I don't even know if that's an
3 accurate statement.

4 MS. CAMPBELL: That's --- I mean, that in and of
5 itself, he can't say yes to it because he didn't.

6 THE COURT: Right, and if he says, "Yes," you're
7 going to move on?

8 MR. SCHNEE: Yes.

9 MS. CAMPBELL: Yes, but he didn't ---

10 THE COURT: You can't say "Did you threaten to
11 kill." Threat to kill is to kill you.

12 Tell me what the quote is again.

13 MR. SCHNEE: The only thing that is going to keep
14 a needle from going is if you're fucking honest with
15 me.

16 THE COURT: I don't think that's a threat to
17 kill.

18 MR. SCHNEE: I think that's up to the jury, but I
19 can certainly ask Investigator McCoy, " Did you
20 threaten Lorenzo Young with the death penalty?"
21 because that's exactly what that's referring to.

22 MS. CAMPBELL: I think basically he is telling
23 him, Your Honor, if you take the phrase --- and I can
24 hand it up to Your Honor --- you're saying you need to
25 be honest so that --- this is a death penalty --- then

1 we get to go in front of the jury that this is a death
2 penalty eligible case and that we aren't seeking the
3 death penalty, because that's where we're going to be
4 at that point.

5 THE COURT: I mean, Lorenzo Young's statement to
6 the police isn't even admissible.

7 MS. CAMPBELL: No.

8 MR. SCHNEE: I'm not arguing that Lorenzo Young's
9 statement to police is admissible. I'm arguing that
10 the conduct of McCoy during the investigation is
11 admissible and to impeach him as a police officer
12 pursuant to Kyle v. Whitley and every other basic
13 concept of cross-examining a police officer. That's
14 the only purpose of having any of this, and yes, it
15 goes directly to his credibility in front of the
16 witness and what the jury --- if the jury believes
17 him.

18 MS. CAMPBELL: Why --- how ---

19 MR. SCHNEE: The fact that he is threatening to
20 have a suspect receive the death penalty, which would,
21 by the way, be a felony threat from a police officer,
22 I think is very relevant. It doesn't matter what the
23 context of anything else is. That goes to his conduct
24 as a police officer. It's not for the truth of the
25 matter asserted. It's not going into what

1 Lorenzo Young said or did or his response or anything
2 else. It's purely to go into what type of police
3 officer and investigator he is.

4 MS. CAMPBELL: I mean, if he phrases it in such a
5 way as, you know, did you inform the witness that this
6 was a potential death penalty case by saying that he
7 could get a needle in his arm, that's one thing, but I
8 don't think he can be specific as to that being
9 Lorenzo Young, because at that point we're in the
10 position of having to --- for him to characterize it
11 as he threatened to kill him is ridiculous, and then
12 further he has got to use the language that he used.
13 Basically, did you inform or tell one of the witnesses
14 that this was a potential death penalty case and he
15 could get a needle in his arm, and then we're still
16 stuck with what he was trying to do is say tell the
17 truth, because that's purpose of the whole statement
18 and that's in the statement. Because he says, "If you
19 aren't honest with me ..."

20 THE COURT: What else do you plan on asking
21 that's of that same vein?

22 MR. SCHNEE: I'm absolutely going to ask him
23 regarding his willingness to conceal the identity of a
24 witness and claim it be a fake informant. I'm going
25 to ask him about that, because that's what he tells

1 Donald Moore about a completely unrelated rape case.

2 THE COURT: All right.

3 MR. SCHNEE: I'm certainly going to be going into
4 information that he received as just a general concept
5 in his investigation. I'm going to ask him if he has
6 ever received certain names that may or may nit have
7 information Marquis Johnson. Sequan Williams, Darryl
8 Samuels, Anthony Nelson, Joshua Green and then I'm
9 going to ask if he ever bothered to interview those
10 people. If he says no, that's it. That's all I'm
11 going for.

12 MS. CAMPBELL: And then we have an opportunity,
13 Your Honor, to explain part of that and we tried keep
14 out of this trial, and we have tried hard, is the
15 whole gang involvement. One of the reasons --- and, I
16 mean, I'm just telling you as an officer of the court.
17 I don't want to mislead you, but one of the reasons
18 that doesn't contact them is because, in his
19 experience, because these are all gang members and
20 these are all their friends, they're staying there
21 that night asleep that in his experience they aren't
22 forthcoming to police and when police approach them,
23 they aren't. In addition to that, during this
24 interview when these names came up at least most of
25 them with Amy Zmroczek she indicated that she would

1 get back to some of them about that. I can give you a
2 transcript about what that went. He waited to hear
3 from her and she never got back and that since then,
4 he's learned they didn't want to talk to police.

5 MR. SCHNEE: Judge, the fact that an investigator
6 is given the names of seven or eight or so witnesses,
7 potential alibi witnesses, eyewitnesses to Troy
8 Stevenson, the fact that he never even bothered to try
9 to call a single one of them, I think that goes to how
10 he conducts his investigations.

11 THE COURT: I think he is also allowed to explain
12 why he didn't do it.

13 MS. CAMPBELL: Which is fine with ---

14 MR. SCHNEE: These people aren't being ignored
15 because they are alleged gang members. They are
16 people that are standing outside his house --- and if
17 he wants to say he didn't believe they would be
18 honest, then that's up to him to say, but they were at
19 his house. That doesn't open the door to say, oh
20 well, they're gang members so I can't talk to them.
21 That's ridiculous.

22 THE COURT: Well, that's not --- now, see you
23 just mischaracterized what was said. That's a
24 mischaracterization. What was said is he doesn't ---
25 his testimony allegedly would be that he doesn't want

1 THE COURT: Yeah, suspect is fine.

2 MR. KRZYSON: I don't know that we have any
3 objection.

4 THE COURT: Okay. Suspect is fine. We'll stay
5 with suspect. Okay. Let's bring in the jury.

6 (WHEREUPON, the jury entered the courtroom at
7 11:30 A.M.)

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

9 THE COURT: You may call your next witness.

10 MS. CAMPBELL: May it please the Court, Your
11 Honor. The State calls Investigator McCoy.

12 INVESTIGATOR MATTHEW MCCOY,
13 being duly sworn, testified as follows:

14 DIRECT EXAMINATION:

15 THE COURT: State your full name and spell your last
16 name, please.

17 THE WITNESS: Matthew D. McCoy, M-C-C-O-Y.

18 THE COURT: Thank you. Ms. Campbell.

19 MS. CAMPBELL: May it please the Court.

20 BY MS. CAMPBELL:

21 Q Investigator McCoy, where are you employed?

22 A I'm employed with the Columbia Police Department.

23 Q How long have you been with the police
24 department?

25 A I was hired in 2008, so I'm going on seven years.

1 Q What do your duties include at the Columbia
2 Police Department?

3 A Well, currently I'm employed in the criminal
4 investigations division under the VCAP unit, the
5 Violent Crimes Against Persons.

6 Q As part of the VCAP unit, what type of
7 investigations do you conduct?

8 A Primarily I conduct homicides, suicides,
9 kidnappings, aggravated assaults, anything along those
10 lines, any violent crime against a person.

11 Q I'm going to turn your attention back to the end
12 of June, first of July last year. Did you get called
13 in on this case involving Ms. Hunnewell?

14 A Yes, I did.

15 Q How did you become involved, sir?

16 A On the early morning hours of July 1st, I was
17 called out, which is pretty typical. I was called out
18 by sergeant. This was case of Sergeant Reese. He was
19 filling in for my normal sergeant, Sergeant Pegram.
20 He called me on the telephone and said they had a
21 possible homicide at 93 Tommy Circle and requested
22 that I respond and take over the investigation.

23 Q When you refer to Sergeant Reese is that Sergeant
24 Reese right there?

25 A Yes, that's him right there.

1 Q And he was the actual supervisor of the case?

2 A Yes, he was.

3 Q Approximately what time was it when you received
4 a call to respond to Tommy Circle?

5 A If you'll let me look at my notes, if you don't
6 mind.

7 (Pause.)

8 I received a call at 5:11 A.M. on the 1st.

9 Q What time did you actually respond at the scene
10 on Tommy Circle?

11 A I got there at 6:17 A.M.

12 Q When you got there, what did you find?

13 A Well, when I arrived at the location, crime scene
14 was already on the scene as well as the coroner's
15 office. EMS had been there, but they had left. The
16 front door was standing open. Crime scene tape was
17 around the location and I went in. Crime scene was in
18 the process of collecting shell casings and other
19 items. I believe Sergeant Reese and a few others had
20 been there for a little longer than I had and observed
21 some other items of interest.

22 While I was in the location, I observed the
23 victim who was later identified as Kelly Hunnewell at
24 the autopsy at the coroner's office's office. She was
25 wearing a blue zip up jacket and gray sweat pants,

1 black and green shoes.

2 She was lying on her side underneath a metal
3 sink. It appeared she had a single gunshot wound and
4 she was deceased.

5 Q Let me back up for a second. What was the
6 weather like when you got there that morning?

7 A It had been raining all night. It was still
8 sprinkling, and the rain was off and on, from heavy to
9 light throughout the early morning HOURS while I was
10 there. It had been raining the majority of the
11 morning.

12 Q In the area --- the victim was still there on the
13 scene when you got there?

14 A That's correct.

15 Q In the area around her, did you make any
16 observations that might have been pertinent to this
17 case as far as where the shooting actually occurred?

18 A Sure. Obviously when we go to a scene and we
19 don't know what happened, or even if a video exists at
20 this point. You're trying to figure out what's going
21 on. We got there. There were items strewn about the
22 location. It looked like a struggle had ensued or
23 some type of --- I guess a struggle is the best way to
24 describe what had occurred. Also, there were many
25 shell casings laying on the floor and by the

1 positioning of the shell casings, you were able to
2 determine where the shooters might have been standing.
3 We were able to determine there were at least two
4 firearms used. There were two different calibers of
5 ammunition that we found at the scene so we know at
6 least two firearms were used.

7 Q When you say there were two calibers of
8 ammunition at the scene, so at least two firearms were
9 used, what type of caliber ammunition did you find at
10 the scene and how were you able to determine that?

11 A Okay, well, the shell casings are headstamped.
12 They will have the manufacturer, as well as the
13 caliber on the rear of the ejected shell casing, the
14 bullet actually, resided before it was fired and was
15 ejected out of the weapon. I found a 40 caliber Smith
16 and Wesson shell casing and also 45 caliber GAP.

17 Q Once you assessed the area where Ms. Hunnewell
18 was found, did you go back into the break area?

19 A We did.

20 Q Were you able to determine anything from a time
21 card you found at the scene belonging to Ms. Hunnewell
22 when you got there that day?

23 A Yes, of course, we will look at the whole scene
24 to see if we can find to determine what led up to the
25 incident. When I walked in, I saw a time card. It

1 had Kelly Hunnewell's name on it. I believe it was
2 3:00 A.M. was the time she punched in. 0300 hours,
3 3:00 A.M. was the time punched in on the card. We
4 knew is we around that time she had arrived or at
5 least punched in for work.

6 Q Were you able to determine whether anyone else
7 was present that morning based on the time cards?

8 A We didn't see any other time cards where anyone
9 else had punched in or been there.

10 Q There at the scene, did you see any personal
11 items belonging to Ms. Hunnewell?

12 A We found a phone that we believed to be
13 Ms. Hunnewell's, as well as keys to the van that was
14 parked outside by door, which we assumed --- actually
15 through records, DMV records,

16 Q And how many vans were actually parked outside
17 the store?

18 A There were two. One belonged to the catering
19 company; it had the markings for the catering company
20 and the bakery so they could transport the items back
21 and forth from the bakery to their store and also the
22 van that belonged to Kelly Hunnewell.

23 Q And what, if anything, did you do with the van
24 that morning?

25 A With Ms. Hunnewell's van, we had it towed to

1 headquarters. The investigator, Investigator Moorner,
2 followed the vehicle, just for the whole chain of
3 custody, and followed the tow truck. That's pretty
4 standard with any investigation. If there's a vehicle
5 we think might be involved or belonged to the victim,
6 we that we can't account for or rule out, we tow it to
7 headquarters. We don't know we have at that point.

8 Q At that point, you had not seen any videos?

9 A That's correct, yes, ma'am.

10 Q While you were there in the bakery, did you
11 notice any type of cameras there in the bakery?

12 A I did. As I was surveilling the location, I
13 looked up and I saw several cameras. I think there
14 were at least four inside of the bakery.

15 So I began to look around for a camera system,
16 and we found a DVR. It wasn't hooked up to a monitor,
17 but the lights were on, so you could tell that
18 hopefully something had been recorded on this DVR.

19 Q At that point did you take any steps to have the
20 DVR collected and attempt to download the images?

21 A Yes, crime scene took it. They were going to
22 take it up to our headquarters in order to hook it up
23 to a monitor. We can't interact with the software on
24 the DVR without having a monitor to look at what
25 you're doing.

1 Q While you're still there at the scene, did you
2 also become aware of who had actually called in this
3 9-1-1 call?

4 A Yes, yes.

5 Q Who was that?

6 A It's --- I have a name here. I know that ---
7 it's Theresa Baskin.

8 Q Okay. Was anyone sent to interview her that
9 morning?

10 A Yes, I believe Investigator Hilton went over
11 there and spoke with her and put it in his notes that
12 he interviewed her.

13 Q While you were there at the bakery, did you make
14 any attempts to contact anyone associated with the
15 café and the catering service?

16 A I did. I actually located a magnetic sign that
17 was on the refrigerator in the break room. It was the
18 main number for the Carolina Cafe. I called that
19 number and I got an answer from an individual whose
20 last name was Andrew Park-Floyd. That's a hyphenated
21 last name. He identified himself as the manager. I
22 advised him that I was looking for the owner or
23 someone I could speak with about who owned the bakery
24 or who ran the bakery. He directed me to Max
25 Schleuter. And I was provided a telephone number for

1 him. I didn't make contact with that individual, and
2 left a voice mail. He called me back and I advised
3 him what was going on at his bakery.

4 Q Once you made contact with Mr. Schleuter, was he
5 able to give you any pertinent information about
6 Ms. Hunnewell?

7 A He was.

8 Q And what information was he able to give you?

9 A He basically was able to advise me of where she
10 lived currently, that she had been an employee of his
11 and that she was supposed to be at the bakery. That
12 was her normal hours where she would come in and bake
13 bagels and cook other items on the stove there.

14 Q Did he tell you any information about her family
15 situation that you followed up on?

16 A Yes, he said ---

17 MR. KRZYSTON: Objection.

18 THE COURT: Stop.

19 THE COURT: What's your objection?

20 MR. KRZYSTON: Hearsay.

21 THE COURT: Overruled.

22 BY MS. CAMPBELL:

23 Q Go on.

24 A From his information, we were able to determine
25 that she had several small children who may be home

1 alone with no one to care for them, so we are sent
2 Investigator Dowell over to that house to make contact
3 with the children and to make sure they were all
4 right.

5 Q And then other investigators, I believe, ended up
6 making the contact with family members, as well?

7 A That's correct.

8 Q Did Mr. Schleuter end up coming to the scene that
9 morning?

10 A Yes. He did. He actually provided us with a key
11 to the door. We wanted to secure the location by
12 locking it after we left. He was able to give us a
13 key. He also gave us the code for the DVR. It was
14 password protected, so we were able to get into it.

15 Q Who was actually able to obtain the video from
16 the DVR?

17 A That was Sergeant Rose.

18 Q Where did that take place?

19 A It took place at Columbia police department
20 headquarters.

21 Q At that point, the DVR had been transported
22 there?

23 A That's correct.

24 Q Were you able to review the video of what was
25 shown from the interior of the bakery at that point?

1 A Yes, when Sergeant Rose hooked up video to a
2 monitor, we were able to play the raw footage. He
3 pulled the footage first in it's raw format. It was
4 four files from the four camera angles. We also
5 observed the footage from the DVR.

6 Q Based on that, were you able to get a
7 description? Were you able to actually see shooting
8 itself on the video?

9 A Yes, we were.

10 Q Were you able to get a description of the people
11 that had come inside the bakery?

12 A Yes, when we observed the video as you saw
13 earlier, we identified three people who we believe
14 were involved. Now, obviously two of the ones that
15 entered the bakery, one had a gray sweatshirt on and
16 one had a red hooded sweatshirt, both had hooded
17 sweatshirts on. Both were carrying semiautomatic
18 handguns, from the video. We also were able to
19 determine that were black males from their hands.

20 Q Were you able to get a look at their faces from
21 the video?

22 A No.

23 Q Why not?

24 A It looked like the faces were covered. The one
25 looked like he had a mask on, with the red hoodie, he

1 looked like he had a mask on. The one with the gray
2 hoodie, he just looked like he had his hand holding
3 the hood real tight over his face to keep himself
4 concealed.

5 Q Were you able to tell from the video whether one
6 or both men actually fired their weapons?

7 A Both individuals fired their weapons. I could
8 tell the one with the gray appeared to fire twice. The
9 other one, the red hoodie, I believe it was five
10 times. It happened in rapid succession. That's what
11 I got from it.

12 Q And the shooting itself, what time did it
13 actually happen on the video as it was date stamped?

14 A I have it --- as it was date stamped on the
15 video?

16 Q Yes.

17 A It was timestamped at 2:42 A.M. However, we
18 determined later that the time was about an hour off,
19 so actually it would have been 3:42 A.M. That was
20 based upon the 911 call and the time the officers
21 actually arrived. We were able to determine it was
22 about an hour.

23 Q And once you got the video, did you --- were you
24 able to retrieve an actual copy of the video and take
25 it somewhere?

1 A Yes, I was able to take the copy of the video to
2 Lexington County Sheriff's Department to see if they
3 could aid us in either cleaning it up or getting
4 stills from the video, high quality stills, that we
5 could use to release to the media or use in our
6 investigation to see if could determine maybe a brand
7 or something like that of the clothing.

8 Q And, in fact, were you able to get a number of
9 stills that aided in your investigation?

10 A Yes, I believe there were several hundred that we
11 were able to get.

12 Q Once you were able to review the stills, were you
13 able to notice anything additional things about the
14 clothing that the men wore or anything like that?

15 A Yes, let's see here. In looking at the stills, I
16 believe when I looked at the stills, I determined that
17 possibly the shooters were wearing gloves on their
18 hands that they were holding the firearms in. You
19 could tell they were --- it was a normal hand on the
20 hand that didn't have the firearm. Also, one of our
21 investigators, Investigator Moorer, she wears the
22 Hollister brand clothing. In looking at the stills,
23 she was --- in looking at photographs of that
24 particular sweatshirt, a Hollister brand sweatshirt
25 zip up hoodie, we were able to determine that was more

1 than likely the hoodie, being Hollister brand hoodie,
2 just from the still photo and the branding on the
3 front.

4 Q That afternoon, did you all get a search warrant
5 and return back to the bakery?

6 A Yes. We did.

7 Q Why did you go back to the bakery that afternoon?

8 A Well, when you're there initial, you're not
9 100 percent sure what was touched or what had
10 happened. We hadn't observed the video. We made
11 decision to secure the location and return once we
12 watched any footage that existed to see what might
13 have been touched or brushed against and see what
14 might have occurred. That just prudent to do that.

15 Q Okay,

16 A It also would aid crime scene investigators in
17 determining what things to swab and so forth.

18 Q Were fingerprints actually dusted there at the
19 scene?

20 A No, they were not.

21 Q Why not?

22 A Well, in looking at the video, as you saw, it was
23 such a quick incident. It doesn't appear they
24 actually touch anything to the point where you would
25 get fingerprints. Also, in speaking with our crime

1 scene investigators, as is the case, you usually have
2 to pick one or the other as far as fingerprints or
3 touch DNA. If you're going to use dust to dust for
4 prints, it can affect the DNA and vice versa.

5 Q Specifically when you went back that afternoon,
6 was there a spoon that was recovered?

7 A Yes. There was. I believe it was on the ground,
8 I believe, from the photographs.

9 Q And that's when it was taken into evidence?

10 A That's correct. Yes.

11 Q And in addition they took swabs from areas they
12 thought they might have touched?

13 A That's correct. From various things, when we
14 watched the video, we saw places they might have
15 brushed against or slapped with their hands as they
16 were fleeing the location. Those were all the areas
17 we swabbed in hopes we would get some kind of touch
18 DNA.

19 Q After the crime scene, y'all went back and ---
20 during the time period when you've been there in the
21 morning to when you went back that afternoon, was the
22 crime scene still kept secure?

23 A It was, yes, ma'am.

24 Q That evening, early evening, did you and Sergeant
25 Reese and other investigators canvas certain areas

1 near there?

2 A We did. Let's see. After that, we had a brief
3 meeting at the police department, which was typical.
4 We kind of brief about what's going on. What do we
5 know so far, what evidence do we have so far, what
6 needs to be done to continue and try to develop a
7 lead. At this point we had no leads besides the
8 video. So Sergeant Reese suggested that we go to the
9 neighborhood, go to Tommy Circle, as well as some
10 other neighborhoods that surround it and canvas. It's
11 just basically walk around and knock on doors, did you
12 hear anything or see anything that looked a little
13 suspicious.

14 Q During that canvass, what areas, what streets did
15 you actually go door to door and try to develop
16 information?

17 A The areas included Bonner Avenue, Lucille Drive,
18 Dubard Street, Beach Haven Road, North Beltline
19 Boulevard, Tommy Circle, and those areas in those
20 neighborhoods specifically.

21 Q Were you able to develop any information from
22 that canvass?

23 A We did --- now, I went to 12 Tommy Circle and was
24 able to obtain additional surveillance footage.

25 Q That's what I was going to ask. What is 12 Tommy

1 Circle?

2 A That's the Original Ale House, I believe it's
3 called.

4 Q And where is that located in relation to the
5 bakery?

6 A It's directly next door.

7 Q Were you able to get video from them?

8 A Yes, I was.

9 Q And did you have an opportunity to review that
10 video?

11 A I did. Once we received it on several DVDs, it
12 was large files, we were able to come back to
13 headquarters and review it after we finished the
14 canvass.

15 Q And did they have multiple cameras in the Ale
16 House video?

17 A They did, multiple inside and outside.

18 Q But, of the ones of use, how many were actually
19 useful for you in this investigation?

20 A I believe it was just one angle that faced toward
21 the bakery. The rest were mainly interior.

22 Q Let me ask your this. The video that you got
23 from the interior of the bakery, does it have any
24 audio on it, can you hear anything?

25 A It does.

1 Q From the bakery?

2 A I'm sorry, from the bakery, no the bakery has no
3 audio. Twelve Tommy Circle has the audio.

4 Q And that would be the Ale House video?

5 A That's correct.

6 Q In the Ale House video, what are you able to
7 actually hear through the audio on that?

8 A Rain and buzzing.

9 MS. CAMPBELL: Your Honor, permission to publish
10 the videos with him at this point?

11 THE COURT: Yes, ma'am.

12 MS. CAMPBELL: You may step down.

13 THE COURT: Can you see? Front corner, can you
14 see?

15 BY MS. CAMPBELL:

16 Q First, pulling up the bakery video, if we could
17 first?

18 THE COURT: Does that help or hurt?

19 THE JUROR: Help.

20 THE COURT: Okay.

21 BY MS. CAMPBELL:

22 Q Pull up --- tell me, how do --- inside the
23 bakery, how do the cameras work? Do they run
24 continuously?

25 A Yes.

1 Q Is that different from how the Ale House one
2 works?

3 A Very different.

4 Q We'll get back to that. What area does this
5 show, sir?

6 A Well, the front door would be over here. This is
7 just entry way. That's bathroom, that's the kitchen
8 area at the top.

9 Q Can you see back there? Okay.

10 A The main entrance would have been right here.

11 Q Can you fast forward to right before the
12 entrance. Thank you. That's good. And who is that
13 that you see in the video at this point?

14 A We determined that's Kelly Hunnewell.

15 Q What was in her hand at that point?

16 A That is a large metal spoon or ladle, if you
17 will. You can see several shots that go off. The
18 individual in the red hoodie, if you watch it where
19 their hands move up.

20 Q Moving on to where they enter. Is that the
21 extent of the time they're in the actual bakery?.

22 A Yes. This will be the front door. I believe
23 that's Ms. Hunnewell's van you actually see right
24 there in the video.

25 Q Who is that in the doorway? Can you back that

1 up?

2 A That would be the individual who we would call
3 the lookout. We believe, based upon the way he is
4 dressed ---

5 MR. SCHNEE: Objection.

6 THE COURT: What is it?

7 MR. SCHNEE: Drawing a conclusion.

8 THE COURT: Overruled.

9 THE WITNESS: Based upon the way he is dressed,
10 the fact that he is covering up his face, based on my
11 experience ---

12 BY MS. CAMPBELL:

13 Q Right there?

14 A Based on my experience with these kinds of
15 crimes, a ---

16 MR. KRZYSTON: Objection.

17 THE COURT: Overruled.

18 THE WITNESS: A lookout is very common.

19 BY MS. CAMPBELL:

20 Q And specifically, what is that around his face
21 that he has drawn around his face?

22 A I know that is hoodie. Just like the other two
23 are dressed.

24 Q Is this different in color from what you can tell?

25 A It is. It's either black or dark blue, it's

1 hard because the color on the camera is not great.

2 The camera is not a high quality.

3 Q And he's holding it up covering what part of his
4 face?

5 A His mouth and his nose.

6 Q Is that the only time you actually see him on
7 camera, as far as ---

8 A That's correct, as far as this video.

9 Q Okay. Go to the angle that shows right on to the
10 stove and the sink. What area is this?

11 A This would be the kitchen. The front door is
12 over here. That's just an extended portion. There's
13 another camera on that side. That's going to be a
14 straight on shot of the kitchen, as well as the actual
15 murder itself.

16 Q And I see steam coming out of a pot on the stove.
17 Do you know what's in there?

18 A I think it was boiling potatoes, I saw it was
19 boiling potatoes, peeled potatoes, when I got there.

20 Q Who is that?

21 A That's Kelly Hunnewell. And there is the spoon
22 that she had.

23 Q Finally, can you pull up from inside bakery, the
24 four side by side, and inside, and again what is this?

25 A This is same footage you just watched. However,

1 it's being correctly timestamped and the footage or
2 the angles have been put together so it's easier to
3 see a chronological order of what actually occurred
4 from start to finish. This is when you first see them
5 entering, the incident, and then back out. It's very
6 quick seeing them.

7 Q And that's of the interior?

8 A Yes, ma'am.

9 Q Can you pull up the Ale House, please. Again,
10 there is no audio on those cameras?

11 A No, there's no audio. We tried to turn the
12 speakers up on our monitor, nothing. I don't believe
13 they were equipped with microphones.

14 Q Is that the only one that provided assistant in
15 this case, from the Ale House, that you know of that
16 showed anything?

17 A That's correct. This is only angle that showed
18 anything relevant.

19 Q From your view of this, approximately what time
20 is it that the people from the Ale House actually
21 leave?

22 A Let's see. Employees begin to leave about 3:09.
23 The final vehicle that we determined was an employee
24 vehicle leaves about 3:12.

25 Q 3:12?

1 A They come out here. They speak and they talk.

2 Q And that's all on this video?

3 A You'll hear them talking. You'll hear the
4 buzzing, and that's about all you hear. You do hear
5 them talking about the night or something.

6 Q On this video, how is it activated?

7 A Well, from my understanding, when we received the
8 video, we were advised that it was motion activated.
9 There was some motion detector on the camera at least
10 for this angle.

11 Q This angle?

12 A They're able to vary it depending on where the
13 camera is located, whether continuously or...

14 Q Can you fast forward to about 3:12 when they
15 leave?

16 A That would be the final ---

17 Q Can you see anything after everyone actually
18 leaves from the Ale House?

19 A See anything after they leave?

20 Q No, before that, as far as anything involving the
21 bakery?

22 A No, I didn't observe anything involving the
23 bakery until after they were all gone.

24 Q And what time do you actually observe information
25 from the bakery?

1 A According to the time stamp, it would be
2 3:14 A.M. is the time I initially saw --- he will come
3 from here, the individual in the hooded sweatshirt.

4 Q And again this distance is much further away and
5 outside and in the rain?

6 A Yes, you can see the light. You can see the
7 catering van and the light from the open door, so it's
8 a good distance away --- the front door is over here.

9 Q And the bar that's running up at the top, what is
10 this?

11 A This was an awning. The awning wasn't attached
12 to it, but it's similar. The awning sits here. That
13 would be the support bar.

14 Q What do you see there?

15 A That's a --- the first individual in a hooded
16 sweatshirt and then second individual comes into view.

17 Q And then ---

18 A It's motion activated so it's going to skip
19 every few seconds once motion ceases. There is ---

20 Q At this point, can you see the second individual?

21 A Yes --- the second individual was seen, I believe
22 you saw an individual walking --- you may have to
23 rewind it. There is another individual that walks up
24 through there ---

25 Q From the left side?

1 A Correct, that would be the third individual who
2 walks up. And it looks like they're having a
3 conversation. You obviously can't hear what's being
4 said, but it appears there's some back and forth.
5 That window there, that's a bathroom window. This
6 individual stays pretty much where he is looking
7 towards the door. You can also get behind the
8 building. There is a little walkway, called an alley
9 way.

10 Q That's end of the clip on this?

11 A Yes, ma'am.

12 Q Is there a second clip that picks up where that
13 one left off?

14 A Yes, the files were so large, they had to be
15 broken to you know separate clips, four in total.
16 That's where we picked up. The guy is walking --- the
17 hooded sweatshirt individual is walking to the back.
18 That individual remained there. I don't know if there
19 were any effects of the motion sensor at all. That
20 may be why it keeps picking up motion. You can see
21 the rain falling as well as their motion.

22 Q And how many individuals do you see at this point
23 at the corner?

24 A I only see two individuals at the corner at this
25 point. Earlier you saw an individual walk around the

1 front of the vans and go around to the other side. I
2 don't know if he's going to come back in the frame.

3 Q Okay.

4 A At this point there's one here and one closer to
5 that side of the wall. You can see his shadow outline
6 there where he is.

7 Q And, again, as far as what's on the other side of
8 the vans or the front side, far side of the baker, can
9 you see can you see any of that in this video?

10 A No, you can't. There's no camera directed there.

11 Q Okay.

12 A You see those two individuals here, they would be
13 in the walk towards the front here, circling the van
14 there, that's at 3:21, 3:22, correct.

15 Q And at this point can you see anyone from this
16 angle?

17 A No, you won't see anything until 3:36.

18 Q This one is timestamped separately from what's
19 inside?

20 A That's correct. Whatever they set their DVR
21 timestamped to is what you see. I'm just referring
22 the notes with the timestamps.

23 Q Good. Fast forward. Do you see anything between
24 in now and 3:36?

25 A , No, I didn't observe anything when I watched it

1 several times. Nothing happens between 3:31 and
2 3:36 except somebody walking.

3 Q You can fast forward to 3:36.

4 A You have to watch carefully, keep your eye on
5 this area right here because it will happen quick.
6 The motion, it's not a continuous stream.

7 Q So it's kind of a hesitation between actual
8 motion and ---

9 A Yes, you will miss a few seconds at a time
10 sometimes. It varies depending on what motion it picks
11 up. You see these two individuals running. You catch
12 the tail end of the one guy and the other guy you
13 catch them right there. It's so quick.

14 Q Okay. Is that the extent of what you observed?

15 A Yes, it is on this video.

16 Q You can go back to the stand.

17 MS. CAMPBELL: If I could have a brief minute,
18 Your Honor, I have one more while she has it up, just
19 because it's cumbersome.

20 BY MS. CAMPBELL:

21 Q Once you got the video, did you release certain
22 things to the media?

23 A We did. As part of an investigation, obviously
24 when we have unknown individuals and are trying to
25 develop a lead, the media is a great tool. It helps

1 them. They get information about the incident and it
2 helps us because a lot of people will see it and give
3 us information, and hopefully, call in. However, we
4 try not to release all the information. That wouldn't
5 be good for the investigation. You want to be able to
6 see if future witnesses (A) know what they're talking
7 and (B) can they be credible. We did release a copy
8 of the video to the media, but it was not in it's
9 entirety.

10 Q I'm showing you what's been marked as State's
11 Exhibit Number 439. At my request, did you review
12 this?

13 A Yes.

14 MS. CAMPBELL: Your Honor, at this time we offer
15 State's Exhibit 439 into evidence.

16 (WHEREUPON, State's Exhibit Number 439 was
17 admitted into evidence.)

18 MR. KRZYSTON: No objection.

19 MR. SCHNEE: No objection.

20 THE COURT: State's 439 without objection.

21 BY MS. CAMPBELL:

22 Q Permission to publish it?

23 THE COURT: Yes.

24 Q And that's extent of the footage that was
25 released?

1 A That's correct.

2 Q Okay.

3 A We left out the part where she struggles and uses
4 the spoon to strike the individual, and the actual
5 shooting, for obvious reasons.

6 Q Okay. Thank you. That day when you were in the
7 video (sic) and you got there that morning, what was
8 the temperature like inside video (sic)?

9 A Inside the bakery, it was quite warm inside the
10 bakery. Now, I --- my understanding that the fire
11 department had come to shut off the gas, because of
12 the heat and the fact that the burners were on with
13 boiling potatoes, but when I got there several hours
14 after the discovery, you know, it was about 6:17, but
15 it was still very hot, and I was advised it's so hot
16 take off your jacket. You're going to start sweating.

17 Q That same day did you contact a man named Cary
18 Shealey?

19 A I did. Cary Shealey, he runs Statewide Security
20 Services. The city has a contract for video cameras
21 around the city.

22 Q Was he able to give you any information as far as
23 any cameras in the area?

24 A No, I requested any cameras he had in the area
25 and any footage he had from them, but he later contact

1 me by telephone. We have a pretty good working
2 relationship. He said he had nothing, no footage in
3 that area whatsoever at the time this occurred.

4 Q That evening did you also go back and canvass
5 another area?

6 A We did. Toronto Street, which is near that
7 location, I did that Sergeant Reese and Investigator
8 Hilton. We didn't look at anyone that had any
9 information. Really, they didn't want us --- didn't
10 want to be involved. They didn't want to give their
11 names or anything.

12 Q And everything you testified to before so far is
13 what you all did on July 1st?

14 A That's correct. All that was on July 1st.

15 Q On July 1st, did you have any suspects with names
16 involved?

17 A Not at that time, no.

18 Q I want to turn your attention to the next morning
19 July 2nd. Did your investigation continue?

20 A It did.

21 Q Specifically, did you receive certain --- you
22 can't say what it is in that, but did you receive
23 certain information?

24 A I did. I received tips, which again is not under
25 common when you release footage to the media or you

1 have a story like that and you get tips.

2 Q And those are what was called Crimestoppers tips?

3 A That's correct. It's done through Crimestoppers
4 of the Midlands. We don't have access to names or
5 phone numbers. That's all kept confidential. We get
6 the substance of what they advised.

7 Q At that point --- you can't say what was in the
8 tips, but did you start trying to follow up on leads
9 that may have been in those tips?

10 A Yes, I did.

11 Q And during the course of the day, is that what
12 you did?

13 A That's what we did almost the entire day. We had
14 several meetings during the day, but we followed up on
15 those leads.

16 Q That evening did you get some information from
17 one of your regions?

18 A I did, about 5:30 in the P.M. Sergeant Shuler, he
19 was the Metro Region supervision for the street units
20 at that time, he called and said there was an
21 individual who had information for us.

22 Q And at that point did your send somebody to go
23 and get the witness --- the possible witness and bring
24 him in?

25 A Yes. We did.

1 Q And who actually went and picked them up that
2 day?

3 A I believe it was Investigator Moorer who went and
4 picked him up. Yes, Investigator Moorer.

5 Q And once the witness got to headquarters, who was
6 that witness?

7 A He was identified as Donald Moore.

8 Q And at that point was Donald Moore cooperative?

9 A He was very cooperative.

10 Q And was he able to give you information?

11 A Yes, he gave me information regarding the case.
12 It was audio recorded.

13 Q And specifically was he able to give you
14 information that had never been released to the media?

15 A Yeah. That's what gave him so much credibility
16 to us. I can't say what the information was ---

17 MR. KRZYSTON: Objection, vouching.

18 THE COURT: What?

19 MR. KRZYSTON: Bolstering.

20 THE COURT: He is not allowed to vouch for the
21 witness, but he can explain.

22 BY MS. CAMPBELL:

23 Q You can explain without --- just explain why he
24 was --- did he know information that hadn't been
25 released?

1 A He did; Moore knew information that had not been
2 released to the media.

3 Q That same evening, did you get a call from
4 Sergeant Branham?

5 A Yeah, Sergeant Amanda Branham, there's two of
6 them we have, Sergeant Amanda Branham is one who
7 called.

8 Q Based on her information, did you make contact or
9 attempt to make contact with another witness in this
10 case?

11 A Yes, I did.

12 Q And who was that witness?

13 A At the time she was just identified as Ms. Brown.
14 She wouldn't give her first name.

15 Q She wouldn't give you her first name?

16 A Not at that particular time, the first time I
17 talked to her.

18 Q That evening did you attempt to make contact with
19 her?

20 A I did and left a voice mail.

21 Q Did you have her phone call?

22 A I did. Amanda Branham, Sergeant Branham, had the
23 phone number from her and was able to provide it to
24 me.

25 Q Were you able to get in touch with her that

1 evening?

2 A I did not get touch with her that evening.

3 Q The next day did you make contact with her?

4 A About 9:00 A.M. I made contact with Ms. Brown.

5 Q And you can't say what Ms. Brown told you, but
6 was she able to give you information that was very
7 useful in this case?

8 A Yes, she did.

9 Q And the information that she gave you, did it
10 corroborate the information you had already gotten
11 from ---

12 MR. KRZYSTON: Objection, bolstering.

13 THE COURT: Sustained.

14 BY MS. CAMPBELL:

15 Q Was the information she gave you consistent or
16 inconsistent ---

17 MR. KRZYSTON: Objection, bolstering.

18 THE COURT: Let her finish the question, Mr.
19 Krzyston.

20 MR. KRZYSTON: Certainly.

21 THE COURT: Ask the question, Ms. Campbell.

22 BY MS. CAMPBELL:

23 Q Was her information consistent with information
24 you had already gotten?

25 THE COURT: Do you have any objection?

1 MR. KRZYSTON: Bolstering.

2 MR. SCHNEE: Objection.

3 THE COURT: Overruled.

4 THE WITNESS: Yes, it was consistent.

5 BY MS. CAMPBELL:

6 Q That same morning, you can't say what you ---
7 you can't say what was said to you, but did you also
8 receive additional information from another informant?

9 A I did. This was a criminal informant who worked
10 with the Richland County Sheriff's Department.

11 Q Once you had received the information from Mr.
12 Moore and Ms. Brown and the other person, what did you
13 do?

14 A Well, I began obviously working on what to do
15 with all this information. We were able to determine
16 that we could obtain search warrants for the two
17 homes, for the two individuals that had been
18 identified.

19 Q And prior to you getting the search warrants, did
20 you get a photo lineup in this case?

21 A I did.

22 Q And who was the photo lineup on?

23 A The photo lineup was for Lorenzo Young.

24 Q And why were you getting a photo lineup for
25 Lorenzo Young?

1 A It was based upon information received during the
2 investigation whose name came up.

3 Q Once you got the photo lineup of Lorenzo Young,
4 who if anyone did you show it to?

5 A I showed it to Donald Moore.

6 Q I want to show you what's been marked as State's
7 Exhibit Number 420. Do you recognize that?

8 A Yes, this is the original photo lineup I showed
9 to Donald Moore.

10 Q Again, at this point was Mr. Moore cooperative?

11 A Very cooperative.

12 Q And taking these out, I notice that there are six
13 different photographs with six different numbers; is
14 that correct?

15 A That's correct.

16 Q And when you showed him those photographs, did
17 they have any writing on any of them?

18 A No, they did not.

19 Q When you showed the photographs to Mr. Moore, how
20 did you present them?

21 A I had photographs that were numbered one through
22 six. We showed him --- it's actually an array, not a
23 lineup. We call it a photo array. The photos are on
24 a different sheet of paper. I just put them down
25 one-by-one like this until I got to number four, at

1 which point he identified Lorenzo in that lineup.

2 Q Did he hesitate?

3 A Not at all. He said, that's Lorenzo; I'm
4 paraphrasing. I don't know the exact ...

5 Q At any point did you tell him who to pick?

6 A No, I did not.

7 Q Did you tell him which number was the person you
8 wanted him to pick?

9 A No, I did not.

10 Q And when he actually picked this as State's
11 Exhibit 437, who did he indicate it was?

12 A Lorenzo.

13 Q And did he have a nickname?

14 A Shyne.

15 Q And whores writing was this on this?

16 A That's Donald Moore's.

17 Q And that's his actual handwriting?

18 A That's correct.

19 Q And who actually circled that photograph?

20 A Donald Moore.

21 Q Once he indicated to you that he recognized this
22 person, did you memorialize that in any way?

23 A Yes, I did. We have a cover sheet called a this-
24 is-what-you-handed-me. Basically, you them sign and
25 date --- sign and give his address and phone number

1 and then I'll notarize it ---I'm a notary --- that out
2 of the six photos that we showed him, he picked photo
3 number four as the individual.

4 Q That he had given you information on?

5 A That's correct.

6 Q Did you feel the need to show him the photo
7 lineups of any of the other individuals?

8 A No.

9 Q Why not?

10 A He knew them by name and sight. He called them
11 his home boys.

12 Q And at that point did you prepare search
13 warrants?

14 A Yes. At that point, I prepared the search
15 warrants.

16 Q And where did you prepare search warrants for?

17 A I prepared two search warrants. The first was
18 3054 Bronx Road. That's where we determined Lorenzo
19 Young resided.

20 MR. KRZYSTON: Objection, Judge. Prior to
21 argument.

22 THE COURT: All right. Overruled.

23 THE WITNESS: The second search warrant we
24 obtained was 2849 Lucille Drive. We determined that
25 was Troy Stevenson resided and also Trenton Barnes.

1 Q What day was this that it you were getting these
2 search warrants?

3 A This was on the 3rd at 10:00 P.M.

4 Q 10:00 P.M.?

5 A That I went and saw the judge.

6 Q And when you get a search warrant, what do you
7 have to do to get a search warrant?

8 A Well, you have to establish probable cause. We
9 have an affidavit form. We actually make up the
10 search warrant in it's entirety and take it down to a
11 ministerial recorder. She is just like a magistrate
12 judge, but for the City of Columbia. We take the
13 information down there. We establish probable cause
14 in the affidavit portion of the warrant, as well as
15 particularly describe what we're looking for and what
16 exactly we are searching. At this point it was a
17 residence we were searching.

18 Q In addition to what's on the actual search
19 warrant itself, can you also give them additional
20 information orally?

21 A Yes, we also orally supplanted portions of the
22 affidavit, in particular that Donald Moore had given
23 us information.

24 Q And in the search warrant you didn't list his
25 name?

1 A No, we did not.

2 Q Why not?

3 A We feared retaliation, as did he.

4 MR. KRZYSTON: Objection, Judge.

5 MS. CAMPBELL: This is what we ---

6 MR. KRZYSTON: Can we approach?

7 THE COURT: Go ahead. All right. Ladies and
8 gentlemen, just step out to your jury room. We'll
9 check on lunch and be back with you in just a few
10 minutes.

11 (WHEREUPON, the jury left the courtroom at 12:20
12 P.M.)

13 THE COURT: All right, Ms. Campbell.

14 MS. CAMPBELL: May it please the Court, Your
15 Honor. This is --- we talked about basically going
16 into the extent of this. I mean, this is just to
17 explain why he did this. Defense counsel brought it
18 up in his opening argument that he hid information.
19 We're explaining why he hid it, and I told him, you
20 know, the answer is because there's gang involvement.
21 I told --- we're staying away from the gang stuff, but
22 the fear of retaliation, I think, to protect a witness
23 is common practice.

24 MR. KRZYSTON: And, Judge ---

25 MS. CAMPBELL: It's not that he is hiding

1 evidence or witnesses as been inferred.

2 MR. KRZYSTON: Judge, we are made no such
3 assumption in our opening statement. Furthermore,
4 that statement is directly aimed at inflaming the
5 prejudice of the jury. We have bent over backwards in
6 this trial to avoid statements specifically like that
7 and specifically with regard to testimony that was
8 solicited by Ms. Simpson. Based on the fact that the
9 jury just heard that, I'm going to move for a
10 mistrial. I think manifest necessity dictates it. I
11 don't think that was proper material for the jury to
12 hear. We never opened the door to his character.
13 That goes directly to ---

14 THE COURT: He didn't say retaliation from who.

15 MS. CAMPBELL: No, he didn't.

16 THE COURT: He didn't say fear of retaliation
17 from Mr. Young or Mr. Barnes.

18 MR. KRZYSTON: Well, certainly --- there are two
19 people on trial here.

20 THE COURT: Neither of which names are mentioned,
21 so I ---

22 MR. KRZYSTON: Implicitly there would be an
23 inference there.

24 MR. SCHNEE: Judge, I would join in Mr.
25 Krzyston's motion.

1 THE COURT: Your motions for a mistrial are
2 denied. I'm going to order the jury to disregard the
3 statements about retaliation. Don't say anything else
4 about retaliation.

5 MS. CAMPBELL: Judge, how can he phrase it,
6 because he was protecting him is essentially what I
7 thought he was going to say.

8 THE COURT: You thought he was going to say he
9 was protecting him?

10 MS. CAMPBELL: Protecting his identity. I mean,
11 we just argued about this for 20 minutes with
12 Mr. Schnee.

13 THE COURT: Don't use the word retaliation.

14 MS. CAMPBELL: Yes, Your Honor.

15 MR. KRZYSTON: Your Honor, I think it leads to an
16 inference to say I wanted to protect him. The sheer
17 basis of that assertion is in itself inflammatory.

18 MR. KRZYSTON: There is no other person in this
19 room besides Trenton Barnes upon whose home a search
20 warrant is executed. The jury will necessarily ---

21 THE COURT: Do you know what Rule 43 is,
22 Mr. Krzyston?

23 MR. KRZYSTON: No, Your Honor.

24 THE COURT: It says you don't argue after I have
25 made my ruling.

1 MR. KRZYSTON: I'm sorry, Judge. I didn't ---

2 THE COURT: All right. Do not say anything about
3 retaliation. Do you understand that?

4 THE WITNESS: Yes, Your Honor.

5 THE COURT: Do you have any questions about that?

6 THE WITNESS: No, Your Honor.

7 THE COURT: You can say I was --- I'm not trying
8 to put words in your mouth, but I mean my belief,
9 based on what I know, is that you were trying to keep
10 his identity unknown for the time being.

11 THE WITNESS: That's correct.

12 THE COURT: Something along those lines would be
13 appropriate.

14 THE WITNESS: Yes, Your Honor.

15 THE COURT: All right. Bring the jury back in.

16 (WHEREUPON, State's Exhibit Numbers 436 through
17 438 were marked for identification only.)

18 (WHEREUPON, the jury entered the courtroom at
19 12:25 P.M.)

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

21 THE COURT: Thank you very much. Ladies and
22 gentlemen, you will disregard any testimony from this
23 witness concerning the use of the word retaliation.

24 You may continue, Ms. Campbell.

25 BY MS. CAMPBELL:

1 Q Why did you keep his identity out of the search
2 warrant at that point?

3 A We were going to keep his identity unknown at the
4 time.

5 Q At that time?

6 A At that time, that's correct.

7 Q The two search warrants, one is at 3054 Bronx
8 Road?

9 A 3045 Bronx, yes, ma'am.

10 Q What neighborhood is that in?

11 A That's in the Bellvedere community.

12 Q And who was residing at that address?

13 A Lorenzo Young and his family, including Rolanda
14 Coleman.

15 Q And the other is 2849 Lucille Drive?

16 A That's correct 2849 Lucille Drive.

17 Q And who was residing at that address?

18 A Troy Stevenson, Trenton Barnes and his family.

19 Q The next day on July 4th, did you continue to
20 work on the case?

21 A Yes, I did.

22 Q Did y'all make a determination as to when you
23 wanted to execute the search warrants?

24 A We did. Basically it was a holiday. A lot of
25 people were off, and we decided we would do it the

1 following day to make sure we had (A) enough units and
2 (B) the safety of the Officers and everybody that was
3 going to be involved, was protected.

4 Q I want to turn your attention to the morning of
5 July 5th. Which search warrant did y'all serve first?

6 A That was S13-0293. That was 3054 Bronx Road,
7 Lorenzo Young's residence.

8 Q And by the way, just for the record, you did get
9 the judge to sign off on these?

10 A That's correct. The judge signed both search
11 warrants.

12 Q Tell the jury what you found when you got to
13 Bronx Road?

14 A Well, the --- utilized the SWAT team in this
15 search warrant. They actually made entry just for
16 safety concerns. They made entry, cleared the home,
17 got everyone that was in the home detained, which is
18 per protocol. That's pretty standard. At that point
19 we went in, crime scene arrived and went in with us.

20 Q Okay. Was Lorenzo Young there at the home when
21 y'all made entry that day?

22 A No, he was not.

23 Q Was Rolanda Coleman there?

24 A Yes, she was.

25 Q Were there other people there also in the

1 residence, as well?

2 A There were. I believe his mother was there.
3 Marcus Brown, which was his mother's boyfriend at the
4 time, I believe, and some other individuals. I can't
5 recall the names.

6 Q Once you got into the house, was a search done?

7 A It was.

8 Q And specifically were you able to determine
9 which bedroom was Lorenzo and Rolanda's?

10 A We were able to determine that, yes.

11 Q And were certain items of evidence recovered
12 there?

13 A Yes, they were.

14 Q And were you present when those items were found?

15 A I was. I was in the room when they were found.

16 Q And what evidence are we talking about?

17 A The first were the gloves. I actually found
18 those in Lorenzo's bedroom closet. It was in a Sirroc
19 box along with some other items, cords and whatnot,
20 miscellaneous items up in the box on the top shelf of
21 the closet.

22 Q Why was that significant in your investigation?

23 A Well, like I said before, I believe that in the
24 video you can see the individuals, at least one of
25 them wearing a glove on his hand that he is holding

1 the firearm in and I wanted to see if (A) we could put
2 those clothing items at the scene and (2) would there
3 be any gunshot wound residue along those lines.

4 Q Was there other evidence found in that bedroom of
5 significance?

6 A Yes, while we were searching through the room, we
7 located a plastic cup. It had two unfired 45 GAP
8 rounds of ammunition. Also, an empty box of Magtech
9 45 GAP ammunition that was in the cup with it, which I
10 believe is the same manufacturer as the shell casings
11 found at the --- oh, I'm sorry, at the incident scene
12 where the murder occurred.

13 Q Was there also a clip or --- I don't know what
14 you call this?

15 A It's a magazine, a Glock magazine which holds
16 ammunition. It was found inside a purse under the bed.
17 It was near the ammunition that was found. The
18 magazine was inside the purse.

19 Q Was there also some ammunition found in the
20 dresser or chest?

21 A There was. I believe it was nine ---

22 MR. KRZYSTON: Objection, leading.

23 THE COURT: Overruled.

24 THE WITNESS: I believe there was a nine
25 millimeter shell casing, I'm sorry, a live round and a

1 40 caliber Smith and Wesson live round located.

2 Q During the search of that room at the time ---
3 was there a basinet in that room?

4 A There was. There was a basinet, a baby's crib.

5 Q At the time, did you understand any significance
6 that it might have had?

7 A Not at all.

8 Q I'm going to show you State's Exhibit Number 438,
9 and ask if you recognize that.

10 A That would be the basinet. That would be the
11 room identified as Lorenzo's room and Rolanda Coleman,
12 I think.

13 Q And this is basinet that's been overturned in
14 this picture?

15 A Yes.

16 Q And do you know who actually did that?

17 A I don't. I know when a SWAT team makes entry
18 into a home, they knock things over, open doors, turn
19 over mattresses, looking for people. They're more
20 concerned about safety. It's possible that happened.
21 I don't know who turned it over.

22 Q But this basinet later became significant in the
23 investigation?

24 A That's correct.

25 MS. CAMPBELL: I would offer this into evidence,

1 Your Honor. Thank you.

2 MR. SCHNEE: I'd like to look at it first.

3 No objection, Your Honor.

4 MR. KRZYSTON: None here.

5 THE COURT: All right. State's 438 without
6 objection.

7 (WHEREUPON, State's Exhibit Number 438 was
8 admitted into evidence.)

9 BY MS. CAMPBELL:

10 Q If I point right here on that, does that show the
11 basinet turned over?

12 A That's correct.

13 Q And again at that point did you know its
14 significance?

15 A No, I did not.

16 Q You mentioned that crime scene was brought in to
17 actually document what was found there?

18 A That's correct. I believe it was Gaston that was
19 the officer.

20 Q And he would have actually collected the evidence
21 itself?

22 A Yes, he is the one who would have collected it,
23 submitted to the evidence room and maintained chain of
24 custody.

25 Q While you were there and while the search warrant

1 was being executed, did you have any contact with
2 Lorenzo Young?

3 A No, I did not. Well, I take that back.
4 Physically, no.

5 Q Okay.

6 A An individual called the house several times and
7 identified himself as Lorenzo Young on the phone.

8 MR. KRZYSTON: Objection. Speculation, Judge.
9 No way of knowing that.

10 THE COURT: Overruled.

11 MS. CAMPBELL: Thank you.

12 BY MS. CAMPBELL:

13 Q At some point did Rolanda Coleman hand you the
14 phone saying Lorenzo was on it?

15 A I don't believe Rolanda Coleman did. I'll take a
16 look at my notes. I can tell you. I believe he was
17 just calling. The phone was ringing, ringing,
18 ringing, and he just answered it. He answered the
19 phone.

20 Q Was Ms. Coleman taken down to headquarters to be
21 interviewed?

22 A She was taken to headquarters to be interviewed,
23 yes.

24 Q You can't say why, but did that interview take
25 place that day or did it take place later?

1 A It did not take place that day. We actually
2 interviewed her later on, several days later.

3 Q Back at headquarters then, did you interview
4 Marcus Brown?

5 A We did.

6 Q You can't say what he --- well, what was his
7 relationship to Lorenzo Young?

8 A It would be his mother's boyfriend. I don't know
9 if it was a stepfather kind of relationship. I never
10 got that far, but he was dating the mom.

11 Q And you can't say what he said, but did you show
12 him certain evidence in the case --- and don't say
13 what he said.

14 A Yes, I did.

15 Q That afternoon, was there a second search warrant
16 served?

17 A Yes, around 4:15 P.M., we served the second
18 search warrant S13-029 at 2849 Lucille Drive, which is
19 Troy Stevenson and Trenton Barnes' residence.

20 Q And once you made entry there, who all was at the
21 house? Do you remember?

22 A Ms. Barnes was there. There were several other
23 individuals there. Trenton Barnes was there. Troy
24 Stevenson was not present.

25 Q And where did you come upon Trenton Barnes in the

1 residence that day?

2 A He was in a --- it was back bedroom. If you came
3 in through the garage area, which they converted to a
4 little walk-in laundry room area, if you walked all
5 the way in the back, he was in the back front bedroom
6 with a few other individuals.

7 Q And what was his demeanor like when you made
8 entry?

9 A Well, his demeanor --- he seemed nervous, scared.
10 I believe he had some tears coming down his face.

11 Q Did he agree to go to headquarters with you?

12 A He did. I asked him if he would come and talk to
13 us and he agreed to come.

14 Q Did anybody end up coming with him or meet him
15 there?

16 A He requested his mother be present, and we
17 obliged him, absolutely, and had her --- we actually
18 had a police officer in a marked car, and they
19 transported her, and him at his request, down to
20 headquarters to be present during the interview.

21 Q During the search of that home, did you find
22 any --- well, let me back up, too, at Bronx Street did
23 you ever find a gun, any guns?

24 A No.

25 Q Did your find a red hoodie?

1 A No.

2 Q Or the dark gray hoodie?

3 A No.

4 Q At the second search warrant, did you ever find
5 the handguns?

6 A No, we did not.

7 Q Either of the hoodies that are seen in the video?

8 A No, not the gray or red hoodie, no.

9 Q Were there a couple of hoodies that, I believe,
10 were taken into evidence?

11 A There were. There were several dark hoodies that
12 were taken into evidence. One of them was soaking
13 wet, still wet, was wet that was obtained.

14 Q Later that evening after talking --- and you
15 can't say what was said --- but, after talking with
16 Trenton Barnes, was he placed under arrest that
17 evening?

18 A Yes, he was arrested for ---

19 Q How old was Trenton Barnes at the time?

20 A He was 16 years old.

21 Q Was he charged as an adult?

22 A Yes, he was.

23 Q Why was that?

24 A When you are charged with a violent crime in this
25 state and you are 16, that's 16-1-60, I believe, it's

1 enumerated in the statute for a violent crime. At
2 sixteen you're automatically charged as an adult. You
3 will be housed in a juvenile facility until your 17th
4 birthday, but you'll be charged to stand trial as an
5 adult. That's by law.

6 Q Did you become aware during that evening that
7 Lorenzo Young had been found?

8 A Yes, during the interview, I believe, it became
9 apparent that he was located.

10 Q And specifically was an item of evidence found
11 with him that was significant?

12 A Yes. Once he was located, I was advised by one
13 of the investigators that a phone had been located.
14 It was a Galaxy S-3 or 4, I think it was a three a
15 2013 smart phone, and I remember seeing a box for a
16 Galaxy S-3 smart phone at the home there at Bronx that
17 was empty.

18 Q Who did you later determine who the phone
19 belonged to?

20 A It belonged to Rolanda Coleman. Actually I think
21 it was Rolanda Coleman's grandmother's or mother's.
22 She had the account, Rolanda Coleman, it's her phone
23 and she had allowed Lorenzo Young to possess it.

24 Q And was Lorenzo Young actually brought down to
25 headquarters that night?

1 A He was transported down there.

2 Q Did you also make contact with Troy Stevenson
3 that evening?

4 A Yes. Troy Stevenson voluntarily came in on his
5 own volition.

6 Q After gathering all that information, were there
7 three people charged in relation to this crime?

8 A Yes.

9 Q And two of them are here today?

10 A That's correct.

11 Q Was Troy Stevenson also charged?

12 A Yes, he was.

13 Q And are his charges still pending?

14 A Yes, they are.

15 Q Turning your attention to July 9th, 2013, did you
16 then have an opportunity to interview Ms. Rolanda
17 Coleman?

18 A Yes. About 10:12 in the A.M. on the 9th of
19 July 2013, we interviewed Rolanda Coleman.

20 Q Was she alone when you interviewed her?

21 A No, she was with her attorney, Drelton D.J.
22 Carson.

23 Q At that point was she more cooperative than she
24 was here in court?

25 A Yes.

1 MR. SCHNEE: Objection, Your Honor.

2 THE COURT: Objection?

3 MR. SCHNEE: First of all as to relevance and the
4 term cooperative.

5 THE COURT: Overruled.

6 THE WITNESS: She seemed cooperative. She
7 answered our questions.

8 BY MS. CAMPBELL:

9 Q And was there an interview that was recorded from
10 her?

11 A Yes, it was audio recorded.

12 Q Moving onto July 11th, 2013, did you get another
13 search warrant to get certain evidence from Lorenzo
14 Young?

15 A I did. It was S13-0302.

16 Q What were you seeking to get from Mr. Young at
17 that point?

18 A A DNA standard from Lorenzo Young.

19 Q The next day, did you also have search warrants
20 done and signed off to get the same evidence from Troy
21 Stevenson and Trenton Barnes?

22 A Yes, on the 12th we obtained DNA standards from
23 both individuals.

24 Q Did you have, I believe, Investigators Wise and
25 Nelson collect those for you?

1 A Yes, crime scene Wise collected Lorenzo Young and
2 Nelson collected Trenton Barnes then Wise again
3 collected Troy Stevenson which was just based on the
4 time and the day of who was working at that particular
5 time.

6 Q And during this time period, were you also
7 getting various lab reports and things back from SLED?

8 A Yes, we sent off numerous amounts of evidence to
9 SLED and we were getting reports back and that type of
10 thing.

11 Q I want to turn your attention to August 9th, 2013.

12 A Okay.

13 Q Are you familiar with Latoya Barnes?

14 A I am. She is Trenton and Troy's mother.

15 Q Was she the one that was actually with Trenton
16 when he was at headquarters that first day?

17 A That's correct.

18 Q Had she tried to make contact with you?

19 A Yes, I believe she was calling me and I returned
20 her phone call. She left a voice mail on my office
21 phone.

22 Q And did you actually record that conversation?

23 A I did. I recorded that telephone conversation,
24 yes.

25 Q And she testified in this case?

1 A She did, earlier.

2 Q Specifically, I want to limit it to ---

3 MR. SCHNEE: Objection. There's a matter of law
4 we need take up.

5 THE COURT: All right. Let's step back to your
6 jury room. We'll see if lunch is here. We'll be back
7 with you in a few minutes. Do not discuss the case.
8 Keep an open mind.

9 (WHEREUPON, the jury left the courtroom at 12:41
10 P.M.)

11 THE COURT: What is the issue?

12 MR. SCHNEE: May it please the Court, Your Honor.
13 I was informed during the last break that the
14 solicitors intend to introduce a portion of Latoya's
15 Barnes' recorded interview with McCoy specifically
16 dealing with a question of an identification of who
17 was wearing a gray hooded sweatshirt. When she
18 testified last week, she said that she knew her
19 children and said that she did not identify who was in
20 the gray hooded sweatshirt specifically. It's the
21 State's contention that she does say that during the
22 audio recordings.

23 Judge, my objection is twofold. First of all,
24 this would be an improper impeachment under Rule 613.
25 The fact is they want to impeach Ms. Barnes with what

1 was on that audio recording, they should have
2 questioned her about it and played it for her. Under
3 the rules, she is required to have an opportunity to
4 either explain it or later agree that it was hers or
5 go through the time and place and circumstances.

6 They simply said, did you say it. She said no,
7 that's not what I said. They never played it for her
8 or gave her an opportunity to explain it or discuss it
9 or even find out what the context was. Now, the State
10 is intending on going through this investigator to
11 play a portion of her prior recorded statement. I
12 don't believe that's proper. Additionally, I
13 certainly in the very least, if Your Honor is going to
14 do that, I need hear the portion they plan on playing.
15 I believe that audio recording is inadmissible hearsay
16 and this is not a proper impeachment. They had an
17 opportunity to use any kind of audio as a prior
18 inconsistent statement with Ms. Barnes and they never
19 did.

20 MR. KRZYSTON: Your Honor, we would be joining in
21 Mr. Schnee's objection.

22 MS. CAMPBELL: It doesn't concern your client.

23 THE COURT: What?

24 MS. CAMPBELL: It doesn't concern his client.

25 THE COURT: It doesn't concern your client.

1 MR. KRZYSTON: I'd join in any way, Your Honor.

2 THE COURT: Based on what? What's your legal
3 reasoning for joining in that?

4 MR. KRZYSTON: Rule 613.

5 THE COURT: How does it affect your client in any
6 way, shape, or form?

7 MR. KRZYSTON: I mean, I believe it would be
8 improperly admitted against Mr. Young.

9 THE COURT: It doesn't have anything to do with
10 Mr. Young.

11 MR. KRZYSTON: I understand that, but he still
12 stands to be prejudiced by the introduction of that
13 evidence.

14 THE COURT: How?

15 MR. KRZYSTON: He was at her house that night. I
16 mean, negative inferences could flow from that
17 evidence.

18 THE COURT: What?

19 MR. KRZYSTON: I mean, I can't sit here and
20 speculate as to what negative inferences might flow,
21 but I think one can see where it may.

22 THE COURT: Actually, I don't.

23 MR. KRZYSTON: Okay. Your Honor. I just wanted
24 to get it on the record.

25 THE COURT: Your objection is overruled.

1 MR. KRZYSTON: Thank you, Judge.

2 THE COURT: My memory of what she said is, "I
3 never told them that Trenton was wearing a gray
4 sweatshirt. I didn't say Trenton was wearing the gray
5 sweatshirt. I didn't tell the cops that."

6 MS. CAMPBELL: The extent, Your Honor, was limited
7 to one question and one answer. Here is the
8 transcript. I've shown it to Mr., Schnee before.

9 MR. SCHNEE: No, I've not seen a transcript of
10 that. I want to hear the recorded clip.

11 MS. CAMPBELL: We have no problem with you
12 hearing it.

13 MR. SCHNEE: I object to it anyway.

14 MS. CAMPBELL: This is the extent what we would
15 be playing anyway, is my understanding.

16 THE COURT: Yeah.

17 MS. CAMPBELL: We'll limit it --- that is the
18 only thing that she denied, that I recall, and
19 pursuant to Rule 613, Your Honor, we did inform her of
20 what he said was given and what she told them and that
21 would be one portion that she denied.

22 MR. SCHNEE: And, Judge, I think the heart of
23 Rule 613 is the use of extrinsic evidence means you
24 use the extrinsic evidence, and using the extrinsic
25 with the witness that's making the denial, not days

1 later with someone who is not even on the stand so it
2 can't be even questioned. I had no opportunity to be
3 questioning Ms. Barnes at this point if I even wanted
4 to requestion her about it based on what the actual
5 audio says.

6 MS. CAMPBELL: That's not what the rule says.

7 MR. SCHNEE: That's a confrontation issue at that
8 point.

9 THE COURT: A witness that you've already had the
10 opportunity to cross examine?

11 MR. SCHNEE: This would be the admission of
12 different testimony and new information that I clearly
13 did not have any intention on crossing her on or need
14 to because they didn't play the audio. She just said
15 she didn't make the statement. They never even gave
16 her the opportunity to confirm or deny that's what she
17 said or anything else.

18 THE COURT: She would have multiple notice about
19 this and she continued to deny it saying that she said
20 that she said that Trenton was the one wearing the
21 gray sweatshirt and she was informed multiple times
22 about the substance of the statement, the time and
23 place it was made, and the person to whom it was made
24 and she was given an opportunity to explain or deny
25 the statement and she denied the statement and it says

1 if a witness does not admit that he has made a prior
2 consistent statement, extrinsic evidence is
3 admissible.

4 All right. You need to play the portion for him
5 that you want to play, but at this point it's
6 admissible.

7 MS. CAMPBELL: Play it.

8 (Pause.)

9 Your Honor, I don't believe it was cut properly.

10 THE COURT: Okay.

11 MS. CAMPBELL: Can we come back and do lunch and
12 then ---

13 THE COURT: Yes, unless lunch is here. Can you
14 check, Jackie? Is Jackie here?

15 THE BAILIFF: It's not here yet, Your Honor.

16 THE COURT: You can deal with that, fix it.

17 MS. CAMPBELL: I'll deal with it at the end.

18 THE COURT: All right. Bring them back in.

19 THE BAILIFF: Your Honor, it just arrived.

20 THE COURT: Okay. Perfect. Let's go ahead and
21 feed them lunch, and we'll go ahead and break for
22 lunch. Tell them they're going to have 45 minutes for
23 lunch, Mr. Dye. Tell them they're going to have 45
24 minutes for lunch, and we'll start back up at that
25 point.

1 THE BAILIFF: All right.

2 THE COURT: All right. Now, Investigator McCoy,
3 you are allowed to step down, use the facilities,
4 whatever you need to. You are not allowed to discuss
5 your testimony with anyone in any way, shape, or form.
6 Do you understand that?

7 THE WITNESS: Yes, Your Honor.

8 THE COURT: Do you have any questions about that?

9 THE WITNESS: None whatsoever.

10 THE COURT: Okay. Thank you very much..
11 Forty-five minutes for lunch.

12 (WHEREUPON, a lunch break was taken.)

13 (WHEREUPON, Court's Exhibit Number 16 was
14 marked for identification only.)

15 MS. CAMPBELL: Your Honor, they did redid it over
16 the lunch period. For some reason, the person who
17 needs to play it isn't here.

18 THE COURT: Okay.

19 MS. CAMPBELL: I apologize.

20 (Pause.)

21 MS. CAMPBELL: Your Honor, I don't know that this
22 is going to be probative, but I want to hand up State
23 vs. Dunlap.

24 MR. SCHNEE: That's on the new CD?

25 MS. CAMPBELL: That's what's reflected in the

1 transcript on the new CD. That's all hopeful.

2 MR. SCHNEE: All right. Let's just confirm those
3 hopes before we find them.

4 THE COURT: Is your client okay?

5 MR. KRZYSTON: I haven't heard anything to the
6 contrary.

7 THE COURT: Okay.

8 (Pause.)

9 Is Mr. Young on his way up here?

10 THE DEPUTY: Yes.

11 THE COURT: Thank you.

12 Did you get the audio?

13 MS. CAMPBELL: I don't know where the person who
14 plays it is, but I can just play it on the computer
15 since they aren't showing up for court.

16 THE COURT: Have you heard the portions you need
17 to hear?

18 MR. SCHNEE: I have, Your Honor.

19 THE COURT: Anything else before we bring in the
20 jury?

21 MR. SCHNEE: Not in that regard other than to
22 renew my objection about improper impeachment.

23 THE COURT: Okay.

24 MR. SCHNEE: That would cover it for that audio.

25 I don't know if they plan on using Investigator McCoy

1 or the phone video they talked about from Lorenzo. If
2 so, we still need to ---

3 MS. CAMPBELL: Investigator Reese saw that, too.
4 Since it's not in yet, I'll get him to identify it
5 rather than McCoy.

6 THE COURT: Okay.

7 MS. CAMPBELL: Because I didn't think about that
8 until he got on the stand, but it's not introduced
9 yet, so I'll do that when Reese is up there.

10 MS. SIMPSON: Judge, let's just play it on the
11 big TV to make sure it is the right audio before
12 coming up.

13 THE COURT: Make sure you get where you can hear
14 it.

15 MR. SCHNEE: Absolutely.

16 (WHEREUPON, the audio was played.)

17 MS. CAMPBELL: Apparently, Your Honor, we have it
18 fixed.

19 THE COURT: Okay. Great, let's bring them back
20 in.

21 MR. KRZYSTON: Judge, we are going to have an
22 issue with him when they call him.

23 THE COURT: That's not McCoy, is it?

24 MR. KRZYSTON: No, VanHouten.

25 THE COURT: Okay.

1 (WHEREUPON, the jury entered the courtroom at
2 1:50 P.M.)

3 THE BAILIFF: Jury is seated, Your Honor.

4 THE COURT: Okay. Thank you. Welcome back,
5 ladies and gentlemen.

6 Ms. Campbell, you may continue.

7 MS. CAMPBELL: Your Honor, at this time we'd ask
8 permission to publish State's Exhibit 440.

9 THE COURT: All right.

10 MS. CAMPBELL: You can play it from over there.

11 THE COURT: Okay.

12 BY MS. CAMPBELL:

13 Q And, again, for the record, this is part of your
14 recorded conversation with Latoya Barnes?

15 A That's correct. It occurred on August 9th, 2013.

16 (WHEREUPON, the audio was played for the jury.)

17 MS. CAMPBELL: Your Honor, permission to repeat
18 that because there was some commotion.

19 THE COURT: Yes, there was talking over anything.
20 Ask whatever question you want to ask first.

21 MS. CAMPBELL: I apologize.

22 THE COURT: Okay.

23 BY MS. CAMPBELL:

24 Q And this is from which conversation?

25 A This is a recorded phone conversation that I

1 recorded on the 9th of August 2013, around 3:21 the
2 P.M. This is a return phone call to Ms. Barnes.

3 Q This is just a little bit of that conversation
4 where you're talking about the video?

5 A Correct.

6 (WHEREUPON, the audio was played for the jury.)

7 MS. CAMPBELL: Thank you, Your Honor.

8 BY MS. CAMPBELL:

9 Q At some point, did you also request some
10 telephone records in this case?

11 A Yes, I did.

12 Q Specifically, I want to show you what's already
13 in evidence as State's Exhibit 402. Do you recognize
14 those?

15 A Yes, I do.

16 Q And are those some of the phone records you
17 requested via a search warrant?

18 A Yes, they are.

19 Q And when were these requested, do you recall?

20 A It was later on in the investigation. I believe
21 it was the beginning of 2014 or the end of 2013.

22 Q And what number is this that you requested?

23 A (803)463-0890.

24 Q Whose that number associated with?

25 A That was Rolanda Coleman and associated with

1 Lorenzo Young.

2 Q I want to show you State's Exhibit Number 395.

3 Is that a cell phone or a landline?

4 A That would be a landline.

5 Q The one we just did, the 402 was that a cell
6 phone?

7 A That was the mobile phone, cellular phone.

8 Q This is a landline?

9 A Yes, that's a land service line.

10 Q What address is this associated with?

11 A 2849 Lucille Drive.

12 Q And what that number? Did I already ask you the
13 number?

14 A You didn't, it's (803)748-0352.

15 Q And finally, for purposes here, State's
16 Exhibit 399. Again, is that a cell phone or a
17 landline?

18 A That would be a mobile cellular telephone.

19 Q You do a search warrant for these records, as
20 well? A That's correct, through Verizon
21 Wireless.

22 Q What number is that?

23 A (803)394-1430.

24 Q What number is that associated with? Who is
25 that?

1 A That's the number for Trenton Barnes.

2 Q I want to turn your attention to August 21st, did
3 you have another conversation with Ms. Brown?

4 A I did.

5 Q At this point was she able to give you her full
6 name?

7 A She did. Mary Brown.

8 Q You can't say what she said to you, but was she
9 able to give you additional information that was
10 useful to you in your investigation?

11 A Yes, she did.

12 Q On August 22nd who did you make contact with?

13 A Angela Moore, that's Donald Moore's mother.

14 Q Why were you calling her?

15 A To corroborate information.

16 MR. KRZYSTON: Objection.

17 THE COURT: What's the objection?

18 MR. KRZYSTON: Bolstering, Your Honor.

19 THE COURT: Overruled.

20 THE WITNESS: Just to corroborate some
21 information Donald had given me.

22 BY MS. CAMPBELL:

23 Q Did you talk to her?

24 A I did. That was recorded.

25 Q You can't say what she said, but she gave you

1 information?

2 A She did give me information, yes, that's correct.

3 Q I also --- that month did you try to contact
4 people at the Taste of Jamaica on Beltline Boulevard?

5 A I did, it was the 29th of August 2013, around
6 2:18 P.M.

7 Q Were they cooperative with you?

8 A No. I did speak with someone, but they weren't
9 very forthcoming with any information.

10 Q There were a number of shoes that were collected
11 in this case?

12 A Yes.

13 Q Were you able to determine from the quality of
14 the video of this incident, which shoes were worn?

15 A No, not exactly which shoes, a general outline or
16 style, but not what actual shoes they wore.

17 Q The black gloves in this case that were tested
18 for the presence of blood and gunshot residue?

19 A That's correct.

20 Q Where were those found?

21 A The bedroom closet of Lorenzo Young.

22 Q In this case, were you ever able from the time
23 this happened up until today to recover the guns that
24 were used in this case?

25 A No, we were never able to recover any of the

1 firearms used.

2 Q Were you able to recover the clothing, the red
3 hoodie or the dark gray hoodie?

4 A No, it was not recovered.

5 Q Is that unusual?

6 A That's not unusual in this type of investigation,
7 no.

8 Q You mentioned Troy Stevenson having pending
9 charges. Was he also charged with the murder?

10 A He was.

11 Q As well as attempted armed robbery, kidnapping
12 and burglary?

13 A That's correct, he was.

14 Q Finally, I want to show you what's been marked as
15 State's Exhibits 382 and 383, do you recognize those?

16 A I do. 382 is a cellular telephone. It's a
17 Verizon, a Motorola Droid cellular phone through
18 Verizon Wireless. It was identified by Trenton
19 Barnes. He identified it as his phone.

20 Q Where was that recovered?

21 A That was recovered at Mr. Barnes' residence at
22 2849 Lucille Drive.

23 Q And then 383?

24 A This was a cell phone, Boomerang LG cell phone.
25 I believe this was Troy's.

1 MS. CAMPBELL: Okay. Your Honor, at this time,
2 we'd offer these into evidence.

3 MR. KRZYSTON: Judge, we would object based on
4 relevance for 383 and have no objection to 382. I
5 would note for the record that we haven't been given
6 any information. Oh, I'm sorry.

7 THE COURT: Mr. Schnee, any objection?

8 MS. CAMPBELL: Do you want to see them?

9 MR. SCHNEE: Yes.

10 MS. CAMPBELL: Sure.

11 (Pause.)

12 MR. SCHNEE: I have no objection either.

13 THE COURT: All right. Admitted over Defendant
14 Young's objection.

15 (WHEREUPON, State's Exhibit Numbers 382 and 383
16 were admitted into evidence.)

17 (WHEREUPON, State's Exhibit Numbers 443 and 436
18 were marked for identification only.)

19 BY MS. CAMPBELL:

20 Q Finally, I want to show you 443, 436.

21 A Right.

22 Q I want to show you these photos and ask if you
23 recognize these areas?

24 A I do recognize these, at least this area. Yes, I
25 recognize that, as well.

1 Q And do these show different areas depicting the
2 Lucille Drive, Bronx Avenue, Lorick Circle. Do you
3 recognize these different areas in town?

4 A That's correct, City of Columbia, yes.

5 MS. CAMPBELL: Your Honor, at this time I'd offer
6 these into evidence.

7 MR. KRZYSTON: No objection, Your Honor.

8 MR. SCHNEE: No objection.

9 (WHEREUPON, State's Exhibit Numbers 443, 436 were
10 admitted into evidence.)

11 MS. CAMPBELL: Your Honor, may the witness step
12 down?

13 THE COURT: Yes, ma'am.

14 BY MS. CAMPBELL:

15 Q Let me ask you this, Lucille Drive to the bakery
16 on Tommy Circle, is that walkable?

17 A Very, yes.

18 Q And you're on this side and so I'm over here.
19 What's shown on State's Exhibit --- what's the exhibit
20 number there?

21 A This is 436, exhibit number 436. Here you have
22 the addresses. Of course, 93 Tommy Circle is the
23 Carolina Café Catering & Bakery. That's the incident
24 location for the murder.

25 Q Okay. Where is Tommy Circle on here? Can you

1 actually see it?

2 A You can, it's right here. The bakery building
3 and the Ale House right here. Bakery is right here
4 and they call it Tommy Circle is the Road.

5 Q Let me get you a pointer.

6 A Okay. Great.

7 Q I apologize.

8 A That's all right.

9 Q You can't get in front of them.

10 A Thanks so much.

11 Where the pinpoint is the actual building of the
12 93 Tommy Circle address. Of course, next door would
13 be the Ale House. Then the little road here that
14 looks like a half moon, if you will, is Tommy Circle.
15 That's the actual road.

16 Q And the big road that runs through the middle
17 there, what is that road?

18 A This is north to Beltline Boulevard. Two Notch
19 is here.

20 Q And then if you cross over coming from Tommy
21 Circle and cross over, where is Lucille Drive
22 approximately?

23 A Well, when you come across ---

24 Q It's covered up here.

25 A It is. When you come across the road it's almost

1 like a diagonal, I would say. From the incident
2 location, you would run into Bonner Avenue. There's
3 several roads that offshoot off Bonner. One of them
4 is Lucille Drive. 2849 is about midway down on the
5 left side.

6 Q Okay. Can you say --- as far as how many blocks
7 away it is --- well, it's on this map, correct?

8 A Yes. I'm approximating, but I would say it's
9 probably five to six city blocks maybe, just
10 approximating.

11 Q There's also been a reference to Bronx Road where
12 Lorenzo Young lived?

13 A Yes.

14 Q Is that shown here in the Belvedere community?

15 A It is. The Belvedere community is up in this
16 general area, off of Two Notch Road here and 3054
17 Bronx would be about where the pointer is at. It's a
18 little down Bronx Road on the right hand side coming
19 from Two Notch.

20 Q And then I want to show you what's been marked as
21 State's Exhibit 443 and does this show a broader
22 overview of the Columbia area?

23 A It does. It does. This is, of course, you have
24 277 here, which runs down Farrow Road, just to give
25 you some idea where we're talking about, Beltline. Of

1 course, you have the Bronx Road address here, 3054
2 would be here and then over here, which runs off of
3 North Main Street and Lorick Avenue, North Main would
4 be up in this area where you see all the lines here.
5 You have this Lorick Circle and that's an apartment
6 complex.

7 Q And who was actually found in the apartment at
8 Lorick Circle?

9 THE WITNESS: Lorenzo Young was ---

10 MR. KRZYSTON: Objection, Your Honor, prior
11 objection.

12 THE COURT: Overruled.

13 THE WITNESS: Lorenzo Young was located inside
14 the apartment on Lorick Circle.

15 BY MS. CAMPBELL:

16 Q Okay. Thank you very much.

17 As far as the people that you testified to living
18 in the Bronx Avenue home, Lorenzo Young, do you see
19 him in the courtroom?

20 A I do see him in the courtroom today.

21 Q Can you point him out for the jury?

22 A He has the blue shirt on with a --- I'm having a
23 hard time telling the tie. He is the black male
24 sitting between his defense counsel there at the
25 center table.

1 Q And Trenton Barnes?

2 A Trenton Barnes is there with the black shirt on
3 seated at the end table with his attorney, Mr. Schnee.

4 MS. CAMPBELL: Your Honor, may the record reflect
5 he has identified both defendants.

6 THE COURT: So reflected.

7 MS. CAMPBELL: Thank you, sir. I don't have
8 anything further.

9 THE COURT: Cross?

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

12 THE COURT: Yes, sir.

13 MR. KRZYSTON: Thank you, sir.

14 CROSS-EXAMINATION:

15 BY MR. KRZYSTON:

16 Q How are you doing today, McCoy?

17 A Doing well. How are you, sir?

18 Q Pretty good. Okay. Now, you became an
19 investigator when?

20 A I was promoted in December of 2012. I was
21 assigned to investigations, I believe, it was April or
22 May of 2012, as a patrolman, but as a patrolman
23 investigator.

24 Q And before that you were on --- you were employed
25 by CPD and you were doing what? You were a beat

1 officer?

2 A I was a patrol officer. Yes, in 2008, I was
3 hired. Of course, I went through the training that's
4 required by the department and the state and then I
5 was a patrolman, basically answering calls for
6 service.

7 Q And part of the reason you start off on beat, if
8 you will, is to kind of get the lay of the land, see
9 who all is in the neighborhood, kind of start to
10 establish a connection, if you will?

11 A Well, part of it. A lot of it is (A) you have to
12 learn the laws and you have to learn how to do
13 paperwork and how that goes together and then, of
14 course, get an idea of area that your patrolling. We
15 don't know every area. We don't patrol every area. I
16 was assigned to the North Region, which would have
17 been North Main, Farrow Road, Monticello Road --- not
18 this particular --- this was the Metro Region that
19 this occurred in.

20 Q Okay. And part of that experience that you're
21 getting is talking people, writing reports, writing
22 notes, all the kind of basic stuff that you need to
23 kind of be to build a good investigator?

24 A That's correct.

25 Q And, in fact, as an investigator one of the most

1 important things that you can do is pretty much pay
2 attention to detail, correct?

3 A That's correct.

4 Q Part of that reason is because even if your made
5 even a small mistake early on, later on down the road
6 that can create a big problem, right?

7 A Well, it can be resolved if there is a mistake
8 that's found.

9 Q Okay.

10 A That's correct.

11 Q And in making sure that you don't make a mistake
12 it's very important to pay attention to detail and
13 it's very important and becomes very important,
14 especially later on, to be able to recall the details
15 of the investigation you did?

16 A That's correct, as best you can, sure.

17 Q Because somebody's freedom is at stake here
18 ultimately?

19 A You're, right.

20 Q And when you became a police officer, you took an
21 oath, and I don't know word for word what you took?

22 A Uh-huh.

23 Q Or what you swore, but the general essence or the
24 general nature of that oath is that you're going to be
25 fair?

1 A Uh-huh.

2 Q Correct?

3 A Well, the oath yeah is to uphold the constitution
4 of the United States and of the State and to protect
5 the rights of those people that you protect and that
6 you serve.

7 Q Right. And obviously, I mean, you serve
8 everybody in Columbia. I mean, your job is to
9 investigate when things go wrong?

10 A You're correct, yes, sir.

11 Q It's very important to be fair to all the parties
12 whether they're accused or not?

13 A Yes.

14 Q And it's very important to get all the
15 information?

16 A Correct.

17 Q In fact, you could say it's four things, if you
18 were to narrow it down to four things, it would be
19 that you're fair, accurate, complete and true in
20 writing your reports and doing your investigation,
21 correct?

22 A Yes, those would be some of the good aspects,
23 yes.

24 Q That's your goal, in general, whenever you do an
25 investigation is to be fair, accurate, complete, and

1 true.

2 A Correct. I want to be fair, I want to be
3 accurate and I want the truth to come out.

4 Q Because you want to put away the right person,
5 correct?

6 A Well, I want to make sure that the proper person
7 who committed the crime is brought in before the court
8 of law and allow the jury to hear the testimony and
9 the evidence to make a decision.

10 Q Basically you want to do what justice requires?

11 A I want to do what my job and my oath requires,
12 yes, sir.

13 Q Now, when you get a big case, a case that piques
14 the interest of the media, piques the interest of the
15 public, you know in advance that there's going to be a
16 lot of information on that case, right?

17 A Well, not necessarily. I mean, as far as
18 witnesses coming forward or ...

19 Q Well, just, you know, it's going to be important
20 and there's going to be a lot of stuff to gather?

21 A Well, every case I work, especially homicides, is
22 important, especially for the victim's family. So I
23 would say every case I have is important.

24 Q Okay. And when you're doing --- I mean, you're
25 in the violent crimes against person's unit, is that

1 correct?

2 A Yes, sir.

3 Q And anytime there's a case that involves that,
4 it's going to be important?

5 A That's correct.

6 Q And anytime there's a case involving a violent
7 crime, there's going to be a lot of information?

8 A It just depends on the case really. It depends
9 on who comes forward as far as the case is concerned
10 and who is involved in the case.

11 Q Right. But generally there's going to be more
12 information than say a routine trespassing or
13 something like that?

14 A You'll have more --- sure you'll talk to more
15 people and there's more people involved than just a
16 routine trespass.

17 Q Part of being fair, accurate, complete, and true
18 in these types of cases is taking good notes.

19 A Correct.

20 Q And following up on your investigation?

21 A Yes.

22 Q And you keep --- I'm sorry to cut back and forth,
23 but whenever you start a case, you start taking notes,
24 correct?

25 A Yes, typically so we can refer back to them in

1 the meetings and whatnot, yes.

2 Q And like I said it's extremely important to get
3 your notes correct because we could have a trial like
4 in this case like 18 months down the road or it could
5 be 36 months down the road. You never know, right,
6 but it could be awhile.

7 A Correct. It's good to have notes to refer back
8 to in trial.

9 Q And it's also good that, if during the life of
10 the investigation, you have to update those notes,
11 correct?

12 A Correct.

13 Q Because again, there could be a delay in between
14 your investigation, when your investigation takes
15 place and when the matter actually comes to trial,
16 like today?

17 A Sure.

18 Q Now, let's talk a little bit about this
19 particular incident, okay. You started investigating
20 this homicide pretty much as soon as it happened?

21 A It was certainly within several hours, yes,
22 you're correct.

23 Q And a uniformed officer was on the scene probably
24 would you say half an hour, 45 minutes?

25 A I would say it was less than that. It was

1 several minutes he was on the scene.

2 Q And then by noon on the day of July 1st, which
3 was the date that these allegations occurred?

4 A Uh-huh.

5 Q By noon or one o'clock that day, you had a
6 briefing down at Columbia Police Department, correct?

7 A It was around that time. Let's see.

8 Q Maybe 1:30?

9 A I would go with probably closer to two. I was at
10 Lexington County by noon, between noon and one
11 o'clock. So it would have been about 2:30.

12 Q Okay.

13 A I'm estimating. I don't know.

14 Q While we're on Lexington County, you got some
15 stills from, is it Mike Phelps over at Lexington
16 County?

17 A I believe it was. He is a crime scene analyst
18 there. So I believe it was. Yes, Investigator Phelps
19 over at Lexington County sheriff's office.

20 Q You testified earlier that you had obtained some
21 stills from him, correct?

22 A Correct.

23 Q And I believe you had originally discussed with
24 him clarifying or enhancing the video that the jury
25 has seen a couple times of the actual incident at 93

1 Tommy Circle.

2 A Trying to clear it up, correct.

3 Q And what he told you at that point was that his
4 enhancement software or whatever stuff he used to
5 enhance that video was broken down, correct?

6 A That's correct. It was inoperable at that point
7 in time, yes.

8 Q And he told you that if you wanted the video, you
9 needed to call back and check back with him later on?

10 A Right. If it was needed later on, that we would
11 get back with them.

12 Q Okay. But getting back to the actual incident
13 that we're talking about, you started investigating
14 right away?

15 A Sure.

16 Q And then you had the briefing?

17 A Yes, sir.

18 Q And at that briefing, every investigator that was
19 present and also under the VCAP unit, the violent
20 crimes unit, was tasked or assigned to help you out
21 during the initial phases of this investigation?

22 A Right. Every one that was there. I would say
23 the entire VCAP unit was there, but there might have
24 been one or two that was on vacation. I don't recall.
25 I know some specific investigators that were involved

1 and were tasked to do things. Sometimes investigators
2 will come in and out to help us with investigations,
3 but I don't know if they were there that day or not,
4 but yes, they were tasked with certain tasks to carry
5 out.

6 Q And we won't say every single investigator, but
7 in general --- I'd say the vast majority of
8 investigators were from that unit were in that
9 briefing, correct?

10 A We had quite a few VCAP, as well as other
11 officers that were aiding us. Yeah, it was a roomful.

12 Q So it would be fair to say that you had a pretty
13 decent amount of manpower there initially?

14 A Sure.

15 Q Okay. And in fact, it probably doesn't surprise
16 you that there are 42 police witnesses in this case,
17 42?

18 A I'd have to take your word on it. I'd have to
19 count them.

20 Q That wouldn't be ---

21 A It wouldn't surprise me, no.

22 Q Okay. Now I want to talk a little bit about what
23 you learned ---

24 A Okay.

25 Q --- when you were talking some of these people?

1 A Okay.

2 Q Now, on July 3rd, you learned the names Deandre
3 Olds and Dontrell Weathers, correct?

4 A July 3rd?

5 Q Yes.

6 A I don't recall those names.

7 Q They were in the Crimestoppers tips. Do your
8 need to take a look at them or something?

9 A Oh, do you have a the Crimestoppers tips?

10 MS. CAMPBELL: We may.

11 MS. CAMPBELL: Objection, Your Honor. This is my
12 fault. We didn't --- may I approach?

13 THE COURT: Yes.

14 (WHEREUPON, a bench conference was held in the
15 presence, but not within the hearing of the
16 jury.)

17 MR. KRZYSTON: All right. We'll move on. On
18 July 5th you learned that Marquis Johnson and Sequan
19 Williams may have information regarding this crime.

20 A July 5th --- I recall the names. I don't recall
21 the interview we were doing at the time.

22 Q Right. But you recall the fact that Marquis ---
23 excuse me, Marcus Johnson and Marquis Johnson possibly
24 had information in regards to this?

25 A The names came up during a phone conversation

1 with someone, yes.

2 Q Okay. And during that conversation you were told
3 that the person you really needed to be speaking to
4 was Marcus Haley Johnson, Shorty.

5 A I was told that there was word on the street, if
6 you will, or maybe there is some type of connection,
7 but no definitive.

8 Q Actual information?

9 A That he was involved or that he knew anything
10 more than was already advised in the previous
11 interviews I had done.

12 Q And you actually had a phone conversation on
13 August 9th where you also heard the names Marquis
14 Johnson and Sequan Williams?

15 A That's the phone call I'm referring to.

16 Q Uh-huh.

17 A What I was just referring to was the names. I'm
18 not sure on the 5th --- I can't recall that unless you
19 can advise me of the ---

20 Q Also, in that phone conversation you received the
21 name Azo?

22 A The nickname, Azo came out. Not in the phone
23 call conversation I don't believe. As involved in
24 this case?

25 Q No, just has having possible involvement?

1 A Not possible information, but the name came out
2 as a place where some individuals may have been prior
3 to any involvement in the incident.

4 Q Right, so I mean, the individuals may have been
5 at this Azo's house.

6 A Sure. That would be a good way to describe it,
7 yes.

8 Q And you also learned again that Marquis Johnson,
9 Sequan Williams and Marcus Haley Johnson also had the
10 same type and nature of information that may have been
11 around these individuals?

12 A Correct. They may have been hanging around with
13 them.

14 Q Okay. Where are your notes from talking to
15 Marcus Haley Johnson?

16 A I never interviewed Marcus Haley Johnson.

17 Q Where are your notes from talking to Marquis
18 Johnson?

19 A I never interviewed Marquis Johnson.

20 Q And how about your notes for Sequan Williams?

21 A I never interviewed Sequan Williams.

22 Q Now lastly, in March of 2014, you talked to
23 somebody and you got kind of a large list of names
24 because you learned a bunch of information at that
25 time?

1 A That's correct. I had an interview with an
2 individual and some names came up, as well.

3 Q Okay. And one of those names was Azo, right?

4 A Azo was one of the names mentioned, yes.

5 Q You already said no notes, didn't end up talking
6 to him?

7 A I never identified Azo.

8 Q And you already said --- Marcus Haley Johnson was
9 one of those, but you don't have any notes from that,
10 right?

11 A As far as talking to Marcus Haley Johnson, no, I
12 don't. I never talked to him.

13 Q You never talked to him?

14 A No.

15 Q Okay. During that conversation you also learned
16 that Ashley Carter, also known as Piggy may have
17 information?

18 A Well, not information on the case. I had
19 information that Ashley Carter was Troy Stevenson's
20 girlfriend.

21 Q But she may know something ---

22 A It's hard because getting into the --- I can't get
23 into the interview of what was actually advised of me,
24 but during this interview the individual advised me of
25 information that each person may have had or any

1 involvement or knowledge that they may have what. For
2 most of these names there was no definitive --- they
3 had no information knowledge about what had taken
4 place.

5 Q Do you have your notes from Ms. Carter's
6 interview there?

7 A I did not speak to Ms. Carter.

8 Q No notes from Sequan?

9 A Correct.

10 Q Now, Darryl Samuels, you were told about his
11 name, correct?

12 A His name came up, as well, yes.

13 Q Can you turn to your notes about that?

14 A No, I didn't talk to Darryl Samuels.

15 Q Anthony Nelson, his name was dropped in that
16 interview, too?

17 A Yes, and Anthony Nelson came up as well.

18 Q How about any notes from speaking to Mr. Nelson?

19 A Didn't speak to Mr. Nelson.

20 Q Didn't speak to Mr. Nelson. All right.

21 Joshua Green and Tyreek Taylor they both came up in
22 that interview, too, didn't they?

23 A Yes, all those names came up during the same
24 interview that they were at the home after the
25 incident occurred, but not that they had any knowledge

1 or direct involvement at all in this case.

2 Q Okay. Do you have the notes from that interview?

3 A No, I never spoke to them.

4 Q Never spoke to either of them, Tyreek or Anthony?

5 A You're correct.

6 Q Joshua, I'm sorry?

7 A Joshua green, that's right.

8 Q Okay. Now some other names, Donovan and Smiley
9 and we never got a last name for them, did we?

10 A No, I never was able to identify them based on
11 the information given.

12 Q Do you have any notes for that interview?

13 A No, I couldn't identify them so I ---

14 Q Okay. Now, we've got Cornelius Williams?

15 A I believe that was Sequan Williams. I don't
16 recall a Cornelius Williams.

17 Q Okay, so no notes from him either?

18 A I don't recall his name coming up.

19 Q And lastly, Donald Moore who we heard testify
20 earlier?

21 A Yes, that was one of the final names that came up
22 was Donald Moore.

23 Q Donald, you did take some notes on that, right?

24 A As far as when I interviewed him, yes.

25 Q So of those 12 or 13 people, we got notes from

1 Donald Moore and that was it?

2 A Correct, Donald Moore was the one that was
3 interviewed, yes, prior to these names.

4 Q And it was your testimony today that you don't
5 have any knowledge as to what those other 12 people
6 know?

7 A Well, I have knowledge what those 12 people know,
8 yes, from the information that I got and how I got
9 their names.

10 Q But no notes or interviews from them?

11 A You are correct, that's right.

12 MR. KRZYSTON: No further questions, Judge.

13 THE COURT: Cross?

14 MR. SCHNEE: May it please the Court.

15 THE COURT: Yes, sir.

16 CROSS-EXAMINATION:

17 BY MR. SCHNEE:

18 Q Mr. McCoy, let's just start off right where
19 defense counsel left off. You had an interview in
20 March of 2014, with a potential witness, right?

21 A With an individual. He wasn't a witness.

22 Q Okay. You had an interview?

23 A That's correct.

24 Q With an individual?

25 A That's correct.

1 Q March 24, 2014?

2 A Yes, around that time, yes.

3 Q Okay. Lasted about two hours?

4 A It was an hour and 40 some minutes.

5 Q Okay. Can I see your hand written notes for
6 that?

7 A I didn't take any handwritten notes during that
8 time.

9 Q You didn't take any notes during that interview?

10 A No, I don't recall taking any notes during that
11 interview.

12 Q Did you say during that interview that you were
13 going to be taking notes?

14 A Yes, I did make a comment that I was writing
15 something down, is what I stated.

16 Q Did you say, "Hold on, I have to write this
17 down"?

18 A That's correct.

19 Q Did you write anything down at that point?

20 A Not that I recall, no.

21 Q So you said, "Hold on let me write this down."

22 A There are times we don't write notes down when
23 we're interviewing individuals, especially if they're
24 going quickly and we're obtaining information from
25 them. A lot of times, I'll use as kind of a stop gap

1 where I can think about other questions to come up
2 with.

3 Q Okay.

4 A I don't recall taking anyone notes during the
5 interview.

6 Q You don't recall taking any notes even though you
7 said, "Stop, I have to write this down. It's really
8 important"?

9 A Correct. There's no notes in the file and I
10 don't recall taking them.

11 Q Okay. Well, you have your typed out case notes,
12 right?

13 A That's correct. I have them here. I have a copy
14 here.

15 Q I have just want to make sure?

16 A Sure.

17 Q This is the copy I received. Does that end the
18 same place that yours end?

19 A I'll take a look.

20 (Pause.)

21 No, yours ends --- unless you have them out of
22 order, a few months prior to mine.

23 Q May I take a look at yours?

24 A Sure. You sure can. That's my last page there.
25 Yours are out of order. That's your last page.

1 MR. SCHNEE: Judge, just a brief matter of law
2 we'll need to take up.

3 THE COURT: All right. Ladies and gentlemen, if
4 you'll step to your jury room. Do not discuss the
5 case. Keep an open mind.

6 (WHEREUPON, the jury left the courtroom at 2:24
7 P.M.)

8 THE COURT: Okay.

9 MR. SCHNEE: Judge, there are two entries in his
10 typed up case notes that we have never seen. This is
11 a violation of Brady, Rule 5, Riddle along with every
12 other discovery issue we've had.

13 MR. KRZYSTON: We'd join in Mr. Schnee's motion.

14 MS. CAMPBELL: May I see what you're referring to
15 that you don't have?

16 MR. SCHNEE: It is --- I will admit it's nothing
17 earth shattering. It's the last two entries. The one
18 that starts on 1126.

19 MS. CAMPBELL: Your Honor, I can get the
20 discovery sheet where this was turned over. I know
21 that first, the original one, didn't have those
22 additional two entries. In addition to that, we
23 begged Mr. Schnee to come and meet with us and go over
24 discovery, and he didn't see fit.

25 THE COURT: Can I see it?

1 MS. CAMPBELL: Yes, sir. It starts --- I believe
2 the entries are "... we prepared search warrants, the
3 search warrants were provided ..." and then the last
4 statement on the last page.

5 MR. SCHNEE: This is the copy that we were
6 provided, Judge.

7 MR. KRZYSTON: And, Judge, just for the record,
8 we actually did meet with Ms. Simpson, I believe on
9 two occasions, and at that time all of our case --- I
10 believe these are case notes? Our case notes and
11 Ms. Simpson's case notes ended on August 29th.

12 THE COURT: Do you want to see what this says
13 before you have an objection about it?

14 MR. KRZYSTON: I'm certainly happy to read it,
15 Your Honor. May I approach?

16 THE COURT: Yes.

17 MR. KRZYSTON: Thank you.

18 (WHEREUPON, there was a bench conference.)

19 MR. KRZYSTON: Thank you, Judge.

20 MS. GARFIELD: I'm sorry, Judge. What are they
21 saying they never got?

22 THE COURT: They're saying in McCoy's case notes,
23 the entries that are dated November 26th, 2013, and
24 December 4th, 2013 were never turned over.

25 MS. GARFIELD: Judge, I met with McCoy. I made

1 copy of everything I turned over and gave him an
2 opportunity to come look at my notebook and meet with
3 McCoy himself.

4 THE COURT: What is in your notebook?

5 MS. GARFIELD: I'm getting it.

6 (Pause.)

7 MR. KRZYSTON: Judge, I would maintain my
8 objection.

9 MS. GARFIELD: The last entry in my notes on my
10 notebook is --- I'm sorry. The last entry of notes in
11 my notebook are entitled August 29th, 2013.

12 Investigator McCoy then gave me a CD of everything in
13 his file and we made duplicates of that and turned it
14 over.

15 MS. CAMPBELL: We'll go get that.

16 THE COURT: How is this exculpatory or mitigating
17 something.

18 MR. SCHNEE: Judge, my issue not the content of
19 the information.

20 THE COURT: Well, your issue has to be the
21 content of that information.

22 MR. SCHNEE: No.

23 THE COURT: Because otherwise you're not entitled
24 to it.

25 MR. SCHNEE: Judge, my issue is yet again there

1 is a delayed disclosure and I have serious concerns
2 that I actually have everything at this point.

3 THE COURT: Well, you can have serious concerns
4 all you want to, but you have to show that the
5 information that was contained that was not turned
6 over is exculpatory or mitigating toward your client.
7 This information is --- he says that he prepared in
8 four search warrants, which everybody has been on
9 notice of and we discussed the majority of the trial
10 and that on one day Mr. Young was interviewed and says
11 your client is the shooter, so I don't know how that
12 is exculpatory or mitigating toward your client.

13 MR. SCHNEE: Well, Judge, it certainly is
14 material to innocence and/or guilt which is the
15 definition of Brady. My problem ---

16 THE COURT: How is it --- I mean, that statement
17 makes no sense. It's got to be exculpatory, which
18 would mean your client didn't do it.

19 MR. SCHNEE: Judge, my ---

20 THE COURT: How is it exculpatory or mitigating
21 toward Mr. Barnes?

22 MR. SCHNEE: Judge, I'm not saying it is. My
23 issue is this delayed disclosure of this
24 investigator's actual report that we were told
25 multiple times we have absolutely everything the

1 investigators do. We've gone through this multiple
2 times and now in the middle of cross-examination he
3 has a copy of a report that I don't have. That's a
4 problem.

5 MS. CAMPBELL: I'm sorry.

6 MR. SCHNEE: Go ahead.

7 MS. CAMPBELL: I apologize. Your Honor, In
8 addition to that, the entries, one refers to the
9 search warrants which were provided. The other entry
10 refers to an interview which was provided, but it's
11 not new or different information. And I'm getting the
12 CD, as well, Your Honor, where it was turned over
13 again in August or September?

14 MS. GARFIELD: This was after.

15 MS. CAMPBELL: This has been in the last two
16 weeks. But we'll get that to you and make it a part
17 of the record.

18 THE COURT: Okay. All right. Any notion regards
19 to this anyone's side is denied.

20 MR. SCHNEE: Yes, Your Honor. I would renew my
21 Brady and Rule 5 motions to ensure that I actually
22 have everything that I am supposed to have, every
23 scrap of paper from law enforcement which clearly I
24 don't or at least still not yet despite the fact that
25 we are probably in the very last day of testimony if

1 not close to it, so I would renew that motions and
2 request a mistrial based on yet another delayed
3 disclosure.

4 THE COURT: Every scrap of paper is not the
5 standard.

6 MR. SCHNEE: It's everything that goes to ---
7 that's material for impeachment, inculpatory,
8 exculpatory.

9 THE COURT: That's actually not correct.

10 MR. SCHNEE: For Brady it's anything material to
11 guilt and/or punishment.

12 THE COURT: Mr. Schnee, you have an interesting
13 view of the discovery rules, however, this material,
14 number one, you've already been provided all of it.
15 Number two, it's not exculpatory or mitigating toward
16 your client. As to Mr. Young, they already knew about
17 it from the interview and from the search warrant, so
18 it should have been in the entire time. All right.
19 We're moving on. Bring the jury back.

20 MS. GARFIELD: Judge, since there's been prior
21 allegations brought up on Mr. Schnee's part ---

22 THE COURT: That's the cops.

23 MS. GARFIELD: --- my concern is --- I just want
24 the record to reflect that there was opportunity for
25 Mr. Schnee to come over anytime. I welcome that. I

1 prefer that. It never happened.

2 MR. SCHNEE: Before the jury comes in, could I
3 least get a copy of that final report?

4 THE COURT: Sure, I don't have a law clerk.
5 Jackie, can you make a copy of it?

6 THE BAILIFF: The jury is seated.

7 THE COURT: All right. Mr. Schnee.

8 (WHEREUPON, the jury entered the courtroom at
9 2:33 P.M.)

10 BY MR. SCHNEE:

11 Q Mr. McCoy, would you agree or disagree that
12 taking careful notes is an important part of your job?

13 A Yes, I would agree.

14 Q Would you agree or disagree that interviewing
15 witnesses that have potential information are an
16 important part of your job?

17 A Yes, I would agree.

18 Q Would you agree that when you are given the name
19 of a person who has potential information that it is
20 incumbent on you, as the investigator, to at least
21 attempt talk to them?

22 A It depends on the information given, where the
23 information is coming from, and what information they
24 would have had or might have had.

25 Q Okay. Well, for example if someone had said

1 Mr. X may have been one to dispose of the guns, just
2 as an example, would you feel it's important to
3 interview Mr. X about that issue?

4 A If we hadn't already interviewed or interviewed
5 about that topic, yes.

6 Q Okay. Now, I want to go back to a few things
7 that you said during your direct exam. You said you
8 did not try to collect fingerprints at all at the
9 bakery?

10 A Right. The crime scene investigator did not try
11 to collect fingerprints. The testimony was we did
12 not. I don't collect fingerprints.

13 Q Right, as a unit of law enforcement, you made no
14 attempt to collect fingerprints?

15 A You're correct, yes.

16 Q And do you remember testifying in this case back
17 on --- what date was this? Looks like Monday,
18 November 23rd at the preliminary hearing. Do you
19 remember that?

20 A It was a preliminary hearing for this case?

21 Q Yes.

22 A I recall testifying, yes.

23 Q Okay. Do you know what that document is?

24 A It looks like --- is it a transcript?

25 Q Yes.

1 A Okay.

2 Q And on there does it say what the case name and
3 caption is?

4 A Yes, it is the State of South Carolina v. Lorenzo
5 Young.

6 Q Okay. And this would be the date?

7 A Monday the 25th of November, 2013, approximately
8 2:22 P.M.

9 Q Okay. Turn to page nine.

10 A Nine?

11 Q Oh, I'm sorry

12 A Seven.

13 Q I'm sorry, line nine. It says, and you correct
14 me if I'm wrong, this is --- you're testifying, right?

15 A Uh-huh.

16 Q He said we went back, did DNA swabs and tried to
17 take any kind of fingerprints that we could. Right?

18 A Correct.

19 Q And then you even clarified and said dust for
20 fingerprints?

21 A Right, I did.

22 Q And that's what you said in November of 2013 that
23 you tried to go and get fingerprints?

24 A Right. I misspoke.

25 Q You misspoke?

1 A That's correct.

2 Q So you said try to get fingerprints and then
3 corrected yourself and said I'm sorry, dust for
4 fingerprints. That's what you said in here?

5 A That's what I said in here, yes, that's correct.

6 Q All right.

7 Q I've just been handed the last page of your typed
8 notes. That entry ends on December 4, 2013?

9 A You're correct.

10 Q You interviewed a witness on March 24th, 2013?

11 A 2014.

12 Q 2014.

13 A That's correct.

14 Q Can you show me where you wrote down anywhere
15 that you even interviewed that person?

16 A I did not put it in my notes. It was
17 memorialized via audio recording into the case file.

18 Q And that wasn't turned over until, I believe,
19 October of this year?

20 A Which, the case file or the audio recording?

21 Q The audio recording.

22 A I don't recall exactly when it was turned over.
23 It was turned over to the solicitor's office. I don't
24 have a date for you.

25 Q It was October 26th; isn't that right?

1 A I don't recall the date, again, but it was turned
2 over prior to trial.

3 Q Prior to trial, but you didn't put anything in
4 your written notes at all or your typed up report that
5 you even had that interview?

6 A That's correct. As I said, it was audio recorded
7 and stored in the case file.

8 Q Okay. Now, as part of your training, I believe
9 you said you're taught about the law?

10 A Correct.

11 Q Okay.

12 A Criminal aspect of society.

13 Q Okay, you're taught certain things about the law?

14 A Yes.

15 Q Okay. You're taught about what crimes are?

16 A Yes.

17 Q You're taught the elements of crimes?

18 A Yes.

19 Q Okay. You're also taught what you as an officer
20 are allowed to do, right?

21 A Correct, within the constitution, yes.

22 Q And as a police officer, you're taught what
23 you're not allowed to do?

24 A Correct.

25 Q And you even said that your oath is to protect

1 constitutional rights of the community?

2 A That's correct. I said that, yes.

3 Q And every case is important to you, right?

4 A It is.

5 Q And in order to protect the constitutional rights
6 of the community, you would agree with me that you
7 can't go out and commit crimes as part of your job?

8 A As part of my --- commit crimes as part of my
9 duties?

10 Q Right, on your job?

11 A Right. I'm not supposed commit crimes, yes,
12 you're correct.

13 Q Okay. Now when you question individuals that you
14 think may be suspected of a crime, you're required to
15 read them what's called Miranda rights?

16 A Correct.

17 Q Okay.

18 A Well, it depends.

19 Q If your questioning them?

20 A It depends.

21 Q Custody?

22 A If they're in custody, they're under arrest or in
23 the custody of the police department and we are going
24 question them regarding the circumstances of that
25 custody or what they're being charged with.

- 1 Q Uh-huh.
- 2 A Then yes, you're correct.
- 3 Q You tell them that they don't have to talk to
4 you. They have the right to remain silent?
- 5 A Yes.
- 6 Q They have a right to an attorney?
- 7 A Correct.
- 8 Q If they can't afford one, one will be provided?
- 9 A That's correct.
- 10 Q You also tell them they don't have to answer any
11 questions at all if they don't want to?
- 12 A That's correct and they can stop at any time.
- 13 Q Now, after that you normally go through if they
14 agree with that and want to talk to you, and you ask
15 them if they want to talk to you, correct?
- 16 A Correct.
- 17 Q You ask if they have been threatened, right?
- 18 Q Right.
- 19 A Threatened or coerced to talk to us, right.
- 20 Q Threatened or coerced, right, you ask then that.
- 21 A Right, I do.
- 22 Q Okay. Because if someone has been threatened or
23 coerced you can't actually take a statement from them,
24 can you?
- 25 A If we have threatened or coerced them for them to

1 make a statement, for them to waive their rights,
2 that's correct.

3 Q Okay. You would agree with me that you can't
4 threaten suspects. You, as a police officer in an
5 interrogation, cannot threaten suspects, yes or no?

6 A Threaten suspects with?

7 Q With anything. You can't threaten them, can you?

8 A No, you can't threaten a suspect.

9 Q Okay.

10 Q In the interviews in this case, did you threaten
11 a suspect by sticking a needle --- with the threat of
12 sticking a needle in their arm?

13 A I did not threaten a suspect that I would stick a
14 needle in someone's arm, no.

15 Q Did you say, yes or no, "the only thing that's
16 going to keep a needle from going in your arm is if
17 you're fucking honest with me?"

18 A I did say that.

19 Q To a suspect?

20 A I did.

21 Q You know that's illegal, don't you?

22 A Excuse me?

23 Q That's against the law, isn't it?

24 A No, I was not aware that it was against law.

25 Q You're unaware in all your training ---

1 MS. CAMPBELL: Objection, Your Honor.

2 THE COURT: What's the objection?

3 MS. CAMPBELL: I believe it's gone beyond the
4 scope of what we discussed.

5 THE COURT: Sustained.

6 MR. SCHNEE: I hadn't finished my question.

7 BY MR. SCHNEE:

8 Q It's part of your training to --- let me get this
9 straight. You are unaware that threatening to have a
10 needle going into someone's arm, you're unaware that
11 that's against the law?

12 A Again, with this incident, I didn't threaten to
13 put a needle in someone's arm. I was attempting to
14 get this individual to understand the circumstances
15 that he was in.

16 Q And then exactly what are you ---

17 A It's ---

18 MS. CAMPBELL: Objection, Your Honor. He needs
19 to wait ---

20 THE WITNESS: Can I please finish my ---

21 BY MR. SCHNEE:

22 Q I thought you were finished.

23 A That's all right. I was attempting to get him to
24 realize the predicament he was in and the gravity of
25 the certain situation that he was looking at and by

1 being honest, which was trying to get the truth out of
2 this individual, by being honest, that would be a
3 better option than lying.

4 Q The gravity of the situation is what you're
5 trying to instill in this individual?

6 A That's correct. I was trying to let him see the
7 situation he had put himself in, that is correct.

8 Q The gravity of the situation that you're
9 referring to by a needle in the arm is the death
10 penalty, yes?

11 MS. CAMPBELL: Objection, Your Honor. This was a
12 pretrial ruling.

13 THE COURT: Sustained. Disregard that statement.
14 BY MR. SCHNEE:

15 Q Now, you said that you --- let's see. We'll get
16 back to that one.

17 On July 3rd, 2013, you indicated in your report
18 you made contact with who you listed as a quote
19 criminal informant?

20 A July 3rd, you're talking about my notes?

21 Q Yes, 9:40 A.M.

22 A Oh, let's see.

23 A July 3rd 9:40 A.M. Yes, I received information
24 from an informant, a criminal informant --- a
25 confidential informant, if you will.

1 Q Now, this isn't Donald Moore because you have
2 already talked about him and put his name in there,
3 right, Investigator McCoy?

4 A Correct, it's not Donald Moore.

5 Q And it's not Mary Brown who called Crimestoppers?

6 A That's correct.

7 Q So this is someone else.

8 A That's correct.

9 Q That you received information from about this
10 case?

11 A Correct.

12 Q Who is it?

13 A He was a confidential informant with the Richland
14 County Sheriff's Department.

15 Q What's his name or her name?

16 A I never see the name through the tips. It's not
17 uncommon. We get anonymous tips all the time. I
18 never received his name, nor did I ask for it.

19 Q You didn't even bother to ask for a name?

20 A He was a confidential informant, which is a
21 common practice with the police department or for the
22 Richland County Sheriff's Department.

23 Q Well, did he call you or did the sheriff's
24 department call you?

25 A The sheriff's department called me.

1 Q You didn't even ask to talk to this person?

2 A The sheriff's department contacted me. They had
3 information.

4 Q You didn't ask to talk to the person that gave
5 you that information?

6 A I did. I did speak with him. That's why I said
7 I received information from the informant.

8 Q Right. Well, who is it?

9 A Again, he is a confidential informant and I don't
10 have his name. It's not an uncommon practice for them
11 not to want to give names. It's very common that they
12 don't want to identify themselves.

13 Q Yes. If it was back ---

14 A They don't ---

15 Q --- well over a year ago, I can understand
16 someone not wanting to give their name, but we're in
17 the middle a trial and you're not telling me who this
18 witness is that you talked to?

19 MS. CAMPBELL: Objection, Your Honor, asked and
20 answered.

21 THE COURT: Sustained.

22 BY MR. SCHNEE:

23 Q I'll move on. You say it's a common practice to
24 hide the names of people that you call informants?

25 A Not to hide the names. You are misinterpreting

1 what I'm saying.

2 Q To conceal names.

3 MS. CAMPBELL: Objection, Your Honor. He has a
4 right to answer.

5 THE COURT: Sustained.

6 THE WITNESS: The practice is --- of a
7 confidential informant is to protect this person's
8 identity, from any safety concerns that may arise from
9 the information they give us. It's a common law
10 enforcement practice that's been used for years and
11 that's a common thing. I documented the fact that I
12 spoke with someone and was given information, whether
13 that hurt or helped your client or the other client.
14 I documented that information in the notes because
15 there was no recorded interview because he was
16 confidential informant.

17 BY MR. SCHNEE:

18 Q I see.

19 A I gave you all the information that I had.

20 Q Except you talked to him. You talked to this
21 informant?

22 A According to my notes, I received this
23 information from this informant, yes.

24 Q Directly from the informant?

25 A That's what it appears in my notes, yes.

1 Q An informant that I don't know who it is, right?

2 A I would assume you wouldn't, yes, that's correct,
3 sir.

4 Q Okay. Now, during the course of your
5 investigations overall, have you ever gotten
6 information or wanted to get information from someone
7 and told them that you would conceal their identity
8 and just call them an informant, even though you
9 already knew who they were?

10 A I don't recall a specific interview or
11 conversation. Is there one you can talk about that
12 you can remind me of?

13 Q Sure, August 21, 2013, you had a phone
14 conversation with Donald Moore, did you not?

15 A You said August 21st, 2013?

16 Q Yes, sir.

17 A Let's see. I had one with Mary Brown. Yes,
18 that's correct.

19 Q Okay. Now during that interview, you're talking
20 partly about this case, but Donald Moore brings up the
21 fact he might have information about a completely
22 unrelated case. Do you remember that?

23 A Vaguely, yes.

24 Q Okay. He was trying to --- thinks he can find
25 out the name in a suspect something completely

1 unrelated to any of this?

2 A Do you have a transcript of any of this just so I
3 can look at this it?

4 Q I do not. I have an audio recording I'd be happy
5 to show you?

6 A I recall having a conversation with him. I
7 believe it was about some other case I wasn't involved
8 in.

9 Q Correct. It was some random rape case. Do you
10 remember that?

11 A Sure, sure, that's correct.

12 Q Did you or did you not tell him that if he could
13 find out the name of this alleged suspect, that you
14 would list Mr. Moore as a confidential informant
15 because as long as the victim could identify the
16 suspect, you would never have to release his name as
17 being Donald Moore?

18 A From my understanding and from the way the
19 conversation went, as far as I can remember, Mr. Moore
20 was a confidential informant at that point with the
21 Columbia Police Department even signed up, certified
22 with our organized crime and our narcotics division,
23 so he was acting as confidential informant as we do
24 with many confidential informants and he was basically
25 relaying information --- we were talking about this

1 case where he was named in, because he wasn't at the
2 time this case began. However, at this point in time
3 he was a confidential informant with the Columbia
4 Police Department and he was basically relaying, hey
5 listen, I might have a name or may have information.
6 I'm paraphrasing here, I don't remember the exact
7 words that were said. Stop me if I'm wrong. He was
8 basically trying to give us the name, or if he could
9 find it out and, of course, his concern always with
10 giving information was am I going to be harmed or is
11 this going to come out or something along those lines.
12 I was basically relaying to him, since he was already
13 a confidential informant, that would be kept
14 confidential, which is the whole point of being a
15 confidential informant.

16 Q Did you tell him that it doesn't matter how he
17 gets the name, that as long as the victim identifies
18 the guy it doesn't matter?

19 A There's a good possibility that I said those
20 words, yes.

21 Q All right. I want to talk to you a little bit
22 about some of the information you have been given.
23 Some of this I know it's been gone over a little bit.

24 A All right.

25 Q Now, Marcus Haley Johnson, you were given that

1 name by a number of individuals in this case, haven't
2 you?

3 A Yeah, the first Latoya Barnes was the first time
4 that name ever came up.

5 Q That was back in July or August?

6 A No, that he was back in August 2013, during the
7 same phone conversation that we heard the snippet
8 from.

9 Q And she told you'll that Marcus Haley Johnson
10 happened to be in jail for something at the time,
11 right?

12 A I believe it was a narcotics violation, yes.

13 Q Okay. She suggested you go down there and talk
14 to him because he had information that you wanted,
15 right?

16 A She said he was spreading information inside the
17 jail, possibly, yes.

18 Q Okay.

19 A That he might have known or be able to be confirm
20 what we had already established through other
21 witnesses.

22 Q Okay. You told her absolutely, that's what you
23 could do. That's one of the next things on my list?

24 A I believe so, yes.

25 Q You never talked him, did you?

1 A I never talked to him, no.

2 Q You were also given the name of a number of other
3 people that may or may not establish alibis or have
4 information of anything else of various people
5 involved or not involved. For example, Darryl
6 Samuels.

7 A Correct.

8 Q Never interviewed him?

9 A I did not.

10 Q Anthony Nelson?

11 A He was not interviewed.

12 Q Joshua Green was not interviewed.

13 A Joshua Green was never interviewed.

14 Q Marquis Johnson?

15 A Marquis.

16 Q Yes.

17 A No, he is not interviewed.

18 Q Which is different than Marcus Haley Johnson?

19 A That's correct, different person.

20 Q You interviewed neither of those?

21 A You're, correct.

22 Q Sequan Williams, you never interviewed him.

23 A No, I did not.

24 Q Ashley Carter, you never interviewed her?

25 A No, I did not.

1 Q Did you even try to look any of these people up
2 to see if you could find them?

3 A Well, when we were given the names, you
4 understand, they were cooperating where defense
5 counsel. Typically Troy Stevenson's defense counsel.
6 At that point in time when it was during an interview
7 that I was obtaining this information. Most of the
8 information was information already obtained or
9 corroborated by other sources, that we had already
10 found. The majority of those names you named Marquis
11 Johnson, Sequan Williams, Anthony Nelson and Ashley
12 Carter, there was no information relaying they were
13 directly involved or maybe even knew about this
14 particular incident. Ashley Carter, the only
15 information was that she happened to be there that
16 night and was hanging out with Troy prior to what
17 happened. That's the information we got.

18 Q That's all the information you've got about
19 Ashley?

20 A Ashley Carter, I got a phone number from Ashley
21 Carter I believe at some point.

22 Q You got a phone number, did that you even try
23 call it?

24 A That was Troy's girlfriend.

25 Q Did you even try to call it?

1 A No, I didn't try to call it. The information was
2 she had no information whatsoever.

3 Q She gave you that information?

4 A No, Troy Stevenson gave me that information.

5 Q Troy Stevenson was actually trying to use her as
6 an alibi saying that he had no involvement, right?

7 A The reason these names were given was, you're,
8 correct, they were witnesses who were going to, not
9 alibi Troy during the incident, but to confirm some
10 information that he had given --- a lot of information
11 we had already confirmed.

12 Q Okay. So you have witnesses who are at Troy
13 Stevenson's house?

14 A Correct.

15 Q Shortly before this incident?

16 A Correct.

17 Q And some of them there all the way through the
18 next morning?

19 A There were a few, yes.

20 Q And you've interviewed zero of them, right?

21 A Let me look. Yes, you're correct.

22 Q Okay. Now, you said that there were some dark
23 hoodies taken from Trenton's house?

24 A Trenton Barnes' yeah, 2849 Lucille Drive, that's
25 correct.

1 Q One of them was a wet hoodie, dark blue?

2 A That's the investigator, Investigator Moorner, she
3 was actually running the search. I went to another
4 location. Yes, she stated that it was wet when it was
5 collected.

6 Q Okay. It was a dark colored hoodie?

7 A I believe it was a dark blue or black. I can't
8 remember, I would have to look at the search warrant.

9 Q Ever have that tested or submitted for DNA
10 testing?

11 A The hoodie?

12 Q Yeah?

13 A I believe the hoodie was submitted for testing to
14 see if I could be linked to it scene via blood spatter
15 or DNA.

16 Q Would it surprise do you learn the only hoodie
17 that was tested for DNA was the one that Ms. Hunnewell
18 wore?

19 A Yes, it would.

20 Q Can you show me in your notes where you had that
21 hoodie tested for DNA?

22 A No.

23 Q From Trenton's house?

24 A When items are submitted for analysis, they're
25 done on a submission form through SLED and the results

1 are of course, printed out through SLED and they're
2 stored in the case file.

3 Q Who submits those requests?

4 A Crime scene investigation units.

5 Q Okay, would it surprise you to know that none of
6 those requests have ever been submitted?

7 A I don't know if they were or not. I would have
8 to look at the logs. Do you have a log in front you?

9 Q No, you're the lead investigator, aren't you?

10 A That's correct.

11 Q You're supposed know what's going on in your
12 case?

13 A Sure, absolutely.

14 Q To be the one to follow up and figure out what
15 other people are doing on your case?

16 A That's correct as long as I'm advised of it, yes.

17 Q So you wait for people to tell you what's going
18 on? You don't find out what your own fellow
19 colleagues are doing on your case?

20 A On a case this large or this much stuff involved
21 in it when items of evidence or other witnesses are
22 tasked or pieced out to do, those officers will put
23 notes together and submit them to me on what was done
24 and what was handled. That's something for me to
25 review for court or for them to testify off of when

1 they're called.

2 Q Okay. The house, the Trenton Barnes' house
3 search warrant, that was July 5th of 2013?

4 A Yeah, late afternoon hours. That's correct.

5 Q So between then and yesterday, you had no
6 opportunity to figure out if that hoodie has even been
7 tested for DNA?

8 A Have I had the opportunity or have I checked, do
9 you mean?

10 Q Either one?

11 A I have not looked see if that hoodie was tested,
12 no.

13 Q And you talked a little bit about the video you
14 released to the media?

15 A Correct.

16 Q You didn't want to release the full video because
17 your wanted to figure out if future witnesses were
18 being honest and had actual knowledge of events,
19 right?

20 A Yes, that's a pretty standard investigative
21 practice, yeah.

22 Q And you do that because when you talk people, you
23 want to parlay what they say or what they don't say,
24 right?

25 A Sure.

1 Q Okay. Now, you interviewed --- you interviewed a
2 number of people in the jailhouse at some point, is
3 that right, that have come forward?

4 A I believe it was it was two total.

5 Q One from Michael Schaefer?

6 A That's correct.

7 Q And then there was Michael Peterson?

8 A I did not directly interview Michael Peterson.

9 Q You did not interview Michael Peterson?

10 A I did not interview Michael Peterson.

11 Q Do you know who did interview Michael Peterson?

12 A I'm not aware. The first time I saw Michael
13 Peterson was here when he testified. I was aware that
14 he had given to statement. The solicitor's office
15 told me that, but I don't know who actually
16 interviewed him.

17 Q Okay. You're aware in his version of events that
18 are quite interesting, he claims that Lorenzo told him
19 that at some point Ms. Hunnewell walked into a back
20 room and picked up a cell phone. Were you here for
21 that testimony?

22 A I was. I was sitting over there when he
23 testified to that, yes.

24 Q Now, would that one of those types of times when
25 you want to check to confirm of, you know, if someone

1 is telling the truth or not based on what information
2 they have compared to the video?

3 A Well, I had nothing do with Mr. Peterson's
4 testimony or statements or anything of that nature.
5 That didn't come through the police department.

6 Q Okay.

7 A I didn't have any involvement with it.

8 Q So even as a lead investigator, when you receive
9 that information even when you obtain it, you don't
10 feel it's necessary to follow up or do anything with
11 it afterwards?

12 A I never received his statement or information for
13 my case file because it never generated from the
14 police department. That's not --- that was done
15 through another party, I assume from the solicitor's
16 office, but that information was not delivered to me.
17 The first time I ever heard any statement from
18 Mr. Peterson or even knew he existed was when he
19 testified except that I had gone over the list of
20 witnesses with the solicitor's office, the names of
21 just who was going to testify.

22 Q Okay.

23 A I heard the name, but that was the extent of it.

24 Q So in preparation for trial, you didn't even
25 inquire as to what this witness would say even though

1 you're the lead investigator sitting in here the whole
2 time?

3 MS. CAMPBELL: Objection, Your Honor. The whole
4 line of questioning is --- I think he's ---

5 THE COURT: Overruled.

6 THE WITNESS: With something like that, if I
7 don't initiate it or it doesn't come through our
8 office, I don't get involved in that particular part
9 of it. We have several law enforcement agencies
10 assist in certain things. The solicitor's office have
11 their own investigators where they obtain statements,
12 so that's information that I was not privy to or not
13 given prior to the trial, so I have no way of
14 following up on it if I'm not given that information.

15 Q You're the lead investigator on this case, right?

16 A For the Columbia Police Department, yes.

17 Q You're the lead investigator on this case,
18 correct?

19 A For the Columbia Police Department, yes, you're
20 correct.

21 Q I'm asking you, did you or did you not inquire as
22 to the content of any of the witnesses that you did
23 not personally interview or have notes on already?

24 A I did not inquire as to what the information was,
25 no.

1 MR. SCHNEE: All right. I've got nothing else,
2 Judge.

3 THE COURT: Redirect?

4 MS. CAMPBELL: Yes, sir.

5 REDIRECT EXAMINATION:

6 BY MS. CAMPBELL:

7 Q Is it unusual at all after a case is --- people
8 have been arrested and it comes to our office and the
9 indictments have come down for additional information
10 to come forward?

11 A No, it's not uncommon at all.

12 Q Is it unusual for our office to handle that,
13 investigators from our office, versus putting it back
14 on you?

15 A That's not at all unusual. That's a pretty
16 common practice.

17 Q And he asked you about an interview in March and
18 some names that came up?

19 A That's correct.

20 MS. CAMPBELL: Your Honor, at the time we would
21 introduce that interview of Troy Stevenson.

22 MR. SCHNEE: Judge, I would object. That's
23 clearly hearsay.

24 THE COURT: All right. Step back to your jury
25 room. We'll be back in a few minutes. Do not discuss

1 the case. Keep an open mind.

2 (WHEREUPON, the jury left the courtroom at 3:00
3 P.M.)

4 THE COURT: All right. What's your theory,
5 Ms. Campbell?

6 MS. CAMPBELL: Your Honor, both of the defense
7 counsels went into an interview that took place. I
8 don't think it came out until Mr. Schnee got up. It
9 was with Troy Stevenson. They went into details about
10 what was said in that, names that came up, information
11 that came from Mr. Stevenson. Your Honor, under a
12 completeness doctrine, at this point we think it opens
13 the door to the fact that in order for this
14 investigator to be able to fully explain everything he
15 did in this case, and in addition to that, they should
16 understand the context under which this information
17 came forward that we think right now we have the right
18 to then introduce the entire statement.

19 MR. KRZYSTON: Thank you, Your Honor, may it
20 please the Court. I would note that during our
21 cross-examination we went into no detail specifically
22 with Investigator McCoy. We asked simply did he learn
23 these names and if he had notes regarding those names.
24 There was no information substantively gone into on
25 cross by Mr. Young. Because of that and because we

1 haven't introduced a recording, we would argue that
2 any admission of a recording by Troy Stevenson in
3 between Troy and Mr. McCoy is hearsay as it applies to
4 Mr. Young.

5 Judge, I would again draw the court's attention
6 to the fact that no statements --- I did not go into
7 specifically any words that Mr. McCoy spoke. I did
8 not go or play any recording containing McCoy's voice
9 and I don't think that 106 is triggered until some
10 recording or recitation of his direct statements are
11 utilized by the defense. I would also again assert
12 that this is hearsay. It involves not only the
13 hearsay rules and evidence rules, but it also invokes
14 U.S v. Williamson and potentially Bruton depending
15 upon whether or not the particular statement in
16 question was given to police or was given to a lay
17 declarant. This involves almost every single issue
18 that we have raised prior to trial in arguing
19 severance, as well as during the life of the trial in
20 arguing to exclude hearsay testimony based on
21 Williamson. So I think this is the kit and caboodle.
22 This is everything that we have argued all in one and
23 I do not believe it is admissible.

24 MR. SCHNEE: Judge, I asked this witness multiple
25 questions about names he was given as part of his

1 investigation.

2 Investigatory hearsay is a very limited
3 exception. The fact is ---

4 THE COURT: What is investigator hearsay?

5 MS. CAMPBELL: What?

6 MR. SCHNEE: Investigatory hearsay? It's the
7 investigator is on the stand and they can talk about
8 their investigation in very limited circumstances.
9 That is exactly what Ms. Campbell does on a very
10 regular basis with lead investigators getting into the
11 conversations he had with other witnesses, with other
12 police officers, the course of his investigation. My
13 cross-examination ---

14 THE COURT: For the record, investigatory hearsay
15 doesn't exist, and if Ms. Campbell was going into
16 something inappropriate on direct with a witness it
17 should have been objected to and I would have dealt
18 with it.

19 MR. SCHNEE: Well ---

20 THE COURT: What she does in other cases at this
21 point doesn't matter to me, but investigatory hearsay
22 is something that you just created. Let's deal with
23 the issue.

24 MR. SCHNEE: Judge, the issue is if Ms. Campbell
25 is trying to say that this recording somehow explains

1 what was being questioned by Investigator McCoy as to
2 why he wasn't going to interview any of these
3 witnesses, that's simple preposterous. There is
4 nothing in that recording that would indicate as why
5 he didn't interview any of these witnesses, which was
6 the only thing that came out of the Troy Stevenson
7 interview that he was questioned about are the names
8 of those witnesses.

9 THE COURT: Ms. Campbell.

10 MS. CAMPBELL: That's my point. That is the only
11 thing that came was what he chose to bring out on
12 cross-examination. In order for the jury to be able
13 to understand whether or not they should have followed
14 up with all these other witnesses, they should be able
15 to hear exactly what information was provided, what
16 information he had at the time and the context in
17 which it was being given as far as their relevance as
18 to what they did. Right now the only thing the jury
19 knows is that there are eight names out there that
20 they didn't ---

21 THE COURT: No, we're at 12.

22 MS. CAMPBELL: Twelve now? There's two of them
23 I've never heard of.

24 THE COURT: According to Mr. Krzyston.

25 MR. SCHNEE: Well, actually, Judge, there were

1 quite a few given by other people, and even
2 Investigator McCoy said that, yes, Marcus Haley
3 Johnson, Marquis Johnson, some of the others were
4 given by Latoya Barnes, which had been testified to
5 multiple times even by Ms. Barnes when she was on the
6 stand.

7 MS. CAMPBELL: I'm not talking about Ms. Barnes.

8 MR. KRZYSTON: Judge, might I inquire as to what
9 exactly in Mr. Stevenson's statement would go to
10 establish whether or not his failure to investigate
11 these people was reasonable. I don't believe there is
12 anything in the statements themselves that actually
13 explain why he will failed to talk to these people. I
14 mean, there's no reference to gangs, to these people
15 being in gangs. This is simply information conveyed
16 to Mr. Stevenson --- rather from Mr. Stevenson to
17 Investigator McCoy, that indicates these people were
18 around. I don't know that there's anything in the
19 actual substantive statement that addresses why he
20 filed do that. If that's the reason the State is
21 offering that evidence, I don't know that we actually
22 have any of that evidence.

23 MR. SCHNEE: And we obviously have a huge Bruton
24 issue because this is Troy Stevenson in a custodial
25 interrogation.

1 THE COURT: Why didn't you go interview these
2 people?

3 THE WITNESS: Why did I not interview these
4 people?

5 THE COURT: Yes.

6 THE WITNESS: In speaking with Troy, it was a ---
7 it was defense counsel --- Amy Zmroczek was
8 cooperating and Troy was cooperating with the
9 investigation.

10 THE COURT: Right.

11 THE WITNESS: They came forward. It was
12 indicated during the interview that there were some
13 statements that she had already spoken to all these
14 individuals and some statements involved as well as
15 identification had been made on some of them ---

16 THE COURT: Okay.

17 THE WITNESS: --- or most of them. She also
18 indicated that that would be provided to me or to us
19 so I could do a follow up. I wanted to look what the
20 had been provided already to determine when I talked
21 to them what was true or what wasn't true, what was
22 going on, also Troy himself during the interview, like
23 Ashley Carter said that she didn't know anything. She
24 wasn't involved. She didn't have any idea. She was
25 just there hanging out at the house prior to it. He

1 even made statements saying they never discussed the
2 crime itself the night before it happened.

3 There was even information in there about none of
4 those people were involved in the planning, the
5 operation or even there at the scene. The only people
6 he identifies at the scene that did the shooting are
7 those two men right there and he is adamant about
8 that. That the only people down there were Trenton,
9 Lorenzo and himself which is the same information I
10 got from him the other two times I interviewed him.
11 This is the third time. This stuff came out in March
12 of this year after defense counsel supposedly spoke
13 with these individuals and there were statements that
14 existed.

15 Now, I reviewed the information that was given to
16 the --- well, I've seen some information regarding
17 what she had. There were no statements. There was
18 nothing to that effect at all. My understanding is
19 they didn't even cooperate. Troy also states that a
20 lot of these people don't want to cooperate with the
21 police. They have no desire to come talk to me
22 because of (A) their gang involvement. He didn't say
23 gang involvement, but that's the gist of it as well as
24 (B) they're afraid of arrest because they know about
25 --- they possibly know about it but don't --- weren't

1 involved in it, so they were afraid of some misprison
2 charge or something, I'm assuming. I wanted to get the
3 information from Ms. Zmroczek before I went and
4 tracked it down. Of course, that wasn't provided
5 until November of this year.

6 MS. CAMPBELL: And just for the record,
7 Reciprocal Rule 5 didn't include any of that
8 information.

9 THE WITNESS: Yeah, so I don't know what's...

10 THE COURT: I mean, what you're really worried
11 about is him saying or them playing an audio where
12 Troy says your client did it, right?

13 MR. KRZYSTON: Correct, Your Honor.

14 THE COURT: Same thing for you, right?

15 MR. SCHNEE: That's the entirety of his
16 recording.

17 THE COURT: That's not the entirety of it. Don't
18 use words like entirety.

19 MR. SCHNEE: The vast majority.

20 THE COURT: Here is what I'm going to allow. I'm
21 going to allow Investigator McCoy to explain not via
22 the audio recording, but explain via his own testimony
23 why he made the decision to not go interview these
24 people. That explanation is not going to involve
25 anything because anybody is in a gang.

1 THE WITNESS: Got you.

2 THE COURT: Or anybody is scared of any
3 retaliation or somebody is going to come get me and
4 it's not going to have anything do with Troy told me
5 that these two people did it.

6 THE WITNESS: Got you.

7 THE COURT: I think he should be allowed --- I
8 mean, this was at least ten minutes of everybody's
9 cross-examination. You had all these witness names
10 and you didn't do anything with it. I don't think
11 it's fair to leave that out there. I also don't think
12 Troy saying that Mr. Barnes and Mr. Young did it is
13 admissible under Bruton, and the confrontation clause
14 and every other violation that I can imagine, but I
15 will allow Investigator McCoy to explain why he didn't
16 go interview these people, but without saying
17 retaliation, gangs or ---

18 MS. CAMPBELL: As to them?

19 THE COURT: As to, Mr. Stevenson had already told
20 me that Mr. Barnes and Mr. Young did it. I mean,
21 that's not something that's admissible. He can go on,
22 you know, I made the decision to not go interview
23 these people because of this, without saying the gist
24 of Troy says Lorenzo and Trenton did it with me.

25 MR. KRZYSTON: Your Honor, and then my concern

1 becomes --- I guess, I've got an issue with the fact
2 of how he knows these people weren't willing to
3 cooperate with law enforcement. I mean, he has
4 learned the fact these people are quote unquote
5 unwilling to cooperate with law enforcement directly
6 from the mouth of Troy Stevenson. I believe that's
7 hearsay.

8 THE COURT: Well, I mean, you opened this door,
9 Mr. Krzyston. I mean, this door was opened by the
10 defense and the cross examination of the lead
11 investigator as to what he did or what he didn't do,
12 so I am going to give him a little bit of leeway. I'm
13 going to allow Ms. Campbell to lead through this a
14 little bit so that we don't end up in a situation
15 Investigator McCoy feels like he has to say something
16 just to explain himself.

17 MS. CAMPBELL: But, Your Honor, in addition to
18 that as your ruled prior to us getting into this part
19 with this witness, he is not going to say anything
20 about them being in a gang.

21 THE COURT: Right.

22 MS. CAMPBELL: But an additional reason he didn't
23 go interview a couple of these people is that they are
24 in gangs and in his experience, they aren't
25 forthcoming.

1 THE COURT: Well, we don't need get into that.
2 He didn't learn that from Troy is what he just told
3 me. What he just told me was he didn't --- he was
4 essentially speculating that these people were in
5 gangs and they weren't going to talk to him. That's
6 what he just said.

7 MS. CAMPBELL: Except the exception to that is
8 Latoya Barnes when she brings up the names of Marquis
9 and Marcus, he does know that are gang affiliated and
10 that he is not going to talk to them. And they
11 brought that out, too. I mean, I just feel like we're
12 hamstrung because we can't address this misinformation
13 their purporting without going into Troy Stevenson.

14 THE COURT: He has --- I mean, do you have any
15 personal knowledge if any of that these people are in
16 gangs?

17 THE WITNESS: Some not all of them.

18 THE COURT: That you knew when you were
19 interviewing Troy Stevenson?

20 THE WITNESS: At that particular time?

21 THE COURT: Right.

22 THE WITNESS: No, at the particular time I was
23 interviewing him, I wasn't familiar with any of the
24 individuals that he was ---

25 THE COURT: Okay. Nothing about any of those

1 being gang members. That's not the reason he didn't
2 go interview them. He didn't go interview them for
3 whatever reason that he didn't go interview him, but
4 it wasn't because he thought they were gang members
5 that he didn't go talk to them.

6 MS. CAMPBELL: But when he got the information
7 from Latoya Barnes about just Marquis and Marcus
8 Johnson ---

9 THE COURT: Right.

10 MS. CAMPBELL: --- he did know that information
11 about those two individuals, not the rest of them.

12 MR. KRZYSTON: Judge, we've been given nothing on
13 gangs. I don't know that, I mean, they're saying they
14 know that Marquis and Marcus Johnson are in a gang.

15 MS. CAMPBELL: It doesn't matter if he knows it,
16 if that's what he thought.

17 MR. KRZYSTON: To substantiate that or base that
18 opinion on.

19 THE COURT: We're not saying anything about
20 gangs. That's not why he didn't go interview him. He
21 didn't interview him because of the reasons he already
22 stated. All right. Bring them back in.

23 MS. CAMPBELL: And, Your Honor if they go back
24 into it again after ---

25 THE COURT: I tell you what, the next person that

1 intentionally violates an order of this court is going
2 to be dealing with me in a contempt hearing. Does
3 everybody understand that, Ms. Campbell?

4 MS. CAMPBELL: Yes, sir.

5 THE COURT: Ms. Garfield?

6 MS. GARFIELD: Yes, sir.

7 THE COURT: Ms. Simpson?

8 MS. GARFIELD: Stepped out.

9 THE COURT: Ms. Pinnock?

10 MS. PINNOCK: Yes, sir.

11 THE COURT: Mr. Krzyston?

12 MR. KRZYSTON: Yes, sir.

13 THE COURT: Ms. Bambach?

14 MS. BAMBACH: Yes, Your Honor.

15 THE COURT: Mr. Schnee?

16 MR. SCHNEE: Yes, sir.

17 THE COURT: You can't just ask questions and
18 don't expect repercussions from asking inappropriate
19 questions or questions that you know are out there and
20 the information is out there and expect that it's not
21 going to come out later. That's not the way it works.
22 I'm going to allow him to explain it. I want you to
23 lead him through it, Ms. Campbell, as much as you need
24 to.

25 MS. CAMPBELL: Do you know where we can go?

1 THE WITNESS: Uh-huh.

2 THE COURT: Do you understand what I'm allowing
3 or not allowing, Investigator McCoy?

4 THE WITNESS: No gangs and no references to
5 retaliation.

6 THE COURT: Retaliation or Mr. Stevenson saying
7 Mr. Barnes or Mr. Young did it.

8 THE WITNESS: Got you. Won't happen.

9 MR. KRZYSTON: Your Honor, we would just ask to
10 proffer. Give him a dry run before we get in front of
11 the jury.

12 THE COURT: That's fine. Do it.

13 REDIRECT EXAMINATION:

14 (Denno)

15 BY MS. CAMPBELL:

16 Q He has asked you about a number of people in a
17 March 2014 interview with Troy Stevenson.

18 A That's correct it was with Troy Stevenson's
19 defense counsel, Aimee Zmroczek. In fact, I think she
20 is the one that set it up. She came forward to Dolly
21 Garfield saying that her client wanted to speak with
22 police, so I contacted Ms. Zmroczek to set up a time
23 to meet at Columbia police headquarters and that's
24 where I interviewed Troy and Aimee was there. It was
25 audio recorded.

1 Q And during that time there were a number of names
2 that came up?

3 A That's correct.

4 Q Including some of the names we heard, Darryl
5 Samuels?

6 A Correct.

7 Q Ashley Carter?

8 A Yes.

9 Q Somebody named Green?

10 A Yes.

11 Q Some other people, as well?

12 A That's correct, Joshua Green, Anthony Nelson,
13 Sequan Williams, Marquis Johnson, yes.

14 Q And what, if any, information were you made aware
15 that they might or might not have?

16 A Well, the information from Troy was that
17 regarding these individuals, Ashley Carter was Troy's
18 girlfriend, and she was at the home that evening prior
19 to the murder. She was there, they were just hanging
20 out. According to him, his statement, she was not
21 involved and wasn't a witness to anything. In fact,
22 her and Troy were in a separate bedroom just sleeping,
23 hanging out.

24 As far as Marquis Johnson, Ms. Barnes had given
25 me that name early earlier because Lorenzo had been

1 calling the house quite frequently. Troy was able to
2 give a reason for that. He stated that Lorenzo was
3 calling Marquis to inquire about Rolanda Coleman who
4 had called the house a few times. He wanted to know
5 if Rolanda was still calling. According to Troy, he
6 never mentioned anything about them talking about the
7 crime that was to occur.

8 The other individuals, Sequan Williams, Darryl
9 Samuels, Anthony Nelson, Joshua Green, they were at
10 the home, and according to Troy, the incident never
11 came up that was going to happen. He stated that it
12 wasn't --- it never became a topic of conversation
13 between them. Troy was aware. I shouldn't go into
14 that, but that topic never came up as far as that ---
15 what was going to happen or what might happen. The
16 Azo name, Azo came up that they were at a recording
17 studio earlier.

18 Q And when you say earlier, do you mean earlier in
19 the evening or the earlier in the week or what?

20 A Earlier in the day.

21 Q Earlier in the day?

22 A Earlier in the day. They were at a recording
23 studio or at a home that belonged to this individual
24 named Azo, which I was never provided any particulars
25 on who Azo was. Just --- they gave me a street and a

1 possible house on the street. He wasn't able to give
2 me anything beyond that. They were at a recording
3 studio and that is where this incident was not
4 planned, but it was talked about.

5 Q By whom.

6 A By Lorenzo Young and Trenton Barnes. They talked
7 about the incident.

8 Q Okay.

9 A I didn't...

10 MR. KRZYSTON: Judge, just for the record, we
11 would object to that last comment if that's going to
12 be introduced.

13 THE COURT: Why?

14 MR. SCHNEE: Troy --- that would be a statement
15 from Troy that Trenton and Lorenzo were planning a
16 robbery at the studio. That would be the definition
17 of a Bruton problem inculcating my client.

18 THE COURT: Don't say anything about them talking
19 about something at Azo's house or wherever.

20 BY MS. CAMPBELL:

21 Q As far as they had been at the house earlier that
22 day and that's all the information he had?

23 A Yes, so they were there earlier that day.

24 Q And finally were any of the names given to you or
25 provided to you, was there any information that was

1 provided to you by Troy Stevenson or anyone else that
2 they knew anything about what had happened that night?

3 A No, not that night.

4 Q About the actual robbery itself?

5 A No.

6 Q Okay.

7 MR. KRZYSTON: Judge, are you finished?

8 THE COURT: She is finished.

9 MR. KRZYSTON: Again, I would object to the
10 testimony in its whole.

11 THE COURT: I've already ruled on that.

12 MR. KRZYSTON: Okay. I think they can get out.
13 I don't mean to transgress here, but I think they can
14 get out what they're trying to say without saying Troy
15 said. The basis of my problem is the part about Troy
16 said.

17 THE COURT: The basis of the problem is the line
18 of questioning by the defense attorneys and the
19 cross-examination of the lead investigator, so your
20 motion is overruled.

21 Bring them in. Do you understand what you're
22 doing and not doing?

23 THE WITNESS: Yes, Your Honor.

24 THE COURT: Very good.

25 MR. KRZYSTON: Thank you, Judge.

1 (WHEREUPON, the jury entered the courtroom at
2 3:18 P.M.)

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

4 THE COURT: All right. Go ahead, Ms. Campbell.

5 MS. CAMPBELL: Thank you, Your Honor.

6 REDIRECT EXAMINATION:

7 (continued)

8 BY MS. CAMPBELL:

9 Q Investigator McCoy, they asked you many questions
10 about the information you received from that March,
11 2014 conversation you had with Troy ---

12 A Yes, ma'am, Troy and Amy Zmroczek.

13 Q --- Stevenson?

14 MR. KRZYSTON: Objection, Your Honor. Prior
15 objection.

16 THE COURT: Overruled.

17 BY MS. CAMPBELL:

18 Q I'm sorry.. You said somebody else was present?

19 A Aimee Zmroczek, his defense counsel.

20 Q And, in fact, who initiated that interview?

21 A From my understanding, I received a call from
22 Dolly Garfield, sometime in late February, beginning
23 of March. I don't remember to exact time, in
24 reference to Troy wanting to come forward and talk
25 some more about some information.

1 Q You aren't going to be able to say that part,
2 okay?

3 A Right.

4 Q But during the course of that conversation did
5 some other names come up?

6 A Yes, during that interview some other names did
7 come up.

8 Q Specifically, they asked you about several of
9 those names, including Ashley Carter. What, if any,
10 information did Troy Stevenson tell you she had, if
11 anything?

12 A According to the interview, Ashley Carter is his
13 girlfriend, 19 years old, I was given a phone number.
14 Again, she was his girlfriend, she was not involved,
15 did not witness anything, was just at the home on
16 Lucille Drive hanging out with him sleeping with him
17 at the home.

18 Q And as far as some of the other names like Darryl
19 Samuels, Sequan Williams, people of that sort, what if
20 any, information did Troy Stevenson tell you they had
21 about anything?

22 A They were just basically at the home, that they
23 had no direct knowledge and that the --- no direct
24 knowledge of anything. They were just at the home.

25 Q In fact, during the time period when all these

1 phones were going back and forth, who were the only
2 two people to your knowledge who were awake other than
3 Troy Stevenson?

4 A To my knowledge, the only people awake?

5 Q In the early morning hours ---

6 A Ms. Barnes, she testified to, I believe, Marquis
7 Johnson.

8 Q As far as Marquis' involvement or knowledge, if
9 anything, in this case, what was that?

10 A Well, Ms. Barnes had given me information about
11 Marquis prior that someone was calling the house for
12 him repeatedly. Troy was able to tell me what that
13 was. It was basically Lorenzo was calling the house
14 asking about Rolanda Coleman. Rolanda Coleman had
15 called the house several times and Lorenzo was calling
16 Marquis about Rolanda, that's what Troy said.

17 Q Was there any indication from Troy Stevenson or
18 anyone else that Marquis had anymore involvement than
19 that in this case?

20 A Not at that time, no.

21 Q Did he have any knowledge of what happened at the
22 bakery?

23 A Not at that particular time, no.

24 Q And you did interview Latoya Barnes?

25 A That's correct, I confirmed that information. Of

1 course, that was prior to this interview, yes. I
2 already had that information.

3 Q There was also some information about other
4 people's names that came up?

5 A Sequan Williams, Darryl Samuels, Anthony Nelson,
6 Joshua Green, the same information that they were at
7 the house hanging out that night. That was the
8 extent. They were mainly to corroborate a previous
9 statement that Troy had given me involving where he
10 was just prior to anything.

11 Q And had Ms. Barnes, his mother, already given you
12 that information?

13 A Yes, she had. She already told me --- it
14 confirmed what Ms. Barnes had said.

15 Q And at any point did any of these people come to
16 you and say they have information about this bakery
17 case?

18 A No, they did not.

19 Q Would you have been willing to take their
20 statement if they had been willing to come to you?

21 A Absolutely.

22 Q They also asked you about Azo?

23 A That's correct.

24 Q Were you ever able to get a real name to go with
25 Azo?

1 A I never got an actual real name or any
2 identifying information about Azo. The only
3 information was that they were at Azo's house at some
4 kind of recording studio earlier in the day on the
5 30th.

6 Q That was the extent of that information?

7 A Yes, that was the extent of that information
8 there at the house.

9 Q Any information that Azo was anywhere around the
10 bakery that night?

11 A No, no information at all that he was involved in
12 the crime.

13 Q Defense counsel also asked you about an
14 additional name that Latoya Barnes gave you, which
15 would be Marcus Johnson?

16 A Yes, Marcus Johnson.

17 Q He was in the jail at the time?

18 A Yes.

19 Q Was the information --- as far as Ms. Barnes
20 relating to you, what was --- why was she relating
21 that information to you?

22 A Why was she relating it to me?

23 Q As far as why she thought ---

24 MR. KRZYSTON: Objection speculation.

25 THE COURT: Sustained. Rephrase your question.

1 BY MS. CAMPBELL:

2 Q Why did Ms. Barnes tell you she was giving you
3 that information?

4 MR. KRZYSTON: Objection, speculation.

5 THE COURT: Sustained.

6 Why did she tell him?

7 MS. CAMPBELL: She told him why.

8 THE COURT: Okay. If she explained why.

9 MS. CAMPBELL: She explained.

10 THE WITNESS: He said that ---

11 MR. KRZYSTON: Objection, hearsay.

12 THE COURT: Overruled.

13 THE WITNESS: She said Marquis Johnson was in the
14 jail telling everyone who had done it. He was the
15 boyfriend of Latoya Barnes or former boyfriend, I
16 should say.

17 BY MS. CAMPBELL:

18 Q And why did she tell you that had meant anything?

19 A Well, he had been talking about it and he was
20 familiar with the individuals involved with the case
21 and familiar with it.

22 Q And the information that she gave you that Marcus
23 Johnson had, did that corroborate or contradict the
24 information you already had?

25 A It corroborated the information we had already

1 obtained through the investigation; that's correct.

2 Q And as far as the note taking and everything, as
3 far as documenting things, it may not have a note that
4 says you audio recorded it, but it would be audio
5 recorded?

6 A It would be audio recorded --- I usually --- I
7 worry about discovery later on. If there are too many
8 notes and or it takes up too many notes, if something
9 doesn't get put in the file and causes a problem or
10 something gets lost --- typically if it's later on in
11 the investigation, especially after a case has been
12 filed, closed and put away into our filing system,
13 I'll just record it, at least document it and then it
14 will be placed in the file and under over at the
15 appropriate time.

16 MS. CAMPBELL: Thank you, Your Honor, I have
17 nothing further.

18 THE COURT: Recross?

19 MR. KRZYSTON: Thank you, Your Honor, may it
20 please the Court?

21 RECROSS-EXAMINATION:

22 BY MR. KRZYSTON:

23 Q Mr. McCoy, you're an investigator, right?

24 A Yes.

25 Q The term itself indicates that you go actually go

1 out and investigate crimes?

2 A I do, yes, sir.

3 Q You would agree with me if you just sat back in
4 your office waiting for people to come talk about
5 crimes, you probably wouldn't get much done, would
6 you?

7 A It would depend on the situation and the kind of
8 information they had. We have actually had quite a
9 few people come forward since Donald Moore came
10 forward.

11 Q But in general if you didn't go out, leave your
12 office to talk to anybody, you wouldn't find out
13 anything, right?

14 A That's why we went and canvassed the area after
15 this incident happened, yes.

16 Q I'm sorry. Are you done?

17 A I'm sorry, I'm done.

18 Q No worries. Now, you just testified that you had
19 no knowledge that Azo was at Lucille Drive when you
20 were doing your investigation on the night in
21 question?

22 A That's correct. From the interview that I was
23 conducting with Troy, I don't believe Azo was ever
24 mentioned.

25 Q And that was on?

1 A Not prior to the incident.

2 Q And that was on March 24th, 2014.

3 A That's correct.

4 Q Do you have a copy of your handwritten notes in
5 front of you?

6 A From the interview?

7 Q Yes --- from all your --- just the life of your
8 case?

9 A I didn't take handwritten notes. I don't recall
10 taking handwritten notes from that interview.

11 Q You took handwritten notes on August 9th, 2013,
12 didn't you?

13 A August 9th, 2013, who are you talking about?

14 Q Latoya Barnes?

15 A Yes, I think I notated in there that I talked to
16 her and put some information down, yes.

17 Q Ms. Barnes told you that Azo was there that
18 night, didn't she?

19 A I don't recall if is he did or not.

20 Q Do you have a copy of you notes or would a copy
21 of that page help you?

22 A I've got it. August 9th.

23 Q Yes, sir.

24 A This would have been at 3:21, correct.

25 Q Correct 15:21 as it's notated on your notes.

1 A Do you have a particular bullet point? What
2 number of bullet point down?

3 Q It's actually the last word before the next entry
4 on August 20th, 2013?

5 A I still don't see anything about Azo in my notes
6 unless I'm looking at a different ---

7 MR. KRZYSTON: May we approach, Your Honor?

8 THE COURT: Yes.

9 THE WITNESS: I'm sorry. I'm looking at my typed
10 notes. Do you mind if I look at this?

11 BY MR. KRZYSTON:

12 Q That's fine. Do you recognize these notes?

13 A I do. These are my handwritten notes during the
14 investigation, yes.

15 Q On the last line, the line right above
16 August 20th, 2013, it states Azo as being somebody
17 that Ms. Barnes told you was in the house on Lucille
18 Drive before the alleged robbery took place?

19 A It doesn't say in the house. I just says Azo
20 with quotations as a nickname was somebody I might
21 possibly ---

22 Q Somebody who possibly was there?

23 A I don't believe he was there at the house.
24 That's not what Troy said in his interview.

25 Q Now, as the lead investigator you actually get to

1 choose and pick what gets submitted to SLED and what
2 doesn't, right? We were talking about that a little
3 bit earlier.

4 A Normally, you know, when we ---

5 MS. CAMPBELL: Objection, Your Honor, outside the
6 scope.

7 THE COURT: Sustained.

8 MS. CAMPBELL: Thank you.

9 MR. KRZYSTON: The Court's indulgence, Your
10 Honor.

11 (Pause.)

12 No further questions, Your Honor.

13 THE COURT: Mr. Schnee?

14 MR. SCHNEE: Very briefly.

15 THE COURT: Yes, sir.

16 RECROSS-EXAMINATION:

17 BY MR. SCHNEE:

18 Q If I'm understanding you correctly, you chose not
19 to interview any of these people because you did not
20 feel at the time that they had relevant information
21 that would assist you?

22 A Well, at the time it was indicated that the
23 majority of them were cooperating with defense counsel
24 and that they had been interviewed. I wanted to
25 obtain those interviews and any relevant information,

1 identifying information prior to me going out and
2 conducting any interview with anyone else just to
3 confirm what they had been saying.

4 Q Okay. Well, Marcus Haley Johnson you knew about
5 in August of 2013, which is not from the March
6 interview. You chose not to interview him, right?

7 A The name came up of Marcus Haley Johnson, not
8 that he was involved or had direct knowledge, but that
9 he was talking about it down at the jail, about who
10 had done it.

11 Q Okay. Well, you talked to a lot of other people
12 who had just been talking in general about the crime,
13 right?

14 A I believe the majority of the people I talked to
15 had either direct knowledge or were able to
16 corroborate pretty quickly the information that we
17 based our investigation on.

18 Q But you at least talked to those people, right?

19 A Right.

20 Q You took the time to talk to them?

21 A Right, and most of them came forward, or we went
22 out when we were conducting other investigative events
23 and we were able to identify them and speak with them.

24 Q Okay. Well, in August of 2013, you knew exactly
25 where Marcus Haley Johnson was, right?

1 A He was in the Alvin S. Glenn Detention Center.

2 Q Did you even go down to talk to him, yes or no?

3 A No, I did not.

4 MR. SCHNEE: All right.

5 THE COURT: All right. Call your next --- do
6 your need a break? Go back to your jury room. Do not
7 discuss the case. Keep an open mind. Do not discuss
8 the case. Everyone remain seated while the jury is
9 dismissed.

10 (WHEREUPON, the jury left the courtroom at 3:31
11 P.M.)

12 (WHEREUPON, a short break was taken.)

13 (WHEREUPON, State's Exhibits 356, 357, 358, 359,
14 360, 361, 362 were withdrawn.)

15 (WHEREUPON, State's Exhibit Numbers 441, 444
16 through 450 were marked for identification only.)

17 THE COURT: Ready?

18 MS. GARFIELD: Yes, sir.

19 THE COURT: Ready?

20 MR. KRZYSTON: Sorry, yes, sir, Your Honor.

21 MR. SCHNEE: Yes, sir.

22 THE COURT: Okay.

23 (WHEREUPON, the jury entered the courtroom at
24 3:52 P.M.)

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

1 THE COURT: Welcome back. Call your next
2 witness, please.

3 MS. CAMPBELL: Thank you, Your Honor. The State
4 calls investigator Jon VanHouten.

5 JON VANHOUTEN,
6 after being duly sworn, testified as follows:

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

9 MS. GARFIELD: May it please the Court?

10 THE COURT: Yes, ma'am.

11 DIRECT EXAMINATION:

12 BY MS. GARFIELD:

13 Q Investigator VanHouten, please share with the
14 jury where you're employed.

15 A Columbia Police Department.

16 Q Please explain what your duties are at the
17 Columbia Police Department.

18 A I am assigned to the US Secret Service. I work
19 in the computer forensic laboratory of the Columbia
20 field office.

21 Q What are your duties in that capacity?

22 A I analyze digital media from computers, cell
23 phones, cameras, anything that stores digital
24 electronic media.

25 Q Is that done on just a state level?

1 A No, I work any agency that requests assistance
2 for computer forensics examination, whether it be the
3 military, any other agencies and any agency that
4 requests a service across the United States.

5 Q What kind of training --- let me back up.
6 Specifically, are you ever asked to examine physical
7 phones?

8 A Yes.

9 Q And when I say phones, I am referring
10 specifically to cell phones.

11 A Yes.

12 Q And when you are asked to examine a cell phone,
13 can you explain to the jury what you do in going about
14 that examination?

15 A Generally when we analyze a cell phone, depending
16 on what type of information the agency or the agent or
17 officers requesting we conduct what's either called a
18 physical examination or a logical examination, we use
19 equipment. In this particular assistance, we used a
20 system called Cellebrite to analyze the phones. We
21 can generally pull logical data. Logical data is data
22 that you see on your device when you click through it.
23 Physical data includes unallocated space, which is
24 data that you can't see, deleted stuff, so we're able
25 to pull deleted stuff and stuff you can't see.

1 Q Are you do that from examining the physical
2 phone?

3 A Yes.

4 Q Does this involve reviewing phone records?

5 A Sometimes.

6 Q Now, were you asked to review and do such
7 examination in this case?

8 A Yes.

9 Q In fact, were you asked to review several phones?

10 A Two phones, yes.

11 Q Specifically, I want to show you what's been
12 marked as State's Exhibit Number 380. Do you recall
13 this exhibit?

14 A Yes, this appears to be the phone that I
15 examined. I have the photographs that I took of the
16 phone.

17 Q Were you able --- were you given a target number
18 related to that phone?

19 A At the time of the examination, yes.

20 Q And do you have that number before you
21 Investigator VanHouten?

22 A I do.

23 Q What is that number?

24 A Bear with me just a second. The number I have
25 for this Samsung phone is (803)463-0890.

1 Q Investigator VanHouten, in the course of this
2 investigation involving the case in court today, what
3 number was that associated with?

4 A I believe the defendant, Lorenzo Young.

5 Q And did you conduct such examination on the
6 phone?

7 A I did.

8 Q And particularly did you find any relevant
9 information on that phone?

10 A I found numerous artifacts of relevance on the
11 phone.

12 Q Did you find any photographs or pictures?

13 A I did.

14 MR. KRZYSTON: Objection, Your Honor. Prior
15 stated objection and foundational objection, as well.

16 THE COURT: Overruled.

17 BY MS. GARFIELD:

18 Q I want to show you 392 and 435. Without showing
19 these to the jury, do you recognize these photographs?

20 A Yes.

21 Q Do you recognize both of them?

22 A I do, yes.

23 Q Investigator VanHouten, those photographs were
24 taken from the cell phone that you just alluded to?

25 A Yes, they were.

1 Q That would be the phone associated with Lorenzo
2 Young?

3 A Yes.

4 MS. GARFIELD: Your Honor, at this time I'd like
5 to introduce 392 and 435 boo evidence?

6 MR. KRZYSTON: I would maintain my prior
7 objection.

8 THE COURT: Approach.

9 (WHEREUPON, a bench conference was held in the
10 presence, but not within the hearing of the
11 jury.)

12 THE COURT: All right. Do you have an objection?

13 MR. SCHNEE: No.

14 THE COURT: State's 392 and 435 admitted over
15 Defendant Young's objection.

16 (WHEREUPON, State's Exhibit Numbers 392 and 435
17 were admitted into evidence.)

18 BY MS. GARFIELD:

19 Q Did you also obtain a particular video from this
20 target telephone?

21 A Yes.

22 Q I'm going to show you what's been marked as
23 State's Exhibit 441. Do you recognize this video or
24 do you recognize the CD?

25 A Yes.

1 Q Is that contained --- and you've had an
2 opportunity to review that video?

3 A Yes.

4 Q Is that video you obtained from the target's
5 phone?

6 A That's correct.

7 Q Again, that would be the phone that's associated
8 with Lorenzo Young?

9 A Yes.

10 MS. GARFIELD: Your Honor, at this time I'd like
11 to enter 441 into evidence.

12 MR. KRZYSTON: Your Honor, we renew our prior
13 objections.

14 MR. SCHNEE: Judge, I'd like to renew as it
15 relates to Trenton Barnes.

16 THE COURT: Overruled.

17 (WHEREUPON, State's Exhibit Number 441 was
18 admitted into evidence.)

19 BY MS. GARFIELD:

20 Q Upon reviewing that video, Mr. VanHouton, did you
21 also have an opportunity to review some still shots
22 that were taken from that video?

23 A Yes.

24 Q I'm showing you what's been marked as State's
25 Exhibits 425, 428 and 432. Without showing those to

1 the jury, do you recognize those photos?

2 A Yes.

3 Q And are those the still shots from the video that
4 you obtained from the target phone?

5 A Yes.

6 Q The phone that's in relation to Lorenzo Young?

7 A Yes.

8 THE COURT: Your Honor, I'd like to introduce
9 State's Exhibit 425, 428 and 432 into evidence.

10 MR. KRZYSTON: Renew prior objection.

11 MR. SCHNEE: Same objection.

12 THE COURT: State's 425, 428 and 432 admitted over
13 defense objection.

14 BY MS. GARFIELD:

15 Q Investigator VanHouten, I'd like you to share
16 with the jury in you area, what is a web search?

17 A Well, a web search uses a service provider such
18 as Internet Explorer, Fire Fox, Safari Opera, to
19 search for content on the internet.

20 Q Were you able to ascertain any information in
21 that area on this particular cell phone?

22 A Yes.

23 Q Please explain to the jury what you found.

24 MR. KRZYSTON: Objection, foundation.

25 THE COURT: Overruled.

1 BY MS. GARFIELD:

2 Q Go ahead, sir.

3 A On this device, I conducted a timeline of
4 chronological events in order and every time the
5 device was used, and I found a series of internet
6 history and the Chrome cache. Chrome is an internet
7 search engine used to search the internet. Cache is a
8 temporary folder that most all of your search engines
9 use to store video. When you look at a website and it
10 has a video or a photo, when you click on the photo to
11 enlarge it or get a better idea of it, the internet
12 search automatically stores it as a temporary file in
13 the temporary folder, which is called cache and we can
14 look, you know, when you search --- when you click on
15 a photo and you search for it or you see something and
16 you click on it, it stores it in the phone or device
17 and basically any search provider or search engine,
18 it's in the cache folder, which you don't see, but it
19 is a hidden file we can bring back.

20 Q That's some of the hidden data that you referred
21 to initially?

22 A Right.

23 Q Did you find any particular pictures in this web
24 search related to the case at hand?

25 A Yes, I did.

1 Q Explain to the jury what kind of pictures those
2 were?

3 A Well, the pictures that I felt were relevant
4 artifacts to this case were actual --- were photos
5 that I found in the cache for a web search for the
6 photos that were released to the media. This was ---
7 these --- the cache logged in these photos on
8 July 5th, 2013, at 6:09 P.M. and they are the still
9 shots of the photos --- still shots of video that were
10 released to the media, which the media released to the
11 public.

12 Q To whoever is using this phone is making this
13 type of search?

14 A Yes.

15 Q And again this is taken off the target phone
16 463-0890?

17 A Yes.

18 Q And that would be the phone associated with
19 Lorenzo Young in this case?

20 A Yes.

21 Q I'm going hand you what's been marked as State's
22 Exhibit 442, and ask if have you seen this CD before?

23 A Yes.

24 Q Are you familiar with that's on this CD?

25 A Yes.

1 Q Would that contain those web search photos that
2 you just testified to?

3 A Yes.

4 MS. GARFIELD: Your Honor, I'd like to introduce
5 State's 442 into evidence and publish for the jury?

6 MR. KRZYSTON: Can we approach, Your Honor?

7 THE COURT: Yes.

8 MR. KRZYSTON: Thank you.

9 (WHEREUPON, a bench conference was held in the
10 presence, but not within the hearing of the
11 jury.)

12 THE COURT: Yes, ma'am.

13 (WHEREUPON, State's Exhibit Number 442 was
14 admitted into evidence.)

15 MS. GARFIELD: I'm sorry. Was it introduced?

16 THE COURT: Yes.

17 MR. SCHNEE: Same objection.

18 MR. KRZYSTON: Here, as well, Judge.

19 THE COURT: What was the objection?

20 MR. SCHNEE: Prior objections that we made. This
21 is the video that was taken.

22 THE COURT: From the phone?

23 MR. SCHNEE: Yes.

24 MR. KRZYSTON: I'm sorry. May we approach one
25 more time?

1 THE COURT: What's the objection?

2 (WHEREUPON, a bench conference was held in the
3 presence, but not within the hearing of the
4 jury.)

5 THE COURT: State's 442 admitted over objection.

6 BY MS. GARFIELD:

7 Q Investigator VanHouten, can you please step down?

8 (The witness complies.)

9 Thank you. Is this what's on that CD that was
10 just introduced into evidence?

11 A Yes, this was --- this was found in the internet
12 Chrome cache for the search history.

13 Q Go back to the --- and, Investigation VanHouten,
14 how many pictures related to that media search were
15 found on this phone?

16 A About nine.

17 Q And this time I would ask the assistance of
18 Ms. Brian to publish those to the jury. That's
19 picture number one and that would be a picture that
20 was released to the media?

21 A Right.

22 Q In this case?

23 A Right.

24 Q That's another picture?

25 A Right. That's another picture found in the

1 Chrome cache.

2 Q And again another picture released to the media?

3 A Yes.

4 Q Picture number three, is that another picture?

5 A Yes.

6 Q And that would be a picture --- can you describe
7 what's in the picture?

8 A It appears to be an open door with a subject
9 wearing a red hoodie and glue jeans.

10 Q And again --- I'm sorry. Please continue.

11 A Entering the business.

12 Q And again this is a photograph released to the
13 media?

14 A Yes.

15 Q Please explain what picture number four shows?

16 A It appears to be the same subject, red hoodie,
17 blue jeans and you can see the outline of a pistol.

18 Q Or a firearm?

19 A A firearm.

20 Q And again, this would be a picture that was
21 released to the media?

22 A That's correct.

23 Q What does this picture represent?

24 A This is a picture in a kitchen and there is
25 another subject wearing a --- this appears to be a

1 black shirt and black pants.

2 Q And again this would be a picture that was
3 released to the media.

4 A Yes.

5 Q And these were released to the media after this
6 incident occurred?

7 A Yes. A photo of a subject wearing a red hoodie
8 and wearing blue jeans and entering the business.

9 Q And again that picture was also released to the
10 media?.

11 A Yes, also released to the media. This is a white
12 van with crime scene tape outside the business. This
13 was also found in the cache and the picture was also
14 released to the media.

15 Q I believe that's all and I believe this is the
16 last picture?

17 A I think so. This is one of the pictures that was
18 released to the media of the kitchen. No subjects
19 were visible, no visible subjects in it.

20 Q And, Investigator VanHouten, all these pictures
21 would have been found in Mr. Young's phone or the
22 number associated with Mr. Young through internet
23 search history?

24 A Yes.

25 Q So a person would have to be searching on the

1 internet for those pictures or viewing the pictures on
2 the internet?

3 A Yes, they would have to be viewing the pictures.

4 Q I want to go back to the photographs that you've
5 identified. Do you have a date of when those
6 photographs were taken on the phone?

7 A I do. The phone, again these were not taken by
8 the phone. These were not in the media folder of the
9 phone, so they weren't actual photographs taken by the
10 phone itself. It's a temporary cache that is stored
11 automatically by the internet search engine and there
12 is a date in the metadata is associated when the
13 photos were clicked on and expanded to view. The
14 dates I have range from July 5th, 2013, at 6:09 P.M.
15 all the way to --- I'm sorry, the first set --- the
16 first set was taken July 1st, 2013, at 7:24 P.M.

17 The site was apparently revisited on the 5th, four
18 days later, so the first set of photos recovered by
19 the --- or that were logged in by the Chrome cache was
20 July 1st, 2013, at 7:24 P.M.

21 Q And those would be the times associated with the
22 photographs we just viewed?

23 A Right.

24 Q Okay, and those would be the photographs that
25 were released to the media?

1 microscope and I'll actually compare the markings on
2 those cartridge cases to each other.

3 Q And was that actually done in this case with
4 respect to these four items first?

5 A Yes, it was.

6 Q And you mention in your results also Item 12.
7 Before we get there let me show you State's 333. I
8 believe this is your Item 10. This is the casing that
9 we're talking about, as well, as Item 9 just as an
10 example of what you were looking at?

11 A Yes, ma'am.

12 Q And all these along with Item 6 and 8 were
13 actually compared to one another?

14 A Yes, ma'am, they were.

15 Q And what were your findings, with respect to the
16 comparisons that you made in the examination?

17 A Based on my microscopic examination of the firing
18 pin and the firing pin shear on these cartridge cases,
19 they were all fired by the same gun.

20 Q Okay. And with respect to 45 GAP caliber, as a
21 firearms expert tell us what that means to you?

22 A 45 GAP is not something I've seen very often.
23 I've been with SLED --- I've been in the firearms
24 department 16 years. I've been in the firearms
25 examiner training side and then as a firearms examiner

1 for over 14 years now. Typically, I think I've only
2 seen 45 GAP in non-police involved shootings once,
3 maybe twice. 45 GAP is a new caliber that came out in
4 about --- it was invented around 2002. It came out
5 for commercial use in 2003, and it was really marketed
6 towards the law enforcement community, so it's not
7 something that we see very often.

8 Q Okay. Then I'm going to show you State's 445
9 specifically referencing the other fired cartridge
10 cases that you received, Items 11 and 12, tell us
11 about those items, what they were and what your
12 testing showed with respect to comparison with the
13 other items?

14 A Okay. First off, 11 and 12 were two fired 40
15 caliber S&W fired cartridge cases. Right away I knew
16 they were not fired by the same firearm that fired the
17 45 GAP caliber cartridge cases.

18 40 S&W caliber is approximately about .40 in
19 dimension. 45 GAP is about .451 in dimension, so
20 right then and there --- and then your chamber, the
21 chambers of firearms are built specific to the size of
22 ammunition that they're going to fire because you want
23 those walls of the chamber to be tight to support that
24 cartridge case during the firing process.

25 These were not the same caliber, so they were not

1 the same size. They also had a different class of
2 firing pin so then I took them to the microscope. I
3 compared them to each other and determined that they
4 were fired by one firearm, but not the firearm that
5 fired the 45 GAPs.

6 Q So each Item 11 and 12, the 40 caliber cartridge
7 case, those were fired by the same weapon and the 45
8 GAP was fired by the same weapon, just two separate
9 weapons?

10 A That's correct.

11 Q Did you also --- tell the jury --- I want to turn
12 your attention to when you refer to Items 11 and 12
13 may be suitable for identification with the firearm
14 which they were fired or with another fired cartridge
15 case or casings, what is meant by that?

16 A That means that we had enough of those individual
17 markings for me to first off compare it to another
18 cartridge case, but if a suspect weapon was ever
19 identified, I want whoever is reading the report to
20 know that they can bring it to me, and I could try to
21 potentially match it to a specific firearm.

22 Q Are all casings that you receive necessarily
23 suitable for comparison?

24 A No, ma'am, they're not.

25 Q I want to turn your attention to Items 7 and ---

1 MR. SCHNEE: Just give me one minute, Your Honor.

2 (Pause.)

3 MR. SCHNEE: Judge, I don't have any witnesses.

4 THE COURT: Okay. Any arguments, Mr. Schnee?

5 MR. SCHNEE: Yes, Your Honor, I have a few
6 arguments. First of all, I believe this is a
7 completely inappropriate time to be having a Denno
8 hearing considering Investigator McCoy has already
9 finished his testimony. The State presented him as a
10 witness. He was the main investigator on this case.
11 He was doing --- you go through the substance, the
12 vast majority of his interview, he is conducting it.
13 At this point he has been called to the jury. He has
14 been cross-examined, redirected, recross-examined and
15 I would certainly object to him even being recalled at
16 this point to testify in front of the jury. However,
17 at this point now, I'm essentially prohibited from
18 being able to question Investigator McCoy in front of
19 the jury about it. Absent them recalling him, which
20 is a very odd and inappropriate thing for them to do
21 at this stage. If they wanted a Denno hearing, they
22 should have done this yesterday or the day before or
23 last week or three weeks ago when we had other
24 pretrial hearings. They've had more than enough
25 opportunities and I think at this stage in the trial

1 when they have announced that they have either two or
2 three witnesses left, they're going to just magically
3 illusion of, oh, by the way, we actually got a
4 statement from Trenton Barnes. I think that's
5 incredibly inappropriate.

6 If that's their intent and they think it's
7 necessary for their testimony and their efforts, then
8 they should ask for a mistrial and try to redo this.
9 If this evidence comes in, I'm going to be asking for
10 a mistrial. Specifically in terms of the Denno
11 issues, they are required to advise my clients of his
12 rights, make sure he understands them, get a valid,
13 free --- and have him waive them freely and
14 voluntarily absent coercion, threats or anything else.
15 In terms of coercion, I would direct your attention to
16 *Bruder v. Williams*, it's a US Supreme Court case.
17 It's commonly known as the Christian burial speech
18 case where the Supreme Court said essentially that
19 police were riding around in a car with a suspect
20 talking to him and what the Supreme Court said is the
21 content of the conversation dealing with religion and
22 saying you need to allow this family to bury their
23 loved one completely de-Mirandized him, and, Judge, I
24 would argue a very similar thing has happened here if
25 he ever been fully Mirandized and waived his rights.

1 I don't believe they presented evidence that he
2 actually waived his rights. He refused to sign that
3 document and magically, of course, the recorder breaks
4 when they say they do it and they never advised him
5 again knowing they have recording failures. After
6 12-and-a-half minutes, Investigator McCoy brings up
7 praying together and then Sergeant Reese says are you
8 hot, are you cold asking if the recording is on
9 because even Sergeant Reese knows the topic of praying
10 together and religion is completely inappropriate is
11 coercive and has been told by the US Supreme Court is
12 inappropriate and denies a fair opportunity for reason
13 and logic and that's why it counts as a de-Mirandizing
14 aspect. It eliminates the waiver.

15 For all of those reasons, I would object to any
16 of this testimony coming in. I don't believe they
17 have met they're burden of proof.

18 THE COURT: Just focus on the prayer.

19 MS. CAMPBELL: The prayer, Your Honor. Just
20 looking at State v. Hill, it's a South Carolina case
21 604 S.E. 2d 696.

22 THE COURT: Hold on. Let me find it.

23 MS. CAMPBELL: Or it may be State v. Crawlly.

24 THE COURT: What year is the Crawlly?

25 MS. CAMPBELL: Crawlly is 2002, but Hill is 2004,

1 Your Honor, and I would also talk about in the
2 interest of Tracy v. --- which is a 2010 case as far
3 as juveniles talking about allowing a defendant to
4 speak with his mother.

5 MS. CAMPBELL: And then State v. Clinton.

6 THE COURT: Do you have a copy of the pursuer
7 case?

8 MS. BAMBACH: No, I don't, Judge. Frankly, I'm
9 not even getting a wi-fi signal that's working for me
10 certainly. If I can go back to my office, I'm more
11 than happy to start printing them, but I would like an
12 opportunity to read any of the cases that the State
13 mentioned since I don't know what they are.

14 THE COURT: Okay. This Christian burial case has
15 nothing to do with this issue at all. I mean, the
16 Christian --- the Brewer v. Williams --- in Brewer v.
17 Williams, this case is very clear. The defendant in
18 that case was accused or --- I guess he was convicted,
19 of kidnapping that began in one state and went to
20 another state, and he had been --- he already had a
21 lawyer. In fact, he already had two lawyers. Both of
22 which his Des Moines lawyer and his Davenport, Iowa
23 lawyer had both advised him not to make any statements
24 and he had already been arraigned and he had already
25 asserted his right to counsel, and the police officer

1 who had knowledge that the defendant was a former
2 mental patient and deeply religious sought to obtain
3 an incriminating remark from him by telling her he
4 should give the parents --- the parents were entitled
5 to a Christian burial for the victim. I mean, that's
6 in no way shape or form, in any way, shape, or form in
7 any way goes to the situation that we have here.

8 Okay. Tell me why you think recalling McCoy is
9 appropriate.

10 MS. CAMPBELL: I don't know that we have to
11 recall McCoy. We were planning on offering it through
12 Reese.

13 THE COURT: Okay.

14 MS. CAMPBELL: If you would like me to recall
15 McCoy, I can.

16 THE COURT: I don't think it's necessary.

17 MS. CAMPBELL: I don't think it's necessary to
18 put a statement in front of the jury to call McCoy.

19 THE COURT: Here is what concerns me. The
20 statement was given freely, knowingly, intelligently
21 and voluntarily. He was clearly advised of his
22 rights. He is having a very clear and intelligent
23 conversation with law enforcement, with two law
24 enforcement officers. There is no concept that you're
25 required to sign the waiver form. People refuse to

1 sign the waiver form all the time.

2 The issue is not do you sign the form or do you
3 not sign the form. The issue is did you know what was
4 going on. Were you aware of your rights? Do you
5 freely, voluntarily, knowingly and intelligently
6 without threat, coercion, force or pressure give a
7 statement to the police.

8 Mr. Barnes indicated to the police that he
9 clearly did understand his constitutional rights
10 because he said, "Instead of a lawyer, can I have my
11 mama?" So that means that he knew and understood that
12 all he had to say was, can I have a lawyer and the
13 questioning would have stopped. He didn't. He asked
14 for his mother, which I'm not even sure the police are
15 required to give him. I haven't read that line of
16 cases in a while, but they did, which was more than
17 appropriate in the situations --- under the situation
18 that they found himself in. He continued to talk with
19 his mother present. So this idea of whatever prayer
20 happened has violated, you know, makes a Miranda
21 waiver invalid based on the Brewer case, the Brewer
22 case is completely and totally different. The person
23 had two lawyers, had been arraigned, and the person
24 and the police had been advised by the lawyers not to
25 talk to the defendant. I mean, that's a completely

1 and totally different situation, I mean --- than the
2 situation we have here. At no point do I see him
3 saying, I don't want to talk anymore. I don't want to
4 answer your questions. I want a lawyer or anything of
5 that nature in any way, shape, or form. So the
6 statement is in based upon the totality of the
7 circumstances. Jackson v. Denno and its progeny.

8 Now, here is my bigger concern. My bigger
9 concern is what exactly is coming in, because we can't
10 use the word 'we,' so ...

11 MS. CAMPBELL: We would agree with that.

12 THE COURT: The word 'we' is out. There is no
13 'we.' There is no 'they.' There is no 'us.' There
14 is no 'them.'

15 I mean, we need --- we're going to have to go
16 through this with a fine tooth comb on what you want
17 to put in to make sure that we're not violating
18 Bruton.

19 I assume you don't want them to say we either; is
20 that right, Ms. Pinnock? Is that why you're standing
21 up.

22 MS. PINNOCK: Yes, Your Honor. That is part of
23 the reason. The concern we had is the State has
24 already introduced a letter that was written by
25 Barnes. That was introduced over our objection

1 because it fully implicates and pretty much places all
2 the blame on Lorenzo Young. That letter is already
3 into evidence. What our concern is now, with the
4 State trying to introduce a statement given to law
5 enforcement, with looking at the totality of
6 everything, the circumstances, the inference is going
7 to be even stronger against Mr. Young. Introducing a
8 second statement by Mr. Barnes when they already have
9 one in evidence. It was our understanding that was
10 their solution to, you know, any sort of Bruton issues
11 that did come up was they elected to use a written
12 letter to his mother instead of a statement through
13 law enforcement, but now it's going to be two separate
14 statements introduced against Mr. Barnes and I fail to
15 see or understand how the jury would not be making the
16 inference against Mr. Young, not using that evidence
17 against Mr. Young when it's not admissible against
18 him.

19 So that's our bigger concern is that they already
20 have that statement in there against them. It's
21 already in evidence. Through Ms. Barnes, you know,
22 she identified the handwriting. They call a
23 handwriting expert up there to identify the
24 handwriting again. It was published to the jury.
25 They already heard a statement by Mr. Barnes. Again,

1 that statement fully implicates Mr. Young, and so I
2 just --- at this point, I think it's --- it doesn't
3 get past a 4003 analysis for Mr. Young because that
4 inference is going to be so strong, he is going to be
5 prejudiced by it. So aside from them saying we were
6 going to do this or this was our plan, yes, we have an
7 obvious problem with that, but the inferences that are
8 going to be created towards Mr. Young is our bigger
9 issue and I don't know how we can avoid that from
10 happening.

11 THE COURT: What about that argument?

12 MS. PINNOCK: I'm sorry?

13 THE COURT: I was talking to the State.

14 MS. CAMPBELL: Your Honor, she references the
15 other thing, but I mean, you directly told this jury
16 you can't consider that letter against Mr. Young in
17 any way. We've already addressed you can't use that
18 against Mr. Young. You can only use that against
19 Mr. Barnes.

20 THE COURT: What she is saying is that because
21 that letter is out, the inference is going to be well,
22 it depends on --- let's start with you can't make that
23 argument until you understand what we're --- I can't
24 process through that argument until I understand what
25 you plan on introducing or want to introduce.

1 MS. CAMPBELL: If you can refer to the
2 transcript, Your Honor, page two, number (2).

3 THE COURT: Tell me which one.

4 MS. CAMPBELL: Instead of saying, we was planning
5 to rob the Ale House. It would be the plan was to rob
6 the Ale House. What happened? Okay. The car started
7 backing ---

8 THE COURT: Hold on.

9 MR. SCHNEE: I'm sorry. I'll completely lost.

10 MS. CAMPBELL: Oh, I'm sorry, number (2), page
11 two.

12 MR. SCHNEE: What exactly are you proposing to
13 introduce, a transcript of this or have just one.

14 MS. CAMPBELL: Have Sergeant Reese testify to
15 what was said.

16 MR. SCHNEE: Well, I have a real problem with him
17 reading from a transcript that's not actually a
18 transcript.

19 THE COURT: Okay.

20 MS. CAMPBELL: Well, then I would be glad to ---

21 THE COURT: We're not on that issue.

22 MS. CAMPBELL: I'll get to that issue.

23 THE COURT: Keep going.

24 MS. CAMPBELL: The car start pulling out. Then
25 on that page --- the only thing I had to do was sit by

1 door. If I saw anybody, yell. Or, if I see anybody
2 yell.

3 MR. SCHNEE: What's your proposal to that last
4 one that you just read?

5 MS. CAMPBELL: Limit it to, the only thing I had
6 to do was just sit by the door. If I see anybody
7 yell, and we would be very specific with Sergeant ---
8 you can only talk about what he said his role was.

9 MS. PINNOCK: Judge, that ---

10 THE COURT: She is not finished.

11 MS. PINNOCK: I'm sorry. I thought she was.

12 MS. CAMPBELL: Page four. Did you watch what
13 happened?

14 Yes, sir.

15 MR. SCHNEE: Where are you on page four?

16 THE COURT: Near the bottom.

17 MS. CAMPBELL: Near the bottom, did you watch
18 this happen, yes, sir.

19 MR. SCHNEE: Did you watch what happened, yes,
20 sir.

21 MS. CAMPBELL: And then finally, Your Honor,
22 moving to transcript (3) top of page four, did you
23 know if anybody was inside the building. I don't
24 know, I don't know. I was supposed just sit as
25 lookout.

1 MS. PINNOCK: I'm sorry, what page?

2 MS. CAMPBELL: Page four, the top of number
3 three, sorry, and then I was going to do something on,
4 but I think that just repeats what he said earlier.

5 THE COURT: Okay. I am not allowing Trenton
6 Barnes' statement in, not because it is not in
7 voluntary or not freely given or in violation of
8 Miranda. I'm not letting it in because I believe that
9 it's a Bruton violation. Here is my explanation.
10 This jury knows that there are three people who are on
11 video committing this crime, okay. I mean, that fact
12 is not in dispute. Everybody has seen the video. The
13 jury has seen the video, all the lawyers have seen the
14 video. All the parties somewhere seen the video.
15 Even with the --- I'll use, and this is my word, but
16 even with the sterilization of Mr. Barnes' statements
17 to law enforcement, I believe they were freely given,
18 they were voluntarily given. They were not in
19 violation of Jackson v. Denno, or Miranda or anything
20 else. That is not my basis of this argument. My
21 basis of this argument is --- "the only thing I have
22 to do is sit by the door. If I see anybody, yell."
23 Well, the jury clearly knows that two people went in
24 and somebody was by the door. So that implies two
25 other people are involved. There's only one other

1 person sitting in the room. "If I see anybody, yell."
2 Well, who would he be yelling to if he wasn't yelling
3 to the other people involved, and so the plan was to
4 rob the Ale House. The plan --- I don't know that it
5 100 percent means there's more than one person, but
6 that's certainly a leap, but the plan was to rob the
7 Ale House and maybe that's making too much of a leap,
8 but the plan was to rob the Ale House. We see three
9 people. We've seen three people from the Ale House
10 video. "You watched what happened, didn't you?"
11 "Yes, sir, that means that somebody else was
12 following." It's just implication after implication
13 that there were other people involved, and I don't
14 know that there is a way to sterilize it. So
15 Mr. Barnes' statement is out based upon Bruton and the
16 confrontation clause.

17 MS. PINNOCK: Thank you, Your Honor.

18 MS. CAMPBELL: Your Honor, is that --- and my
19 concern would be at this point, is based on
20 cross-examination yesterday of Investigator McCoy,
21 this jury is also fully aware that each defendant was
22 interviewed and the defense would be arguing in front
23 of this jury that you didn't get to hear all of what
24 the police interview and what you didn't get to hear.
25 That's my concern. Clearly they went in and based on

1 rulings, they went into --- and each defendant came
2 out --- Troy Stevenson was interviewed, you know,
3 specifically and they elicited part but not all of
4 what Troy Stevenson told police. Our concern is that
5 this jury now is aware that these three defendants ---
6 it's been testified that have been interviewed and
7 they don't have that information before them.

8 THE COURT: Well, there's a jury charge out there
9 on the State's failure to call witnesses and that the
10 State doesn't have to call every single witness that
11 has potential information to prove their case. If you
12 want that charge, I'll give it to you. I mean,
13 Mr. Barnes' statement is a Bruton violation, clear as
14 day.

15 MS. CAMPBELL: I'm not arguing with your ruling.

16 THE COURT: I know you're not arguing with the
17 ruling. There's no other person for the jury to think
18 was involved but Lorenzo Young based on the letter
19 that's already been admitted which, I told them to
20 disregard, and based upon just the nature of the
21 statements. The nature of the statements are that
22 other people are actively participating. So what ---
23 tell me what you.

24 MS. CAMPBELL: My concern is at this point, the
25 jury knows all three codefendants were interviewed.

1 That came out on cross examination.

2 THE COURT: Did it come out that Mr. Young was
3 interviewed?

4 MR. KRZYSTON: I don't believe so.

5 MS. PINNOCK: We never did.

6 MS. CAMPBELL: There was a reference to someone
7 being threatened with the death penalty, which was in
8 violation of your order.

9 THE COURT: Right. A suspect, right.

10 MR. SCHNEE: I believe the testimony was even
11 brought out on direct that they were all brought to
12 headquarters. I don't know that that's really much of
13 a dispute.

14 MS. CAMPBELL: No. We don't dispute they were
15 all brought to headquarters, but at this point they
16 know there was a statement by Troy Stevenson. They
17 know another suspect in the case was questioned and
18 quote unquote threatened with the death penalty. I'll
19 get back to that issue in a minute, so they know that.
20 My concern is that they're going to get up here and
21 argue that basically the State hadn't brought forth
22 all the evidence. The State has brought forth all the
23 evidence we can against these. Of course, Troy
24 Stevenson, and we can bring that out, has pending
25 charges and we can't, you know, he will have his day

1 in court. And that's testimony elicited by the
2 defense, and that was part of our argument just
3 yesterday as far as our concern that they hear part of
4 what was talked about with the Troy Stevenson
5 interview, but not the rest of it, and I guess I'm
6 just ---

7 THE COURT: What's your plan on arguing for
8 closing with to respect to what the State has done and
9 not done, Mr. Krzyston?

10 MR. KRZYSTON: What's my plan?

11 THE COURT: Yes.

12 MR. KRZYSTON: I'm not going to talk about Troy
13 Stevenson at all. I don't know that I even mentioned
14 any witnesses by name.

15 THE COURT: Are you going to say there were
16 witnesses they were not interviewed?

17 MR. KRZYSTON: That there were people with
18 potential information about this crime that were not
19 interview.

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

21 MR. SCHNEE: I'm certainly not going to mention
22 any specifics about Troy Stevenson or his interview.
23 I mean, I think the only questioning I did with
24 Investigator McCoy that got into that was in direct
25 response to answers to questions that I had asked him

1 that were trying to avoid bringing up who said what
2 and when. I'm certainly going to need bring up what
3 witnesses the State has not brought in or not
4 interviewed.

5 Certainly, I'll tell you right now, my plan is to
6 read off probably 3-quarters of the names on here that
7 they haven't called that are on their witness list.
8 They are all law enforcement. That's closing
9 argument. You know, the State has the burden of
10 proof. I'm certainly allowed to tell the jury that
11 they haven't proved their case. That's my general
12 plan.

13 MR. KRZYSTON: Judge, I'm not totally sure what
14 the issue is. I think there's an inference before the
15 jury that that Troy Stevenson was, in fact,
16 interviewed. Mr. Young, myself, and ---

17 THE COURT: But they haven't heard what that
18 interview was.

19 MR. KRZYSTON: Correct. We have alluded to the
20 fact that he was interviewed and there's been
21 discussion ---

22 THE COURT: You've done more than allude.

23 MR. KRZYSTON: There were discussions as to what
24 Investigator McCoy learned in March of this year. I
25 think they've gotten the bulk of that information in

1 through investigative hearsay. I don't think there is
2 much of an issue.

3 MS. CAMPBELL: What?

4 THE COURT: What? No one is allowed to say the
5 word investigative hearsay anymore. It doesn't exist.

6 MR. KRZYSTON: Yes, sir.

7 THE COURT: It doesn't exist. Okay.

8 MR. KRZYSTON: Okay. Your Honor.

9 THE COURT: So I don't understand what you just
10 said. They didn't get up there and ask Investigator
11 McCoy --- the State did not get up and ask
12 Investigator McCoy about Troy Stevenson's interview.
13 You and Mr. Schnee did.

14 MR. KRZYSTON: The Troy Stevenson interview?

15 THE COURT: Yes.

16 MR. KRZYSTON: Right, the substance of what he
17 was interviewed was discussed.

18 THE COURT: Right.

19 MR. KRZYSTON: That's the information that
20 they're seeking to admit through Trenton Barnes'
21 statement? I mean, I'm confused as to what we're even
22 arguing about at this point.

23 THE COURT: Here is the argument: The defense
24 and, that is both defendants, brought up the fact that
25 Troy Stevenson gave all these names to the police and

1 the police didn't do anything with them, okay.

2 MR. KRZYSTON: Yes, sir.

3 THE COURT: You did that, right?

4 MR. KRZYSTON: Yes, sir.

5 THE COURT: Okay. And Mr. Schnee did that,
6 right? So the jury is left with this fraudulent
7 impression. You have committed a fraud upon the jury
8 that Troy Stevenson sat down and gave all these names
9 and didn't give any other information, which is not
10 true, because Troy Stevenson has told police that both
11 of your clients actively participated in the crime.

12 So the issue is that the jury is left with this
13 impression that Troy Stevenson gave this statement to
14 police, but the impression of what the statement is
15 not accurate or even truthful.

16 MR. KRZYSTON: And, Your Honor, to remedy that
17 very assertion that we just made, Your Honor allowed
18 them great latitude on redirect yesterday.

19 THE COURT: As to why they did not interview
20 those people.

21 MR. KRZYSTON: Correct.

22 THE COURT: Right.

23 MR. KRZYSTON: So I think to an extent that issue
24 has been addressed.

25 THE COURT: Are you going to stand up and say

1 that Investigator McCoy didn't interview all those
2 people when he should have?

3 MR. KRZYSTON: I will not say all those people's
4 names, no. I will say that there are people who
5 potentially had information regarding this crime that
6 Investigator McCoy failed to investigate.

7 THE COURT: Okay. What about you, Mr. Schnee?

8 MR. SCHNEE: If Your Honor instructs me not to
9 list off those names, I won't. I'm also similarly
10 confused as to exactly what we're discussing. Cross
11 examining Investigator McCoy about information he
12 received about potential witnesses does not mean that
13 the State gets to somehow introduce Troy Stevenson's
14 statement or the content.

15 THE COURT: We're already past that. We already
16 ruled they couldn't do that.

17 MR. SCHNEE: I just don't understand because I
18 don't believe the jury has been misled.

19 THE COURT: Oh, the jury has been misled, but I
20 have allowed that to happen.

21 MR. SCHNEE: Well, I think the jury has been
22 informed about what Investigator McCoy did or did not
23 do in his investigation in that entire line of
24 questioning. I don't think that --- some of the
25 people that were even mentioned were discussed by

1 other witnesses, such as Latoya Barnes, Marcus Haley
2 Johnson. That came up in August of last year and that
3 witness has never been interviewed. Clearly there was
4 a lot of other content in Latoya Barnes' conversation
5 with McCoy, much of which came out. A lot of it
6 didn't, but I don't even believe there is an inference
7 to the jury that Troy Stevenson said anything other
8 than just a list of names.

9 THE COURT: Ms. Campbell?

10 MS. CAMPBELL: May it please the Court, Your
11 Honor. As you have noted, the jury has been misled
12 somewhat about what Troy Stevenson was saying.
13 Basically, he was saying --- to put it in context, he
14 was trying to give names of people who would put him
15 staying at the house longer than Trenton. That's the
16 extent of what those witnesses could have said, but
17 the inference before this jury, clearly, is completely
18 different. We did try to rehabilitate it somewhat,
19 but at this point --- and we tried to introduce the
20 entire statement to show. We aren't trying hide
21 anything, but at this point the jury thinks there is
22 all this information from Troy Stevenson that they
23 don't have and that he was giving these witnesses ---
24 and I believe the word alibi was even shown at one
25 point as far as that goes. We would just be --- I

1 don't know quite how to handle that, because we need
2 to cure the misinformation that's in front of this
3 jury to whatever extent we can.

4 I am concerned about how they plan on arguing
5 this to the jury since there is additional information
6 which they clearly know that these defendants were
7 interviewed and, you know, that that's not before
8 them. I don't know if we can do some ruling that's
9 basically --- I mean, if you can address it to the
10 jury that you have ruled what is admissible to be
11 presented in this case, but you know, the other thing.
12 Your Honor, with Sergeant Reese, too, basically all
13 the information that the police got in this case point
14 towards these three individuals, including all the
15 information that they got from two out of the three
16 codefendants. The only one that ever denied being was
17 Lorenzo Young and all the physical evidence, as well,
18 as the evidence from the witnesses they interviewed
19 point to these three individuals.

20 THE COURT: What are you asking? That's my
21 question.

22 MS. CAMPBELL: I guess I'm asking for some
23 guidance. We intend to offer through Sergeant Reese
24 the fact that they interviewed multiple people in this
25 case and that all the information they got indicated

1 that these were the three people that committed this
2 crime and they were the only three people there. And
3 the problem is, as much as they would like to, to say
4 somebody else was there, even with Marcus Johnson, the
5 only information they got was that he was going around
6 saying that these two people did it, but that's not
7 been presented to the jury and in Investigator McCoy's
8 defense, he was somewhat limited on what he could say
9 as to why he did not interview these people. One was
10 because they didn't have any additional information or
11 any information contradicting what we already had.
12 Two, his experience in dealing with people in gangs is
13 they just simple don't want to talk to the police, and
14 I believe that's why he was asking for defense counsel
15 to --- for Ms. Zmroczek to help him in trying to make
16 these people you know, talk to him, but I don't think
17 that's really come out before the jury.

18 THE COURT: Yes, sir?

19 MR. KRZYSTON: Judge, I would just repeat that
20 this very issue was discussed and addressed yesterday.
21 Again, she was allowed great latitude in redirecting
22 Investigator McCoy. To another extent, he did not go
23 into interview these --- this list of people. I don't
24 know what information he would have had, and I think
25 it's improper for us to speculate at this point.

1 Without knowing what relief she is granting and
2 really on what grounds she is requesting it, I don't
3 know how to respond.

4 MR. SCHNEE: Judge, I may be misunderstanding,
5 but I might be able to --- it seems the solicitor is
6 asking to call Investigator Reese to the stand and
7 question him about all the various witnesses that were
8 interview and then follow up with a question " ...and
9 then they all told you these are the three people that
10 did it. I can't imagine how that would remotely be a
11 valid question under any circumstances.

12 MS. CAMPBELL: No.

13 MR. SCHNEE: So I don't even understand what the
14 relief is that the State is asking if that's not it,
15 so I'm not sure how to respond, Judge.

16 THE COURT: I mean, the bottom line is McCoy
17 didn't go out and interview these witnesses, period.

18 MR. SCHNEE: Right. And that's the only --- I'm
19 sorry, Judge.

20 THE COURT: Right. The bottom line is McCoy
21 didn't go out and interview these witnesses. I don't
22 know what I'm supposed to do about that. He has his
23 reasons for not doing it. I would allow him to
24 explain more than 90 percent of his reasons for not
25 doing it, but he just didn't do it. I just can't fix

1 that. His decision to not go interview witnesses
2 whose names he was given is his decision and his
3 investigation of the case, period. I mean, I can't
4 imagine a scenario where a defense attorney can't say
5 he was given witness names and he didn't go interview
6 them. I mean, that's a fact.

7 MS. CAMPBELL: I understand, and I'm not trying
8 to say that. I mean, the bottom line is, we did try
9 to introduce and I understand the ruling. All we're
10 saying is that --- and I think you alluded to it
11 earlier, Your Honor, there is somewhat of a fraud in
12 front of this jury. I'm just try calculate to what
13 extent I can try to ---

14 THE COURT: Well, and I --- the misled statement
15 earlier --- I don't know that that was the best word,
16 but I mean that's one of the issues in having joint
17 trials is that there's codefendant statements out
18 there that are not going to be admissible under Bruton
19 if their made to law enforcement. That's just a
20 reality of life that we deal with when we're dealing
21 with --- when you want to try more than one person and
22 I don't know a way around that other than to sever
23 trials.

24 MS. CAMPBELL: Okay. Your Honor, moving on.

25 THE COURT: Okay.

1 MS. CAMPBELL: As far as yesterday, I believe you
2 instructed defense counsel, Mr. Schnee, not to mention
3 the death penalty.

4 THE COURT: I did.

5 MS. CAMPBELL: And then he asked a question and
6 he followed up with " ...you were threatening with the
7 death penalty," or something to that effect. I could
8 be paraphrasing.

9 THE COURT: Correct.

10 MS. CAMPBELL: We would ask for some kind of
11 instruction to this jury that this is not a death
12 penalty case and they are not to consider any kind of
13 sentencing on that.

14 THE COURT: Okay. I've been searching for ---
15 there is an instruction out there. I've used it
16 before. I've been searching for it since last night,
17 and for whatever reason, I cannot find it. There's an
18 instruction out there that tells the jury that they
19 are not allowed to consider sentencing in any way,
20 shape, or form. That is completely in the Court's
21 discretion. If you make it that far, if you find it,
22 you can add in any portion, anything that's relevant
23 about the death penalty.

24 MS. CAMPBELL: Thank you.

25 THE COURT: Mr. Krzyston.

1 MR. KRZYSTON: We would obviously get to a charge
2 conference and object or, you know, be happy with the
3 State's jury charge.

4 THE COURT: You'll get to see it, right.

5 MR. KRZYSTON: Right. Making sure. Thank you,
6 Your Honor.

7 THE COURT: All right, what else?

8 MR. SCHNEE: Judge, since we're on what's
9 apparently an extended break, do you want to address
10 the issue of jury charges now or do you want to deal
11 with that later?

12 THE COURT: We'll deal with that later.

13 MR. SCHNEE: I have nothing further.

14 THE COURT: Let's get through the testimony and
15 deal with all that stuff.

16 MS. PINNOCK: We put our request to charge up on
17 your bench. Just wanted to make sure you got that,

18 THE COURT: I did. Thank you. All right. Bring
19 them in.

20 (WHEREUPON, the jury entered the courtroom at
21 10:49 A.M.)

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

23 THE COURT: All right. Thank you very much.
24 Welcome back, ladies and gentlemen. I apologize for
25 the delay. I accept full responsibility for it. No

1 inference in any way, shape, or form should be drawn
2 against any of the parties in regard to the delay that
3 we had this morning, and I do apologize and thank you
4 for being on time and ready to go. You may call your
5 next witness.

6 MS. GARFIELD: Thank you, Your Honor. The state
7 calls sergeant Kevin Reese.

8 SERGEANT KEVIN REESE,
9 after being duly sworn, testified as follows:

10 THE CLERK: Please have a seat. State your full
11 name for the record.

12 THE WITNESS: My name is Kevin Reese. R-E-E-S-E.

13 DIRECT EXAMINATION:

14 BY MS. GARFIELD:

15 Q Sergeant Reese, where are you from?

16 A Where am I from?

17 Q Uh-huh.

18 A Columbia.

19 Q You've lived here all your life?

20 A Yes, ma'am.

21 Q And Sergeant Reese, where are you employed?

22 A Columbia Police Department.

23 Q And what are your duties for the Columbia Police
24 Department?

25 A I am a sergeant supervisor with the criminal

1 right side of Ms. Hunnewell, and she is --- it looks
2 like she is still at the sink at this point.

3 Q State's Exhibit Number 453. What does that
4 photograph reflect that is occurring in the bakery?

5 A Okay. First of all, you notice that
6 Ms. Hunnewell is not in this frame. It's not at the
7 sink. It reflects one of the individuals, who is now
8 on the inside of the business, and it will be the one
9 with the red hoodie on.

10 Q And referring to State's Exhibit Number 454, what
11 do you see in that photograph, Sergeant Reese?

12 A This frame shows just at the entry point to the
13 door, the entry door, and I say that because the other
14 subject the one with the gray hoodie on, is just a
15 couple of feet --- appeared to be just a couple of
16 feet on the inside of the business as you step through
17 that entry door.

18 Q Moving on to State's Exhibit 455, Sergeant Reese,
19 what does that picture reflect in the bakery?

20 A Ms. Hunnewell has her back turned toward where
21 the door is opened, and it shows the subject in the
22 red. It's clear that he has a firearm in his right
23 hand.

24 Apparently he is approaching her and she doesn't
25 know it yet, because it doesn't appear that at this

1 instant it look as if she is still --- she is working
2 at the stove and not even aware of what's behind her.

3 Q Sergeant Reese, I'll hand you State's Exhibit
4 Number 456. Can you please share with the jury what
5 you observed in that photograph?

6 A This looks like Ms. Hunnewell is still at the
7 stove and now the person in the red hoodie has engaged
8 her from behind. It appears that he has hands on at
9 this point.

10 Again, if the stove and the sink area would be
11 out here and the camera would be here, it also shows
12 the back of the subject in the gray hoodie. His arm
13 is extended, as well. He has something in his hand to
14 me from the investigation, obviously, that's a
15 firearm.

16 Q Sergeant Reese, I'll direct your attention to
17 State's Exhibit Number 457, can you share with the
18 jury what you observed in that photograph?

19 A This frame also shows a hands on type situation.
20 Ms. Hunnewell is still being engaged from the rear.
21 It appears that the subject now, in the red hoodie,
22 has the firearm up in this manner pointing it at her
23 head.

24 It also appears that the subject in the gray
25 hoodie is now making his move toward Ms. Hunnewell and

1 the subject in the red shirt, sweatshirt..

2 Q Sergeant Reese, State's Exhibit Number 458, what
3 do you see in that?

4 A I don't see the one in --- I don't see the gray
5 hoodie in this frame. The subject in the red hoodie
6 is still engaging Ms. Hunnewell. He has the gun. It
7 appears to be a little closer at this point. He
8 has his --- it looks as if he has his left hand now on
9 her --- on the rear from this side of her head and
10 neck area.

11 Q And I'll show you State's Exhibit Number 459.
12 What do you observe in that picture?

13 A Frame 459 shows --- still the cameras back here
14 is showing the rear of the person that's in the red
15 hoodie. Ms. Hunnewell is now facing him. There is
16 not a great distance between the two of them. They
17 are very close. Close enough to be touching, but she
18 is facing him and it looks as if he still has the gun
19 in his right hand pointing it at Ms. Hunnewell and now
20 has her hand up like this and her arm.

21 Q Sergeant Reese, if you'll share with the jury
22 what you observed in State's Exhibit 460.

23 A This frame here shows both subjects now in the
24 gray hoodie and a red hoodie facing Ms. Hunnewell.
25 She is now turned around toward the camera that would

1 be here and her left hand is up like this at some
2 point, and I really can't make her right hand out
3 except to say that it is somewhere in this manner
4 here, around the breast area here.

5 The subject in the gray hoodie is still using his
6 right hand. He is pointing the firearm at her in her
7 mid section area. It looks like there is now a --- a
8 bit more of a physical contact made between Ms.
9 Hunnewell and the one in the red. This looks like
10 there is a physical altercation at this point between
11 the two of them.

12 Q Sergeant Reese, if you can take a look at 461?

13 A Certainly.

14 Q And share with the jury what you observed.

15 A At this point, I do not --- in this frame I do
16 not see the subject in the gray hoodie, only it still
17 appears to be in the right hand of the subject in the
18 red hoodie. It's caught in this frame. but not very
19 much of him. You don't see him, you just see his arm
20 up to this point. You still see the firearm in his
21 hand. Ms. Hunnewell is still in the frame and I
22 cannot at this point tell you'll whether at this
23 juncture there has been any shots fired at this point.
24 I can't tell that from the photograph.

25 Q You can't tell that in the photographs?

1 A No.

2 Q Okay.

3 Q Sergeant Reese, if you'll share with the jury
4 what you see in State's Exhibit 462.

5 A In 462, the subject --- Ms. Hunnewell is not in
6 the frame. The subject with the red hoodie, it's
7 clear at this point that he is in flight. You can
8 tell by the different positions of his body and he is
9 on his way out toward the area that he came in
10 through.

11 Q What did you observe about his arm?

12 A His arm is up like this and it's behind him in
13 this fashion.

14 Q In the direction towards who?

15 A In the direction toward where Ms. Hunnewell was
16 standing a few moments ago.

17 Q And lastly State's Exhibit Number 463, what did
18 you observe?

19 A 463 shows the subject in the gray hoodie. He is
20 in the frame shot. Ms. Hunnewell is in the frame
21 shot. Unfortunately, she is --- you can't see all of
22 her, but you can see her legs. One foot. She is down
23 on the floor, and she is in that same area that the
24 subjects first engaged her. The subject with the gray
25 hoodie on, he still has the gun in his hand. He has

1 Young in the courtroom today?

2 A I do.

3 Q Can you please point him out for the record to
4 the jury?

5 A He is in the middle of counsel table, has a blue
6 shirt on with striped tie.

7 Q Do you also see the defendant Trenton Barnes in
8 this case?

9 A I do.

10 Q Can you point him out for the record?

11 A He is sitting at the far right counsel table with
12 a black and white printed shirt on.

13 Q Thank you, Sergeant Reese.

14 MS. GARFIELD: Your Honor, may the record reflect
15 that Sergeant Reese has identified both defendants for
16 the record?

17 THE COURT: So reflected.

18 MS. GARFIELD: Sergeant Reese, please answer any
19 questions the defense counsel may have for you.

20 THE WITNESS: I will.

21 MS. PINNOCK: No questions, Your Honor.

22 MR. SCHNEE: No questions.

23 THE COURT: Have a good day.

24 THE WITNESS: Thank you, Your Honor.

25 THE COURT: Call your next witness.

1 MS. GARFIELD: Your Honor, at this time the State
2 of South Carolina rests its case.

3 THE COURT: All right. Ladies and gentlemen, at
4 this point in time, the State has rested its case in
5 chief. I have some matters of law that I have to take
6 up that I'm required to take up outside of prescience
7 so please return to your jury room. Do not discuss
8 the case in any way, shape, or form. Keep an open
9 mind and we'll be back with you in just a few minutes.
10 Thank you very much. Everyone remain seated while the
11 jury is dismissed.

12 (WHEREUPON, the jury left the courtroom at 11:38
13 A.M.)

14 THE COURT: All right. Who wants to go first?

15 MR. SCHNEE: I'll go first.

16 THE COURT: All right.

17 MR. SCHNEE: May it please the Court, Your Honor.

18 THE COURT: Yes, sir.

19 MR. SCHNEE: First I would renew all prior
20 motions and objections. Particularly all of the
21 motions dealing with the mistrial, severance,
22 804(b)(3), just all for the record. Second, Your
23 Honor, I'd move for a directed verdict on all charges
24 for my client particularly, other than the letter
25 which I would certainly argue is not really direct

1 evidence, that it's more circumstantial evidence. If
2 you look at the entire content of what we know is
3 factually untrue, compared to the video and all other
4 actual indisputable evidence, I don't believe the
5 State has gotten to the point of proving beyond a
6 reasonable doubt with any clear and convincing
7 evidence or circumstantial evidence. The standard is
8 substantial circumstantial evidence. I don't believe
9 they've gotten there. I believe they've gotten
10 Rolanda Coleman to pseudo identify my client by saying
11 that she knew it was his walk and his height. That's
12 the entire identification on the video itself and at
13 the same time refusing to admit that allegedly the
14 person in red would be Lorenzo Young, which is the
15 State's contention. Coming from Rolanda Coleman, I
16 think that highly suspect, at best. As to any other
17 direct evidence, there's no fingerprints, there's no
18 DNA. There is nothing properly admitted. There is no
19 confession admitted by anyone. I just don't believe
20 the State has proved its case beyond the point that
21 Your Honor or even the jury should even consider it
22 and would I ask for a directed verdict.

23 THE COURT: All right. Who is talking?

24 MS. CAMPBELL: Your Honor, I believe in the light
25 most favorable to the State, the State has proven

1 case. There is substantial evidence as far as guilt
2 for Mr. Barnes, including his confession to which he
3 admits to going in and being one of the shooters. In
4 addition to that, there was identification by his own
5 mother, as well Rolanda Coleman as being in the video.
6 There is also his DNA at the scene. Your Honor, I
7 would respectfully ask you to deny his motion.

8 THE COURT: All right. All your previous motions
9 are noted for the record and my rulings on them will
10 remain the same.

11 As to your motion under Rule 19 under the South
12 Carolina rules of criminal procedure, for a directed
13 verdict, that motion is denied. I'm required to
14 consider the evidence in the light most favorable to
15 the State. I'm further required to view the existence
16 of the evidence and not the weight of the evidence.
17 Therefore, I'm ruling on this motion, you will be
18 denied. I believe there is --- in the case of
19 Mr. Barnes, there is direct evidence linking him and
20 connecting him to this crime and there is substantial
21 circumstantial evidence so your motion for a directed
22 verdict is denied.

23 Mr. Young?

24 MS. PINNOCK: May it please the Court, Your
25 Honor. Your Honor, at this time we would renew all of

1 our previous motions and objections as noted, Judge,
2 specifically, Judge, our objection to the introduction
3 of a letter written by Trenton Barnes. We would renew
4 all objections that we had to the trying of Mr. Young
5 and Mr. Barnes in a joint trial. We also renew our
6 objection to any items collected during search warrant
7 of Mr. Young's house and any testing done thereafter
8 on all those items and basically all of our objections
9 and motions that we made throughout the State's case.
10 We just renew all of those. We understand Your Honor
11 has ruled on them, but at this time we are renewing
12 all our objections and motions. Your Honor, we're
13 also asking Your Honor to grant a directed verdict in
14 viewing the evidence in the light most favorable to
15 the State, the standard is substantial circumstantial
16 evidence.

17 I would agree that they have introduced some
18 circumstantial evidence in this case, but I don't
19 believe it rises to the level of substantial. I don't
20 believe that they have presented enough evidence
21 against Mr. Young. The evidence that is per Your
22 Honor's ruling to be allowed to be considered against
23 Mr. Young. I don't think this case should reach the
24 jury for deliberation. We would ask Your Honor to
25 grant a directed verdict for Mr. Young on all charges

1 because the State has failed to meet their burden at
2 this point.

3 THE COURT: All right. All your previous motions
4 are noted for the record and my ruling upon them will
5 remain the same. As to the motion for a directed
6 verdict under South Carolina rules of criminal
7 procedure Rule 19 that motion is denied. In regards
8 to Mr. Young, there is both direct evidence against
9 him and there is substantial circumstantial evidence
10 against him and his case will go forth to the jury
11 viewed in the light most favorable to the State,
12 taking into account the existence of the evidence and
13 not the weight of the evidence.

14 All right. Now, we need to --- I need to advise
15 both of them, okay. Would both of you gentlemen
16 please stand up and raise your right hand, please,
17 both of you?

18 LORENZO YOUNG AND TRENTON BARNES,
19 each after being duly sworn, both testified as
20 follows:

21 THE COURT: All right. I'm going to carry on a
22 conversation with you here, okay. This is to each
23 defendant. Each defendant is standing, both with
24 their lawyers. Now, I mean, this. If you do not
25 understand what I'm saying or you're confused or you

1 need me to know explain something further just tell
2 me, that's perfectly fine. You're not going to upset
3 me or offend me or anything else. This is one of the
4 most important things we will cover. I want to handle
5 this with a full knowledge and understanding that you
6 understand what I'm saying and that you're following
7 what I'm saying. Do you understand that, Mr. Barnes?

8 DEFENDANT BARNES: Yes, sir.

9 THE COURT: Do you understand that, Mr. Young?

10 DEFENDANT YOUNG: Yes, sir.

11 THE COURT: Okay. All right. At this time, I'm
12 going to explain to both of you some of your rights.
13 If you do not understand anything that I say, please
14 let me know. If you want me to explain anything in
15 more detail to you, let me know. Do you understand
16 what I have said so far, Mr. Barnes?

17 DEFENDANT BARNES: Yes, sir.

18 THE COURT: And Mr. Young?

19 DEFENDANT YOUNG: Yes, sir.

20 THE COURT: We have now reached the stage of the
21 trial where you may present your defense. You have
22 the right to claim the protections given to you by the
23 Fifth Amendment to the Constitution of the United
24 States of America. This amendment states in part that
25 no person shall be compelled in any criminal case to

1 be a witness against himself. What this means is that
2 you cannot be required to testify in this case. You
3 have the right to testify on your own behalf, however,
4 no one can make you testify. This is a personal right
5 and no one can waive this right except you. If you
6 decide to testify, you will be subject to the same
7 rules that govern other witnesses and you may be
8 examined and cross-examined on any relevant issue in
9 this case. If you have any convictions that involve
10 dishonesty or false statement or for crimes punishable
11 by imprisonment for than one year and I determine that
12 the probative value of these --- admitting this
13 evidence outweighs its prejudicial effect, the
14 solicitor will be able to introduce your record to
15 attack your credibility. I know of none. Do you know
16 of any, Ms. Campbell?

17 MS. CAMPBELL: No.

18 THE COURT: Prior convictions that would fall
19 under 609?

20 MS. CAMPBELL: We aren't planning on using any.

21 THE COURT: Okay, so there are no criminal
22 convictions that the State would attempt to introduce
23 during your cross-examination. Do you understand
24 that, Mr. Barnes?

25 DEFENDANT BARNES: Yes, sir.

1 THE COURT: And Mr. Young?

2 DEFENDANT YOUNG: Yes, sir.

3 THE COURT: If you decide to testify this
4 decision on your part must be made freely and
5 voluntarily and intelligently with the knowledge of
6 the protections that are given to you by the Fifth
7 Amendment and the consequences of your decision to
8 testify. If you decide not to testify, I will
9 instruct the jurors that cannot give the fact that you
10 did not testify any consideration whatsoever and that
11 there is to be absolutely no prejudice to you because
12 you did not testify. It is left entirely up to you
13 whether or not you testify.

14 You may talk with your attorney or your family or
15 anyone else, but the final decision will be left
16 entirely up to you. Do you understand what I have
17 explained to you so far? Mr. Barnes?

18 DEFENDANT BARNES: Yes, sir.

19 THE COURT: Mr. Young?

20 DEFENDANT YOUNG: Yes, sir.

21 THE COURT: Do you have any questions about what
22 I have explained to you, Mr. Barnes?

23 DEFENDANT BARNES: No, sir.

24 THE COURT: Mr. Young?

25 DEFENDANT YOUNG: No, sir.

1 THE COURT: Have you discussed this --- now,
2 don't tell me what the discussion is, but have you
3 discussed this with your lawyer, Mr. Barnes?

4 DEFENDANT BARNES: Yes, sir.

5 THE COURT: Now, don't tell me what the
6 discussion is, but Have you discussed it with your
7 lawyer, Mr. Young?

8 DEFENDANT YOUNG: Yes, sir.

9 THE COURT: Do you need to talk anymore to your
10 lawyer at this time?

11 DEFENDANT BARNES: No, sir.

12 THE COURT: Counsel, do you request more time,
13 Mr. Schnee?

14 MR. SCHNEE: Can I have five seconds?

15 THE COURT: Mr. Krzyston?

16 MR. KRZYSTON: I'll just take five seconds while
17 he is, as well.

18 THE COURT: Okay.

19 MR. SCHNEE: I'm good.

20 MR. KRZYSTON: We're good, Your Honor.

21 THE COURT: So do you need any more time to talk
22 to anybody, Mr. Barnes?

23 DEFENDANT BARNES: No, sir.

24 THE COURT: And Mr. Young?

25 DEFENDANT YOUNG: No, sir.

1 THE COURT: Okay. At this point in time, do you
2 wish to testify, Mr. Barnes?

3 DEFENDANT BARNES: No, sir.

4 THE COURT: Okay. And do you wish to testify,
5 Mr. Young?

6 DEFENDANT YOUNG: No, sir.

7 THE COURT: Okay. All right. Thank you very
8 much. You may be seated.

9 THE COURT: Let's talk about scheduling. Mr.
10 Krzyston, how many witnesses are you planning on
11 calling?

12 MR. KRZYSTON: Your Honor, we're not putting up a
13 case.

14 THE COURT: Mr. Schnee?

15 MR. SCHNEE: No witnesses, Judge.

16 THE COURT: Okay. Very well. Let's talk about
17 scheduling a little bit for --- go ahead, stand up?

18 MR. KRZYSTON: Since we just formally rested, I
19 would again renew all motions and objections, pre and
20 post trial, as well as throughout the trial and just
21 everything that we brought to the court.

22 MR. SCHNEE: As officially resting, I would also
23 renew all prior motions and objections based on the
24 same issues.

25 THE COURT: All right. Those motions are noted

1 for the record, my rulings upon them will remain the
2 same. Let's talk about scheduling --- how do you
3 all --- we have to talk about charges. We have to eat
4 lunch and we have to argue and charge. Are what are
5 your thoughts?

6 MS. CAMPBELL: It takes about 20 to 30 minutes to
7 talk about the charges at least, and then whatever you
8 think is appropriate for lunch and then we'll be
9 ready.

10 MR. SCHNEE: Judge, I agree. It's probably about
11 a 15 to 20 minute discussion about actual charges.
12 The only other issue i.e. obviously we have to go
13 through all the evidence and make sure all the
14 exhibits are there. Particularly the CDs, I want to
15 through them and just stick them in a laptop and make
16 sure what's on them. I think we can do all that while
17 the jury is actually at lunch. We can do our ---
18 everything else after that.

19 THE COURT: Okay.

20 MR. SCHNEE: I don't mind not eating. It's not
21 like I have had much to eat during lunches anyway
22 during this trial.

23 MR. KRZYSTON: We're at the court's disposal,
24 Your Honor.

25 THE COURT: All right. Well, let's do this.

1 Let's take a little break because I think that
2 everybody --- the jury hasn't been in here all
3 morning, but most all of have without break and I know
4 Karen is looking at me like she really needs a break.
5 Let's take about a ten minute break. Everybody
6 stretch your legs, kind of regroup. Come back. We'll
7 do the charge conference on the record.

8 MR. KRZYSTON: Thank you, Your Honor.

9 MR. SCHNEE: Thank you, Your Honor.

10 THE COURT: We will stop the charge conference,
11 break for lunch and then argue and charge after lunch,
12 okay?

13 MR. SCHNEE: Thank you, Your Honor.

14 (WHEREUPON, a short break was taken.)

15 THE COURT: Okay. The multiple defendant charge
16 you requested is the one that's in the charge book.
17 Do you have an objection to that?

18 MS. CAMPBELL: No, Your Honor, it's appropriate.

19 MR. KRZYSTON: Thank you, Your Honor.

20 THE COURT: I'm charging multiple defendants and
21 multiple charges and so let's move to Mr. Barnes just
22 for these I and he wants the Logan circumstantial
23 evidence charge. What's your position on that?

24 MS. CAMPBELL: I think if he requested it, he
25 gets it.

1 THE COURT: So that would be the circumstantial
2 evidence charge, his charge. As to reasonable doubt,
3 I charge Victor v. Nebraska and Mr. Barnes' and then
4 malice, we're going to do malice here in just a
5 second. Criminal intent ---

6 MS. CAMPBELL: Your Honor, we would request
7 criminal intent in the charge book.

8 THE COURT: Yeah, the criminal intent that one is
9 almost identical to the one in the charge book; it's
10 very close.

11 MR. SCHNEE: Okay.

12 THE COURT: I will be charging criminal intent
13 and multiple defendants, the verdict --- I'm going to
14 tell them --- I'm going to do this at the beginning
15 and I'm going to do it at the end when I come to the
16 verdict form, which I'll show you all a copy of. I'm
17 going to say you have to consider each and every
18 single one of these independent of each other. One
19 decision can't be based upon the other decision, you
20 can acquit them all, find them all guilty, find none
21 of them guilty, find some, partial whatever it may be.
22 I will go into detail about the multiple defendants
23 and multiple charges in the beginning and at the end
24 when I go through the verdict form. Okay.

25 MR. SCHNEE: Yes, sir. Judge, there are a couple

1 of other charges that I didn't actually print out
2 because I knew they were in your charge book that I
3 would request. First, I would request a mere presence
4 charge. I think there is substantial evidence, or at
5 least there's been enough testimony that we didn't ---
6 the person, which is outside whose identity is an
7 obvious issue, could be merely present and not
8 actually a participant. I'd ask for that.
9 Additionally, based on the letter that the State
10 introduced with the actual content of that, first I
11 would be requesting a voluntary manslaughter charge
12 based on the lack of malice that's expressed in that
13 letter and second I would be objecting to any inferred
14 malice by using deadly weapon as a result of the
15 letter the State introduced.

16 THE COURT: All right. Your request for a
17 voluntary manslaughter is denied. Tell me why you
18 think Belcher applies.

19 MS. CAMPBELL: We'll withdraw that.

20 THE COURT: You'll withdraw ---

21 MS. CAMPBELL: We'll be glad to not use Belcher.
22 I'll agree to that.

23 THE COURT: You're okay with not saying infer
24 from a deadly weapon.

25 MS. CAMPBELL: Everybody know it's not --- I just

1 the it's safer to not use it.

2 THE COURT: Okay. That's fine. Do you want to
3 respond to the mere presence?

4 MS. CAMPBELL: Your Honor, the only testimony
5 before this jury is that the three of them went down
6 there and participated in this crime. Out of an
7 abundance of caution, I don't have a problem with
8 mere presence.

9 THE COURT: Okay. Say that again.

10 MS. CAMPBELL: I don't have a problem with it.

11 THE COURT: Okay, you don't have a problem with
12 it?

13 MS. CAMPBELL: With just the fact mere presence
14 alone is not enough.

15 MR. SCHNEE: It's one or two sentences. That was
16 the one I was referring to.

17 THE COURT: Yes, and it's in the --- hold on, let
18 me find that.

19 (Pause.)

20 THE COURT: Here is what I was already planning
21 on saying. However, mere presence at the scene of a
22 crime is not sufficient to convict one as a principal
23 on theory of aiding and abetting. So I was going to
24 talk about it anyway.

25 MS. CAMPBELL: That's fine.

1 MR. SCHNEE: That's fine.

2 THE COURT: That's part of the hand of one
3 charge.

4 THE COURT: Okay.

5 MR. SCHNEE: The only other thing, the reasonable
6 doubt language, really the only request I'm making is
7 the hesitate to act charge. I believe that's probably
8 in there.

9 THE COURT: It's in your request to charge. I'm
10 charging Victor v. Nebraska, which is firmly
11 convinced.

12 MR. SCHNEE: Okay. So you're not charging the
13 hesitate to act?

14 THE COURT: Correct.

15 MR. SCHNEE: Okay. Well, that's --- for the
16 record, yes, I understand. Thank you.

17 THE COURT: You can still say that. You
18 understand that?

19 MR. SCHNEE: Yes, Your Honor.

20 THE COURT: There are two charges that are
21 available for reasonable doubt. One is hesitate to
22 act, one is firmly convinced. I charge firmly
23 convinced. Hesitate to act as is correct statement of
24 the law, so you can say it.

25 MR. SCHNEE: Yes, Your Honor. I just wanted to

1 make sure that you were not saying it because I
2 normally tell the jury that the judge is about to
3 instruct you.

4 THE COURT: That's fine. I understand. That's
5 why I was telling you that.

6 MR. SCHNEE: Thank you.

7 MR. KRZYSTON: Judge, I was just wondering, are
8 you going to reissue the limiting instruction in
9 regard to the handwriting sample?

10 THE COURT: I was going to, yes.

11 MR. KRZYSTON: Okay.

12 THE COURT: Do you have an objection to me doing
13 that?

14 MR. KRZYSTON: Again, I'm in that weird position
15 where I've got this objective sufficiency of the
16 overall charge, but ask for it anyway so only to that
17 extent.

18 THE COURT: All right.. Ms. Campbell. Let's go
19 through yours.

20 MS. CAMPBELL: Yes, sir.

21 THE COURT: Let's start with the kidnapping one.
22 Is there any objection to the kidnapping one? Hold
23 on. Let me go to that part of my charge.

24 MR. SCHNEE: Judge, I have no particular
25 objection to that one sentence. That's covered in the

1 elements that you're going to read anyway, but I'm not
2 going to object to it.

3 THE COURT: Mr. Krzyston.

4 MR. KRZYSTON: We have no objection, Your Honor.

5 THE COURT: All right. So the kidnapping
6 addition will be added in.

7 I have to reorganize this so that I'll have to
8 retype it out. All right. So now, the next one ---
9 let's move to the hand of one is the hand of all.

10 MS. CAMPBELL: Are you using that one or a
11 different one?

12 THE COURT: I have three hand of one hand of all
13 from you so let's start with which one? They all kind
14 of say the same thing, but they're all a little bit
15 different.

16 MR. SCHNEE: Judge, I think there's one that kind
17 of looks like a combination of some of the others. It
18 starts out with two or more combined together. Blah
19 blah blah. It's one solid very large paragraph.

20 THE COURT: Right.

21 MR. SCHNEE: Obviously out of the charged, that
22 one covers all the rest. I would ask that ---

23 MS. CAMPBELL: Are you talking about the Ralph
24 King Anderson one?

25 MR. SCHNEE: Yes.

1 MS. CAMPBELL: I have no problems with that.

2 THE COURT: How about you, Mr. Krzyston?

3 MR. KRZYSTON: Just so we're clearly talking
4 about the one --- the correct one, it's King's charge
5 as well as State v. Avery.

6 THE COURT: Yes.

7 MR. KRZYSTON: We would object to that charge on
8 the basis of the totality of the circumstances. I
9 don't know that the State has offered any evidence to
10 indicate that Mr. Young --- certainly offered any
11 direct evidence to indicate that Mr. Young is part of
12 an accomplice. Based on that, Judge, we object to the
13 charge at issue.

14 THE COURT: You're objecting to hand of one, hand
15 of all period. Is that your objection?

16 MR. KRZYSTON: Yes, Your Honor.

17 THE COURT: If I give the State's version of it,
18 then the mere presence comes out. Do you understand
19 that, Mr. Schnee?

20 MR. SCHNEE: Well, I don't understand, no, I
21 don't.

22 THE COURT: Okay. The hand of one is the hand of
23 all from the charge book includes the language of the
24 mere presence, which I read to you just a minute ago.
25 If you give the --- if I give the Ralph King Anderson

1 charge, mere presence is not in there.

2 MR. SCHNEE: Well, Your Honor, I would ask that
3 you either charge what's in your book or just add a
4 separate mere presence charge. I'm fine with Your
5 Honor doing it either way. I understand the State is
6 entitled to that charge and I'm entitled to a mere
7 presence charge, Judge.

8 MS. CAMPBELL: If he wants that mere presence
9 added in, we have no problem with you adding at the
10 scene is not sufficient..

11 THE COURT: Here is my question. On the Ralph
12 King Anderson hand of one charge. My question if I
13 say if two or more combine together to commit an
14 unlawful act, such as robbery, and then halfway down
15 it says, as for instance to break in and steal, both
16 of those, I think inserting those factors in there
17 gets close to commenting on the facts of the case
18 because that is the allegations.

19 MS. CAMPBELL: How about to commit an unlawful
20 act or a crime. Does that help?

21 THE COURT: What about that, Mr. Schnee, do you
22 have an objection to that?

23 Do you see what I'm saying.

24 MR. SCHNEE: Yes, Your Honor.

25 THE COURT: What I'm --- there's warnings all

1 over the charge book that says --- that say don't give
2 an example that fits the facts of your case.

3 MR. SCHNEE: Right.

4 THE COURT: Right. Because you don't want to be
5 in a position of commenting on the facts of your case.
6 So if I change that --- are you looking at the State's
7 request to charge on this?

8 MR. SCHNEE: Yes.

9 THE COURT: If I change, if two or more combine
10 together to commit an unlawful act and/or a crime,
11 instead of saying such as robbery, which is an
12 allegation here and then the execution of that
13 criminal act, blah blah blah, and then halfway down
14 where it says, as for instance, if it was unlawful.

15 MS. CAMPBELL: Just take out that language of,
16 for instance to break in and steal.

17 MR. SCHNEE: You take out the, as for instance to
18 break in and steal.

19 THE COURT: The common purpose may not have been
20 to kill...and if it was unlawful and in the execution
21 of this common purpose --- but, if it was unlawful and
22 or criminal, right?

23 MS. CAMPBELL: Unlawful and/or criminal?

24 THE COURT: And/or criminal, and in the execution
25 of this common purpose.

1 MS. CAMPBELL: That's good.

2 THE COURT: I think that prevents the court from
3 commenting on the facts.

4 MR. SCHNEE: I would agree with that, Your Honor.

5 THE COURT: You're objecting altogether to the
6 hand of one, hand of all, right?

7 MR. KRZYSTON: Correct.

8 THE COURT: And then where is the mere presence?

9 (Pause.)

10 Mere presence at the scene not sufficient to
11 prove someone guilty of a crime in a defendant's
12 presence where a crime is being committed or mere
13 association with a person who commits a crime does
14 make a defendant an accomplice or aider and abettor of
15 the person committing the crime.

16 MR. SCHNEE: That's pertinent.

17 THE COURT: Do you have an objection to that?
18 Okay. Do you have an objection to the mere presence
19 charge, Mr. Krzyston?

20 MR. KRZYSTON: No, Your Honor.

21 MS. CAMPBELL: So that would be the only hand of
22 one.

23 THE COURT: That would be the only hand of one,
24 yes.

25 MR. SCHNEE: Judge, as for malice, I think ---

1 THE COURT: Hold on.

2 MR. SCHNEE: I'm sorry.

3 THE COURT: I'm trying to keep everything
4 organized so when I go back and retype it so it makes
5 sense to me what I've done.

6 MR. SCHNEE: Yes, sir, I understand.

7 THE COURT: Just one second. Let me get to
8 malice in my charge. Okay. So we're all agreeing
9 that inferring malice from the use of a deadly weapon
10 is out?

11 MS. CAMPBELL: Out, yes.

12 THE COURT: Do you agree to that?

13 MR. SCHNEE: Yes.

14 THE COURT: Do you agree to that?

15 MR. KRZYSTON: Yes.

16 THE COURT: Let's talk about these other malice
17 requests.

18 MS. CAMPBELL: I was going to withdraw that one
19 anyway.

20 MR. SCHNEE: Judge, the one that I see that is
21 probably most inclusive and fits, there is one that's
22 very long and single spaced.

23 THE COURT: Right.

24 MR. SCHNEE: It includes the appropriate language
25 of essentially the inference is only a permissive

1 inference and not a requirement. I think that would
2 probably most accurately discusses this out of all of
3 them.

4 MS. CAMPBELL: I'm withdrawing that.

5 THE COURT: You are withdrawing the single spaced
6 one?

7 MS. CAMPBELL: Yes, the one that talks about
8 malice may be inferred from the use of a deadly
9 weapon.

10 MR. SCHNEE: I'm talking about the really long
11 one.

12 MS. CAMPBELL: The really long one, the second
13 paragraph.

14 MR. SCHNEE: Oh, the second paragraph. Okay. I
15 was talking about the rest of them.

16 MS. CAMPBELL: Oh. You were reading the
17 permissive inference?

18 MR. SCHNEE: Well, there is a permissive
19 inference from malice in general. I think there is
20 something in there.

21 MS. CAMPBELL: No. That's just from the use of a
22 deadly weapon.

23 MR. SCHNEE: Oh, in that case --- never mind.
24 I'm sorry.

25 THE COURT: So you're withdrawing the single

1 spaced one; is that right?

2 MS. CAMPBELL: I think most of that language in
3 is in the other ones, other than the deadly weapon.

4 THE COURT: Okay. What's the next one we to look
5 at?

6 MS. CAMPBELL: The aforethought, Your Honor.

7 THE COURT: It needs a first line.

8 MS. CAMPBELL: Malice may not exist for any
9 appreciable period of time.

10 THE COURT: Okay. Let me see what's in the
11 charge. Here's what's in the charge. Malice
12 aforethought, in the charge book, does not require
13 that malice exists for any particular time before the
14 act is committed.

15 The malice must exist in the mind just before
16 and at the act is committed. Therefore there must be
17 a combination of previous evil intent in the act.

18 MS. CAMPBELL: Okay. I'll use that language.

19 THE COURT: I can add in --- I've checked this
20 site and it's still good law. I can add in the
21 sentence, Malice may be conceived at the very moment
22 the fatal blow is given.

23 MS. CAMPBELL: That would be good.

24 THE COURT: Because the evil intended act is
25 already in there.

1 MS. CAMPBELL: Thank you.

2 THE COURT: So any objection to that?

3 MR. SCHNEE: No, Your Honor.

4 MR. KRZYSTON: No, Your Honor.

5 THE COURT: All right. What else, Ms. Campbell?

6 MS. CAMPBELL: Your Honor, the --- we can take
7 the popular sentence (unintelligible) aids in ill
8 will.

9 THE COURT: You want to take that out?

10 MS. CAMPBELL: No, I want it.

11 THE COURT: I'm sorry. I didn't hear you
12 correctly. Hold on one second.

13 (Pause.)

14 Go ahead, Mr. Krzyston.

15 MR. KRZYSTON: Judge, I think the language that
16 the solicitor seeking in this instance is probably
17 cumulative and unnecessarily repetitive, so on that
18 basis, I would object to the addition of that
19 language.

20 THE COURT: Okay. Mr. Schnee.

21 MR. SCHNEE: Judge, I'm not entirely sure what's
22 in your charge book.

23 THE COURT: Here's what it says. Malice is
24 hatred, ill will, hostility toward another person. It
25 is the intentional doing of a wrongful act without

1 just cause or excuse and with an intent to inflict an
2 injury or under circumstances that the law will infer
3 an evil intent. Then it goes on to the part that I
4 just read to you.

5 MR. SCHNEE: I think that would sufficiently
6 cover it. I think this would be a cumulative charge.

7 THE COURT: So the first line of this is already
8 in there..

9 MS. CAMPBELL: It's already in it.

10 MR. SCHNEE: Looks like the second one actually
11 has a typo in it.

12 THE COURT: Is that the typo?

13 MR. SCHNEE: I would think it should "but
14 signifies" instead of "by".

15 THE COURT: Pull up State v. Mouzon.

16 MS. CAMPBELL: It should be, "but" sorry. I
17 apologize, Your Honor.

18 THE COURT: That's okay. It says 1957; is that
19 right?

20 MR. SCHNEE: Yes, Your Honor.

21 MS. CAMPBELL: I believe there is similar
22 language in the Israel Wilds case, too.

23 THE COURT: There's a 1997 Mouzon. That's why I
24 said that.

25 (Pause.)

1 That should be "but signifies;" is that right?

2 MS. CAMPBELL: Yes, sir.

3 (Pause.)

4 THE COURT: Okay. And then move to the ---

5 MS. CAMPBELL: Last line?

6 THE COURT: Yes.

7 MS. CAMPBELL: That's what you're charge is.

8 THE COURT: So you want to --- you're okay with
9 it stopping at fatally bent on mischief?

10 MS. CAMPBELL: I believe the language after that
11 is already in your charge.

12 THE COURT: Right. It is.

13 MS. CAMPBELL: Okay. We're good with that.

14 THE COURT: Any objection other than adding in
15 that sentence other than cumulative?

16 MR. SCHNEE: No, Your Honor.

17 MR. KRZYSTON: No, Your Honor.

18 THE COURT: Okay.

19 THE COURT: All right. What else?

20 MS. CAMPBELL: I believe this was one handed up,
21 brutal conduct. I handed that one up late.

22 MR. SCHNEE: Oh, the brutal conduct.

23 THE COURT: Anybody want to take a position on
24 that?

25 MR. KRZYSTON: Certainly, Your Honor. We would

1 object and to introduction of that charge. I believe
2 the charge we just went over conveys the general
3 language contained in that charge and there are no
4 attending circumstances indicating any brutal acts
5 other than what they're charged with

6 THE COURT: Okay.

7 MR. SCHNEE: Judge, I would join in that
8 objection. I think it is cumulative. It draws a
9 little too much attention --- in terms of crimes, I
10 don't think anybody is going to actually start --- the
11 acts physically contained in here aren't significantly
12 brutal compared to any run-of-the-mill robbery,
13 homicide. This isn't a beating death. There is no
14 torture. I think it's probably the misstatement of
15 the laws that apply in this particular case.

16 MS. CAMPBELL: Your Honor, if we can go into the
17 felony inference.

18 THE COURT: Okay. I have two on those.

19 MS. CAMPBELL: I believe it's three.

20 THE COURT: Okay. I have three. I'm sorry.
21 Norris, Norris and Lourie.

22 MS. CAMPBELL: I think the short Norris is
23 included in the longer Norris, so I apologize about
24 that.

25 THE COURT: All right.

1 MS. CAMPBELL: And Your Honor, in these two, I
2 didn't even put in the words attempted armed robbery,
3 but it also applies to kidnapping and burglary. Where
4 it's underlined. Your Honor, I think the Lourie case
5 is just close to Norris case. We may have to narrow
6 it down to the longer Norris case.

7 THE COURT: And Lourie is a PCR.

8 MS. CAMPBELL: Yes.

9 THE COURT: Where they brought the jury back out
10 and just read that charge and didn't read everything
11 else.

12 MS. CAMPBELL: I think Norris would be the one
13 that's longer.

14 MR. SCHNEE: I'm sorry. For some reason I didn't
15 get a copy of that one.

16 MS. CAMPBELL: I can get it for you.

17 MR. SCHNEE: If I can just take a look at it.

18 MS. CAMPBELL: Here you go.

19 MR. SCHNEE: I just want to look at it. Thank
20 you.

21 Judge, the only thing I'd say about the longer
22 one is the attempted armed robbery would be a felony
23 under the law. I know you want to stay away from
24 charging on the facts.

25 MS. CAMPBELL: That's not factual. That is the

1 law.

2 MR. SCHNEE: I know.

3 THE COURT: That's correct. That's like
4 possession of a weapon during the commission of a
5 violent crime. If they're always charged, making this
6 up, with the burglary, you also have to tell the jury
7 the burglary.

8 MS. CAMPBELL: We would just ask Your Honor that
9 you include the kidnapping and burglary.

10 MR. KRZYSTON: And, Judge, we would join in with
11 Mr. Barnes' objection on those.

12 THE COURT: Okay. And I am going to do the
13 Norris charge. I'll add it somewhere; I haven't
14 figured out where in the definition of malice.

15 MS. CAMPBELL: As part of that, you'll charge
16 them to that a those three offenses are considered
17 felonies?

18 THE COURT: Yes.

19 MS. CAMPBELL: Thank you.

20 THE COURT: Are you withdrawing brutal conduct?

21 MS. CAMPBELL: I'll withdraw brutal conduct.

22 THE COURT: All right. Okay. I'm going to tell
23 you the headings of the sections so you know. Number
24 one, I start with this is what they're charged with.
25 The fact they're not charged or is not charged is not

1 evidence. Number two, I will go into multi
2 defendants. Each has to be considered separately and
3 independently. The next thing I'll go into is
4 multiple charges same date, separate and independent,
5 separate and distinct offenses. I'll then go on to
6 their duties. Duties of the judge, duties of jury. I
7 then go to presumption of innocence. I then go to
8 reasonable doubt.

9 I then go to direct and circumstantial evidence
10 and I'm giving the --- I'm just going to call it the
11 LOCE (phonetic) "lack of circumstantial evidence"
12 charge for lack of a better term. Is what is and
13 what's not evidence in here? At some point I'll do
14 what is evidence, what is not evidence. Credibility
15 of the witnesses, expert witnesses, failure of the
16 defendant to testify. Criminal intent. And then I'll
17 go into murder and then I'll go into --- I'm not
18 saying anything about inferring malice from the use of
19 a deadly weapon. I'm not defining deadly weapon or
20 anything else. Then I'll go into kidnapping. I'll
21 then go into attempted armed robbery. Let me read
22 this real quick.

23 (Pause.)

24 THE COURT: All right. Part of that charge does
25 contain the definition of deadly weapon. I'm not

1 charging fist as a deadly weapon or ordinary objects
2 or toy guns or B.B. guns. Any objection to me taking
3 all of that out?

4 MS. CAMPBELL: No, sir.

5 MR. KRZYSTON: No, Your Honor.

6 MR. SCHNEE: No, sir.

7 THE COURT: And then burglary second degree.

8 Again, I'm not doing ordinary objects, toy gun or
9 B.B. gun in the definition of deadly weapon and I'm
10 not going to charge if the defendant has a prior
11 record of two or more convictions of burglary; is that
12 okay with you?

13 MR. KRZYSTON: Yes, Your Honor.

14 MR. SCHNEE: Yes, Your Honor.

15 THE COURT: Ms. Campbell, any objection?

16 MS. CAMPBELL: No objection, Your Honor.

17 THE COURT: That will take out the paragraph that
18 says the prior convictions that --- I'm taking out
19 anything about prior convictions. Nobody has a prior
20 conviction so I'm taking all of those paragraphs out.
21 It explains how far you use that or how you are not to
22 use that.

23 This does define nighttime as the period between
24 sunset and sunrise, which there is not enough daylight
25 to recognize a person's face. Blah, blah, blah. Okay.

1 Hand of one is the hand of all. The State gave adding
2 mere presence at the end of it.

3 All right. I'm going to read you the limiting
4 instruction and then I go into the duty to deliberate,
5 then go over the verdict form. Okay. Somewhere ---
6 did you come up with a proposed charge on sentencing?

7 MS. CAMPBELL: Your Honor, as far as sentencing,
8 I believe the jury in a criminal proceeding may not
9 presume any punishment the court may impose and then
10 just follow up with this is not a potential death
11 penalty case or the penalty is not being sought in
12 this case, whatever the defense would rather have.

13 THE COURT: Somebody want to take position on
14 that?

15 MR. SCHNEE: Judge, I don't have a position
16 either way. I'm certainly not going to be arguing to
17 the jury that this is a death penalty.

18 THE COURT: All right.

19 MR. KRZYSTON: Judge, to clarify, we have the
20 right to talk about any of the sentences that the
21 witnesses might receive, but not specifically,
22 Mr. Young, obviously.

23 THE COURT: Here is my interpretation of what you
24 can say. This is an example. You heard from a
25 witness who was facing life without parole and that

1 can go to his credibility or his believability.

2 MR. KRZYSTON: Correct.

3 THE COURT: Certainly, but not as to Mr. Young is
4 going to be locked up for the rest of --- none of
5 those kind of comments about people are going to be
6 locked up for the rest of their lives or anything
7 else. What this says is the length of the prison
8 sentence rests in the discretion of the trial court.
9 You have heard testimony concerning the penalty a
10 person can serve for the crimes alleged in the
11 indictments. In determining the guilt or innocence of
12 the defendant, you cannot consider any possible
13 penalty for any particular crime. The punishment for
14 crimes is a matter for me to determine and should
15 never be considered by you in any way whatsoever in
16 arriving at an impartial verdict as to the guilt or
17 innocence of the defendants.

18 Tell me what you want me to add.

19 MS. CAMPBELL: The only thing is in this case the
20 death penalty --- the State not seeking the death
21 penalty.

22 THE COURT: Okay. I won't put that at the end.
23 I mean, I'm putting that line at the end. I'll slide
24 sentencing somewhere back in the middle of the charge
25 somewhere.

1 MS. CAMPBELL: Back.

2 THE COURT: Okay. Anything else?

3 MR. SCHNEE: Not with regard to charging, Your
4 Honor.

5 THE COURT: Okay.

6 MS. CAMPBELL: Your Honor, I don't think we
7 addressed was one of Mr. Schnee's --- it was one on
8 malice or did we address it and I missed it?

9 THE COURT: It's the one on the required mental
10 State is malice aforethought?

11 MS. CAMPBELL: Uh-huh. If you look at the case
12 on Findley, Your Honor, it goes back and quotes
13 basically what your criminal---

14 THE COURT: Yes, I'm not charging that.

15 MS. CAMPBELL: That's what I needed to know.

16 THE COURT: I'm going to explain to them the
17 mental state of malice aforethought.

18 Okay. The verdict form, it lists the indictment
19 numbers. It lists both defendant's names. We did
20 them in alphabetical order for lack of a better way to
21 do it. As to the charge of murder: not guilty,
22 guilty; burglary second degree: not guilty, guilty;
23 kidnapping: not guilty, guilty; attempted armed
24 robbery: not guilty, guilty, and it says by unanimous
25 consent find, and then it goes on to Mr. Young murder,

1 burglary, kidnapping, attempted armed robbery and a
2 place for the foreperson to sign, and it starts ---
3 not guilty is the first one listed in each and guilty
4 is the second. I tell them there is no significance
5 as to that. I merely --- I'll tell them that about
6 the order of the people, too. Somebody has got to go
7 first and somebody has got to go second. I have to
8 write one first and I have to write one second. There
9 is no magic to any of that, nor does that mean
10 anything, nor are they to draw any conclusion to
11 anything. Anything else?

12 MS. CAMPBELL: No, sir.

13 MR. KRZYSTON: No, sir.

14 MR. SCHNEE: No, Your Honor.

15 THE COURT: All right. Do you want to flip the
16 coin on who goes first?

17 MR. SCHNEE: I'll defer to them.

18 MR. KRZYSTON: We'll allow Mr. Schnee to go
19 first.

20 MR. SCHNEE: I think Your Honor needs to flip a
21 coin.

22 THE COURT: Okay.

23 MR. SCHNEE: Neither of us are going to agree.

24 THE COURT: I don't have a coin. I'm a judge,
25 I'm broke.

1 MR. SCHNEE: Well, I had to go first in Opening.
2 I think they should go first in Closing.

3 THE COURT: All right. I have one exhibit up
4 here. I don't want you to lose sight of that one and
5 then make sure you go through exhibits and look at
6 whatever you want to look at before anybody plays it.

7 MR. SCHNEE: Right, Judge. I've already started
8 it. I don't know if it's just this laptop, but
9 there's already one CD that's not working.

10 MS. CAMPBELL: Judge.

11 THE COURT: Oh, look at that. She has money.
12 Who did you borrow it from?

13 MR. KRZYSTON: Tails no fails, Your Honor.

14 THE COURT: You taking heads?

15 MR. SCHNEE: I'll go with heads.

16 THE COURT: All right. Whoever wins gets to
17 pick.

18 MR. SCHNEE: Fair enough.

19 THE COURT: Heads.

20 MR. SCHNEE: I'm last.

21 THE COURT: All right.

22 MR. SCHNEE: Thank you.

23 MS. CAMPBELL: Do you have a problem with me
24 opening on the law and then Ms. Simpson go over the
25 facts?

1 THE COURT: No, that's fine.

2 MS. CAMPBELL: Thank you.

3 THE COURT: All right. Anything else?

4 (There was no response.)

5 THE COURT: Okay. Now, once we're done with the
6 closing --- so when the jury comes back in, this is
7 how it's going to work. When the jury comes back in,
8 I want to say Mr. Krzyston, do you have anything to
9 present? We rest. Mr. Schnee, we rest. I'll tell
10 them that they have rested. You have rested and we're
11 at the point of closing arguments. Then we'll go
12 right into it. When we finish and they're out before
13 the jury goes back. Now, this is the lawyer's
14 responsibility, just don't get up and leave and walk
15 out of the room where I can't find you, okay. You
16 need to stay and make sure you go over with the court
17 reporter what's going back and what's not going back
18 so we don't have any dispute with what's back there
19 and what's not back there. I will tell them they
20 cannot begin deliberations until the evidence comes in
21 the room. So you need to stay and make sure that
22 what's going back there is what you believe is in
23 evidence, okay, and then you need to make sure that
24 Ms. Pendegrass has your phone numbers so that I don't
25 have to run all over the world looking for you or try

1 to find you. Okay. Anything else?

2 MS. CAMPBELL: No, sir.

3 MR. KRZYSTON: Judge, just for clarification, we
4 have already officially rested our case and renewed
5 our motions to ---

6 THE COURT: You don't need --- I will put on the
7 record that --- you all don't need to go through
8 renewing your motions. You have rested in front of
9 the court and you have renewed your motions and have
10 done so appropriately and I believe you have protected
11 the record on those issues, and that applies to
12 Mr. Young and Mr. Barnes. We don't need go through
13 that whole recitation when the jury comes back in. I
14 understand what you've done and understand that you
15 have renewed your motions and I've ruled on that.

16 MR. KRZYSTON: Thank you, Judge.

17 THE COURT: Are you okay with that, Mr. Schnee?

18 MR. SCHNEE: Yes, sir.

19 MS. CAMPBELL: Just one other thing, usually in
20 the morning you ask them if you have seen any media or
21 anything of that nature. I don't think you did it
22 this morning.

23 THE COURT: Okay.

24 MS. CAMPBELL: If we could have that general
25 question.

1 THE COURT: Okay. Two o'clock.

2 MR. SCHNEE: Thank you.

3 (WHEREUPON, a lunch break was taken.)

4 THE COURT: Yes, ma'am.

5 MS. GARFIELD: Your Honor, at the break,
6 Mr. Schnee and I went over all the videos, CDs that
7 were --- there were a couple of issues. We have
8 changed them where they do reflect what was properly
9 introduced into evidence with the exception of State's
10 Exhibit 325. Your Honor, this would be the CD that
11 was introduced with the Ale House video on it. The
12 jury did see Ale House video on the outside. However,
13 this CD contains surveillance video also from the
14 inside. It would be the inside bar with the lights
15 off. There is no activity inside the bar. I am
16 informed by Mr. Brown of our office, who much more
17 savvy in the IT area that it is impossible to take the
18 video off this. It would have to be re-recorded by
19 SLED in order to do that and I don't have in order to
20 take it off. I've informed Ms. Pinnock, as well as
21 Mr. Schnee. They are in agreement with it all going
22 back to the jury since it doesn't add or take anyway
23 anything.

24 THE COURT: It just shows the closed bar?

25 MS. CAMPBELL: It just shows inside a closed

1 establishment with the lights off, yes.

2 MS. PINNOCK: We have no problem with that.

3 MR. SCHNEE: Yes, Your Honor, I agree with that.

4 The only other option we have is to have the jury come
5 outside to the courtroom ---

6 THE COURT: Right.

7 MR. SCHNEE: --- which with that type of video, I
8 felt that would be a bad idea. I doubt they want to
9 come out just to see that.

10 THE COURT: Do we've clean computer to go back?

11 MS. CAMPBELL: We do, Your Honor. It's at
12 Mr. Schnee's desk.

13 THE COURT: What else?

14 MS. GARFIELD: Actually there are two CDs in
15 here. One CD is what you need to make the video
16 actually play on that laptop. It's just a player.

17 MR. SCHNEE: Have you tried it in that laptop? I
18 want to make sure.

19 MS. GARFIELD: We will.

20 THE COURT: Before we send it back, we need to
21 make sure it works.

22 MR. SCHNEE: We didn't try.

23 MS. GARFIELD: We will before it goes back.

24 THE COURT: Anything else?

25 MS. CAMPBELL: Nothing from the State, Judge.

1 MR. KRZYSTON: Nothing from Mr. Young.

2 MR. SCHNEE: Nothing from Mr. Barnes.

3 THE COURT: All right. Everybody out here in the
4 audience, I don't want a lot of commotion, a lot of
5 moving around, getting up and down and all that good
6 stuff. These attorneys, I don't know what day of
7 trial we're on, but they have all been working very
8 diligently, very hard since this trial began. It's
9 not fair to any of the parties involved for this jury
10 to lose any focus because somebody can't sit still and
11 stay in here during the closing arguments. Nobody in
12 the room except for attorneys and me should have a
13 phone on them. Whoever has a phone on them, it must
14 be on off or on silent. I do not want to hear it go
15 off in this courtroom. That's also not fair to the
16 attorneys or the parties regardless of which side of
17 the case we're referring to.

18 Now, for those of you who don't do closing
19 arguments every week of your life, the order will be
20 that the State will go first, and then Mr. Barnes.

21 MR. SCHNEE: I chose last.

22 THE COURT: And then Mr. Young's counsel will be
23 allowed to go, and then Mr. Barnes' counsel will be
24 allowed to go. Once Mr. Schnee stops talking, okay, I
25 am then going to charge the jury on the law. That's

1 going to take I don't know, 30, 40 minutes at least,
2 okay.

3 During the time the back door will be locked and
4 no one will be allowed in or out of this courtroom
5 period. If you don't need to hear everything that I
6 have to say or you don't want to hear it, which is
7 perfectly fine with me, then when Mr. Schnee stops
8 talking, you just need to quietly walk outside. Then
9 once it's over, you will be allowed back in. The law
10 requires that I lock the back door during the jury
11 charge and no one will be allowed to stand up or
12 anything. If you don't want to hear me go on for 30
13 or 45 minutes about the law, you don't have to, but
14 you'll need to excuse yourself when Mr. Schnee is
15 finished speaking so that you can wait outside. Okay.
16 All right. So when we come back in, we're going to
17 rest and go straight into it. Who is starting?

18 MS. CAMPBELL: I am.

19 THE COURT: Who is finishing?

20 MS. SIMPSON: I am, Your Honor.

21 THE COURT: Okay. All right. Don't let me forget
22 to pull the alternates.

23 Yes, sir.

24 MR. SCHNEE: And I believe Your Honor was going
25 to inquire if they have looked at any media coverage.

1 THE COURT: Yeah, I was going to. Thanks for
2 reminding me of that. I forgot. All right. Let's
3 bring them in.

4 (WHEREUPON, the jury entered the courtroom at
5 2:19 P.M.)

6 THE BAILIFF: The jury is seated.

7 THE COURT: Thank you very much. Welcome back.
8 Thank you for being on time. Is there any member of
9 the jury panel who has viewed any media in this case
10 in any way or shape since the trial began. If so,
11 please raise your hand. That's any form of media,
12 social media, news accounts, internal, radio,
13 television, print newspaper or anything.

14 THE JUROR: Talking about just this case?

15 THE COURT: Specifically about this case,
16 correct.

17 (There was no response.)

18 THE COURT: Okay. Thank you very much.

19 Mr. Krzyston.

20 MR. KRZYSTON: Your Honor, we rest at this time.

21 THE COURT: All right. Thank you very much.

22 Mr. Schnee.

23 MR. SCHNEE: The defense of Trenton Barnes rests
24 at this time, Judge.

25 THE COURT: Thank you very much. Ladies and

1 gentlemen, at this point, you have heard the entire
2 testimony that you are going to hear in this case, the
3 evidence that you are going to hear in the case. We
4 have reached the point of the trial known as closing
5 arguments, and just the order so that you will know
6 for the afternoon of what's going to happen is the
7 State is going to go first, and they will do what we
8 call an opening on the law, and I believe Ms. Campbell
9 will be giving that to you and then Ms. Simpson will
10 be finishing their closing argument to you. At that
11 point in time, Mr. Young's lawyers will be allowed to
12 give a closing argument and then Mr. Schnee will have
13 the final argument. Now, once Mr. Schnee finishes his
14 final closing argument, you may see a mass exodus of
15 people from the courtroom.

16 That's because I have to instruct you on the law.
17 Okay. That takes about 30 to 45 minutes. There's no
18 exact science to that, but the law require that the
19 back door be locked, and no one be let in or out
20 during that time. Usually we have a group of people
21 that will get up and leave. That's normal. That
22 happens in every single case I've ever tried in my
23 whole life. I'll take a little bit of a break, let
24 you stand up, stretch your legs. Then we'll sit back
25 down and I'll tell you what the law is and what your

1 instructions are from that point forward.

2 Ms. Campbell.

3 MS. CAMPBELL: May it please the Court.

4 THE COURT: Yes, ma'am.

5 CLOSING STATEMENT:

6 BY MS. CAMPBELL:

7 Q Good afternoon. The first thing I'd like to do
8 on behalf of the State of South Carolina, the citizens
9 of Richland County and the family of Kelly Hunnewell
10 is to thank you for your service in this case.

11 I know when you showed up for court last week,
12 you might have wondered if you might be on say a wreck
13 case or a contract dispute or something of the nature.
14 I'm sure you probably envisioned that it would not be
15 a case that quite literally is as bad and as horrific
16 as this one has been, but we want to thank you for
17 your willingness and your attention and paying
18 attention to each and every witness.

19 As you know, this is a very important case for
20 the State of South Carolina, for the citizens and it's
21 a very important case for the defendants, as well.

22 Now, as the judge just told you, I'm going to get
23 up here --- if my voice doesn't go. I'm sorry. I
24 don't know what's in this courtroom. I'm going to
25 talk to you a little bit about the law in this case as

1 it applies, and then you're going to hear from
2 Ms. Simpson. That will be the last time you hear from
3 anyone on behalf of the State. You will then hear
4 arguments from Mr. Krzyston and arguments from
5 Mr. Schnee.

6 As I talk about the law in this case, if I say
7 anything, say anything or state anything different
8 from what the law is that ultimately the judge will
9 charge you on or give to you, you take it as the judge
10 gives it to you. It's not intentional on my part.
11 There may be some verbiage that's slightly different.
12 In that same vein, if either side mischaracterizes or
13 misstates facts, you remember because the roles in
14 this courtroom are very well defined and there is a
15 reason for that. The role of the prosecution is to
16 bring forth to you all of the admissible relevant
17 evidence that is allowed by law for you to consider,
18 and the defense's job is very simple. It's to defend
19 their client to the best of their ability.

20 The judge's law is to determine what actual
21 evidence you're allowed to hear. You've been sitting
22 in and out of this courtroom and I want to apologize
23 and I'll get back to that about what's admissible and
24 what's not admissible and what you can consider. No
25 one is going to get up here and say that anyone's job

1 is more important than yours.

2 Each of you've individually and then once the
3 judge charges you on the law collectively when you get
4 back there, and if anyone says any different, that's
5 simply not true, because your role, ladies and
6 gentlemen, is to determine what happened back on those
7 early morning hours on July 1st when Kelly Hunnewell
8 showed up at work at three in the morning to support
9 her children.

10 What happened that night? In this case, some of
11 that is not as much in dispute because in this case
12 there is a video. Now, you have heard all the
13 evidence that you are allowed to consider.

14 What you must base your verdict on is the
15 evidence before you. As the judge has already told
16 you, what is evidence? Evidence is the sworn
17 testimony, the exhibits that are allowed to go back to
18 you. That is evidence. More importantly, ladies and
19 gentlemen, is the judge told you what's not evidence,
20 any argument by any lawyer, opening, closing whatever,
21 questions by counsel, fishing expeditions,
22 speculation, conjecture, just plain wishful thinking
23 doesn't make it a fact.

24 If a person is asked a question and they have no
25 further knowledge, the question itself is not

1 evidence. The answer is, so that's what you must
2 consider. Now, you have all the evidence you can
3 consider in this case.

4 Now, I want to apologize if over the last week we
5 have done anything to offend you. At times there have
6 been legal wrangling back and forth. What wasn't
7 admissible, may become admissible. You've heard about
8 hearsay. You've heard all kind of legal terms. At
9 times the questioning, especially on my part, has been
10 inartful, clumsy, sloppy. Please don't hold that
11 against the State or against this victim's family. It
12 was not intentional.

13 There have been times when you have been forced
14 to go back in that jury room and sit for literally
15 hours, and I apologize on behalf of the State. It was
16 not intentional on our part.

17 Now, in criminal cases, they are unique because
18 in criminal cases, the burden of proof is on the State
19 of South Carolina. The defendant has, as he should by
20 our constitution, the absolutely right to confront
21 each and every witness that comes before him.

22 You have heard references to statements, to audio
23 recordings, to documents that were done by experts,
24 things of that nature. If you have noticed, none of
25 those have come before you. There were no depositions

1 that were read to you. There were no video
2 depositions that were played for you, and the reason
3 for the, ladies and gentlemen, is very clear because
4 that's the defendant's right, as it should be, to
5 confront each and every witness against him. So in
6 criminal cases, every witness, the pathologist, the
7 DNA expert, the responding officer, it doesn't matter,
8 they have to come before you and testify.

9 The reason for that is so that you can judge
10 credibility, because that's your role so that you can
11 actually see person that is asserting to have
12 knowledge or expertise in an area and to judge their
13 credibility. You've also heard from a number of
14 witnesses that you have heard us ask these questions
15 over and over. Did anyone tamper with anything? It's
16 our burden to prove that no one tampered with any
17 evidence, no one altered anything or comingled things
18 that weren't already comingled, so that the chain of
19 evidence is such before it's admissible for you to
20 consider that the integrity of that evidence has been
21 preserved. You've heard from a number of those
22 witnesses. You've also heard references to other
23 witnesses that may have been, say at the scene, other
24 police officers and as Sergeant Reese told you today,
25 not every police officer comes before you, but what

1 has the State dope in this case. We have brought
2 before you all the witnesses that have had admissible
3 relevant testimony that can come before you.

4 Now, as I said earlier, the burden of proof is on
5 the State of South Carolina to prove this defendant
6 guilty beyond a reasonable doubt, and let me repeat
7 that. That is the highest level of proof we have in
8 our nation, and that's where it should be. We must
9 prove the guilt of Lorenzo Young and Trenton Barnes
10 beyond a reasonable doubt that's what the constitution
11 guarantees them and that's the way it should be.

12 Ladies and gentlemen, in this courtroom, in this
13 courthouse with this evidence, that is a burden the
14 State welcomes. Now, listen carefully as the judge
15 defines for you what is reasonable doubt.

16 I'm going to go through some definitions because
17 there are going to be a lot of legal terms that are
18 going to be put before you. In this case there are
19 four separate indictments. They all arise out of the
20 same event, that's not unusual, on each defendant. As
21 the judge will instruct you, you must reach a verdict
22 as to each indictment independently of each other on
23 each defendant. But what is proof beyond a reasonable
24 doubt? Our courts have defined it as such and listen
25 to the judge as he defines it for you, because proof

1 beyond a reasonable doubt is proof that leaves you
2 firmly convinced of the defendant's guilt. Let me
3 repeat that. Proof beyond a reasonable doubt is proof
4 that leaves you firmly convinced of the defendant's
5 guilt.

6 There are very few things in this world that we
7 know with absolute certainty. In criminal cases the
8 law does not require proof that overcomes every
9 possible doubt.

10 If based on your consideration of the evidence,
11 you are firmly convinced that the defendant is guilty
12 of the crime charged, you must find him guilty. If on
13 the other hand you think there is a real possibility
14 he is not guilty, you must give him the benefit of the
15 doubt and find him not guilty.

16 Firmly convinced of the defendant's guilt. The
17 law even recognizes that no one can overcome every
18 possible doubt. It is only that reasonable. In
19 listening to the judge in his charge, will use the
20 word reasonable over and over.

21 Now, before you are going to be the indictments
22 on each defendant for the first crime. I'm just
23 taking them in whatever order; the judge may take them
24 in a different order. The first crime I want to talk
25 to you about is murder. To be the most heinous crime

1 committed in our society, it has probably the shortest
2 definition, at least in South Carolina. Listen
3 carefully. You're not going to hear about different
4 degrees of murder. You're not going to hear about
5 lesser included offenses.

6 The crime charged here is murder in 16-3-10 of
7 our Code of Laws, murder is the killing of any person
8 with malice aforethought, either expressed or
9 inferred. Sometimes they refer to it as expressed or
10 implied.

11 I want to talk to you a little bit about what
12 those terms mean. The killing of another person with
13 malice aforethought either expressed or inferred. The
14 first term I want to talk to you about is what is
15 malice. What makes a killing a murder?

16 The judge will instruct you, and again he may
17 instruct you in a little bit different manner, but the
18 gist of what he's going to tell you is this. In its
19 popular sense the term malice conveys the meaning of
20 hatred, ill will, or hostility towards another. In
21 its legal sense, however, malice does not necessarily
22 mean ill will toward the individual injured, but
23 signifies a general malignant recklessness of the
24 lives and safety of others or a condition of the mind
25 which shows a heart regardless of social duty and

1 fatally bent on mischief.

2 A heart regardless of social duty and fatally
3 bent on mischief. All the State asks is that you look
4 at the events of that night. Look at the information
5 before you and I submit that when two young men
6 combine together with another young man for the
7 purpose of robbing an establishment, even if they
8 didn't intend --- and I'll get back to this, to murder
9 anyone at the onset, the fact that this occurs during
10 the robbery or the burglary or the kidnapping in this
11 case, it reeks of malice. It doesn't get any more
12 malicious. In other words, a malicious killing is
13 where the act was done without legal justification. I
14 submit nobody --- and I could be wrong --- is going to
15 get up here and argue this is not a measure. Excuse
16 or extenuation and malice has been frequently
17 substantially so defined as consisting of the
18 intentional doing of a wrongful act towards another
19 without legal justification or excuse. I submit --- I
20 could be wrong, that no one will get up here and argue
21 that going in to rob a person or kidnap them or doing
22 a burglary is a legal justification or excuse.

23 No one will get up here and say their actions
24 were not criminal.

25 The law goes a little bit further than that.

1 because they're --- you remember, it says express or
2 inferred. What's the difference in that? It's not
3 that there are two different kind of malice.
4 Expressed malice is if I walk up to another person and
5 I pull out a gun and I look at them and I say I am
6 going to kill you, that is expressed malice.
7 Sometimes lying in wait to prepare ahead of time.
8 Like in this case, it is expressed malice. Even if
9 the intent, and I'll get back to that, was to do the
10 armed robbery, not the original intent was to do the
11 murder.

12 Those are ways that you can define express
13 malice, but law recognizes that generally when murders
14 occur, you may have to infer from the acts and the
15 conduct that surround what happened.

16 So you look at what the people were doing, what
17 they were trying to do. Did they act maliciously? In
18 inferring malice, you look at the conduct.

19 Very simply, as the judge will charge you, malice
20 may be inferred from conduct showing a total disregard
21 for human life. Remember the video, how they rushed
22 up on her, gun to the head. We don't know what they
23 said, but we don't need to because you can watch what
24 they did. The second young man ran up to make sure
25 she can't escape out the other side. As both of them

1 point the guns towards her, she does the only thing
2 she can think to do, and she swipes at one of them
3 with that spoon to protect herself. You heard earlier
4 about how one of the defendants was talking about the
5 Castle Doctrine. This isn't the Castle Doctrine for
6 them. She had the right to defend herself when being
7 attacked and a gun forced to her head. Is that
8 conduct showing a total disregard for human life?

9 Then when one starts shooting, the other one
10 joins in and they're shooting at her and it's not like
11 these guns, these locks where you pull the trigger and
12 it keeps firing. Remember what the experts said, one,
13 two, three, four. Is that a total disregard for human
14 life. Now, in that same definition of murder you also
15 heard the term aforethought. Malice must be
16 aforethought. Sometimes when considering murder you
17 may wonder does someone have to plan this for days
18 ahead of time. Do they have to sit and wait outside
19 for 30 minutes. No, listen carefully to the judge
20 because he will tell you malice aforethought does not
21 require that malice exists for any particular time
22 before the act is committed. Malice must exist in the
23 mind of the defendant just before and at the time the
24 act is committed.

25 Therefore, there must be a combination of the

1 previous evil intent in the act. However, malice may
2 be conceived at the very moment the fatal blow is
3 given. How dare she fight back? They showed her.
4 Malice. There is also another concept of law that
5 applies here as the judge will tell you. That's
6 felony murder rule. What is that ladies and
7 gentlemen? Listen to the judge, okay.

8 The law says if someone intentionally kills and I
9 submit pulling a trigger of a gun and pointing it at a
10 person, which ultimately dies as a result of that,
11 regardless of if you miss several times, killing
12 another during the commission of a felony the
13 inference of malice may arise if the facts are proven
14 beyond a reasonable doubt, sufficient to raise an
15 inference of malice to your satisfaction, this
16 inference would simply be an evidentiary fact to be
17 taken into consideration by you the jury along with
18 other evidence in the case and you may give it as much
19 weight as you determine it should receive. The law
20 also allows the jury to infer malice if you conclude
21 that the homicide was a proximate direct result of the
22 commission of a felony.

23 Were they in the commission of a burglary, a
24 kidnapping, a robbery being attempted? For that
25 regard, attempted armed robbery, kidnapping and

1 burglary second degree would be felonies under our
2 law. One of them is a felony. These are three
3 felonies.

4 You can imply malice existed if the person is in
5 the commission of a felony at the time of the fatal
6 blow.

7 Now, the second indictment --- there are two, one
8 on each, that's going to go before you and you're
9 going to be asked to reach a separate verdict on is
10 kidnapping. Very simply, ladies and gentlemen, our
11 definition of kidnapping under our Code of Laws is
12 very simple. Whoever shall unlawful seize, confine,
13 inveigle, decoy, kidnap, abduct or carry away any
14 other person by any means whatsoever without authority
15 of law, that person is guilty of kidnapping.

16 Now, what are all those terms? We don't have to
17 prove all of them. There's an or. So we have to
18 prove that one of these actions occurred, and the
19 judge will define either some of them or all of them
20 to you. And specifically, if you should seize or
21 confine any other person by any means whatsoever
22 without authority of law. Traditionally when you
23 think of kidnapping, you think of somebody coming into
24 the state, putting them into the trunk of a car,
25 driving them across state lines. There may or may not

1 be a ransom note, but traditionally that is what some
2 people think of as kidnapping. The law recognizes
3 kidnapping is more expansive than that. All we have
4 to prove is that for some period of time that Kelly
5 Hunnewell was not able to leave of her own free will.

6 The definition of seize confine, ladies and
7 gentlemen. Seize means to take hold of suddenly or
8 forcibly. Was she free to go once he put that gun to
9 her head? Why did she have to fight back if she was
10 free go. Confine means to limit, restrict, enclose or
11 imprison within bounds or shut to keep in. Was she
12 able to move? That's the basis of the kidnapping
13 charge. Now, with kidnapping, does it have to happen
14 over a day, a week, a month? The law is specific as
15 to that.

16 Kidnapping in our State is continuing offense.
17 It commences when one is wrongly deprived of their
18 freedom and continues until freedom is restored. So
19 from the moment that Lorenzo Young came up behind her,
20 put a gun to her head and forced her back the other
21 way toward where he thought maybe there was a safe,
22 money, her money --- when one is wrongfully deprived
23 of their freedom and continues until her freedom is
24 restored. This happened quickly. Listen carefully to
25 the judge. He will not instruct you that we have to

1 prove that it lasted for any particular amount of
2 time. One second, two seconds, three seconds is
3 sufficient if you find that her ability to leave of
4 her own free will and volition, she couldn't do it.

5 Now, getting back to the murder for a second, one
6 thing I didn't --- in this state, as far as murder
7 goes, the State of South Carolina does not have to
8 prove premeditation to the murder. I submit in this
9 case there is evidence of premeditation to the armed
10 robbery they were attempting, to the burglary they
11 were attempting, to the kidnapping, but we do not have
12 to prove premeditation to prove the elements of
13 murder. Listen carefully to that. At the same time,
14 we don't have to prove motive. However, in this case,
15 the motive is clear. It's to enter unlawfully and
16 rob. So we have murder, but we don't have to prove
17 those things.

18 The next crime I want to talk to you about and
19 there's one indictment on each defendant on this, is
20 attempted armed robbery. Now attempted armed robbery
21 is defined in our state as a person who commits or
22 attempts to commit a robbery while armed with a
23 pistol, dirk, slingshot, metal knuckles, razor or
24 other deadly weapon. In this case, ladies and
25 gentlemen, there is no dispute both of them, even one

1 of them would have been sufficient were armed or while
2 alleging either by actions or words he was armed while
3 using a representation of a deadly weapon or any
4 object which a person present during the commission of
5 a robbery reasons to be a deadly weapon. The law even
6 recognizes to be an armed robbery, they don't even
7 have to have a real pistol. They just have to use a
8 representation that they may have a weapon. The
9 reason for that is clear because the law recognizes
10 that bad things can happen when people think that they
11 are in fear of their lives. So it recognizes that
12 just the representation and in this case however, you
13 don't even have to go there, because there is no
14 dispute. There were two guns and both of them worked
15 just fine. They worked well enough to kill Kelly
16 Hunnewell.

17 Now, what is robbery? The simplest way to put it
18 and I don't know how the judge will define this to
19 you. Robbery is very simply stealing. If you think
20 of it. It's a larceny or a stealing from another
21 person. What elevates a larceny or a stealing up the
22 a robbery, it's done from the persons or presence of
23 another with some type of force or violence in order
24 to make them give up their things or this is an
25 attempt now. No one is saying this was successful

1 because she fought.

2 That makes it a robbery or a strong arm robbery.
3 What elevates it to armed robbery or an attempted
4 armed robbery is the use of the deadly weapon and
5 those are very simply the elements of attempted armed
6 robbery.

7 Now, the Judge is also going to instruct you on
8 the law of burglary in the second degree. A person is
9 guilty of burglary in the second degree. The person
10 is guilty of burglary in the second degree if the
11 person enters a building without consent and with the
12 intent to commit a crime therein. That's the element
13 of burglary. What makes it burglary in the second
14 degree is when it's dwelling involved are some of
15 these other aggravating circumstances, but a you
16 notice in the definition of this, they don't have to
17 break down the door because there was no dispute the
18 door was wide open that night. They don't have the
19 right, no one has the right to enter another person's
20 place of business, in this case the bakery, if they
21 enter with intent to commit a crime.

22 Watch the video. Not much of a dispute that they
23 enter with intent to commit a crime. Kelly Hunnewell
24 never sees them coming. She doesn't even know they're
25 there until the gun is already to her head. To make

1 it burglary in the second degree when it's a dwelling,
2 we have to also prove that when effecting entry or
3 while in the building or in immediate flight there
4 from, he or another participant because the law
5 recognizes it can be more than one, is armed with a
6 deadly weapon or explosive or we don't have to prove
7 all of these just one, although I submit all of these
8 apply, causes physical injury to any person who is not
9 a participant in the crime. There's no dispute Kelly
10 Hunnewell was shot and killed, or uses or threatens
11 the use of a dangerous instrument, or displays what is
12 or appears to be a knife, pistol, revolver, shotgun,
13 machine gun or other firearm or just if the entering
14 occurs during the nighttime.

15 Any one of those is enough to make this burglary
16 second. Nobody is going to get up here and argue this
17 wasn't a burglary second. Now, the law goes a little
18 bit further than that. I will explain that concept,
19 since Mark told you in his opening argument, the hand
20 of one is the hand of all in this state. However, let
21 me assure you that mere presence at that scene is not
22 sufficient to make a person guilty of a crime. If you
23 find that the State has proved that the defendant was
24 only present at the scene for a crime and they have
25 not proved any other participation in the crime, then

1 you must find the defendant not guilty. Along that
2 same vein, the judge are instruct you that if two or
3 more combine together to commit an unlawful act or
4 crime --- so two or more people and in this case,
5 three combine together to commit an unlawful act or
6 crime, in this case a robbery, a burglary and
7 ultimately a kidnapping with the intent and in the
8 execution of that criminal act a homicide is committed
9 by one of the actors as a probable or natural
10 consequence of the acts done in pursuant to the common
11 design and there's no dispute the two that go in, one
12 is the lookout. The two that go in, these two are
13 there for one purpose. The video speaks volumes. All
14 present participating in the unlawful undertaking are
15 as guilty as the one who committed the fatal act. So
16 it does not matter if Lorenzo Young is the shooter
17 when it comes to Troy Stevenson and Trenton Barnes.
18 Here today, you are only concerned with these two.
19 Remember Troy's charges are still pending. He will
20 have his day in court.

21 The common purpose may not have been to kill and
22 murder, but if it was unlawful and/or criminal and in
23 the execution of this common purpose a homicide is
24 committed by one as a probable or natural consequence
25 of the acts done in pursuant to the common design,

1 then all present to participate in the common design
2 are as guilty as the slayer.

3 If I join in with one or two other people and I
4 say my role is --- I'm only going to be the lookout.
5 Even if I look at the person going with the gun and
6 say no matter what you do don't shoot anybody. Under
7 the law because I am participating in a criminal act,
8 no matter what happens in there even if my role is
9 lookout, outside, down the block, the hand of one is
10 the hand of all and that's the law in our state. The
11 judge will also instruct you that in every case we
12 must prove criminal intent. Ladies and gentlemen, it
13 doesn't get any more criminal than this.

14 In order to establish criminal liability,
15 criminal intent is required. For example, the mental
16 state for a particular crime might be purpose, intent,
17 knowledge, recklessness or even just criminal
18 negligence. Let me repeat that. What must be proved
19 by the State for a particular crime might be purpose,
20 intent, knowledge, recklessness or criminal
21 negligence. Criminal intent must be proven by the
22 State beyond a reasonable doubt. It is always a
23 matter that must be determined by the jury from the
24 circumstances surrounding the situation. There is no
25 way to prove intent to a mathematical certainty.

1 There is no way medical science can dissect a person's
2 brain and determine what the person has in mind. The
3 law says that criminal intent may be inferred from the
4 circumstances shown to have existed. This is how you
5 make a determination as to whether or not the element
6 requiring intent was present. It is not necessary to
7 establish intent by direct and causative evidence, but
8 intent may be established by inference the same way as
9 any other fact by taking into consideration the acts
10 of the parties and all the facts and circumstances of
11 the case.

12 Criminal intent is a mental state, a conscious
13 wrongdoing. It's up to you to determine what the
14 defendant intended to do based upon the circumstances
15 shown to have existed. Criminal intent can be
16 determined by action or failure to act. In this case
17 and listen carefully to the judge, he is not going to
18 tell you it's okay to go in and shoot people because
19 somebody else tells you to do it. Criminal intent can
20 arise from action or a failure to act. It may arise
21 from negligence, recklessness or an indifference to
22 duty or to consequences that is considered by law to
23 be the equivalent of criminal intent.

24 Now, in our state there are two different kinds
25 of evidence that can be used to determine guilt or

1 innocence. What is said --- we refer to as direct and
2 circumstantial evidence, and what are those? Direct
3 is the type of evidence you get through the senses,
4 what you see, smell, hear, touch, what you actually
5 observe. In this case there was a review of the video
6 so people had direct evidence as to who those people
7 were and they were able to identify them. That's
8 direct evidence. Eyewitness testimony typically. In
9 addition to that, there is also circumstantial
10 evidence. In this case like the DNA evidence where
11 you see Ms. Hunnewell and these two defendants' DNA on
12 a spoon that happened to be in the center of this
13 crime. That is circumstantial evidence that you can
14 consider, and very simply the law says that direct
15 evidence directly proves the existence of a fact and
16 does not require deduction. Circumstantial evidence
17 is proof of a chain of facts or circumstances
18 indicating the existence of a fact. In this case
19 another type of circumstantial evidence is the GAP 45
20 ammunition at his home. Does that give you an
21 inference that he may have been involved in this.
22 Crimes may be proved by circumstantial evidence. The
23 law makes no distinction between the weight to be
24 given to either. There is no weight or distinction.
25 To the extent the State relies on circumstantial

1 evidence, all the circumstances must be consistent
2 with each other and when taken together point
3 consistently to the guilt of the accused beyond a
4 reasonable doubt. If they merely portray the
5 defendant's behavior suspicious, proof has failed. In
6 this case, ladies and gentlemen, luckily there really
7 isn't, not luckily, but in this case there doesn't
8 happen to be that much circumstantial evidence. The
9 majority of what the State is bringing before you is
10 direct evidence, but what circumstantial evidence is
11 there is helpful, very helpful in this case. It
12 totally and completely corroborates what other
13 witnesses were actually able to tell you, even those
14 witnesses who were so reluctant to be in here who
15 didn't want to be in here, but it was their testimony
16 or their initial statement corroborated by everything
17 else, the phone dump, the letters written by the
18 defendants later. The DNA. The gunshot residue and
19 it goes on and on. These are just a few of the
20 things. What you have is testimony from witnesses,
21 such as Rolanda Coleman who didn't want to be here.
22 Such as Donald Moore, who really didn't want to be
23 here and finally Latoya Barnes. Give her credit. The
24 circumstantial evidence corroborates what each and
25 every one of those witnesses told you. That's why

1 it's particularly useful in this case as far as that
2 goes.

3 You also heard from another witness and the Judge
4 instructed you, I think, every single time one of them
5 got up here to testify, expert witnesses. The law
6 recognizes that some people, such as myself are what
7 we call lay witnesses. We don't have any expertise in
8 any area. I wouldn't be able to get up there and give
9 an opinion about anything, but certain people because
10 of their training, because of their education are able
11 to get up there and give you information, testing that
12 they actually did. The DNA, the gunshot residue, the
13 pathologist, the bullets, the firearms expert person.
14 Those were all experts and the reason for that is very
15 simply, they have the training. They're able to do
16 it. Now, when judging their credibility, you judge
17 credibility with them the same way you do everyone
18 else and that's important. Do they have a basis? Do
19 they have the experience? Have they testified before?
20 All these are factors in considering whether a person
21 is able to render an opinion, and I submit, ladies and
22 gentlemen, if you take even just the testimony of one
23 of the lay witnesses and couple it with the expert of
24 the testimony in this case, that alone is
25 overwhelming. The judge will also instruct you that

1 in this case there has been some mention of the death
2 penalty. The State is not seeking the death penalty
3 in this case. The judge will tell you the
4 determination of any punishment should not even enter
5 y'all's mind.

6 All your role is to determine guilt or innocence,
7 and that is what your role is, but the State is not --
8 - this is not a death penalty case. The final thing I
9 want to talk to you a little bit about is credibility.
10 What is credibility or believability? The judge will
11 instruct you. You can believe one witness against
12 many, many against one. You can believe part of what
13 a witness says, none of what a witness says, all. It
14 doesn't matter. It's up to you. When considering
15 what to believe as far as credibility of the evidence
16 we put before you, do they have a bias or prejudice?
17 Do they have something to gain or something to lose?
18 Is the testimony corroborated by other testimony or
19 contradicted? Do they have some fear of testifying in
20 credibility, believability, and the defense got up
21 here in their opening statement and they talked about
22 how this courtroom is packed. There's a pressure
23 everywhere, a rush to judgment, pressure. I submit,
24 ladies and gentlemen, think about Donald Moore. He
25 had to come before you because he was under subpoena.

1 Did he want to testify? No. Do you blame him? No.
2 Did he make up, oh I just told lies those lies that
3 happened to be corroborated by all the evidence in
4 this case. Was what he told police initially the
5 truth? Even Trenton Barnes wrote his mother a letter
6 saying it was the truth. Do they have something to
7 gain or to lose? The defense will get up here and
8 argue oh you can't believe any of the witnesses. You
9 can't believe any of the evidence.

10 They will read out lists of who you didn't hear
11 from. That's all an attempt to divert your attention
12 from the relevant admissible evidence that you did
13 hear as to what happened that night because each and
14 every witness was corroborated by the physical
15 evidence, even by the telephones and give Latoya
16 Barnes credit, ladies and gentlemen. I beg you to
17 judge her credibility. She got up here and it could
18 not have been easy, and I felt horrible, but she got
19 up here and she told you what she told police about
20 what she knew and she didn't want to admit that, yeah,
21 she saw Trenton with a gray hoodie. Do you blame her?
22 I can't. But she told you everything else, but when
23 she went to the police and I think I asked her this
24 question, she just wanted to make sure the truth came
25 out, that the right people were held responsible. She

1 deserves a lot of credit.

2 Again, if I have said anything different from
3 what the judge instructs you on the law, it wasn't
4 intentional. All the State asks for is justice.
5 Nothing more, nothing else. Thank you.

6 MS. SIMPSON: May it please the Court.

7 THE COURT: Yes, ma'am.

8 CLOSING STATEMENT:

9 MS. SIMPSON: Well, I shouldn't have shot that
10 bitch. That, members of the jury, those words of
11 Lorenzo Young. I didn't mean to do it, the words of
12 Trenton Barnes.

13 No, no, no. The screams of terror heard by
14 Theresa Baskin, screams that she will never forget.
15 The final words, those pleas for mercy from the victim
16 in this case, Kelly Hunnewell. No, no, no.

17 The final words, the words, the voice of a
18 daughter, a sister, a friend and more importantly a
19 voice that her children ages 13, 10, 6 and 8 will
20 never hear again and for what? Nothing, absolutely
21 nothing because nothing is the value that the
22 defendants, Lorenzo Young and Trenton Barnes placed on
23 human life that day. Let's be clear. Make no mistake
24 about it. As Ms. Campbell alluded to earlier, the
25 only person who should have been able to come in this

1 courtroom, take this witness stand and testify that
2 she was acting in self-defense is the victim, Kelly
3 Hunnewell.

4 Unfortunately, she never got that chance. Her
5 life ended far, too soon at the young age of 33. Why?
6 Because the defendants, along with their codefendant,
7 Troy Stevenson, had a plan. They were going to rob
8 someone that night, and when the first lick went
9 wrong, they saw a crime of opportunity.

10 MR. KRZYSTON: Objection, Your Honor.

11 MS. SIMPSON: Unfortunately ---

12 THE COURT: What's your objection?

13 MR. KRZYSTON: Can we approach?

14 THE COURT: Yes.

15 (WHEREUPON, a bench conference was held in the
16 presence, but not within the hearing of the
17 jury.)

18 THE COURT: You may continue. I'm sorry.

19 MS. SIMPSON: Her life ended far too soon.

20 Unarmed, alone in that building where she worked the
21 early morning shift starting at 3:00 A.M. so she could
22 spend more time with her children, but what good was
23 that metal spoon against two armed men with guns.

24 The only victim in this case is Kelly Hunnewell.
25 Now, this is contrary to what the defense might have

1 you believe because as I've listened to their opening
2 statements and the information they've attempted to
3 elicit through their cross examination, they would
4 have you believe that Lorenzo Young and Trenton Barnes
5 are the victims in this case. They are the victims of
6 police. They are the victims of the State. They are
7 the victims of SLED analysts. They are the victims of
8 their own family members, Latoya Barnes. They're own
9 friends, Donald Moore. The mother of his child,
10 Rolanda Coleman. They are victims of pressure and a
11 rush to judgment.

12 Poor, poor Lorenzo Young and Trenton Barnes.
13 Well, no, members of the jury, that just simply is not
14 true, and that is not what the facts and the evidence
15 in this case show because we are here today for one
16 reason, because when these two men armed themselves
17 and went to that bakery during those early morning
18 hours and went in, they became burglars, attempted
19 armed robbers. When they encountered Kelly Hunnewell,
20 they became kidnappers, and when they pulled that
21 trigger, each of them multiple times, ending her life,
22 causing her to drown in her own blood, they became
23 killers, murderers, and that's why we are here today.

24 Now, members of the jury, good afternoon. It's
25 been a long few weeks, and as you've learned during

1 the course of this trial, my name is Nicole Simpson.
2 I along my co-counsel, represent the State and the
3 victims in this case.

4 I want to echo my colleague, as well, because
5 this is my one and only opportunity to address you
6 directly and I want to thank each and every one of you
7 now, for your time, your patience and your service in
8 this case. It is often said that jury service is
9 perhaps the most important service that a man or woman
10 can render his or her country during times of peace.

11 Well, that's true here today, and in a few
12 moments, defense counsel is going to get up and
13 present their closing arguments. Then the judge will
14 instruct you on the law that you are to apply to the
15 facts of this case, and then it will be turned over to
16 you for a decision, so on behalf of the State and the
17 victim's family, I thank you.

18 I want to talk to you about the facts in this
19 case. First let's go ahead and get something out of
20 the way because I want to address a few things that
21 defense counsel said in their opening statements. And
22 here in this case, you have two defendants, Lorenzo
23 Young and Trenton Barnes, and you will consider each
24 of their guilt independently, but as I listened to
25 their opening statements, the essence of it all kind

1 of boiled down to the good old classic defense, when
2 you have nothing else, attack the police. Blame the
3 police and they kind of vary a little bit, and I want
4 to make sure that I get the quote right. I believe
5 Ms. Bambach, defense counsel for Mr. Young said in her
6 opening statement that you would not hear one piece of
7 evidence in the case. They had to make the pieces
8 fit. You won't see anything definitively connecting
9 Young to the shooting and the normal things you would
10 see in a murder case just aren't here. The arrest of
11 Young was based on the statement of one witness.
12 Well, that's just flat out wrong and inaccurate, and I
13 don't know exactly what a normal murder case is
14 because murder is far from normal, but I submit that
15 this is exactly what's in a murder case because here
16 what we have is defendants with time to dispose of the
17 evidence. What we have here is forensic evidence. We
18 have direct evidence linking them to it, and we also
19 have attempts to justify their actions with respect to
20 informants and I'll get to them in a moment. Even
21 this is a heinous crime and yeah, Trenton may be sorry
22 now.

23 I wasn't there, I didn't do it. That's Lorenzo
24 Young's defense and attack the police. The moving to
25 Trenton Barnes and this one was kind of all over the

1 place because I believe Mr. Schnee began along the
2 lines of police misconduct. One big conspiracy. And
3 at some point it evolved to well, Trenton did it, but
4 you won't find malice because he is only 16, and then
5 it evolved just a little bit more and changed again.
6 Well, he's really only taking the rap protecting his
7 older brother Troy Stevenson, who he loves dearly.
8 That's all he is doing and then we went to another
9 defense.

10 Again, the investigation, no forensics.
11 Threatening, coercion, I don't know. The
12 investigation. All over the place. One of the age
13 old defenses, if you can't defend it --- if the
14 actions are indefensible, if I throw enough stuff out
15 there, maybe something will stick. Maybe they'll fall
16 for one of them. Well, the problem is that the
17 evidence and the facts in this case don't support any
18 of those. We'll get to that.

19 So let's start with the grand conspiracy as I
20 like to call it. I apologize. I'll talk loud. I
21 know words are small, but I wanted to bring this up to
22 get it out of the way so we can get to the witness
23 testimony and facts in this case.

24 The defense wants you to focus on what the police
25 didn't do. Who they didn't interview. I believe a

1 list of names, such as Azo, Smiley, Marcus Shorty
2 Johnson, Marcus Haley Johnson, Ashley Carter, Marquis
3 Johnson. Darryl Samuels, Anthony Nelson, what about
4 those people. Well, you heard the information that
5 could have been obtained through those people, those
6 people whose names were primarily provided by Troy
7 Stevenson and his attorney while at Mr. Stevenson was
8 actually cooperating with the police and attempting to
9 corroborate his story that he was at the house, that
10 he wasn't with them and nicknames. What are they
11 going to do with that?

12 Azo, Smiley, how do you find those people? Well,
13 counsel for Troy Stevenson was going to do that nearly
14 a year later, but never did, and these people,
15 remember, let's go back to the initial day this
16 happened. They canvassed the area initially during
17 the early morning hours. Even Investigator Moorner,
18 the businesses weren't open yet, but they were
19 knocking on doors and they went back to those
20 businesses attempting to talk to people, to find out
21 what evidence was available.

22 And then when they found people, you know, I
23 can't give you details about what's going on, but if
24 you have any information about this incident, contact
25 police. Maybe leave a card or let you know you can

1 contact Crimestoppers, and some people came forward
2 like Donald Moore, Mary Brown and the confidential
3 informant from Richland County.

4 Azo doesn't come forward. Smiley didn't come
5 forward. Marcus Haley Johnson didn't come forward.
6 You heard that this incident happened where the
7 defendants lived. This was their neighborhood, their
8 friends, associates, family members.

9 This is where they live. People hesitant to
10 talk, and we'll get to those people. Rolanda Coleman,
11 Donald Moore, Mary Brown, the witnesses in this case
12 and you heard testimony. People generally don't talk,
13 especially in a case like this.

14 Observe and we'll get to the witness's demeanor
15 on the stand, Donald Moore, Mary Brown, Rolanda
16 Coleman and Latoya Barnes. Now, investigators didn't
17 pick these witnesses. The State didn't choose these
18 witnesses. The defendants did. These are their
19 friends, their family members.

20 If we could have picked, do you really think we
21 would have picked Donald Moore? No. But then moving
22 on, jailhouse informants. Oh, the police they coerce
23 everybody, they do these terrible terrible things.

24 Well, the Columbia Police Department didn't even
25 interview them. Those people sent letters to our

1 office and then those people came before you. No one
2 coerced or threatened them or made any promises to
3 them. Note taking and audio recording. This comes up
4 in just about every case we do, but sometimes it's the
5 reverse because a lot of agencies don't audio record
6 and instead just take notes. If that were the case,
7 they would be saying where is the audio? Why is this
8 not recorded. You have notes for it, but where is a
9 real document, but when we do have audio recordings,
10 well, where are your notes? They're irrelevant.

11 And then there's been an insinuation. This is
12 just based on what I observed and what I believe may
13 come out, because there's been kind of an inference on
14 police misconduct. Maybe they'll plant evidence.
15 They'll lie. They'll threaten, they will not
16 investigate.

17 Well, if you're going to go to all that trouble,
18 put your work, your job, everything on the line, then
19 why not make it better. If you're going to plant
20 evidence, then put the hoodies there, plant the guns.
21 If you can plant the shell casings and unfired
22 bullets, just go ahead and plant the guns. Make it
23 easy. Pick your witnesses.

24 Ms. Baskin, maybe she will identify them if we
25 press her hard enough. But no, she told you only what

1 she knew. DNA, fingerprints, plant it. Make the case
2 better. That just didn't happen, but everybody is in
3 on it, and you heard and I'm going to go --- all this
4 pressure. All this pressure. Pressure from the
5 media. Pressure from the people. Pressure from the
6 community.

7 Well, members of the jury, all this pressure, it
8 doesn't lead to a quick arrest. It doesn't help to
9 have a shoddy investigation because with all this
10 pressure, with all these headlines, you better get it
11 right.

12 What good does it do them to arrest the wrong
13 people. No good, and their job isn't just to arrest.
14 It's to keep the communities safe. So you want the
15 people that committed these crimes off the streets,
16 and that's what they did in this case. They got the
17 right people and it's not a rush to judgment. Now,
18 the incident happens on the first of July 2013. As I
19 believe Sergeant Reese may have defined it best, you
20 never know which way an investigation is going to go.
21 Your hours are not day-to-day, typical nine to five.
22 You might work 18 to 24 days, 12 hour shifts. You go
23 where it leads you. Well, the evidence is collected.
24 They find a video. Video. Do you know how rare that
25 really is? And it kind of directs their

1 investigation. It's very helpful on what evidence may
2 be relevant, on what to process. What are we looking
3 for, we get descriptions early, quickly because but
4 for that video, we might not be here, but then you had
5 more, some tips they received quickly. The tips are
6 coming in fast once this is released. They don't
7 release everything to the media. Why? Those details
8 will be important down the road. Those details for
9 witnesses like Donald Moore and we'll get back to
10 Donald Moore because he had information that was not
11 released to the media and it became very important and
12 they were able to garner more.

13 So they got search warrants, and they executed
14 them at the homes of both Lorenzo Young and Trenton
15 and Troy --- Trenton Barnes and Troy Stevenson. That
16 didn't occur until the 5th. Trenton Barnes at the
17 search warrant. He ends up going with law enforcement
18 at that time. Lorenzo Young is taken into lawful
19 custody where he was found hiding on that day in a
20 closet with a phone that will become very important in
21 this case, with a phone that the defense may try to
22 essentially distract you from, tell you to discount
23 everything that's on that phone, and we'll get back to
24 that.

25 Troy Stevenson comes to CPD headquarters and then

1 with all this information on the 6th , Trenton Barnes,
2 Lorenzo Young and Troy Stevenson are all arrested and
3 charged in this case, equally charged, same charges,
4 murder, attempted armed robbery, kidnapping, burglary
5 second degree violent.

6 Members of the jury, after the arrest, was their
7 job done? Oh, we got an arrest, all this pressure.
8 Let's just call it quits. We've got our people. No,
9 the investigation continued after the arrest and what
10 did it do? It only corroborated and further
11 implicated the defendants in this crime. DNA, GSR,
12 phone examinations, the letter from Trenton Barnes
13 himself about his conduct, the firearms report and
14 additional jailhouse informants. All that evidence
15 corroborates and implicates three individuals and only
16 those. Two that are here before you today. So you
17 can't believe the police, Azo, Marcus, Marquis all
18 these --- Ashley Carter, all these people who like I
19 said who by the testimony you heard really didn't have
20 any information about what happened, but ignore what
21 they did do. Ignore the witnesses they did talk to.
22 Ignore their investigation as a whole because you just
23 can't believe it, and you heard from another witness
24 or witnesses, and I'm going to touch on a few in
25 depth, but you remember the testimony, you heard it.

1 You heard from Officer Brayboy who responded to
2 Ms. Baskin's home because she wasn't sure where those
3 shots actually came from.

4 Ms. Baskin just gave them the information that
5 she knew, and he went on his search to find out where
6 the shots may have come from, and then he came upon
7 Kelly Hunnewell in the bakery, and at that point,
8 crime scene investigators start responding. EMS
9 responds. You heard from the EMT worker Mary Ellen
10 Swain who came in. She was dead on arrival. They
11 didn't even move her.

12 You heard from Columbia fire department Adam ---
13 I always mispronounce his name, Lofstetler, who had to
14 come in and turn off the heat, the gas, because it was
15 so hot in there. All of these witnesses and we'll get
16 to them specifically, the crime investigators, Donald
17 Moore, Rolanda Coleman and Latoya Barnes, all these
18 witnesses, just ignore them. You can't believe
19 anything that they said. So who did you hear from?
20 I'll leave this one out. Investigator Wise you heard
21 from one of the investigators in this case,
22 Investigator Valerie Moorner. What did she do? She
23 told you --- there are investigators involved in this
24 case and a number of people because manpower is
25 important in a case like this. If information is

1 coming in quickly, you need to be able to get to it,
2 and after a period of time, there is kind of a narrow
3 window. The investigation begins to go stale, so yes,
4 they were involved and this is a murder.

5 They canvassed --- she canvassed the area. She
6 is one of the ones who went to the businesses and
7 they're ultimately able to gain surveillance footage
8 from the Ale House, which you'll have before you back
9 there. So she did her job looking for evidence,
10 looking for cameras and she found some. She spoke
11 with business owners. She made contact with the
12 owners of the bakery. She attended the autopsy which
13 was conducted in this case, and the victim's cause of
14 death determined. You heard Dr. Durso's testimony.

15 Yes, they have meetings. There's kind of a big
16 deal made about VCAP, this 1:30, 12:00 o'clock,
17 whatever time. I don't know. It doesn't matter. I'm
18 glad they meet to discuss where the case is going,
19 that they stay briefed and apprised because at that
20 point things are rolling quickly. Information is
21 coming in, and people are getting assigned to
22 different tasks because it's a lot to check out.

23 Crimestoppers tips, information received
24 testified regarding Lucille Drive, which is the home
25 of Lorenzo Young and Troy Stevenson. They also get

1 information to look into Lorenzo Young, and yes, on
2 the 2nd, they hear from Officer Kai Tull --- well,
3 Sergeant Shuler, who is contacted by Officer Kai Tull
4 because Donald Moore who he had a relationship with
5 who he knew had approached him and said I have some
6 information about this case. Now, Donald Moore who
7 clearly didn't want to be here who distanced himself,
8 like I said at that hearing on November 3rd, which I'm
9 sure they're going to talk about and before you in
10 this case.

11 As Ms. Campbell said, that was the first time
12 that they had to --- he had to get up here to face
13 Lorenzo Young and face Trenton Barnes and talk about
14 his cooperating with police.

15 So judge his credibility. They reviewed the
16 video and what did they learn? Two shooters, one with
17 a red hoodie, one with a gray hoodie and another
18 person, a third person involved as a lookout at the
19 door wearing a dark in colored shirt because that
20 person never comes in. That too is important and
21 we'll get to that.

22 Wears? What does she tell you? She wears the
23 Holister brand, so she recognizes that hoodie as a
24 gray Holister hoodie. Investigator Moorer.

25 Now, you also heard from Investigator Matthew

1 McCoy who is assigned as the lead investigator in this
2 case by Sergeant Reese who is his supervisor.

3 Now, this is just general. I'm sure they're
4 going to take some time here. He was assigned. He
5 went to the crime scene. At that point things begin.
6 Investigators are coming out. He is going over what
7 we observed and clearly, this is even before the
8 video, there are two calibers of shell casings on the
9 ground, at least two guns, two firearms were used and
10 then thank goodness for that video because we also
11 have two individuals and a description of those
12 individuals and we have what happened in this case
13 because as Ms. Campbell said, for once, what happened
14 really isn't in dispute with respect to the struggle,
15 the men coming in with the guns.

16 It's on video. Video which I beg you to review.
17 So they get the video. They canvass the area, follow
18 up on tips, and he is kind of overseeing this together
19 with Sergeant Reese, who you heard from, and they're
20 interviewing witnesses, recording conversations. Once
21 they get the physical evidence, the requested testing
22 begins, and we'll get to why they did or did not do
23 certain things.

24 Then they obtain search warrants for the homes,
25 issued by a judge. We're going to talk about what

1 came about in the search warrants because what they
2 did find may not have even been as important as what
3 they didn't find.

4 As he went through the course of this
5 investigation after the arrest as I said, the evidence
6 led to these defendants' guilt. It only further
7 corroborated. It didn't point to another person, and
8 all those names just put those out of your mind, all
9 they would have done is corroborate Troy Stevenson,
10 potentially, maybe, if they're even identifiable real
11 people, they didn't have any direct knowledge of what
12 happened. then we have the crosses and I'm not going
13 to go through this and he did and who he didn't
14 interview. I believe defense counsel for Mr. Young
15 got up here and he was like, oh, you didn't interview
16 this person; where are your notes. Where are your
17 notes? No. They can tick off a little list all they
18 want to. He didn't take notes because he didn't
19 interview them, bottom line, but he did take notes
20 from Rolanda Coleman and that's recorded. He recorded
21 the interview with Donald Moore. He recorded the
22 conversations with Latoya Barnes, but let's not talk
23 about those because that stuff isn't very helpful.
24 And again, anyone can contact the police at any time.
25 It's not like they shut down 24/7. Levels of

1 cooperation and I say this and it's been emphasized,
2 and I know you're probably tired of hearing about it.
3 It does change. That is a fact. That's a reality.
4 Donald Moore, cooperative in the beginning and then
5 moving to Sergeant Reese, Kevin Reese, who you heard
6 from, the supervisor of this investigation, he
7 responded to the scene. He was one of the first
8 because he didn't even know it was a homicide. He
9 just knew that someone had been shot and went out
10 there. At that point he made his observations, which
11 he spoke to you about, the signs of a struggle and he
12 went through what he did taking down the information
13 that he had initially and then he called out
14 investigators.

15 EMTs are responding. The county coroner's office
16 becomes present. He is at the scene. There is a lot
17 going on. Keep it secure. Get the perimeter secure
18 because this is a homicide.

19 They canvass the area, knock on doors, go to
20 people's yards. Key point. No details in order to
21 preserve the integrity of the investigation. Let them
22 know who they can contact. He was present for many of
23 those interviews with Investigator McCoy and
24 witnesses. He spoke with Donald Moore and what did he
25 say, that he was cooperative. Nothing out of the

1 ordinary. He came on his own free will, and again
2 which we all know, but it must be said not all
3 witnesses want to talk to the police, especially if it
4 involves friends, family, neighbors present for the
5 execution of search warrants and we'll get back to
6 this point. I'm going to reemphasize them a good bit.
7 No firearm or hoodies were found in Bronx Road or
8 Lucille Drive and then he went through the still
9 photos of what you could observe from the crime scene
10 because they were doing everything they could to
11 identify and make sure they had the right people and I
12 submit to you the evidence supports that they did.

13 Now, the crime scene. We start with Tommy
14 Circle. What did Investigation George Wise testify
15 that he found that would become very important in this
16 case? 45 GAP caliber fired shell casings, the spent
17 shell casings, four of them, at least four shots fired
18 from that firearm. Then the 40 caliber Smith and
19 Wesson shell casings. Two of those --- at least two.
20 Projectiles, three of them. Lead projectile. I
21 believe a projectile fragment, and then also the
22 victim's time card. We knew she got there at
23 3:00 A.M. because then the timeline is also important
24 in this case. It corroborates what happened in the
25 testimony and the evidence against Mr. Young and

1 Mr. Barnes.

2 Then we move to the home of Trenton Barnes and
3 Troy Stevenson. Now, remember this search warrant,
4 July 1st, 2013. Then we move to Lucille Drive. It's
5 not conducted until nearly five days later, July 5th,
6 2013. Key evidence or that would be key, isn't found.
7 Firearms, none to be found and importantly that gray
8 hoodie. You'll hear it mentioned several times during
9 my closing right now. That gray hoodie, that gray
10 hoodie that Ms. Barnes said her son wore all the time,
11 his older brother had ripped it. That gray hoodie
12 wasn't present. No gray hoodie was present or red
13 hoodie, but they did find that dark in colored hoodie,
14 and I want to talk just a bit about it because I
15 believe it was elicited at some point during
16 cross-examination, oh, you didn't submit that one for
17 testing for DNA. The person in the dark hoodie didn't
18 go into the bakery. It wouldn't have the victim's
19 blood on there and, of course, they can claim it's
20 Troy or Trenton's DNA because it's their home. Their
21 DNA is present all over the home so what does it
22 really show, nothing. Then we go to Bronx Road.
23 Investigator Gaston. We found several --- or
24 investigators were there are first because they were
25 actually executing a search warrant which is not

1 uncommon. It's actually quite typical, and then crime
2 scene gets called in because they find some key
3 evidence, and that's documented. What did they find?
4 Ammunition box, Magtech 45 GAP. That's the same ammo
5 that was found at the bakery, same type of ammo,
6 consistent with, where was it --- and this becomes
7 important, too, under the bed. Also under the bed an
8 empty ammo tray and 45 GAP unfired bullet, the same
9 markings as those in the murder at Tommy Circle in a
10 plastic cup under the bed. Forty caliber unfired
11 bullets, two of them in the dresser drawers. Like
12 Rolanda Coleman said where he puts his ammunition.
13 Two unfired bullets also consistent and you heard
14 Ms. Cromer's testimony, which we'll get to. Glock
15 magazine. Glock magazine in Rolanda Coleman's purse
16 where it was found I believe near the bed. Then the
17 gloves box in the top of the closet containing GSR
18 gunshot residue. Now, what they didn't find, again,
19 was a red hoodie or a gray hoodie, and they didn't
20 find a firearm and first about those hoodies, I submit
21 and I turn your attention to that web search on the
22 phone, that media release.

23 They know what they're looking for are gray and
24 red hoodies. Let's get rid of them all, and
25 especially with Lorenzo, you're going to have those

1 photographs from the cell phone, those red hoodie
2 selfies from just days before the murder. Not one red
3 hoodie found and the baseball cap is found and firearm
4 during the cross. Again, we get back to that phone
5 and you'll have that video clip where Lorenzo Young is
6 identified as being the person in the camo and the
7 jacket and what's he saying? They have their guns.
8 He is pulling it out. Put that 45. Put that Glock or
9 we Glock boys. I don't know. You'll have it around
10 there. Put it up to the camera. Firearm. And you
11 heard Ms. Cromer's testimony that is consistent with
12 the Glock. Now, because of the quality of it, you
13 couldn't make out the caliber but that's a Glock just
14 days prior to this incident that Lorenzo had, and
15 we'll get back to the Glock. Was that firearm
16 anywhere to be found? No. You know why? It could
17 connect him to the scene. He knew about it. He knew
18 about the shell casings.

19 The gloves with GSR. Now, the gloves, those
20 aren't very identifying. Might not --- we are didn't
21 say he was a rocket scientist. He might not think to
22 get rid of everything just like that ammo box that
23 happened to be under the bed or a couple of casings
24 that --- or unfired bullets that he missed, and
25 remember, they had five days to dispose of the

1 evidence in this case so let's talk about some of the
2 witnesses. I apologize, my voice, too. It must be
3 the courtroom.

4 Donald Moore, very important. Ignore him, but he
5 is Trenton Barnes' friend. He told you that's my boy,
6 and now he claims only to have met Lorenzo Young one
7 time even though it's clear from the testimony from
8 Ms. Barnes, Trenton's own mother that Troy, Trenton
9 and Lorenzo hung out together. It wasn't uncommon for
10 them to stay at the house, but he only met him one
11 time.

12 July 2nd. I believe Ms. Campbell asked do you
13 remember meeting with police and telling them about
14 seeing Mr. Young with a gun because right now he just
15 claims he lied. I lied, I lied, I lied about
16 everything. But back on July 2nd what did he tell
17 police? What did he tell police that would be
18 corroborated by other evidence in this case. Thursday
19 prior to the incident he saw --- he kind of heard
20 about a plan to rob the Ale House.

21 Then the night before the incident he saw Young
22 with a Glock. Kids in the street, he said go in the
23 house and follow them in. Lorenzo was in the red
24 hoodie that night, didn't even believe at that time
25 that he should get paid for this information because

1 again if you get to the informants, even this wasn't
2 okay, under anybody or by anyone's standards. I
3 shouldn't even get paid for this.

4 Video, initially he said he recognized the hat
5 snap back, baseball cap, and the red hoodie that
6 Lorenzo always wears, shown the lineup, picks out
7 Lorenzo, a/k/a Shyne, Lorenzo's nickname. Told police
8 that Trenton Barnes and Lorenzo Young were the
9 shooters. But then on October 20th you heard this
10 testimony, too. He met with investigators from our
11 office, an attorney present. At that point he said
12 oh, just one little lie or claimed to. Then on
13 November 3rd in front of these two men it's all a lie.
14 I only lied because my nickname is Shorty at this.
15 Then there's the stepfather whose name is Shorty. I
16 thought I might be implicated in some way. The
17 problem is he had information that was not released to
18 the media about the struggle, about what happened and
19 what actually occurred inside the bakery. He knew a
20 lot. Then November 4th in a meeting, he finally says,
21 oh, it was all lie. Remember, too, and I believe it
22 was testified to that after this, he actually became a
23 real informant for the police, Donald Moore. Judge
24 his credibility. Like I said, we didn't pick him.
25 That's his friend.

1 Rolanda Coleman, the mother of Lorenzo's two
2 children. You saw how hesitant she was to take this
3 stand under subpoena court order. Didn't want to be
4 here, didn't want to testify, but she did. And what
5 did she have to tell you, because this is important,
6 too. She knew Trenton and Troy Stevenson. They hang
7 out with Lorenzo. On the night of the incident, she
8 was sleeping at her house and Lorenzo Young had her
9 phone. You have the phone records in this case.
10 We'll get to that. She knew he was at Troy's house
11 also corroborated by the other information in this
12 case. The house just up the street from the bakery.

13 So Lorenzo's mom went and picked him up around
14 five, 6:00 A.M., whatever, and he came in with a
15 t-shirt. Now this is the morning of the murder.
16 We're talking July 1st. The morning of the murder,
17 with a t-shirt, and he had a gun when he came home.
18 He took off his shirt, wrapped that gun and put it in
19 the baby's crib. She doesn't know much about guns, but
20 Young had said the gun was a 45. She didn't know what
21 meant, but now you have a better idea about what it
22 means.

23 Remember, she was hesitant to tell you about when
24 she had seen the gun or when she talked about the gun
25 but then finally she admitted yes, it was the day

1 before and he had brought that gun. He had that gun
2 the night, the morning he came home. Then how
3 convenient is this. Lorenzo and Rolanda go to work
4 together. Then when they come home, that gun is just
5 mysteriously missing. No one can find it, but she
6 also testified no one would know where it was, but
7 Lorenzo or someone he told.

8 He told you there was an argument --- she told
9 you there was an argument between Young his mother
10 about the gun; that he often hid them in the dresser
11 drawers and the day after the incident; they saw this
12 on the news and Young's mother told him to find that
13 gun and get it out of the house. Identifies Trenton
14 in the hoodie, but yet says I can't ID the person in
15 the red hoodie. With as much information as she came
16 forward with, she was still protecting the father of
17 her children. Still protecting him and what helps
18 corroborate that? On the day of the search warrant
19 and she admitted in her testimony that initially said
20 she didn't know when Lorenzo was last seen. Why did
21 she lie about that? Because she was scared he would
22 get in trouble and I believe Ms. Bambach referred to
23 credibility. You either believe somebody or you
24 don't. It's not --- it's just as simple as that.
25 Well, the reality is you can believe some of what a

1 witness says. You can believe all of what a witness
2 says or you don't have to believe anything that a
3 witness says, and yes, I agree, consider her motives.
4 Consider her bias. Consider her demeanor on the
5 stand.

6 She also says I seen Trenton with a gun before,
7 too, but it's a different one than the one I saw
8 Lorenzo with. The cell phone in the grandmother's
9 name is Aretha Coleman, but Lorenzo used it.

10 Latoya Barnes. As Ms. Campbell said, give her
11 credit because she has two sons charged with this
12 crime and their actions, their choices, it's not her
13 fault and she wanted the person responsible held
14 accountable to a certain extent. She is the mother of
15 them. She lives at Lucille Drive with them. It's not
16 uncommon for Lorenzo Young to come and stay over just
17 as he did on this night.

18 Lorenzo and Trenton were together night.
19 However, Troy went to the club with his friends. The
20 defendants were not at the house. I can't remember
21 the time period, but it's several hours before this
22 incident occurs. Then she gets a phone call which you
23 will have those records. We'll talk about that call
24 from Young to the house phone. At that point She
25 states that she picks up and Lorenzo wanted to talk to

1 Marquis Johnson and she handed him the phone. Then
2 she gets a second call about ten, 15 minutes later,
3 somewhere in that timeframe from Young, and Young says
4 they are down the street.

5 At that point she says, well, tell Trenton he
6 needs to come home. She stated that Troy went to get
7 his brother all three were back at the house and when
8 she got up in the morning, that Young left and
9 corroborates what Rolanda Coleman said, someone picked
10 them up. Now, the clothing they were wearing that
11 night, she was able to describe to police and to you.
12 It was a red hoodie that Lorenzo was wearing and
13 Trenton that gray jacket that he always wears, it has
14 a tear. Troy didn't want it anymore. And then that
15 dark colored shirt, which look at that person in the
16 video, I submit the actual lookout in this case who
17 doesn't come in, hoodie wrapped up tight, dark colored
18 shirt. The bakery is within walking distance. She
19 knows because she goes to the Ale House bar. She saw
20 the video. She remembers police coming to the house
21 with a search warrant. Why? Probably to arrest her
22 kids and Trenton went with them, but then she went to
23 the police station to be with Trenton and tells Troy
24 come along too because they're looking for him.

25 There is the recorded phone call between

1 Investigator McCoy and Ms. Barnes in August. Now, on
2 the stand she claimed it wasn't Trenton. Difficult,
3 but then when questioned, she admitted on redirect ---
4 she admitted --- no. I apologize. It was introduced
5 later through Investigator McCoy's portion of the
6 recorded phone call where he's inquiring about the
7 about the video and she states, I know my kids. It
8 was Trenton in the gray hoodie. I know my kids. I
9 know them from they fingers to they [sic] toes. She
10 also said, I believe, she recognized Lorenzo in the
11 video she received a letter from Trenton. Now, this
12 letter that you'll have before you, she turned it over
13 to Troy's attorney where Trenton confesses what he
14 did. That's his handwriting. That's how he signs his
15 letters, and then the informants. Like I said, I'm
16 only getting to some of the witness testimony you have
17 before you. You heard from Alfred Wright who
18 testified that Young approached him in the law
19 library. I believe he was researching this stand your
20 ground for another inmate. At that point he said he
21 learned that three people went to rob a club. Three
22 people, but it was closed, so they went to rob the
23 bakery next door. Young and Stevenson, A/K/A Trigg
24 entered with guns. She resisted and Young shot two
25 times. They didn't get any money. Said Little Trap,

1 A/K/A Trenton was the lookout. It's here I'll remind
2 you because this is the testimony that will become
3 important. It doesn't matter if Trenton was just the
4 lookout. Although, I submit the other evidence in
5 this case shows that he actually is the one, by his
6 own admission, that went into that bakery, but either
7 way, it doesn't matter. The hand of one is the hand
8 of all.

9 Then you have Michael Peterson A/K/A Big Unc.
10 Young telling them, asking them, you already know a
11 lot about the law. What did he say? Not too much,
12 but, you know, if you want to talk. Young said don't
13 tell nobody about this, but I set up a sweet lick in
14 and out job. Told the lady to give me the money,
15 right. She said the money was in the back. She acted
16 like she was calling the police, so I started
17 shooting. Well, I didn't mean to, I guess. I got
18 scared, so little homie with me seen the blood and
19 started running, so I ran, too.

20 Peterson's response? You didn't have to kill
21 her. Young: I panicked and they can't prove nothing
22 because we had gloves and masks on. And all they
23 found --- all they got were the shell casings and I
24 think that some people in the hood told them what
25 clothes we had on.

1 Mr. Peterson also overhears the conversation
2 between Troy and Lorenzo while they're in lock-up, and
3 you heard about Young's responses and defense counsel
4 I believe got up here and attempted to draw out the
5 lock-up dorm, the SHU, whatever, but she didn't really
6 want to draw out what wasn't convenient for her.
7 Let's be clear. You've been taught. It's easy to
8 hear through these walls and again, what did he
9 testify to in Young's responses? All they got is the
10 shell casings man, all they got is the shell casings.

11 Michael Schaefer, Young. Same dorm, played
12 cards. Young told them that he along Trap and Trigg,
13 we later learned their names, went out to rob a club,
14 said he was wearing a red hoodie, Schaefer told him
15 too, now they're talking. I robbed a bank and let's
16 be clear. Who would you confide in. Who would you go
17 to? Mr. Wright is charged with murder. Peterson,
18 charged with murder, kidnapping. Another armed
19 robber. Michael Schaefer actually doing 12 years now,
20 which he pled guilty to. They're talking about it.

21 Then Schaefer said about New Years he felt kind
22 of bad, and he said to Young, you know, I really wish
23 I hadn't robbed that bank and Young responded I
24 shouldn't have shot that bitch.

25 What was his demeanor like? Well, he was cool,

1 calm and collected. It was like he wasn't even in
2 jail. Assess their credibility. Their stories aren't
3 the same. They varied because --- who is telling
4 them? Mr. Young, different versions, yes. That's
5 what happens and what's he do? With each of these, he
6 is kind of seeking out advice and he is also having to
7 justify his actions. She resisted. I guess I got
8 scared. I didn't mean to. Well, those two, and then
9 what else and then what else did Mr. Peterson tell
10 you, you know, he was asked repeatedly, do you
11 remember this. You're not hoping for anything. You
12 don't really want anything. He was like not
13 necessarily, not necessarily, and then finally the 4th
14 or 5th time when Mr. Schnee I believe asked him, well,
15 why? Why did you do this? Why are you saying this?
16 Well, because I know how it feels to lose your mom. I
17 lost my mom when I was 13 years old. All these
18 people, fellow murderers, colleagues, even this crime,
19 he needed to justify why he did it to them. Judge
20 their credibility and if they were going to make up
21 something just to help themselves, why not make it
22 easy.

23 Remember, I believe counsel crossed him. This
24 was on the media, this was on the news. Okay well,
25 say they told me two went in. There was a brief

1 struggle, leave it at that. That's what he told me.
2 That's what he said, but he knew names. They had
3 different stories about going into the back room with
4 a cell phone, calling the police.

5 Mr. Young is telling him these things.

6 Now, the forensics in this case and basically I
7 believe both defense counsel kind of said there is no
8 forensics. There are no forensics and what they don't
9 have is problematic. Well, as Ms. Garfield stated in
10 her opening, this isn't CSI. We're not on TV, but we
11 do actually have some forensic evidence in this case.
12 Evidence that points to who? Lorenzo Young and
13 Trenton Barnes.

14 I'll start with DNA. Jennifer Clayton at SLED,
15 and she was crossed extensively. Specifically about
16 the spoon and who was included in that spoon? Whose
17 DNA is on that spoon? Lorenzo Young, Trenton Barnes
18 and Kelly Hunnewell. What else did she tell you and
19 I'm --- numbers aren't my thing, but 76 percent to
20 86 percent I believe of the entire population in the
21 world is eliminated as having contributed to that
22 mixture of DNA on the spoon, and this number, this big
23 number he wrote out, I believe she said that's only
24 when we have a complete profile. I'm never going to
25 get this kind of number when I have a mixture.

1 Then he referred to one and three, went down the
2 table, Ms. Simpson, Ms. Garfield, Ms. Campbell, one in
3 three, pick them, Ms. Campbell eel elementary school
4 is going to be on that spoon. Well, remember all the
5 swabs that were taken in this case. Out of the 15 or
6 so, who is included on that spoon? Trenton Barnes,
7 Lorenzo Young and Kelly Hunnewell who we know touched
8 the spoon and let's think about this spoon. It's at a
9 bakery. She is using it probably its been washed
10 after a previous use and then it's sterilized because
11 that spoon is in a pot of hot boiling water before she
12 uses it to fend off her attackers.

13 And we know --- I believe that he said at some
14 point --- I'm not sure what he said about the victim's
15 DNA only the spoon, but we know she touched it and
16 what a big coincidence that Lorenzo Young and Trenton
17 Barnes are included on that spoon, but you know who
18 else is not or who is not on that spoon who was
19 excluded? Troy Stevenson.

20 He was eliminated. Just like that 76 to 86
21 whatever it was percent of the entire population, and
22 the entire population wasn't at Tommy Circle. They
23 didn't live in close proximity. The friends and
24 family hadn't testified because this evidence comes
25 out later.

1 She did also there was a 40 caliber shell casing
2 that she found with unidentified DNA on it. Transfer.
3 Shell casings get kicked around the scene, things of
4 that nature. Just because you have one doesn't
5 necessarily mean you're going to put your DNA on it or
6 it will be there. That's a shell casing. Not a spoon
7 that we see on the video that was absolutely used in
8 the crime which during that struggle, sweat, things of
9 that nature that hot room, that hot bakery, Trenton
10 Barnes, Lorenzo Young, Kelly Hunnewell. Now, are we
11 saying you just have to rely on the DNA evidence? No,
12 because no one piece of evidence are we telling you to
13 rely on when you make this decision. You consider all
14 the evidence in this case, all the testimony in this
15 case and you determine who it points to.
16 Fingerprints, also a big deal in a lot of cases. It's
17 not unusual for this argument. Well, you didn't dust
18 for prints. You didn't find any fingerprints. They
19 means they didn't do it.

20 Well, what did you have in this case?
21 Investigators told you they had the video. It didn't
22 appear that the defendants had touched anything in a
23 way that fingerprints would actually be recovered from
24 that item because you heard the testimony, smudge
25 marks, a number business, the length of time you touch

1 something, the nature of touching something itself,
2 all that matters because they're volatile. While
3 they're unique and individual to us, they're easily
4 contaminated for lack of a better word, but that's not
5 so important because remember the defendants had on
6 gloves, so I submit even he knew the best way not to
7 leave fingerprints. They had on gloves and anything
8 else that touched --- you see the video, not long
9 enough to leave a fingerprint. Conversation overheard
10 by Peterson. Again, they ain't got nothing but the
11 shell casings, nothing but the shell casings. He knew
12 the concept of fingerprints so well. Why else would
13 you wear gloves in July.

14 Then you had the testimony of Ila Simmons, one of
15 the analysts in the trace evidence department at SLED.
16 She talking you about gunshot residue. Yes, gunshot
17 residue is very particular. The particles and the
18 nature of gunshot residue when they find it is only
19 found in I guess gunshot residue. Gunpowder. It
20 means you fired a gun, around a gun, in close
21 proximity of a gun. Now, it can be transferred from
22 item to item. Now, on people and this was important
23 testimony.

24 You have to collect that gunshot residue within
25 six hours of a person firing the firearm or handling

1 something when it has gunshot residue on it. If it's
2 not within that six hour time period, they won't even
3 test people. So remember, doing any kind of GSR
4 testing on the defendants in this case wouldn't have
5 told them anything. It wouldn't have even being done,
6 and what did she find? That each individual glove
7 on --- or each individual know that was packaged
8 together had GSR on it.

9 Again, access to black gloves, gunshot residue,
10 but what wasn't present in that home? A firearm. A
11 firearm we know Lorenzo had. He had access to
12 firearms, and you heard from an expert, and I didn't
13 put everything up here, but what are a few things that
14 she told you, Ms. Cromer, regarding firearms and tool
15 marks examinations. It's unusual --- I left out the
16 not --- to not have a firearm at least two firearms,
17 the number two, were present she found that a 45 GAP
18 shell casings were from a GLOCK and a 45 GAP had the
19 same markings, shell casings at the scene, bullet in
20 Mr. Young's home along with that ammo box with the
21 Magtech ammunition which was which was found at the
22 scene and the Glock 45, she testified regarding those
23 still shots that you have before your consistent with
24 the Glock. When I talk about Glock, I go to
25 Ms. Bambach's cross-examination. She said you can buy

1 a Glock anywhere. You can get it at Academy Sports
2 and she named off all the different places and the
3 makes of them, Glock, Glock, Glock, I don't know how
4 long the list was, but all of them were Glock
5 manufactured. Remember, we're not saying that they
6 can't be purchased by people just generally. What
7 Ms. Cromer testified to is that she usually doesn't
8 see it. The cases she sees it in are involving law
9 enforcement, which we definitely don't have in this
10 case and these are high end firearms. Like I said,
11 what a big coincidence for Mr. Young that that Glock
12 or that a Glock is in his possession and these caliber
13 shell casings and bullets are in his home.

14 Now, the timeline of events for when this
15 incident happened, now, remember, I don't know if a
16 big deal would be made of it, but this is my one and
17 only opportunity to address you. You have several
18 videos in this case and you have records. You have
19 phone records for the phones. The key ones being for
20 Lorenzo Young with those calls to Lucille Drive where
21 Troy was staying at the home of Trenton and Troy. You
22 also have the Ale House video where it was testified
23 that the timestamp was just a little bit off from the
24 bakery as well as the phone records will probably not
25 be exact, but what you do know from the timeline in

1 case is that at 3:00 A.M. Kelly Hunnewell arrived to
2 work. At 3:05 she got a call or Lorenzo Young called
3 Lucille Drive --- because remember, they're staking
4 out the Ale House, but unfortunately you heard
5 Mr. Spain testify they didn't always close at a
6 specific time. So they got there and is when they're
7 getting there, that final vehicle, employees are
8 leaving at 3:09, too many people, that final vehicle
9 departs at 3:12 A.M, which you can see on the video.
10 Then at 3:14 A.M. what's seen is a subject wearing a
11 hooded sweatshirt comes from behind the building and
12 walks down the exterior bakery wall. A second hooded
13 subject joins him several moments later. Two subjects
14 remain there for several minutes looking toward he
15 open front door of the bakery. One of the subjects
16 walks to the other side of the building while the
17 other remains at the corner kind of facing the camera.
18 I believe at this point, too, around 13, 14:00 A.M.,
19 and like I said, the times may vary just a bit, but
20 they're close in proximity. You get a call from
21 Lorenzo Young to Lucille Drive. Then what happens
22 within minutes later, 3:17 a third subject appears to
23 be in a hooded sweatshirt. Now, he comes up from the
24 street versus from behind the building. They remain
25 outside the building walking back and forth and

1 attempting to peer in a window. At 3:21 two of the
2 subjects walk toward the front of the building behind
3 the parked vehicles. At 3:36 A.M. two of the subjects
4 are observed fleeing the scene, and as I said the
5 bakery times around 3:40 is when you'll see the murder
6 occurred, and they're a little bit off. What does
7 this do, when that third person arrives, there's 15
8 minutes. We don't have audio outside of what's going
9 on and what's being talked about, but we know that
10 people are leaving the Ale House, more testimony
11 corroborated. This lick, the one they plan, it
12 failed, and Kelly Hunnewell, she is there at work.
13 And that bakery door remember was open. A light was
14 on. Crime of opportunity. And at 3:44 A.M. Officer
15 Brayboy was dispatched to the scene. Fifteen minutes
16 after that third individual arrives and you see him in
17 the video, the lookout, and the lookout, remember the
18 lookout, the shooters or at least the people with the
19 firearms and the person that caused the fatal shot I
20 submit based on the evidence and testimony you've
21 heard from Dr. Durso in the video, that is all
22 consistent with that being Trenton Barnes, the person
23 in that gray hooded sweatshirt, the person with the
24 40 caliber pistol, evidence that the defendants were
25 at the at the scene. What do you have them there.

1 Well, you have a lot. You have the video of the
2 crime. What else do you have? Rolanda Coleman,
3 Trenton is in the gray hoodie. I don't know who is in
4 the red hoodie. I submit again who is she protecting,
5 the father of her children. Still doesn't want to get
6 him in trouble.

7 Lorenzo Young is identified. I'm sorry. Still
8 protecting. Alfred Wright, Lorenzo Young, three
9 people, he's told three people they went to rob a
10 club. It was closed at Ale House, corroborated, so we
11 went to the bakery next door. Young and Stevenson
12 A/K/A Trigg, entered with guns, she resisted and Young
13 shot two times. They didn't get any money. Little
14 Trap A/K/A Trenton was the lookout. Again, three
15 individuals, the hand of one is the hand of all. It
16 doesn't matter if it was Trenton or Troy, but in this
17 case I submit supports Trenton as the shooter.

18 Let me go back. I'm getting ahead of myself.

19 Michael Schaefer what did he say that Young said,
20 and he said it several times. You heard him. Well, I
21 shouldn't have shot that bitch. Michael Peterson.
22 Lorenzo Young don't tell nobody I set up a sweet lick.
23 She acted like she was calling the police so I shot.
24 Can't prove nothing because we had gloves and masks
25 on. All they found were shell casings. I think some

1 people in the hood told them the clothes we had on.
2 What else puts them there, Trenton Barnes' own letter
3 confessing, admitting and then finally to Latoya
4 Barnes, yeah, it was Trenton with the gray on; like I
5 said, I know my kid's build. I know them from they
6 [sic] fingers to they toes. I know my kids and the
7 DNA on that spoon.

8 Like I said, it's not one thing or two things.
9 It's the evidence in its totality that we're asking
10 you to consider. With respect to Lorenzo Young who
11 says it wasn't me, I wasn't there. There is nothing
12 connecting me to this crime whatsoever. That's their
13 defense. Latoya Barnes. She puts Trenton and Lorenzo
14 together. Those phone calls that she testified to,
15 3:05, 3:15 just before this crime. She puts him in
16 the red hoodie. He is at the house. He goes, he
17 leaves and he is there the next morning.

18 You also have Donald Moore, and I I'm not going
19 to go through all the details of their testimony
20 again, but you heard it and we went through it.
21 Donald Moore said Lorenzo is one of the shooters.
22 Evidence from the search warrant at 3054 Bronx Road.
23 What did they find? We went through it. The shell
24 casings or the unfired bullets were consistent with
25 the shell casings. The ammunition and what they

1 didn't find. Not one red hoodie, gray hoodie, or
2 firearm, and we know he had it based on the evidence
3 you have in this case. Rolanda Coleman, that gun he
4 had that morning that mysterious goes missing. That
5 gun he wrapped up and put in the baby's crib, just
6 gone. Yeah, he has nothing do with it. Alfred
7 Wright. We went through that. Michael Schaefer.
8 Michael Peterson's testimony.

9 The phone records in this case. Video, the GSR
10 on the gloves, the DNA on the spoon, the video from
11 the phone examination, the Glock 45 that he discusses,
12 the red hoodie selfies.

13 Now, remember that video 6/25/2013 the red hoodie
14 selfies just two days before the crime or three on the
15 phone, the search history, finding our, I submit, what
16 police know. What do I need to get rid of.

17 Q They know --- he knows they're looking for him.
18 I submit he knows kind of what the word on the street
19 is.

20 Now, the evidence with respect to Trenton Barnes
21 you have the letter. I'll get to that, to his own
22 mother confessing to the crime, and what does he say?
23 I'm sorry for blaming Troy.

24 Video, and I point this out because one of
25 defense counsel's argument for Mr. Barnes is that if

1 you actually believe he was there and that this isn't
2 some terrible investigation and police misconduct and
3 rush to judgment or pressure, if you believe he was
4 there, then it isn't malice, and oh, yeah, he is just
5 protecting his brother. He was only 16 at the time,
6 but you look at that video and Sergeant Reese went
7 through those actions. They came in. Trenton came in
8 behind Lorenzo. Nobody forced him to go in and he had
9 his gun out, too, in seconds. Lorenzo goes straight
10 to the woman. He knows something happened, but rather
11 than turn around and go out that door they came from,
12 he proceeds around, gets up to her and fires at least
13 two shots, one of them killing her and no one forced
14 him to pull that trigger. As Ms. Campbell
15 demonstrated one, two, with Lorenzo, three, four,
16 five, multiple shots.

17 No one was forcing him.

18 This goes to that letter that you read.

19 The DNA on the spoon. Again, Alfred Wright,
20 Michael Schaefer and Rolanda Coleman identifies him as
21 being the person on the video in the gray hoodie.

22 Again, evidence that would link them to the
23 description of what was released on the media, no gray
24 hoodie or red hoodie or guns found at the house, but
25 by his own admission, Troy had a gun. Nothing found.

1 at the house, and then mother --- his mother, Latoya
2 Barnes, hesitantly reluctantly identified him on the
3 stand. Now, back when she talked to police, she
4 identified him quickly, but her hesitation is
5 understandable.

6 Then letter from Trenton Barnes. Remember the
7 date of this letter, March 31st, 2014, and in this
8 letter it's kind of --- it cuts both ways because he
9 is saying well, I didn't really want to do it. Renzo
10 was hanging out at the house. My brother Troy ---

11 MR. KRZYSTON: Objection, Your Honor.

12 THE COURT: Overruled.

13 MR. KRZYSTON: Thank you.

14 MS. SIMPSON: And you can only use this testimony
15 with respect to Trenton Barnes' guilt. You'll be
16 instructed that you can only consider it as to him and
17 his actions, and what you read in the letter is he
18 ends up going. He was like I really didn't want to do
19 it. I didn't want to go, but I was being told, come
20 on, let's do it. There is really nothing better to
21 do. And what were they going to do, make some easy
22 money and he said that they go down and again, he was
23 like damn, they're closed, referring to the Ale House.
24 I apologize I didn't read the line on the last letter.
25 And he says that said, come on let's go back to my

1 house, then he said you see that lady over there. I
2 said no I don't see nobody. He was like come on man,
3 and we was by the door, and I seen a lady walk past
4 and I looked back and then I see Troy waving his hand
5 telling me to come back. Then Renzo walked into the
6 place. I went in behind him. Then he grabbed her and
7 put the gun to her and told to get in front of her.
8 Then she swung at me and I closed and I jumped and I
9 got scared ma. I didn't mean to do it. I'm sorry. I
10 said it was Troy because I was scared. He admits to
11 being there and going in.

12 Again, is he maybe trying protect his brother
13 some, yes, is he minimizing his own role, yes because
14 the evidence in this case doesn't support that Lorenzo
15 forced him to do it. He wasn't just a victim. He
16 went there willingly and when they arm themselves,
17 like I told you earlier, Trenton Barnes. Like I said
18 earlier, they are young men, but when they arm
19 themselves, they became attempted armed robbers,
20 burglars, kidnappers and when they we want into that
21 room or that bakery, that business, guns out face
22 masks, gloves on hands and they chose to pull the
23 trigger, they became killers and murderers. Their
24 actions caused the death of Ms. Hunnewell.

25 And let's be clear. She did not have to die.

1 There was no way and nothing has been testified to
2 that she would have been able to identify them. He
3 said they got nothing. If it was a robbery gone
4 wrong, they could have just ran out the door, the open
5 door they came in, and they saw her before with the
6 spoon.

7 I submit they knew she didn't have a gun. She
8 was working at a bakery and they saw it, and they went
9 in, but they didn't have to kill her. There's no
10 evidence that she could identify them and finally, and
11 I know I've said it several times, but some of the
12 most powerful information and evidence that they want
13 you to ignore is yes, it's sad, but judge its
14 credibility especially with respect to Trenton Barnes.
15 His own mother, Latoya Barnes, identified him as being
16 the person in that gray hoodie who committed this
17 crime. In response to Investigator McCoy's question,
18 I mean, yeah, it was Trenton with the gray hoodie on.
19 Like I said, I know my kid's build. I know them from
20 they [sic] fingers to they toes. I know my kids.

21 Now that's just some of the evidence that you
22 heard in this case. I submit that it is more than
23 enough. It is proof that should leave you firmly
24 convinced of each of these defendant's guilt and
25 consider the evidence admissible to them relevant to

1 them regarding their actions and is the roles they
2 played, because in this case how else do you defend
3 the indefensible? That classic defense, attack the
4 police. I wasn't there. Shoddy investigation. You
5 can't believe the witnesses. All that just doesn't
6 work, so I beg you, review this evidence in its
7 totality. Again, it doesn't matter if Trenton was the
8 lookout or the person in the door. The hand of one is
9 the hand of all. The act of one is the act of all and
10 each of them is responsible specifically before you
11 today Lorenzo Young is responsible for the actions of
12 Trenton Barnes, and Trenton Barnes responsible for the
13 actions of Lorenzo Young.

14 It doesn't matter which gun killed her. It
15 doesn't matter who went in first.

16 I submit that the defendants are guilty of
17 murder, attempted armed robbery, burglary second
18 degree violent and kidnapping, and when you go back in
19 that jury room, you will do here in just a few moments
20 and deliberate, I ask you to remember a famous quote
21 from President Theodore Roosevelt. He said that no
22 man is above the law. No man is below it and we ask
23 no man's permission when we require him to obey it.

24 Now, it is said that truth is the mother of
25 justice, and it is your job, your duty here today in

1 this case with these facts to seek justice and find
2 the truth, and I submit that after you have reviewed
3 all the evidence in this case, there will be only one
4 just verdict as to each Lorenzo Young and Trenton
5 Barnes and that is a verdict of guilty, guilty of
6 murder, attempted armed robbery, kidnapping and
7 burglary second degree violent. Guilty for Trenton
8 Barnes of murder, kidnapping, attempted armed robbery
9 and burglary second degree violent. Thank you.

10 THE COURT: Thank you Ms. Simpson. All right.
11 Ladies and gentlemen, we've been going for about two
12 hours. We're going to take a quick a five to ten
13 minute break you still have not heard all the closing
14 arguments or my charge on the law. You are not
15 allowed to discuss this case in any way, shape or
16 form. Keep an open mind. Do not discuss the case.
17 We'll be back with you in just a few minutes.

18 THE JUROR: Thank God.

19 (WHEREUPON, the jury left the courtroom at 4:30
20 P.M.)

21 THE COURT: All right. Let's take about a five
22 minute break.

23 (WHEREUPON, a short break was taken.)

24 THE COURT: Yes, sir.

25 MR. KRZYSTON: As the hour is growing late, we

1 thought it might be helpful to suggest that we finish
2 closings, finish Mr. Schnee's closing, finish my
3 closing, allow the jury to be released for the day,
4 charge them in the morning and proceed with
5 deliberations tomorrow morning.

6 My closing could take 20 to 30 minutes. I'm not
7 sure how long Mr. Barnes' closing will be, but just as
8 we approach the witching hour for the courthouse
9 deputies, I just want to offer that for the court.

10 THE COURT: All right. We'll cross that bridge
11 when we get there. Okay.

12 (WHEREUPON, the jury entered the courtroom at
13 4:39 P.M.)

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

15 THE COURT: Okay. Thank you. Mr. Krzyston.

16 MR. KRZYSTON: Thank you, Your Honor. May it
17 please the Court.

18 THE COURT: Yes, sir.

19 CLOSING STATEMENT:

20 MR. KRZYSTON: An ancient Greek thinker once
21 said, the law is reason free from passion. He said
22 that because it underlines a basic idea that all good
23 justice systems seek to follow, and that idea is that
24 a person should be tried on a case on the facts of the
25 case and not the emotions that drive the case.

1 This same idea is important to our case today,
2 and the reason that this same idea is important to our
3 case today is because each and every one of you
4 sitting in this box swore an oath to render a verdict
5 on the evidence and law alone.

6 Rendering a verdict on the law and evidence alone
7 requires us to temporarily put aside our feelings for
8 Ms. Hunnewell. Be sure there is not one single person
9 in this courtroom that doesn't feel pain and sorrow
10 for Ms. Hunnewell, for her children, and for her
11 family, but ladies and gentlemen, your duty requires
12 that we put that aside for the moment; that we render
13 the verdict on the evidence and law that is before
14 you.

15 Now, in a moment, the Judge is going to instruct
16 you on the law, and you will hear that murder is
17 defined as the killing of any person with malice
18 afterthought (sic) express or implied or inferred.

19 What you don't see in this definition is a line
20 that says but only if the victim is a mother or but
21 only if the victim has a family and the reason that
22 you don't see that in this definition and in the law
23 is because those things have nothing to do with
24 whether Lorenzo Young is guilty of breaking the law.

25 Those are things that are sad. Those are things

1 that touch our emotions, every single one of us, but
2 those are exactly the things that we have to put aside
3 temporarily. Those are exactly the things that we
4 cannot consider when we render a verdict on the guilt
5 or innocence of Mr. Young.

6 You've heard a great deal about the emotional
7 side of this case. The side of this case that causes
8 us all to shudder, and the reason that you've heard
9 all about that emotion, all about her children, all
10 about her family is because the government is light on
11 fact, plain and simple.

12 We've heard from a large number of witnesses and
13 they introduced an entire table of evidence. None of
14 which --- I repeat, none of which can definitively
15 connect Mr. Young to this crime scene at 93 Tommy
16 Circle. This case boils down to a couple sets of
17 facts, a couple sets of facts that show us the
18 government has failed to meet its burden in this case.
19 We can start with what you heard in opening. The
20 testimony of Theresa Baskin. You heard about the
21 cries and screams of terror, but what you didn't hear
22 is that there is any science definitively connecting
23 Mr. Young to this scene.

24 You were promised a witness in Mary Brown who
25 knew Lorenzo Young who supposedly saw him hours before

1 the crime in a red hoodie, but what you were given
2 when she took the stand was far short of what the
3 government promised.

4 They promised to bring you in witnesses and
5 evidence which would leave you firmly convinced of
6 Lorenzo's guilt. They brought in two or three
7 investigators to go over on that \$5,000 television,
8 and show you the video of the incident time and time
9 and time again. And just this morning, they brought
10 another investigator up here to show you still
11 pictures that were captured from the same video that
12 you've seen time and time and time again.

13 Why is that? Because the government is light on
14 fact. They promised witnesses, but what you got were
15 jailhouse snitches. What you got was a girlfriend
16 looking at 15 to life. Every single one of their
17 witnesses had something to gain. Who was Rolanda
18 protecting? Herself, because any reasonable person
19 facing 15 to life does what's necessary to stay home
20 with their children, ladies and gentlemen.

21 They're black, said the prosecution. You can
22 tell from the video. You can see their hands in the
23 video. Yet the lawyers can't stop talking about
24 gloves and this is despite the fact that SLED has
25 tested those at gloves for blood and then because they

1 didn't test positive for blood, they didn't test them
2 for DNA, ladies and gentlemen, in this courtroom with
3 this evidence, actions speak louder than words and
4 their actions and the State's actions tell us that is
5 they have failed to meet their burden.

6 The government said it did a complete
7 investigation; that they talked to everybody they
8 needed to talk to and that the 12 or 13 witnesses we
9 talked about didn't have anything to add to the
10 investigation. That's common sense, ladies and
11 gentlemen. How do you know what those people were
12 going to say? I can't read your minds. If I could,
13 this would be so much easier for me. It would be so
14 much easier for them, but nobody can read anyone's
15 mind.

16 The fact of the matter is they can get up here
17 and make excuse after excuse after excuse, but the
18 fact remains that they failed to do their job.

19 Again, actions speak louder than words, and their
20 actions tell us they failed to investigate and failed
21 to meet their burden. They showed you pictures of
22 Lorenzo in a sweatshirt and those pictures show the
23 upper third of that sweatshirt.

24 Those pictures can't tell us if that sweatshirt
25 is a red and white striped sweatshirt. Those pictures

1 can't tell us if that sweatshirt is solid red and
2 those pictures can't tell us if that sweatshirt is
3 consistent with the one that they paraded on the video
4 in front of you time and time again.

5 Again, they have introduced a table full of
6 evidence, a stack of poster boards that's no less than
7 six or seven inches and the reason they done that and
8 the reason they paraded that video in front of you
9 time and time again is because they are light on
10 facts.

11 They claim Lorenzo had a Glock. They introduced
12 no weapon, and even if he did have a weapon, there are
13 13 models of Glock firearm at a minimum that fired the
14 projectile that was located at 93 Tommy Circle on that
15 fateful morning.

16 The bullet that they found there, the bullet from
17 which that projectile left can be purchased at no less
18 than five locations in and around Columbia.

19 The says we excluded 70 percent of the population
20 from being at the crime scene (clapping.) good job.
21 That's a one to three match. That's as close as they
22 come to placing Lorenzo Young at the scene of the
23 crime.

24 Of the 300 million people in America today,
25 100 million are statistically likely to match the DNA

1 profile that they found at the scene. That's one
2 third of everybody in this courtroom. That's one
3 third of everybody in that jury box. You are
4 statistically likely to match the DNA that they have.

5 Ladies and gentlemen, that is not reasonable
6 doubt. One out of every three people, that by
7 definition is reasonable doubt, and what's more,
8 what's more, they found the DNA profile of an
9 unidentified male at the crime scene at 93 Tommy
10 Circle. Do not let them gloss over that fact. That
11 means they have the DNA profile of somebody at the
12 scene who they never arrested. They want to tell you
13 those 12 or 13 people didn't have any additional
14 information? When I was a young boy, my father gave me
15 some words of wisdom. He looked me in the eye, and he
16 said son, any job worth doing is worth doing
17 correctly. You could be a stock boy at the grocery
18 store or you could be president of the United States,
19 but son, whatever you want to do, if it's worth doing
20 at all, it's worth doing correctly and those are words
21 of wisdom that the government failed to put in its
22 pocket when investigating this case.

23 To convict Lorenzo Young in this matter would be
24 to ignore the fact, to ignore the evidence and the
25 science and to embrace the emotion that they have

1 flaunted in your face since they stepped foot in this
2 courtroom. There is nothing that they have introduced
3 that definitively connects Lorenzo to the crime scene
4 at 93 Tommy Circle and is no amount of excuse making,
5 no amount of glossing over the facts can change that,
6 ladies and gentlemen. The government failed to
7 establish beyond a reasonable doubt that Lorenzo Young
8 was there at 93 Tommy Circle. The government failed to
9 establish beyond a reasonable doubt that Lorenzo Young
10 was involved in this incident and the government
11 failed to meet its burden in this matter because of
12 it. Ladies and gentlemen, looking at the evidence or
13 lack thereof, the government failed to prove beyond a
14 reasonable doubt that Lorenzo is guilty of murder,
15 that Lorenzo is guilty of attempted armed robbery or
16 that Lorenzo is guilty of kidnapping or that
17 Lorenzo is guilty of burglary in the second degree.

18 Ladies and gentlemen, you deserve a better case.
19 We all do, but it's for precisely that reason that you
20 cannot convict Lorenzo Young. They failed to prove
21 their burden. They're pawning it off on you.

22 Ladies and gentlemen, you can't judge the case
23 you wish the government had given you. You must judge
24 the case that the government gave you, and it's
25 precisely for that reason that you cannot convict

1 Lorenzo Young on any of the counts as charged.

2 Thank you.

3 THE COURT: Mr. Krzyston.

4 Mr. Schnee?

5 MR. SCHNEE: May it please the Court, Your Honor.

6 THE COURT: Yes, sir.

7 CLOSING STATEMENT:

8 MR. SCHNEE: A few minutes ago, Ms. Simpson
9 claimed that the defense picked the witnesses in this
10 case. This is the State's witness list. Their chosen
11 witnesses to testify in this case. Officer Bowling,
12 Officer Bunton, Investigator Scott, Investigator
13 Rickburg, Investigator McKeller, Sergeant Smalls,
14 Officer Bracket, Captain Marsh, Captain Eargle,
15 Investigator Hilton, Lieutenant Smith, Assistant Chief
16 Riser, Officer Carol, Sergeant Adams --- the second
17 Sergeant Adams. This is a different one. Officer
18 Steadly, Officer Gilliam --- I'm sorry, Investigator
19 Gilliam, Sergeant Shuler, Sergeant Brown, Officer
20 Martin, Officer Ford, Deputy Linfert from the
21 sheriff's department, Sergeant Walls, Officer Labonte,
22 Investigator Reeves, Officer Webster, Officer Newman,
23 Officer Wiley, Officer Moore, Officer Beckman. The
24 list goes on. These are all the police officers that
25 the State put on the list and never called to the

1 stand (throwing paper down.)

2 But I picked those witnesses, right? Did my
3 client pick those witnesses? Did we pick Investigator
4 McCoy.

5 Let's talk about the State's chosen witnesses and
6 I'm going to start with DNA and I'm going to start
7 with one piece of evidence and we've talked about a
8 lot. It's this spoon right here.

9 This spoon that they are saying is definitively
10 linked to Kelly Hunnewell, Trenton Barnes and Lorenzo
11 Young.

12 Well, we certainly know Ms. Hunnewell is holding
13 those. We're certain of that. You have it right
14 here. You have it on video that she is holding that
15 spoon. Now, what did the DNA person actually say? She
16 did not say that Kelly Hunnewell is included in it,
17 that Trenton Barnes is included as a possible
18 contributor, that Lorenzo Young is included as a
19 possible contributor. Now, I suggest that you
20 probably watch this again. You'll notice that
21 Ms. Hunnewell swings it, hits one of them, not both
22 but one, so their theory that both of their DNA is on
23 here as is preposterous, as a matter of fact. What
24 the DNA expert actually said is that they could not be
25 excluded as a possible contributor.

1 She said that Kelly Hunnewell possibly her DNA
2 isn't even on there because it's such a tiny part of
3 the profile. That is the closest physical object that
4 you can see that both Ms. Hunnewell and whoever is
5 inside of that bakery have touched and the best that
6 they can come up with is well, there are 100 million
7 people in the United States who are just as likely or
8 unlikely to have contributed that sample. That's
9 their idea of solid forensics, of corroboration.
10 Fingerprints, never tested for any of them apparently.
11 Although in November of 2013, Investigator McCoy said
12 oh we absolutely tested for fingerprints. He
13 testified to that after swearing the same oath he
14 swore up there. Not only did he say he tested for
15 prints, he corrected himself on the transcript and
16 said I'm sorry, dusted for prints. That's not
17 misspeaking. I don't know if he's wrong or if they
18 just didn't find them. It doesn't really matter.
19 That's their chosen witness. Their chosen lead
20 investigator. The defendants didn't choose any of
21 that.

22 Now, let's get back to this corroboration issue
23 that they love to talk about.

24 The State says that they did not release a lot of
25 details from the video so they could determine if

1 witnesses are being truthful, that they actually have
2 independent knowledge. So what does the State present
3 to you? Let's see. We've got Michael Peterson. He
4 has a pending murder charge. Among other things, and
5 he says that Lorenzo confessed and said that they were
6 all going to the back room and she pulled out a cell
7 phone and he got scared and he shot her. Watch the
8 video. Watch it as many times as you want. It's
9 never going change. None of those things ever
10 happened. They claim corroboration. Yes, look for
11 corroboration, what is factually true that we can all
12 agree on. We can all agree that two people went into
13 that bakery. I think we can all agree that
14 Ms. Hunnewell never touched her cell phone. She
15 didn't pick it up and try to call anyone. I think we
16 can all agree they didn't walk towards the back room
17 to open up a safe that doesn't exist. Michael
18 Peterson is a liar. He made it up.

19 He has the same information that almost anyone
20 else on the street does, what the media policed, what
21 the police released to the media. Now, they began
22 getting nicknames from word at the jail in yeah, sure.
23 So what. That was how long afterwards? Who doesn't
24 know those names that has any idea about anything?
25 Anyone can find that out. Even said he watched it on

1 TV when he heard about it. So he knows the names of
2 who is arrested. Relevance. There is no
3 corroboration there. What does Michael Schaefer say?
4 Oh, he just says Lorenzo confessed. Lorenzo
5 confessed, Trenton is outside, Troy is inside. That's
6 fine because that's exactly what the news had said
7 from July 7th of last year on. That's not
8 corroboration. There is not a single unique fact, not
9 a single fact.

10 The State, they chose him as a witness. They put
11 him up. Alfred Wright, also pending murder charge,
12 same thing, not one single detail that wasn't released
13 to the media or anyone who doesn't have an internet
14 connection couldn't have looked up. Everything that
15 was hidden from the public is still hidden from all
16 these jailhouse snitches. Why? Because they didn't
17 talk to anyone. They made it up because they want a
18 deal and who gives them the deals? Them. The State
19 of South Carolina. The solicitor's office that is
20 prosecuting this case, and yet I'm going to point to
21 them a whole bunch. You know why. They love pointing
22 over here. Oh, let the record reflect someone
23 identified Lorenzo Young or someone identified Trenton
24 Barnes. Did you see a single witness get up on that
25 stand and say I watched Trenton Barnes shoot that

1 woman? No.

2 The closest thing they have is Rolanda Coleman.
3 She says well, he's small and is moving in a sneaky
4 way, so it must be him. That's her identification of
5 Trenton Barnes. The same woman who is facing 15 to
6 life for burglary, the same woman who is being
7 prosecuted by that office. The same woman who clearly
8 doesn't want to go to prison for 15 years to life with
9 a one-year-old and an eight month old child.

10 Investigator McCoy. On the stand, he listed
11 someone as a quote criminal informant that apparently
12 contacted the sheriff's department and then he had a
13 conversation with whoever this informant is. To this
14 day, I have no idea who it is. I asked him five
15 times. Who is it? Only answered it was an informant.
16 I don't even know what that person said. I don't know
17 that that the person exists.

18 They concealing it. Still concealing it.
19 Concealing it from the jury here today, more than year
20 afterwards, and they won't even give a name. We're
21 the ones to put witnesses up? Let's talk about who
22 else Investigator McCoy did or didn't do.

23 What he did clearly as he admitted on the stand,
24 is threaten Lorenzo Young with the death penalty, with
25 a needle in his arm. Am I the only one in this entire

1 world that thinks that is improper? Do you know what
2 that is, that's called a felony and guess who chooses
3 who prosecutes? That table right there. Do you think
4 they're going to end his career and throw every single
5 case he has ever worked on or will ever work on? He
6 knew it was improper. I don't think there is a single
7 person in the State of South Carolina would say that
8 when you're interrogating someone, you're allowed to
9 threaten them with a needle in their arm,
10 preposterous.

11 When he interviews Troy Stevenson in March 2014,
12 he even said hold on, hold on. I'm writing this down.
13 Where are the notes? He said they don't exist even
14 though clearly, as he admitted, he is on audio
15 recording saying he is writing it down. Now, he just
16 says well, he was saying that so he can process it.
17 Okay. Let me see a single thing from him that says he
18 even interviewed someone from March of 2014. He
19 didn't write that down in his case notes past December
20 of last year. What happened this entire year? Let's
21 see. They had a sweatshirt that they got at Trenton's
22 house. It was a dark blue sweatshirt, which they say
23 was wet. They found Trenton there. Well, they didn't
24 find a gray sweatshirt. They didn't find a gun and
25 they didn't find Troy Stevenson either. I'd be really

1 curious to see whose DNA is on the inside of that blue
2 sweatshirt. They never checked. They had a
3 year-and-a-half to check it. They could have done it
4 any day. They still haven't done it. Investigator
5 McCoy said he didn't even bother to follow up on it.

6 The gloves that allegedly have gunshot residue on
7 them, even though we've heard lots of testimony, see,
8 there were hands touching items. That's why they
9 dusted for fingerprints. That's why they did all of
10 these DNA tests. Great, they have GSR on a number of
11 sets of gloves from someone's closet. I have a set of
12 gloves on there. I guarantee there's GSR on those. I
13 go shooting all the time. So what. Do you know what
14 they didn't bother to do? Test the gloves on the
15 inside for DNA to see actually wore them, if anybody
16 ever wore them. Now, could I guarantee that would
17 actually result in useful information? I have no
18 idea. It's not my job to check that. It's theirs.
19 It's the State's job to try and they didn't try and
20 they didn't try for one of the most important reasons
21 why we're all here right now.

22 Ms. Campbell said it best during he closing
23 remarks, she begged you, begged you not to hold it
24 against the victim's family for anything the lawyers
25 have done that may have on offended you as jurors.

1 Well the victim's family, they're not on trial. Not a
2 single one of them even testified. Why would she be
3 concerned about you holding them responsible or
4 blaming them?

5 That is nothing short of a pathetic attempt get
6 to your emotions stirred up. That's all it is.
7 Emotion from you as jurors because they don't have the
8 facts, so they want emotion.

9 I already told you in my opening statement that I
10 expected this to be an emotional trial, and I don't
11 blame anyone for having emotions, but this is the
12 closing argument. This is the time when we're all
13 having to think about facts and analyze it with the
14 law. Emotion has no place in this room. Certainly
15 doesn't have any place in your deliberation room.
16 Yes, you're going to have emotions. Your job, and you
17 took an oath to push that to the side and think about
18 facts. Now when you're thinking about facts, let's
19 talk a little bit about what the law really is.

20 The State has the burden of proving each and
21 every element of each separate offense. They have to
22 convince you beyond a reasonable doubt.

23 Now, the judge will instruct you that a
24 reasonable doubt is something that if you doubt that
25 would not be reasonable based on if you are firmly

1 convinced. Another way of saying that is if it would
2 cause you to hesitate to act.

3 Now, this morning just like almost every morning,
4 wake up, take a shower. I start a pot of coffee. I
5 walk outside, take my dog out and let him do his
6 thing. This morning was faster than normal because it
7 was a little bit freezing. I walked back inside,
8 poured a cup of coffee and try to get ready for the
9 morning. I go to the refrigerator, bring the half and
10 half out. The past two weeks I've been in here, half
11 and half haven't done a lot. It expired on Sunday.
12 The milk expired on Sunday. Well, I had some
13 apparently yesterday, didn't even realize that it was
14 expired. I opened it up and I sniffed it. That
15 sniff, that's hesitation. I mean, I had used it the
16 day before. It's half and half, it's ultra
17 pasteurized and usually lasts quite a while anyway. I
18 still sniffed it. Your job as jurors is to sniff all
19 this and what I'll tell you right now that you need
20 to sniff is pretty much this, and you can throw out
21 almost all of these items, all of these photographs,
22 all of these diagrams, all of these other documents.
23 What does this really tell you? A woman was shot.
24 There were two guns, six bullet casings, two different
25 calibers. That's what all of that shows you. All of

1 that and not a single bit of it is in dispute. Your
2 job is to figure out who did it.

3 Well, actually I should rephrase that. That's
4 not your job. Your job to is to figure out if they
5 proved their case. You want to figure out who did it
6 and what happened, as curious animals that we are, we
7 always do, but that is not your job as jurors. Your
8 job is to hold them to their burden.

9 Now, you heard from Latoya Barnes that in August
10 of last year, she had a phone conversation with
11 Investigator McCoy and he told her unequivocally one
12 of your sons is going down for this. Well, at the
13 time they were both in jail. They were both charged
14 with the same things. What do you do? Well, you
15 wait. You see what the State has. You see where
16 they're going, and then you discuss it as a family.
17 You make a decision. Then in March 2014, Troy
18 Stevenson goes, talks to law enforcement. That was on
19 the 24th and then you have a letter, a letter from
20 Trenton Barnes dated March 31st. Seven days later,
21 seven days later he writes a letter saying he did it
22 all and that Troy had nothing to do with it.

23 Huh. That's rather convenient for Troy, isn't
24 it. It's rather convenient for Troy that he wasn't
25 home when his house was searched. It's rather

1 convenient for Troy that there was no gun found when
2 the house was searched, no gray hoodie nor him, and he
3 is also the one that's not on trial. That's rather
4 curious, isn't it? Why is he not on trial.

5 Because, you know, if the State believes that
6 letter as they want you to believe it, that it's the
7 truth, then why is Troy Stevenson still in jail. Why
8 are those charges still pending. Read that letter.
9 He didn't do anything. According to that letter, he
10 went down to stop everything and bring Trenton back.
11 The government is putting that letter up for you as
12 jurors. They want do you believe it, but they don't
13 believe it. If they believed it, they would be
14 required, as attorneys. We take an oath ourselves.
15 They would be required to dismiss all the charges
16 against Troy Stevenson. They would be required to do
17 it the minute they got that letter if they actually
18 believed it. They haven't done.

19 In just a few minutes, the judge is going to read
20 you what the law is and how to apply it in the case.
21 Thankfully, you won't have to hear anymore from me.
22 I'm almost done. When you go back to the jury room
23 and you're sitting there and you're waiting for all
24 this evidence to come in and you're tearing up all
25 those little pieces of paper to take an initial vote,

1 I want you to keep one thing in mind. This is the
2 only thing from the State that I actually agree with.
3 It came from Kevin Reese. I want to make sure I got
4 this, right. Before you take someone's liberty, you
5 need to be sure you have it right. Well, members of
6 the jury, you need to make sure you have this one
7 right. There is a 16-year-old child on trial for a
8 murder that he didn't do, for a burglary he didn't do,
9 for attempted armed robbery that he didn't do and a
10 kidnapping that he didn't do. Take the blame to save
11 his brother? He didn't do it. This is no evidence he
12 did it. The State knows it and that's why they have
13 all this, almost 450 exhibits and not a single one of
14 them that says anything about who is actually inside.

15 THE COURT: Thank you very much. Already.
16 Ladies and gentlemen. The time is now 5:20,
17 approximately, and I'm going to let you all make the
18 next decision. You're not going to make decision out
19 here. You're going to make it back in the jury room.
20 Here are your two choices. I'm giving you these
21 choices because I don't ever limit attorneys on time
22 because I want --- I don't want them to ever feel
23 pressure from me about how long you're allowed to talk
24 or not to. That's their opportunity to make closing
25 arguments. I want everybody to not feel any pressure

1 from me on keeping anybody to a specific time limit,
2 but I also don't want you to feel any pressure in
3 getting out of here tonight either, so your options
4 are this. I'll do whichever one you want to. It does
5 not matter to me. In my mind I'm probably 50/50 on
6 doing it either way. It doesn't matter to me. I'll
7 let you be the decisions on this. You are the
8 citizens of our community who have given up time from
9 your family, friends, and work to be here so you will
10 make the decision.

11 Option number one is I charge you on the law
12 right now, okay. That will take roughly 30 minutes.
13 That's not an exact number. That's just an average of
14 how long it takes me. Once that happens, you would go
15 back to your jury room. You would still not be
16 allowed to deliberate until all of the exhibits come
17 back in the jury room. Best case scenario that's
18 probably going to take at least 20 or 30 minutes
19 because of the number of exhibits that are involved.
20 You wouldn't be allowed to discuss the case at all
21 until those exhibits came in the room. Okay. At that
22 point in time, we would order you some kind of dinner
23 and you could deliberate for as long tonight as you
24 want to. It doesn't matter to me. I'm happy to stay
25 here as long as I need to, okay. That's option number

1 one. And then at some point tonight we would reach a
2 point in time where I kind of call it for the evening
3 and I say let's go home and come back tomorrow morning
4 and start again.

5 Option number two is for me to send you home now,
6 okay. So I can give you my normal evening
7 instructions, you're not allowed to discuss the case
8 with anybody. You're not allowed to do any research,
9 all these things. We come back and tomorrow morning
10 the first thing that happens is I charge you on the
11 law and between now and then we would be able to get
12 the exhibits together before we started and then you
13 would go back into your jury room and start
14 deliberating once exhibits come back.

15 Okay. So Mr. Foreman, I want you to go back to
16 your jury room. Do not discuss the case and come to a
17 consensus on whether or not you want to come back in,
18 get charged and keep working tonight or whether or not
19 you want to go home for the evening and come back
20 tomorrow morning to start with a jury charge and then
21 move into deliberations and then when you're --- when
22 you've made that decision, just come back in. You can
23 just write it on a note, give it to the bailiff and
24 we'll go from that point. Okay. Take however much
25 time you need. We're all going to be right here.

1 Just let us know when you're ready. Everyone remain
2 seated while the jury is excused.

3 (WHEREUPON, the jury left the courtroom at 5:24
4 P.M.)

5 THE COURT: All right. We're going to be bring
6 them back in. They want to go home. I think that's
7 reasonable given the hour and the amount of
8 information they collected today and the length of the
9 trial. You can bring them back in, Mr. Tolbert.

10 (WHEREUPON, the jury entered the courtroom at
11 5:27 P.M. and they handed a note to His Honor.)

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

13 THE COURT: All right. Ladies and gentlemen, I
14 got your note that said you want to go home tonight.
15 That's perfectly fine. We're going do that. I was
16 joking with the attorneys. Some of the judges, I
17 would say in the old days, but that would make myself
18 older than I want to be, but they would just keep you
19 here all night long. I think it's reasonable under
20 the amount of time that you've been here and the
21 amount of evidence that you've heard in the case to go
22 ahead and go home for the evening and start afresh
23 tomorrow morning when everybody has had a good night's
24 sleep and is ready to go. So I will let you go home
25 for the evening Now, you will recall that I have

1 previously instructed you in great detail that you
2 must decide this case solely on the evidence presented
3 in this courtroom. Because we're about to take a
4 break for the evening, I'm now reminding you of that
5 warning and I want you to once again if you will
6 commit to each other, to the parties in case and to
7 the court that you will not use any type of cell
8 phone, television, electronic device, computer, radio,
9 print media or anything else to get information about
10 this case, send information about this case, read,
11 view, listen to, look up, anything and I know I've
12 said this over and over and over again and I know
13 you're tired out of hearing me say this, but that's
14 how important it is. You are to decide this case
15 solely on the evidence presented in the courtroom.

16 There is one final thing you that you need to
17 hear about this case and that's why you still can't
18 discuss it and you still can't talk about it amongst
19 yourselves is because you have not heard what the law
20 is as it applies to this case from the Court. So that
21 will be the first thing that we will do tomorrow
22 morning. We will do our best to have all the exhibits
23 already organized out and laid out so they're packaged
24 and ready to come back to you. As to your second
25 request that you made tonight, I will work on that. I

1 cannot promise it, Mr. Foreman, but I will do my best
2 to work on that and see what is available. All right.
3 Thank you very much. Everyone remain seated while the
4 jury is dismissed.

5 THE BAILIFF: What time, Your Honor?

6 THE COURT: Oh. Let's do 9:30, 9:30. Thank you
7 very much.

8 (WHEREUPON, the jury left the courtroom at 5:31
9 P.M.) anything before we break for the night?

10 MS. CAMPBELL: Your Honor, we think have a
11 scheduling matter. May I just approach in.

12 THE COURT: Sure.

13 MR. KRZYSTON: Nothing, Your Honor.

14 MR. SCHNEE: I don't have anything.

15 (WHEREUPON, there was a bench conference.)

16 THE COURT: All right. Now, let's --- if the
17 attorneys can be here tonight. The let's meet at nine
18 in the morning. All the attorneys or at least one
19 attorney from each party to the case, meet to organize
20 all the evidence so we have that part of it ready to
21 go. Okay.

22 (WHEREUPON, the proceedings were adjourned.)

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

25 NOVEMBER 19, 2014

1 THE COURT: All right. Now, have you been
2 through the evidence?

3 MS. GARFIELD: Our office has been through it.
4 Everything is clear, Judge.

5 THE COURT: Have you ---

6 MS. PINNOCK: Yes, we went through it.

7 THE COURT: Okay.

8 MR. SCHNEE: Yes, Your Honor. We fixed the
9 issues with the CDs. This is still the exterior of
10 the Ale House. The CDs are fine. They just work
11 on the laptop the solicitors have.

12 MS. GARFIELD: If they want to review it, they
13 have to come back in here.

14 MR. SCHNEE: I don't know if you want to tell
15 them ahead of time or wait and see if they ask.

16 MS. GARFIELD: It will play on this just not the
17 laptop.

18 THE COURT: How mobile is that thing?

19 MS. CAMPBELL: Very.

20 THE COURT: I'm sorry. I couldn't hear you.

21 MS. GARFIELD: It's easily.

22 THE COURT: Okay. Maybe we can just move that.
23 I mean, they need be able to watch it and discuss what
24 they want to discuss without the fear of everybody
25 seeing it. We'll cross that bridge when we get there.

1 All right. Now, listen, everybody that's out in
2 the audience I'm happy for you to be here. When they
3 come in, I'm going to charge them on what the law is.
4 I don't know how long that is, but it will be
5 approximately 30 minutes and the back door will be
6 locked. Don't get up, don't move, don't try to leave.
7 You're welcome to stay in here. I don't have a
8 problem with that. I'm just telling you, if you think
9 hey I think I may need to get up in the next 30 or 40
10 minutes, just go ahead and you may need to leave now.
11 I'm going to tell them what the law is they're going
12 to go out. If you want to leave now, just ahead and
13 leave. If not, once they come in, just stay seated
14 until I finish. All right. Let's bring them in.

15 (State's Exhibit Number 396 was withdrawn because
16 the State said it was not in evidence.)

17 (WHEREUPON, the jury entered the courtroom at
18 9:45 A.M.)

19 THE COURT: Good morning, ladies and gentlemen.
20 Welcome back. Has anybody viewed any news media, any
21 type of story about this case in any way, shape, or
22 form? If so, please raise your hand.

23 (There was no response.)

24 JURY CHARGE

25 THE COURT: Okay. At this point in time, as I

1 told you, I'm going to charge you. That's actually
2 the term on what the law is in South Carolina as it
3 pertains to this case. Now, this document that I'm
4 about to read to you is about 25, 26 pages, okay. So
5 as I go through it I will do my best to keep you with
6 me and keep you awake. I think it's actually good
7 that we came back this morning. That way you're fresh
8 and ready to go and ready to pay attention. Just stay
9 with me. As we go through it, then at the end, I'll
10 come down and give you the verdict form and all the
11 different things that you need.

12 The indictments have charged the defendants with
13 murder, attempted armed robbery, kidnapping and
14 burglary in the second degree. I remind you that the
15 fact that the defendants were arrested, charged and
16 indicted in this case is not evidence in this case,
17 and it cannot be considered by you as evidence of
18 guilt in this case, nor does it create any presumption
19 or inference of guilt. These documents are simply the
20 formal written instruments which contain the charges
21 made against the defendants. They are the formal
22 documents by which this case is brought into this
23 court.

24 I charge you that there are two defendants in
25 this case, each of whom is charged with murder,

1 attempted armed robbery, kidnapping and burglary in
2 the second degree.

3 The case of each defendant and the evidence and
4 the law concerning that defendant should be considered
5 separately and individually. Your verdict does not
6 have to be the same for both defendants.

7 The fact that you may find one defendant guilty
8 or not guilty should not control your verdict as to
9 the other defendant. Where more than one person is
10 charged with a crime, if the evidence warrants it, you
11 may convict one and acquit the other or you may acquit
12 both or you may convict both. It will depend on your
13 view of the testimony and the evidence. You must take
14 each defendant and consider the evidence as to that
15 defendant and my instructions to you on the law.

16 You will then write a separate verdict of guilty
17 or not guilty for each individual defendant, and I
18 will explain that to you at the end.

19 The indictments in this case allege several
20 different offenses against the defendants. The
21 charges are murder, attempted armed robbery,
22 kidnapping and burglary in the second degree.

23 Each indictment charges a separate and distinct
24 offense. You must decide each indictment separately
25 on the evidence and the law applicable to it

1 uninfluenced by your decision as to any other
2 indictment. The defendants may be convicted or
3 acquitted on any or all of the offenses charged.

4 You will be asked to write a separate verdict of
5 guilty or not guilty for each indictment. I remind
6 you that during this trial you and I have certain
7 duties to perform. As the trial judge, it is my
8 responsibility to preside over this trial, and I also
9 have the duty to rule on the admissibility of the
10 evidence offered during the trial. You are to
11 consider only the competent evidence before you.

12 If there was any testimony ordered stricken from
13 the record in this case during this trial, you must
14 disregard that testimony. You are to consider only
15 the testimony which has been presented from this
16 witness stand, any exhibits which have been made part
17 of the record in this case or any stipulations of
18 counsel.

19 I have the additional duty to charge you the law
20 applicable to this case. As the presiding Judge, I am
21 the sole judge of the law in this case, and it is your
22 duty as jurors to accept the law and apply the law as
23 I now state it to you. If you already have an idea as
24 to what the law is or what the law ought to be or
25 should be, and it does not agree with what I now tell

1 you the law is, you must abandon your own idea because
2 you are sworn. The oath that you took at the very
3 beginning of this trial to accept the law and apply
4 the law exactly as I state it to you.

5 In every case tried in this court before a jury,
6 the jury becomes the sole and exclusive judge of the
7 facts.

8 A trial judge, that is me, I cannot state,
9 comment on or make any statement to a trial jury about
10 the facts in a case since you the jury are the sole
11 judge of the facts in this case, you are not to from
12 anything that I have said during this trial or done
13 during this trial in ruling upon the admissibility of
14 the evidence or otherwise or anything that I say now
15 and during the course of this instruction to you that
16 I have any opinion about the facts in this case. The
17 law doesn't allow me to have an opinion about facts of
18 this case. This is a matter solely for you to
19 determine.

20 As jurors, it is your duty to determine the
21 effect, the value, the weight and the truth of the
22 evidence presented during this trial. Now, to these
23 charges the defendants have pled not guilty and that
24 plea puts the burden on the State to prove the
25 defendants guilty.

1 A person charged with committing a criminal
2 offense in South Carolina is never required to prove
3 himself innocent. I charge you that it is an
4 important rule of law that a defendant in a criminal
5 it trial, no matter what the seriousness of the charge
6 may be will always be presumed to be innocent of the
7 crime for which the indictment was issued unless guilt
8 has been proven by evidence satisfying you of that
9 guilt beyond a reasonable doubt.

10 This presumption of innocence does not end when
11 you begin your deliberations, but it accompanies the
12 defendant throughout the trial until you reach a
13 verdict of guilt based upon evidence satisfying you of
14 that guilt beyond a reasonable doubt.

15 The presumption of innocence is like a robe of
16 righteousness placed about the shoulders of the
17 defendant which remains with the defendant until it
18 has been stripped from the defendant by evidence that
19 satisfies you of the defendant's guilt beyond a
20 reasonable doubt.

21 The presumption of innocence is not a mere legal
22 theory. It is not just a legal phrase. It is a
23 substantial right to which every defendant is entitled
24 unless you the jury are satisfied from the evidence of
25 the defendant's guilt beyond a reasonable doubt.

1 Now, I just explained to you that the State has
2 the burden of proving the defendants guilty beyond a
3 reasonable doubt. Some of you may have served as
4 jurors in civil cases where you were told that it is
5 only necessary to prove that a fact is more likely
6 true than not true, such as by the greater weight or
7 the preponderance of the evidence.

8 In criminal cases the State's proof must be more
9 powerful than that. It must be beyond a reasonable
10 doubt. Proof beyond a reasonable doubt is proof that
11 you leaves you firmly convinced of the defendant's
12 guilt. There are very few things in this world that
13 we know with absolute certainty. In criminal cases
14 the law does not require proof that overcomes every
15 possible doubt.

16 If based upon your consideration of the evidence,
17 you are firmly convinced that the defendants are
18 guilty of the crime charged, you must find them
19 guilty. If on the other hand you think there is a
20 real possibility that the defendants are not guilty,
21 you must give the defendants the benefit of the doubt
22 and find them not guilty.

23 Again, you are to consider each defendant and
24 each charge separately and individually from each
25 other. Now, there are two types of evidence which are

1 generally presented during a trial: Direct evidence
2 and circumstantial evidence.

3 Direct evidence is the testimony of a person who
4 claims to have actual knowledge of a fact. For
5 example, an eye witnesses. It is evidence which
6 immediately establishes the main fact to be proved.

7 Circumstantial evidence is proof of a chain of
8 facts and circumstances indicating the existence of a
9 fact. Crimes may be proven by circumstantial
10 evidence. The law makes no distinction between the
11 weight or the value to be given to either direct or
12 circumstantial evidence. However, to the extent that
13 the State relies on circumstantial evidence, all of
14 the circumstances must be consistent with each other
15 and when taken together point conclusively to the
16 guilt of the accused beyond a reasonable doubt.

17 If these circumstances merely portray the
18 defendant's behavior as suspicious, the proof has
19 failed. The State has the burden of proving the
20 defendants guilty beyond a reasonable doubt. This
21 burden rests with the State regardless of whether the
22 State relies on direct evidence, circumstantial
23 evidence or some combination of the two.

24 Now, as I told you in the very beginning of this
25 trial, you must determine the credibility of the

1 witnesses who have testified in this case.

2 Credibility simply means believability. It becomes
3 your duty as jurors to analyze and to evaluate the
4 evidence and determine which evidence convinces you of
5 its truth.

6 In determining the believability of the witnesses
7 who have testified in this case, you may believe one
8 witness over several witnesses, or several witnesses
9 over one witness. You may believe a part of the
10 testimony of a witness and reject the remaining part
11 of the testimony of that same witness. You may
12 believe the testimony of a witness in its entirety or
13 reject the testimony of a witness in its entirety.

14 You may consider whether any witness has
15 exhibited to you any interest, bias, prejudice or
16 other motive in this case. You may also consider the
17 appearance and the manner of a witness while on the
18 witness stand.

19 Now, as I told you in the beginning, and I have
20 told you throughout this trial, there are certain
21 things that have happened in this case that are not in
22 evidence, and you must not consider them as evidence
23 in deciding the facts of this case: Number one, the
24 statements and the arguments of the attorneys. Number
25 two, the questions and the objections of the

1 attorneys, and number three, the testimony that I have
2 ordered you to disregard throughout this trial.

3 Now, the Rules of Evidence ordinarily do not
4 permit witnesses to testify to opinions or
5 conclusions. An exception to this rule exists for
6 witnesses that we call expert witnesses. This is a
7 witness who by education and experience has become an
8 expert in some art, science, profession or other
9 calling and may state an opinion as to relevant and
10 material matter in which the witness claims to be an
11 expert and may also state the reasons they claim to
12 give that opinion.

13 You should consider any expert opinion received
14 in evidence in this case and like any other evidence,
15 give it the weight you think it deserves. If you
16 decide that the opinion of an expert witness is not
17 based on sufficient education or experience or if you
18 conclude that the reasons given in support of the
19 opinion are not sound or that the opinion is
20 outweighed by other evidence, you may disregard the
21 opinion entirely. An expert witness's testimony is to
22 be given no greater weight than that of any other
23 witness simply because the witness is an expert.
24 Further, you are not required to accept an expert's
25 opinion even though it is not contradicted.

1 Now, I instruct you and emphasize to you that the
2 fact that the defendants did not testify in this case
3 is not a factor to be considered by you in any way in
4 your deliberations and in the consideration on the
5 question of the guilt or innocence of the defendants.
6 A defendant has the constitutional right to remain
7 silent. The assertion of this right must not be
8 considered by you in your deliberations. I repeat, you
9 are to draw no conclusion whatsoever from the fact the
10 defendants in this case did not testify. The fact
11 that these defendants did not testify should not even
12 be discussed in the jury room. The burden of proof as
13 I have told you from the very beginning of this case,
14 is on the state. The defendants are not required to
15 prove their innocence. The burden of proof remains on
16 the State to prove guilt beyond a reasonable doubt.

17 Now, in order to establish criminal liability,
18 criminal intent is required. For example, these are
19 examples, the mental state required to be proven by
20 the state for a particular crime might be purpose,
21 intent, knowledge, recklessness or criminal
22 negligence.

23 Criminal intent must be proven by the State
24 beyond a reasonable doubt. Criminal intent is always
25 a matter that must be determined by the jury from the

1 circumstances surrounding the situation.

2 There is no way to prove intent to a mathematical
3 certainty. There is no way that medical science can
4 dissect a person's brain and determine what that
5 person had in mind so the law says that criminal
6 intent may be inferred from the circumstances shown to
7 have existed. This is how you make a determination of
8 whether or not the element that requires intent was
9 present.

10 It is not necessary to establish intent by direct
11 and positive evidence, but intent may be established
12 by inference in the same way as any other fact by
13 taking into consideration the acts of the parties and
14 all the facts and circumstances of the case. Criminal
15 intent is a mental state, a conscious wrongdoing. It
16 is up to you to determine what the defendant intended
17 to do based upon the circumstances that are shown to
18 have existed.

19 Criminal intent can arise from an action or a
20 failure to act. It may arise from negligence,
21 recklessness or an indifference to duty or to
22 consequences that are considered by the law to be the
23 equivalent of criminal intent. The next thing I'm
24 going to do is go through each charge that the
25 defendant is charged with, each separate crime, and

1 explain each one of them to you and the elements of
2 those crimes each of them individually.

3 Now, the defendant are both charged with murder.
4 The State must prove beyond a reasonable doubt that
5 the defendants killed another person with malice
6 aforethought. Malice ask is hatred, ill will or
7 hostility towards another person. It is the
8 intentional doing of a wrongful act without just cause
9 or excuse and with the intent to inflict an injury or
10 under circumstances that the law will infer, an evil
11 intent. In its legal sense, however, malice does not
12 necessarily mean ill will toward the individual
13 injured, but signifies a general malignant
14 recklessness for the lives and safety of others or a
15 condition of the mind which shows a heart regardless
16 of social duty and fatally bent on mischief. Malice
17 aforethought does not require that the malice exists
18 for any particular time before the act is committed,
19 but malice must exist in the mind of the defendant
20 just before and at the time of the act that the act is
21 committed. Therefore, there must be a combination of
22 previous evil intent and the act. Malice may be
23 conceived at the very moment the fatal blow is given.
24 Malice aforethought may be express or inferred.
25 These terms express and inferred do not mean different

1 kind of malice, but merely the manner in which malice
2 may be shown to exist. That is either by direct
3 evidence or by inference from the facts and
4 circumstances which are proved. Express malice is
5 shown when a person speaks words or which express
6 hatred or ill will for another or when a person
7 prepared beforehand to do the act which was later
8 accomplished, for example, lying in wait for a person
9 or any other acts of preparation going to show that
10 the deed was within the defendant's mind would be
11 expressed malice. Malice may be inferred from conduct
12 showing a total disregard for human life. The law
13 says if one intentionally kills another during the
14 commission of a felony, the implication of malice may
15 arise. If facts are proved beyond a reasonable doubt
16 sufficient to raise an inference of malice to your
17 satisfaction, this inference would be simply an
18 evidentiary fact to be taken into consideration by you
19 along with other evidence in the case, and you may
20 give it the weight, such weight, as you determine it
21 should receive. The law allows the jury to infer
22 malice if you conclude the homicide was a proximate
23 direct result of the commission of a felony. For the
24 purposes of this case and for that regard, kidnapping
25 and burglary and attempted armed robbery would be

1 considered felonies under our law. You can imply that
2 malice existed if a person is in the commission of a
3 felony at the time of the attempted fatal blow.

4 Now, the defendants are also charged with
5 kidnapping. The State must prove beyond a reasonable
6 doubt that the defendant knowingly and unlawful seized
7 or confined another person without authority of law.
8 To do a thing lawfully is to do it willfully against
9 the law. Knowingly means with knowledge and
10 consciously, not accidentally. The word seize means to
11 take hold of suddenly or forcibly. The word confine
12 means to limit, restrict, confine within bounds,
13 imprison, or shut, or keep in. The State does not
14 have to prove that the defendant did all of these
15 things, that being seize and confine. Instead if you
16 mind beyond a reasonable doubt that the defendant did
17 any of these things, you may find the defendant guilty
18 of kidnapping.

19 Something done without authority of law is
20 something which the law does not sanction, permit,
21 allow, condone or provide justification for.

22 Now, the kidnapping does not have to be for any
23 personal or monetary gain or any illegal purpose, but
24 may be for any reason whatsoever. Kidnapping is a
25 continuing offense which commences when one is

1 wrongfully deprived of freedom and continues until the
2 freedom is restored.

3 The next crime that the defendants are charged
4 with and these are in no particular order, is
5 attempted armed robbery. The defendants are charged
6 with attempted armed robbery. An attempt is an effort
7 to accomplish a crime, which does not succeed. An
8 attempt includes a specific intent do a particular
9 criminal act along with an act falling short the act
10 intended. The State must show more than mere
11 preparation and intent. There must be some overt act
12 committed in the effort to commit the crime. Intent
13 means intending the result which actually occurs, not
14 accidentally or involuntarily. Intent may be shown by
15 the acts and the conduct of the defendant and other
16 circumstances from which you may naturally and
17 reasonably infer intent.

18 In order to prove this offense, the State must
19 first prove beyond a reasonable doubt that the
20 defendants attempted to take personal property from
21 the person or presence of another person. Property is
22 in the presence of a person if it is in --- within the
23 person's reach, inspection, observation or control so
24 that the person could, if not overcome with violence
25 or prevented by fear, keep possession of the property.

1 The State must also prove beyond a reasonable
2 doubt that the defendant carried the property away
3 intending to permanently deprive the owner of the
4 property and to keep the property for the defendants'
5 own use. The slightest removal of the property or the
6 complete possession of the property even for an
7 instant by the defendant is sufficient to show a
8 taking and carrying away of the property. The taking
9 and carrying of the property must have been done with
10 violence or by putting the owner of the property in
11 fear of violence.

12 Finally the State must prove beyond a reasonable
13 doubt that a defendant was armed with a deadly weapon
14 during the robbery. A deadly weapon is an article, an
15 instrument or a substance which is likely to cause
16 death or great bodily harm. Whether an instrument has
17 been used as a deadly weapon depends on the facts and
18 circumstances of each case. The following are
19 examples of instruments which may be deadly weapons, a
20 pistol, a shotgun, a rifle, a knife, a sling shot,
21 metal knuckles, a razor, gasoline, lighter fluid.

22 A gun may be a deadly weapon even if it is not
23 operating.

24 Now, the last charge that the defendants are
25 charged with is burglary in the second degree. To

1 prove burglary in the second degree, the State must
2 prove beyond a reasonable doubt that a defendant
3 entered a building without consent and with the intent
4 to commit a crime in the building.

5 A building is defined as any structure, vehicle,
6 water craft or aircraft where any person lodges or
7 lives or where people assemble for the purpose of
8 business, government, education, religion,
9 entertainment, public transportation or public use or
10 where goods are stored.

11 Finally, the State must prove beyond a reasonable
12 doubt that when entering the building --- excuse me.
13 When entering while in --- excuse me.

14 (Pause.)

15 When entering while in the building or when
16 fleeing, the defendant or an accomplice was armed with
17 a deadly weapon or explosive. A deadly weapon as I
18 have explained to you before is an article, instrument
19 or substance which is likely to cause death or great
20 bodily harm. Whether an instrument has been used as a
21 deadly weapon depends upon the facts and circumstances
22 of each case. The following are examples of deadly
23 weapons, a pistol, shotgun, a knife, sling shot, metal
24 knuckles, razor, gasoline, lighter fluid and a gun may
25 be a deadly weapon even if it is not operating.

1 So finally the State must prove beyond a
2 reasonable doubt that number one when entering the
3 defendant or an accomplice was armed with a deadly
4 weapon or when entering or while in the building or
5 when fleeing the defendant or an accomplice caused
6 physical injury to anyone not participating in the
7 crime or when entering or while in the building or
8 when fleeing the defendant or an accomplice used or
9 threatened to use a dangerous object or when entering
10 or while in the building or when fleeing the defendant
11 or an accomplice displayed what appeared to be a
12 knife, pistol, revolver, rifle, shotgun, machine gun
13 or other firearm or the defendant entered or remained
14 in the building in the nighttime. Nighttime is the
15 period between sunset and sunrise during which there
16 is not enough daylight to recognize a person's face
17 except by artificial light or moon light.

18 Now, if two or more people combine together to
19 commit an unlawful act or a crime and in the execution
20 of that criminal act, a homicide is committed by one
21 of the actors as a probable or natural consequence of
22 the acts done, in pursuance of the common design, all
23 present, participating, all people who are present and
24 participating in the unlawful undertaking are as
25 guilty as the one who committed the fatal act.