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ORIGINAL

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY

Roger M. Young, Circuit Court Judge

RECEIVED

MAR 14 2016

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

RICKY LAMONT HAYES,

APPELLANT

APPELLATE CASE NO. 2015-000149

RECORD ON APPEAL

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STATE OF SOUTH CAROLINA COURT OF GENERAL SESSIONS
COUNTY OF CHARLESTON 2013-GS-10-04527
 2013-GS-10-04528

STATE OF SOUTH CAROLINA)
) TRANSCRIPT OF RECORD
)
) January 12-15, 2015
RICKY LAMONT HAYES,)
) Charleston, South Carolina
) Defendant.)

B E F O R E:

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

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1 (January 12, 2015.)

2 THE COURT: Well, what ones have y'all been
3 able to figure have no merit, and which ones need to go
4 forward?

5 MR. HAWKINS: Well, Judge, I can shorten it
6 briefly, but we're withdrawing one of them out of many
7 there.

8 THE COURT: Which one is that?

9 MR. HAWKINS: The one that has to do with the
10 counterfeit money. We're not going forward on that
11 motion.

12 THE COURT: Let's go forward. I'll take
13 these in the order that I have them. You want to expand
14 the 609(b) Rule to bring in somebody's juvenile
15 conviction?

16 MR. HAWKINS: Yes, Your Honor.

17 THE COURT: I'm assuming this is a witness?

18 MR. HAWKINS: It is the witness they have,
19 Judge. It's the codefendant, and he was -- in 2004,
20 October 2004, which is just slightly over ten years, he
21 had a gun charge, possession of a gun, and we'd like to
22 be able to cross-examine him on that.

23 In one of his statements after his arrest for
24 this incident, he made the statement, I never saw a gun.
25 If I saw a gun, I would run away from it.

1 The next one is a Jackson v. Denno hearing;
2 is that necessary?

3 MR. HAWKINS: Well, Your Honor, while our
4 client's being interviewed, he invokes his Miranda, and
5 then there's statements we think they may be able to
6 introduce, and we're asking all statements he made be
7 suppressed because he clearly invoked Miranda, and the
8 detective writes on the form invoked Miranda. It was
9 clear at the table he invoked Miranda.

10 THE COURT: Is this a statement you're going
11 to try to get in?

12 MR. ZIEGLER: Your Honor, we'd like to
13 reserve the ability to use it in the trial, if we would
14 like to, so I think it's necessary to have the hearing on
15 it.

16 THE COURT: Well, let's have a hearing on it
17 then if you're going to, quote, unquote, reserve the
18 right to use it. Do you have an officer here?

19 MR. ZIEGLER: Yes, Your Honor. We do have --
20 we have Corporal Dan Eckert here.

21 THE COURT: All right. Let's get to that in
22 a minute. Some of these struck me as pretty
23 straightforward. To use -- let's see. Not to use any
24 statements referring to an arrest for strong-arm robbery.
25 This would be -- Mr. Hayes has been arrested on

1 THE DEFENDANT: Do I still have the right to
2 testify on my appeal?

3 MR. HAWKINS: Could I discuss this with him
4 briefly, Judge? Unless you want to explain it to him.

5 THE COURT: I'm not sure I understand your
6 question there.

7 THE DEFENDANT: If I don't testify during my
8 trial, and say I get found guilty. And I come back on
9 appeal and I want to testify back on appeal, am I still
10 allowed to do that?

11 THE COURT: You don't normally testify on
12 appeal. Testimony on appeal comes solely from the record
13 that is based at trial, so if you don't testify and you
14 get convicted and then you appeal, you can't then tell
15 the appellate court something that you didn't say at
16 trial.

17 THE DEFENDANT: I understand.

18 THE COURT: Okay? All right.

19 DAVID IVEY,

20 having been first duly sworn,
21 was examined and testified as follows:

22 DIRECT EXAMINATION

23 BY MR. EVANS:

24 Q. Detective Ivey, where are you currently employed?

25 A. At the Mount Pleasant police department.

DAVID IVEY - DIRECT

1 Q. And what's your rank there?

2 A. I'm PFC, but I'm a detective.

3 Q. How long have you been with the Mount Pleasant
4 police department?

5 A. For three years.

6 Q. And what was your law enforcement background
7 before that?

8 A. I worked at the Aiken County sheriff's office for
9 four years prior to that.

10 Q. What was your rank on May 13, 2013?

11 A. I was a patrol officer.

12 Q. May of 2013?

13 A. May of 2013, I was on patrol.

14 Q. On the night of the incident, did you have contact
15 with this defendant?

16 A. I did.

17 Q. Can you kind of explain how that happened.

18 A. Yes. I was doing a business check on Ben Sawyer
19 Boulevard, and I heard Officer Gillespie say he had just
20 witnessed an armed robbery, so I went to assist with that
21 and I went to the area of a neighborhood that's commonly
22 called the of Mount Pleasant to patrol in the
23 area for any suspects involved.

24 Officer Gillespie had indicated that the suspects
25 had run back towards -- from the area of Moultrie Middle

DAVID IVEY - DIRECT

1 School back towards the area of Simmons Street and Rose
2 Street, so I began to drive in that general area. As I
3 was driving my car through on King Street, I encountered
4 the defendant as he was coming off of a street called
5 Hampp Fludd on to King Street.

6 Q. About how far from where the incident took place
7 as you understand it was this contact made?

8 A. Approximately four blocks.

9 Q. And he told you what his name was?

10 A. Correct.

11 Q. What did he look like?

12 A. He was wearing dark clothing and he was breathing
13 heavily, seemed to be out of breath.

14 Q. What did he say to you?

15 A. He said that he had just -- that the two men had
16 just tried to rob him. They had pointed a gun at him and
17 that he had fled from that location, so I began to speak
18 with him regarding a description of those two
19 individuals, where they were, where he was when it
20 occurred. I asked him about if he could describe the gun
21 to me at all.

22 Q. So you were questioning him as if he was the
23 victim, as you understood it?

24 A. Correct.

25 Q. Would it be fair to say these were kind of

DAVID IVEY -- DIRECT

1 investigatory questions?

2 A. You're correct.

3 Q. Was he handcuffed at any point?

4 A. When I was speaking with him initially, no.

5 Q. Where was he, kind of?

6 A. He was -- well, when I first walked up to him, he
7 had flagged me down and walked up to my vehicle, and he
8 actually sat down -- I believe I told him to sit on the
9 ground next to the driver's side door of my vehicle, and
10 he eventually laid down on the ground.

11 Q. So he actually made contact with you first?

12 A. Correct. He flagged me down.

13 Q. When you were speaking with him, was he in the
14 back of a police car?

15 A. No.

16 Q. Was he under arrest when you were speaking with
17 him?

18 A. No.

19 Q. Did he make any statements to you that weren't in
20 response to any questions?

21 A. I mean, his very initial statement to me was that,
22 you know, two men had just tried to rob him. I don't
23 believe there were any other statements, I mean, that
24 were just -- no, I don't believe so.

25 MR. EVANS: Beg the Court's indulgence. I

DAVID IVEY - DIRECT

1 don't have any further questions, Detective Ivey. Please
2 answer any questions the defense may have for you.

3 CROSS-EXAMINATION

4 BY MR. HAWKINS:

5 Q. Detective, you activated the video recording
6 system in your car as you were cruising through the
7 neighborhood?

8 A. Yes, sir.

9 Q. You responded to this call, you were driving
10 through several streets?

11 A. Correct, yes, sir.

12 Q. And have you reviewed that video?

13 A. I have.

14 Q. How recently?

15 A. As recently as this previous Friday, either
16 Thursday or Friday.

17 Q. Okay. And, as you said, Mr. Hayes --

18 A. I'm sorry. It was Wednesday. I apologize.

19 Q. That's okay. But in the past week, you've
20 reviewed this?

21 A. Yes.

22 Q. And you said Mr. Hayes comes out and waves you
23 down, flags you down?

24 A. Yes, sir.

25 Q. And when he does that, you immediately say, Get

1 down on the ground, get down on the ground, did you not?

2 A. I immediately asked him if he had a weapon on him,
3 and I believe -- I believe I told him to sit down. I
4 don't think I used the words "get down on the ground",
5 though, but I did ask him to show me his hands, though.

6 Q. Okay. Well, Detective, I've reviewed this tape
7 also, and would you dispute with me if I say that as soon
8 as he came over there, you said, Get down on the ground,
9 and you didn't need for him to lay down, but you ended up
10 laying down.

11 Does that sound accurate to you?

12 A. That sounds accurate.

13 Q. And after that, you said, You have a weapon. He
14 didn't answer, apparently, and you said, Answer me.

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

16 Q. And you said no, no?

17 A. Correct.

18 Q. Now, at that point, was he in custody?

19 A. No, sir. He was not in custody.

20 Q. Would you have allowed him to stand up and leave
21 at that point?

22 A. No, I would not have.

23 Q. What is your distinction there?

24 A. My distinction is the fact that I can believe in
25 one thing and then act another way. During my initial

DAVID IVEY - CROSS

1 interaction with Mr. Hayes, I was out there looking for
2 an armed robbery suspect. He matched the general
3 description. I believed him to be one of those suspects,
4 but I did not indicate that to him. I did not tell him
5 at any point he was not free to leave. I did not tell
6 him he was in custody. I did not tell him that I
7 believed he was one of the suspects.

8 Q. Did you ever read him his Miranda rights that
9 night?

10 A. I don't believe so.

11 Q. Did you -- you've reviewed this case. Another
12 officer walks up. I believe it's Officer Myers?

13 A. Yes.

14 Q. And Myers is on this tape also?

15 A. Correct.

16 Q. Do you recall in reviewing this did you see
17 Officer Myers read him his Miranda rights?

18 A. Not that I can remember.

19 Q. And he was -- shortly thereafter he was
20 handcuffed; is that correct?

21 A. Yes.

22 Q. And he was never allowed to leave; is that
23 correct?

24 A. Correct.

25 Q. And you you're not aware of anybody reading him

DAVID IVEY - REDIRECT

1 his Miranda rights at that scene at all; is that correct?

2 A. That's correct.

3 MR. HAWKINS: Beg the Court's indulgence.

4 Nothing further, Your Honor.

5 REDIRECT EXAMINATION

6 BY MR. EVANS:

7 Q. Judge, if I may briefly redirect, this part of
8 Mount Pleasant -- what time of night was this?

9 A. Around midnight. I'm not sure of the exact time,
10 but it was in the middle of the night.

11 Q. Is there a lot of foot traffic in the
12 at that time of night?

13 A. No, there's not.

14 Q. When he was put in handcuffs, what was he arrested
15 for?

16 A. He had a bench warrant. I believe he had a bench
17 warrant out of Charleston County.

18 MR. EVANS: Beg the Court's indulgence.

19 BY MR. EVANS:

20 Q. Regarding your initial contact when you told him,
21 Show me your hands and stuff like that, what was the
22 purpose of that?

23 A. Because Officer Gillespie had indicated that the
24 suspects used a handgun in the armed robbery, and since I
25 believed him to be one of those suspects, I wanted to

DAVID IVEY - RECROSS

1 make sure he did not still have that handgun on him.

2 Q. Would that have been for your own personal safety?

3 A. Exactly.

4 Q. Okay.

5 MR. EVANS: Beg the Court's indulgence.

6 Nothing further, Your Honor.

7 RECROSS-EXAMINATION

8 BY MR. HAWKINS:

9 Q. So I think what you just testified was that based
10 upon this description, you considered him a possible
11 suspect in this armed robbery; is that correct?

12 A. Not just the description, but the fact that he was
13 in the vicinity of where the armed robbery occurred as
14 well.

15 Q. And you knew those two things; you knew his
16 proximity, and you knew this description. As soon as he
17 flags you down, at that point you're thinking he's close
18 by. He fits black male; is that correct?

19 A. Yes, sir.

20 Q. So immediately he was a suspect in an armed
21 robbery?

22 A. In my mind, yes, sir.

23 Q. And you immediately placed him on the ground?

24 Told him get on the ground, excuse me.

25 A. Honestly, I can't remember exactly what I said in

DANIEL ECKERT - DIRECT

1 the video, but if you're saying that's what I said, then
2 correct.

3 MR. HAWKINS: Thank you. Nothing further,
4 Your Honor.

5 MR. EVANS: No further questions for this
6 witness, Your Honor.

7 THE COURT: All right. You can step down.

8 MR. EVANS: State calls Dan Eckert.

9 If I could get this marked as Court's 1,
10 please.

11 (Court's Exhibit No. 1 was marked for
12 identification.)

13 DANIEL ECKERT,

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

16 DIRECT EXAMINATION

17 BY MR. EVANS:

18 Q. Good afternoon, Detective Eckert. Will you spell
19 your last name for the record, please.

20 A. Sure. It's E-c-k-e-r-t.

21 Q. Where are you currently employed?

22 A. I work for the town of Mount Pleasant police
23 department.

24 Q. What is your role there?

25 A. I'm a supervisor in the criminal investigations

DANIEL ECKERT - DIRECT

1 bureau.

2 Q. You would be a detective, in lay person's terms?

3 A. Yes.

4 Q. How long have you been with the Mount Pleasant
5 police department?

6 A. I've had numerous capacities with the Mount
7 Pleasant police department since November 5th, 2001.

8 Q. Did you have any contact with the defendant the
9 night of this incident?

10 A. I have.

11 Q. Where was that?

12 A. That was in the interview at the Mount Pleasant
13 police department.

14 Q. Was he in custody at this time?

15 A. Yes.

16 Q. Did you read him his Miranda rights?

17 A. I did.

18 Q. Beg the Court's indulgence.

19 Detective Eckert, I am handing you what's been
20 marked as Court's Exhibit 1. Would you identify that
21 document for us.

22 A. That's the town of Mount Pleasant police
23 department advisement of rights form that I filled out.

24 Q. Is that the one you presented to the defendant the
25 night of the incident?

DANIEL ECKERT - DIRECT

1 A. Correct.

2 Q. I'm going to walk through that with you. What
3 were the rights he was advised of that night?

4 A. That he had the absolute right to remain silent,
5 did not have to answer questions or give a statement and
6 that could not be used against him, that if he did answer
7 questions or give a statement anything he said could and
8 will be used against him in a court of law. He has the
9 right to consult with a lawyer before answering questions
10 and giving a statement and also have him present while
11 being questioned; that if he wished to talk to a lawyer
12 or have him present but was unable to afford to hire a
13 lawyer, one would be appointed to represent him free of
14 charge, and that if he decided to answer questions or
15 give a statement without having a lawyer present
16 representing him, he had the absolute right during the
17 interview to stop answering questions and remain silent.

18 Q. Did he appear to understand those rights to you?

19 A. He did.

20 Q. And did he, in fact, sign the form where he
21 understood those rights?

22 A. That is correct.

23 Q. What did he say to you regarding the waiver of
24 those rights?

25 A. He said that -- when we went to the waiver

DANIEL ECKERT - CROSS

1 section, I read that to him. He said that he would talk
2 to me; however, he wasn't going to give me a statement
3 and he wasn't going to sign the form.

4 Q. So he did speak to you despite that statement?

5 A. Correct. It was very brief.

6 Q. Okay. Did it appear to be freely and voluntarily
7 speaking to you?

8 A. Yes. And at one point, I mean, I ended it because
9 he did, you know, refuse to waive his rights.

10 Q. Was he under any duress for you or someone from
11 Mount Pleasant police department?

12 A. No.

13 Q. And was he specifically advised that he had the
14 right to remain silent?

15 A. Yes, in the beginning.

16 Q. And that his failure to remain silent could result
17 in a statement being used against him?

18 A. Correct.

19 MR. EVANS: Beg the Court's indulgence.

20 I have no further questions, Your Honor. You
21 can answer any questions the defense may have, Corporal
22 Eckert.

23 CROSS-EXAMINATION

24 BY MR. HAWKINS:

25 Q. Are you a detective or -- I want to get your title

1 right.

2 A. I do a little bit of both. I'm one of the first
3 line supervisors in the detectives' office, so there is
4 seven other detectives that work for me and a sergeant.
5 When the sergeant is not there, then I'm one of the
6 supervisors in charge, but I also work a rather extensive
7 caseload as well.

8 Q. So I've been thinking of you as Detective Eckert.
9 If I refer to you as Detective Eckert, that's not
10 downplaying your role?

11 A. No, that's fine.

12 Q. Detective, this interview room, was there an audio
13 or video in that room?

14 A. At the time there was not, no, sir.

15 Q. Okay. And so nothing that you did that night that
16 we're discussing here was either videotaped or
17 audiotaped?

18 A. No, that's correct. It was not.

19 Q. Now, this form the solicitor showed you, the top
20 section shows where Mr. Parks signed the section
21 indicating he understood these rights?

22 A. Mr. Hayes.

23 THE COURT: Let me stop you for a second. I
24 thought I heard him testify that he didn't give a
25 statement and he didn't waive his rights; is that right?

DANIEL ECKERT - CROSS

1 Is there a statement that he later made?

2 MR. HAWKINS: Not a written statement.

3 MR. EVANS: I apologize. If I may, he
4 briefly discussed the case with -- he didn't give a
5 written statement, I think is the issue.

6 THE COURT: Because I thought he said he
7 ended the interview because he wouldn't give him a
8 statement and he didn't waive his rights, so you're
9 saying there wasn't an oral statement that was made
10 anyway?

11 MR. HAWKINS: Well, that's the point of our
12 motion here, Judge, is that there were questions asked
13 and there was further discussion after he invoked
14 Miranda.

15 THE COURT: Well, that didn't come out on
16 direct, so the purpose of a Jackson hearing is to say
17 whether or not it was voluntary, but usually I hear what
18 the statement is. Nobody ever said anything about an
19 actual statement. He said, I ended the interview, so I
20 was confused.

21 I guess it didn't come out on direct whether
22 in fact there wasn't a statement made. I couldn't figure
23 out why we were having this hearing. All right?

24 MR. HAWKINS: Does that clarify that -- in
25 Detective Eckert's report -- obviously I haven't heard

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1 him testify, but in his report he talks about I then
2 asked Mr. Hayes such and such, and he said such and such.
3 That's what we're trying to suppress, where he says, I
4 then asked Mr. Hayes such and such.

5 THE COURT: I see it now. I see what you're
6 trying to suppress, I suppose. I was just confused
7 because he said no statement was given, and I ended the
8 interview.

9 MR. HAWKINS: I understand your confusion,
10 but it was not quite like that, Judge.

11 BY MR. HAWKINS:

12 Q. Detective, the top part of this form is where Mr.
13 Hayes signed, stating he understands his rights, correct?

14 A. Correct.

15 Q. The bottom part is where a suspect can, if they
16 choose to, sign, saying I know what my rights are, and I
17 agree to talk to you.

18 A. Correct.

19 Q. Mr. Hayes refused to sign that; is that correct?
20 The second half.

21 A. Yes. He refused to sign it; however, he did make
22 some statements saying that he would talk to me; however,
23 he wasn't going to provide me a statement, and he wasn't
24 going to sign my form.

25 Q. He also made it plain that he was not waiving his

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1 Miranda rights. In fact, he was invoking his Miranda
2 rights, correct?

3 A. Correct.

4 Q. And you wrote that on there, invoke Miranda?

5 A. That's correct, that's my writing.

6 Q. And, Detective, do you understand that when
7 somebody invokes their Miranda rights, that should end
8 the interview immediately and that should end the
9 questioning of him?

10 A. Yes. I do understand that, however, he did say he
11 was going to talk to me, so that's the other reason I
12 continued, and then at the point where, you know, he made
13 it clear that we were done, you know, that he wasn't
14 going to talk to me, we ended it.

15 Q. Okay. But, again, even after him invoking his
16 Miranda rights, you continued to question him, did you
17 not?

18 A. I asked him some basic questions, yes.

19 Q. Some basic questions like -- I then asked Mr.
20 Hayes a few questions on the information he provided me
21 up to this point. I asked Hayes's cousin's last name.

22 I mean, these were fairly specific questions you
23 were asking about this incident; is that not correct?

24 A. Where he was coming from specifically, yes, and
25 you know, where he had been, who his cousin was, things

1 that he was saying, yes.

2 Q. And there was no doubt in your mind that he was a
3 suspect in this armed robbery case? You were not asking
4 about any old bench warrant or anything like that? You
5 were asking about what happened on Coleman Boulevard that
6 night, correct?

7 A. Correct.

8 Q. And that was the only reason for questioning him,
9 was that incident that happened in front of Moultrie High
10 School.

11 A. My reason for questioning -- for attempting to
12 question him and eventually ending it was to see -- we
13 were trying to see if he was involved. When he said, I
14 will talk to you; however, I'm not going to sign your
15 form and not going to give you a statement, I thought it
16 was okay to ask him a few questions.

17 At that point, I decided to end it as well. You
18 know, he made a few statements, like I've indicated in my
19 incident report, and then, you know, I told him that
20 somebody else was saying that he was involved and he
21 wanted to know who, and I basically ended it at that
22 point, yes.

23 Q. So you didn't end it because of him invoking the
24 Miranda rights, you ended it because he was asking you
25 questions; is that right?

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1 A. No, I ended it because he invoked his rights and
2 we weren't going to go on any further.

3 Q. But, Detective, he invoked his rights prior to you
4 asking him these questions.

5 A. Okay.

6 Q. Okay? The first half of this form that we've been
7 talking about, that is Mr. Hayes's signature, correct?

8 A. Correct.

9 Q. And the initials on the side, on the left side,
10 those are all Mr. Hayes's initials; is that right?

11 A. Correct.

12 Q. And the bottom part where he could have waived his
13 rights, there's no signature or initials there; is that
14 correct?

15 A. Correct.

16 Q. And throughout this time that you were talking to
17 him, meeting with him, he was in custody, correct?

18 A. On unrelated charges, yes.

19 Q. Okay. He was in custody on an unrelated charge,
20 and you considered him a suspect in this armed robbery at
21 the time?

22 A. Correct.

23 Q. And if the unrelated charge had not been there,
24 are you testifying that he could have walked out of that
25 police station that night?

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1 A. We were actively investigating. You know, I don't
2 know. The way the night progressed on, no.

3 Q. And at that point, Detective, realistically, he
4 wasn't going home until -- unless you felt 100 percent --

5 A. He was in custody on an unrelated charge, so
6 clearly he wasn't going home. Had I placed him under
7 arrest at that point for armed robbery? No, no. We were
8 developing our investigation. We were working through
9 the investigative steps.

10 We had a report where an officer witnessed what
11 was described as an armed robbery with three black males
12 fleeing from the area. He was found in close proximity
13 to the area. When they got there, they ran his name and
14 date of birth. He had a warrant, so he was in custody on
15 that warrant, okay?

16 The warrant was confirmed through the
17 NCIC process, how warrants are confirmed. They said, He
18 has an active warrant. Charleston County wants him, so
19 he was -- no, he wasn't going to go home that night, and
20 I hadn't made a decision at that point to charge him with
21 armed robbery. We were building a case and building
22 facts, so that's where we stood on it.

23 Q. Would it be fair to say at that point you had seen
24 and heard nothing that made you think, I need to let him
25 go through the cell and deal with that old bench warrant

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1 and not deal with this anymore?

2 A. Can you repeat the question? I'm sorry.

3 Q. That was a very confusing question. I'm sorry.

4 It would be fair to say you were looking at him as
5 a really good suspect in this armed robbery, were you
6 not?

7 A. Based on the totality of the circumstances, yes.

8 Q. Okay.

9 A. Three people in close proximity to where an armed
10 robbery just occurred, yes.

11 THE COURT: I'm still just a little bit
12 confused as to what is this statement that the defendant
13 is alleged to have made that you are trying to have
14 suppressed? Because the only thing that I've heard is,
15 He said he didn't sign it. I didn't ask him. I told him
16 that the defendant -- or somebody had said you were
17 involved, and he asked who. That's the only thing I'm --

18 MR. HAWKINS: I've got Detective Eckert's
19 report here where he said, I asked Mr. Hayes this and
20 here are his answers, if you would like to see that.

21 THE COURT: What is it that the State is
22 wanting him or any witness to say?

23 MR. EVANS: I think the gist of it is the
24 same as what Detective Ivey testified to. It was kind of
25 his version of why he was in the location of the crime

1 scene.

2 THE COURT: So you're trying to keep out the
3 part where he was at his friend's house nearby?

4 MR. HAWKINS: We're trying to keep it all
5 out, Judge.

6 THE COURT: I guess what I'm trying to
7 understand is -- again, it's because I have no
8 familiarity with the case. He was in the area. You
9 understand that's going to come in. There is going to be
10 a reason why they thought he was a suspect.

11 MR. HAWKINS: Absolutely.

12 THE COURT: The first officer, I guess, Ivey,
13 his testimony that, "This guy was running and I had a
14 BOLO report that a black man in the area just committed
15 an armed robbery, and that's why I stopped," that comes
16 in.

17 He had the right to do that. He had the
18 right to stop him, he had the right to ask him, and he
19 didn't have to give him the Miranda right because he
20 wasn't in custody; that, your guy, said to him, I was a
21 victim of a crime. Okay? And I haven't heard anything
22 that would suggest that there is a problem with that
23 coming in.

24 So the other thing is, is that later on, I
25 guess, he's changed his story, and that would be where he

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1 says, Well, I was at my cousin Doug's house. It doesn't
2 say anything about being the victim of a robbery. Both
3 of those things are -- don't inculcate your client, don't
4 cause him to be found guilty of anything, don't implicate
5 him in the crime, it's just a contradictory as to what
6 you want. So you want the first one to come in and the
7 second one to stay out? Because the first one is coming
8 in. I don't know why it wouldn't --

9 MR. HAWKINS: Are you talking the first one
10 being Ivey's --

11 THE COURT: Correct. I don't know how that
12 wouldn't come in because Ivey didn't suspect him to be --
13 according to Ivey, the defendant flagged him down and
14 said, I've been the victim of a robbery.

15 I don't know any theory that would keep that
16 out. Okay?

17 MR. HAWKINS: But this -- they're going to
18 use this to say he's giving conflicting statements.

19 THE COURT: I guess -- again, I'm trying to
20 pull this out of you because I'm hearing from this
21 gentleman that's testifying, He told me he wouldn't sign
22 the form. I stopped the interview.

23 And now, all of a sudden, I'm looking at,
24 well, there was a lot of stuff that went on, apparently,
25 after he said that, so you're trying to keep this stuff

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1 out that's in the supplemental report?

2 MR. HAWKINS: Yes, Your Honor.

3 THE COURT: Not the stuff that Ivey testified
4 about?

5 MR. HAWKINS: Yes, Your Honor.

6 THE COURT: All right. Just wanted to make
7 sure I'm clear on that.

8 All right. Do you have any other questions
9 you want to ask him?

10 BY MR. HAWKINS:

11 Q. Just briefly.

12 This form, which I have here, that is your
13 signature?

14 A. Yes.

15 Q. And those are your initials down there?

16 A. Correct.

17 Q. And that's the section where it says that he --
18 and you wrote the words invoke --

19 A. Yes, correct.

20 MR. HAWKINS: I would like to offer this copy
21 as a Plaintiff's exhibit. It's the same.

22 We would like to offer this as Plaintiff's 1,
23 Your Honor. And we have nothing further, Your Honor.

24 MR. EVANS: Just briefly, Your Honor.

25 REDIRECT EXAMINATION

1 BY MR. EVANS:

2 Q. Corporal Eckert, the defendant said he would speak
3 with you?

4 A. Correct.

5 Q. Did he, in fact, speak with you.

6 A. He did.

7 MR. EVANS: Beg the Court's indulgence.

8 Nothing further, Your Honor.

9 THE COURT: Anything else you want to ask
10 him?

11 MR. HAWKINS: No, Your Honor.

12 MR. EVANS: Judge, just as a matter of
13 housekeeping, I think this will be our only witness. If
14 Your Honor is inclined to hear the identification motion,
15 this would be our witness as well.

16 THE COURT: Okay. Let me just clarify. You
17 said on this statement you have, you state here, Hayes
18 advised that he would speak with me; however, he wasn't
19 going to waive his rights and he wasn't going to sign the
20 form.

21 I then signed the form and showed that Hayes
22 invoked Miranda?

23 THE WITNESS: Correct.

24 THE COURT: So in your mind he had invoked
25 Miranda?

1 THE WITNESS: At that point, yes.

2 THE COURT: All right. What else do we need
3 this witness for?

4 MR. EVANS: The defendant's motion about the
5 out of court identification by the codefendant, this
6 witness was present when that single photo ID was done,
7 so he would be our sole witness for that.

8 THE COURT: Okay. Well, let's go ahead and
9 ask him about that.

10 BY MR. ZIEGLER:

11 Q. Good morning, Corporal Eckert.

12 A. Good morning.

13 Q. Corporal Eckert, when was the first time that you
14 had contact in this case with Mr. Randi Parks?

15 A. The night of the incident.

16 Q. And that time did he indicate to you who was
17 involved in the robbery that you were investigating at
18 that time?

19 A. He did.

20 Q. And who were the people he implicated?

21 A. He implicated himself, his cousin, Ricky Lamont
22 Hayes, and another codefendant, Darren Keith Belt.

23 Q. Did he refer to Mr. Belt by name?

24 A. He referred to him as L, or lizard.

25 Q. Did he refer to Mr. Hayes by name at that time?

1 A. He called him Lamont.

2 Q. And do you remember, Corporal Eckert, an interview
3 that occurred at the solicitor's office with Randi Parks?

4 A. I do.

5 Q. And what was the general content of that
6 interview? What was the purpose of that interview?

7 A. He was -- I was really called in on the back half
8 of that. The prosecutor at the time and the
9 investigator --

10 THE COURT: Let me stop you a second. Is --
11 who did the ID that you're trying to suppress?

12 MR. BUCHANAN: Mr. Parks did the ID, Your
13 Honor.

14 THE COURT: Is he going to testify?

15 MR. BUCHANAN: It's up to them, but I believe
16 he's going to testify.

17 MR. ZIEGLER: Yes, Your Honor.

18 MR. BUCHANAN: Also, this detective did the
19 first two statements that he received from Mr. Parks.
20 The third one was done by Mr. Casey, who I think is no
21 longer at the solicitor's office. He was the one that
22 showed him these pictures.

23 I think we need Mr. Casey. I don't think we
24 need Detective Eckert. Detective Eckert was just there,
25 I believe, but I don't think he was doing the

1 questioning, so I think if we're going to go through
2 this, we need Matt Casey and/or Mr. Parks.

3 THE COURT: Well, I don't know what he's
4 going to testify to, and I'll let him finish his
5 testimony for whatever it's worth. I guess I'm -- if you
6 were trying to get in an identification through a
7 codefendant who's not testifying, then we've got serious
8 Bruton issues, and we can stop right there.

9 On the other hand, if Mr. Parks is going to
10 testify, come in and testify, and say Mr. Hayes did it, I
11 guess I'll get right back to what I said at the
12 beginning. Probably the reason why I've never heard of
13 trying to stop a codefendant's photo identification of
14 his codefendant is because even if he only showed him one
15 photograph, it's hard to imagine that it doesn't get
16 overcome by the fact that there's very little likelihood
17 that the suggestiveness of the procedure taints the fact
18 that his identification is otherwise reliable because
19 it's a codefendant.

20 MR. BUCHANAN: Your Honor --

21 THE COURT: It's not somebody that was in a
22 conspiracy and they just were in the same room with a
23 dozen other people at one time.

24 MR. BUCHANAN: We don't want to waste the
25 Court's time. We'll withdraw this motion, but if you

1 could just rule on our previous Miranda motion for
2 Detective Eckert, I think that will clear things up.

3 THE COURT: All right. I think you can step
4 down.

5 THE WITNESS: Thank you.

6 THE COURT: Let's hear arguments on the
7 Miranda question. It's your motion, so I'll let y'all go
8 first.

9 MR. HAWKINS: Our client clearly invoked
10 Miranda. The defendant clearly understood that he
11 invoked Miranda. He wrote it on the form. He signed his
12 name on it, wrote the words "invoke Miranda". At that
13 point, the interview should have stopped.

14 It didn't stop. I had continued asking him
15 questions, Your Honor, and so anything that was said
16 should be suppressed. You don't invoke a little part of
17 Miranda, Judge, you invoke Miranda and it's over. He
18 should have walked out of the room and let him go, and,
19 frankly, the early -- even when he said, I understand my
20 rights, I'm not willing to give you a statement, that
21 part is an implied invokement {sic} of Miranda at the
22 very beginning of this conversation, but definitely, once
23 he puts this form in front of him, there is no question,
24 and the detective testified that honestly, Yes, I
25 understood he was invoking Miranda. So at that point it

1 flat out show should have stopped, Your Honor.

2 MR. EVANS: Judge, I would contend that it
3 was not a clear indication. I think the defense is
4 trying to view his statements in a vacuum, where he said,
5 I invoke my rights to remain silent, and then ignored the
6 second part of that sentence, which was, But I'll talk to
7 you.

8 And the case law says any invocation of your
9 right to remain silent has to be clear and unambiguous,
10 and I submit it's very ambiguous to say, I waive my right
11 to remain silent, but I'm also going to talk to you.

12 So I think that leaves a very open question
13 whether he invoked his right to remain silent at all.
14 I'd like to bring to the Court's attention case law.
15 This is a -- I only have, I guess, the opinion, Judge,
16 but it's B-e-r-g-h-u-i-s versus T-h-o-m-p-k-i-n-s, and
17 that's number 08-1470, and it's from June 1st, 2010.

18 That case held that questioning can go on
19 unless the suspect --

20 THE COURT: Do you have a cite for it?

21 MR. EVANS: I can print out the hard copies
22 for Your Honor.

23 THE COURT: It's four years old, I think you
24 have a Southeastern Reporter, don't you?

25 MR. EVANS: I need to update my materials,

1 Judge. Berghuis v. Thompkins. I believe that's a U.S.
2 Supreme Court case.

3 THE COURT: Oh, all right. Go ahead.

4 MR. EVANS: The holding of that is that
5 questioning can go on unless the suspect at some point
6 explicitly and without ambiguity invokes the right to
7 remain silent.

8 It goes on to hold that if a suspect finally
9 answers a suggestive question with a one word response
10 that amounts to a confession, this by itself will be
11 understood as a waiver of the right of silence, and the
12 statement can be used as evidence.

13 So that case says that if they were asking
14 him questions all day long and he just sat there silently
15 and at one point he said yes to an answer, that's a
16 waiver of his right to remain silent.

17 So I would submit to the Court that saying,
18 in the same breath, I don't waive my rights, but I will
19 speak to you, is certainly an ambiguous invocation of
20 your right, and I think anything he said to detective --
21 or Corporal Eckert would be admissible.

22 MR. HAWKINS: Judge, I would argue that the
23 detective's own writing, the words "invoke Miranda" are
24 completely unambiguous, and, again, he testified
25 honestly. It was clear to him that he was invoking

1 Miranda.

2 If they're allowed to just keep him in this
3 room where he is not being allowed to leave, keep asking
4 him questions, then Miranda doesn't mean anything, Judge.
5 My client did nothing after invoking Miranda other than
6 keep sitting in the room that he was not allowed to
7 leave.

8 THE COURT: Well, you know, at first glance
9 it seems to me that the officer saying that the witness
10 invoked Miranda in writing now on the form ought to be
11 dispositive of it, just in kind of looking at this
12 Berghuis case, I would like to read it before I make a
13 final decision. I have it in my little database of
14 stuff. I've got to refamiliarize myself with it, so I
15 will take it with me and read it overnight and let you
16 know what I decide. Okay?

17 MR. EVANS: And we have that as a Court's
18 exhibit, so I can just hand that to Your Honor.

19 THE COURT: Okay. Let me have my law clerk
20 me make a copy of just that one page right here.

21 Is there anything else we need to deal with
22 tonight before we break?

23 MR. EVANS: I was going to add the cite to
24 the record of that Supreme Court case. It's 130 S Court
25 2250 and it's a 2010 U.S. Supreme Court case.

1 THE COURT: All right. Let me give you this
2 back then. All right.

3 MR. ZIEGLER: Your Honor, it's the State's
4 position that because there was an identification made by
5 the defendant, or made of the defendant by a witness who
6 was a codefendant in this case, it's the State's position
7 that a Neil v. Biggers hearing is just required to be
8 held, and that comes from State vs. Liverman, 398 SC 130
9 that says -- is basically a formal requirement that a
10 Biggers hearing be held.

11 THE COURT: Even if they waive it? If they
12 waive it, they're prohibited from appealing it. I guess
13 I'm trying to figure out how you would appeal that.

14 MR. ZIEGLER: I guess if we can make that
15 clear on the record, Your Honor, that the Neil v. Biggers
16 hearing is waived, then that would be sufficient.

17 THE COURT: All right. Mr. Buchanan, you
18 waive the right to have --

19 MR. BUCHANAN: We've already waived it, Your
20 Honor.

21 THE COURT: I thought they had withdrawn the
22 identification of the defendant by a codefendant, so it's
23 unambiguously clear, presumably.

24 MR. BUCHANAN: Your Honor, does the Miranda
25 form that our clients did not sign, is that in evidence?

1 THE COURT: It is.

2 MR. BUCHANAN: Your Honor, you had requested
3 our clients' two letters that we talked about earlier,
4 and you said if we copied them, you would look at them.

5 THE COURT: Yeah, I'll look at them. Earlier
6 we had mentioned something about you wanted to suppress
7 the motion of a bench warrant. Is this the same bench
8 warrant that got mentioned as to why the defendant was
9 placed under arrest at the time he was arrested by
10 Detective Ivey?

11 MR. HAWKINS: Yes, Your Honor.

12 THE COURT: Well, it would seem to me that
13 the jury would want to know why he was incarcerated at
14 the time if the detective -- or whose statement is coming
15 in that he told you he flagged you down. He told me he
16 had been robbed. At that point, he got arrested, though,
17 and it wasn't free to go because he was picked up on a
18 bench warrant.

19 MR. HAWKINS: Well, it's all accurate, Your
20 Honor, but I don't think it necessarily goes -- there is
21 an argument about whether he's in custody or not in
22 custody, but for purposes of the jury, I don't see that
23 any information about a bench warrant is relevant to this
24 armed robbery, because we're not arguing he was
25 wrongfully detained that night, so it's irrelevant to

1 anything that's going on in this robbery case.

2 THE COURT: You could just have the officer
3 testify that he was taken into -- for questioning.

4 MR. HAWKINS: Right. The fact that they kept
5 him that night, the officer testified as to that effect.

6 THE COURT: I guess I was just trying to
7 recollect in my mind because we went over it pretty quick
8 when I said well, bench warrant wasn't coming in, I think
9 you all agreed to that so in your mind you weren't going
10 to try to elicit because he did say on the suppression
11 hearing that he was, in fact, incarcerated and
12 handcuffed, which you don't typically do with victims of
13 robbery.

14 MR. EVANS: My purpose is for what
15 Mr. Hawkins -- for custodial purposes for the pretrial
16 hearing.

17 THE COURT: So you will talk to Mr. Ivey
18 about not mentioning that fact?

19 MR. EVANS: We will, Your Honor.

20 THE COURT: Great. Well, is there anything
21 else that we need to deal with today?

22 MR. HAWKINS: I don't believe so, Your Honor.

23 THE COURT: All right. The statements there
24 you wanted me to look at it, you have a copy of them?

25 MR. BUCHANAN: If I could approach, these are

1 the two letters we were speaking of.

2 THE COURT: And these are from who, from your
3 client?

4 MR. BUCHANAN: Yes, Your Honor. Those are
5 the originals.

6 THE COURT: Anything else?

7 MR. BUCHANAN: Nothing for the defense.

8 (Recess taken.)

9 (January 13, 2015.)

10 THE COURT: All right. Defendant is in the
11 courtroom. Let me go over with you a couple of things,
12 just based on what we had left at the end of the day.

13 There was an issue about the waiver of the
14 Fifth Amendment, and, you know, it was interesting
15 reading. You know, my first thought was, well, we have a
16 situation where the police officer wrote down he invoked
17 Miranda, which, you go, well, that would seem to end the
18 argument, but as I have yet to think about it, maybe it's
19 not quite so simple.

20 The problem is, is that the case law, in
21 particular this Berghuis case, says the waiver has to be
22 clear and unequivocal and, frankly, based on the
23 testimony I heard today and the statement that is in
24 here, he did not unequivocally invoke Miranda. He didn't
25 say, I invoke my Miranda, he just said, I'm not going to

1 sign that form.

2 And while he said, I'm not going to waive it
3 and I'm not going to sign that form, he did say --
4 basically, I think he was trying to have it both ways.
5 He said, I'll speak with you, but I'm not going to revoke
6 my rights. That is not equivocating and the law requires
7 that he give a clear and unequivocal invocation of his
8 Miranda rights, and if he doesn't give a clear and
9 unequivocal invocation of his Miranda rights, then they
10 can still ask him questions.

11 Now, what about the Officer Eckert writing
12 invoked Miranda on this waiver of rights form? Well, I
13 guess sometimes you have to look at the opposite in order
14 to answer the question. Is the officer's writing of this
15 evidence, or is it the definitive answer to the question?
16 What if the officer would have written did not invoke
17 Miranda on there? Does that end the inquiry?

18 No. He is no more the judge of the question
19 of whether or not Miranda was waived than he is the judge
20 of whether or not Miranda was revoked, and so his writing
21 that on there does not end the inquiry because it's for
22 the Court to decide whether or not on a preliminary basis
23 he invoked it, and, ultimately, the jury will get to
24 decide that issue as well, because, as I said, the law
25 requires he make a clear and unequivocal waiver or

1 invocation of the right, and by saying, I'm not going to
2 sign that form, but I will speak to you, he's talking out
3 of both sides of his mouth, and that is equivocating.

4 And so I find that he did not invoke his
5 Miranda rights, and I won't therefore suppress that
6 statement.

7 Okay? Now, let's go on to these two letters,
8 or is it one long letter, or is it two different ones?
9 Because the one says it's addressed to Randi. It just
10 says, What's up, Randi? The second page I have --

11 MR. HAWKINS: Two letters, Judge.

12 THE COURT: It just kind of starts off --
13 well, the front page says, write back as soon as you
14 write that statement. Presumably it's still to Randi.

15 I just don't see a different date, and he
16 doesn't start off with addressing it to anyone, so in
17 either case, if it's two different ones, I guess we'll
18 look at it, but having read both of them, I guess I'm
19 curious as to why the defense doesn't want it in and why
20 the State does want it in.

21 He doesn't admit any guilt in it. He says
22 look, You're lying. You're making this up, and you, in
23 essence, need to go change your statement and you need to
24 do it right away. That is the essence of both of those
25 statements.

1 Then they will also give you a little preview
2 of what they know I'll be charging you on the law, and,
3 in essence, making an argument as to why you should
4 render a verdict on their side's behalf. Then I will
5 give you a charge on the law, and then you will go to the
6 jury room and deliberate until you come up with a
7 verdict.

8 That's what we do with the trial. So we
9 don't get much progress made as long as I'm standing up
10 here talking, so I am now going to turn it over to the
11 lawyers to make their opening statements, and, again, the
12 State has the burden of proof, so they'll get to make
13 opening statements first.

14 So, Mr. Solicitor, if you're ready, you may
15 begin.

16 MR. ZIEGLER: Thank you, Your Honor.

17 Good morning, ladies and gentlemen. I'm Alex
18 Ziegler. I'm an assistant solicitor with the Ninth
19 Judicial Circuit.

20 Ladies and gentlemen: This case is about
21 making money, but it's not about punching a time clock,
22 doing a day's work, clocking out, and collecting a
23 paycheck. No. This case is about making money by taking
24 money. Making money by taking money. It's about
25 stopping two people walking home on the sidewalk at

1 night, putting a gun to them, inflicting fear, and
2 stealing their property.

3 The man who provided the gun encouraged and
4 participated in that armed robbery has already been
5 introduced to you. He is the defendant, Ricky Lamont
6 Hayes. The men who were walking home on that sidewalk
7 and stood on the muzzle end of that gun are Shane Burnett
8 and Glenn McElhenney, and they are in the courtroom
9 today, and Mr. Burnett and Mr. McElhenney were at Art's
10 Bar the night of this robbery, relaxing with some live
11 music and some people. Art's Bar is on Coleman
12 Boulevard, near Shem Creek as you go away from the
13 Ravenel Bridge.

14 This was a Monday evening, May 6, 2013.
15 Around midnight, as May 6 was turning to May 7,
16 Mr. Burnett and Mr. McElhenney decided to call it a night
17 and they decided to go home. They both live near each
18 other and they both live near Art's Bar. In fact, they
19 live in walking distance to the bar. They lived there,
20 so they started walking home.

21 There is little foot traffic on Coleman
22 Boulevard around midnight on a Monday night, and
23 Mr. McElhenney and Mr. Burnett didn't see anybody else
24 around on Coleman Boulevard. They were walking on the
25 sidewalk. They were passing by the Mount Pleasant

1 farmer's market, just about to reach Moultrie Middle
2 School. And then it happened: An ambush. Three men
3 suddenly appeared and blocked the sidewalk, stood in the
4 path home for Mr. Burnett and Mr. McElhenney.

5 The victims quickly observed that one of
6 these men was pointing a gun, what appeared to them to be
7 a 38 revolver. Meanwhile, the defendant and a third
8 robber frantically shuffled about, containing the victims
9 on the sidewalk. The man with the gun said, Give me
10 everything, and jammed the gun into Mr. McElhenney's
11 stomach.

12 So Mr. McElhenney emptied his pockets and
13 threw his wallet and phone on the ground. Defendant and
14 the third robber immediately went to the ground and
15 grabbed up that property.

16 The gun was then swung to Mr. Burnett's
17 stomach and then to his head. So Mr. Burnett emptied his
18 pockets, threw his phone and other items on the ground.
19 Again, the defendant and the two other robbers went to
20 the ground and grabbed up those items that Mr. Burnett
21 had thrown on the ground.

22 Mr. Burnett then threw his wallet behind
23 himself. Just then, someone called out, Hey. But this
24 voice wasn't that of the victim, it wasn't that of any of
25 the robbers. It was Officer Gillespie of the Mount

1 Pleasant police department, running toward them with his
2 weapon drawn. The victims went to the ground. All three
3 robbers took off running.

4 Officer Gillespie sprinted past the victims
5 in pursuit of the robbers through the farmer's market.
6 As the robbers fled into the of Mount
7 Pleasant, Officer Gillespie realized he would not catch
8 up to these robbers. He was alone, and they was unsure
9 if they were armed or not, so he stopped the pursuit. He
10 returned to the victims and ensured their safety until
11 other officers arrived.

12 You will hear testimony from the gunman in
13 this case. His name is Randi Parks. Early on in this
14 case after Randi Parks was apprehended, he lied to the
15 police on multiple occasions before he told the truth,
16 and he even attempted to escape from a police officer who
17 was returning him to the jail as he was being returned
18 from an interview with that police officer.

19 But in this courtroom, Randi Parks will tell
20 you that he himself pointed the gun at those victims. He
21 will also tell you who handed him that gun, who
22 encouraged the robbery, who fully participated in the
23 robbery. He will tell you that person is the defendant.
24 Randi Parks will tell you he knew the defendant for years
25 before the robbery, that they spent time together, that

1 he calls the defendant his cousin.

2 Randi Parks will tell you he met up with the
3 defendant in Columbia and was with the defendant most of
4 the day this robbery happened. He'll tell you that they
5 drove from Columbia to Mount Pleasant the evening of the
6 robbery to make some money. They intended to make some
7 money by doing a robbery, by taking.

8 But what about after the robbery happened?
9 After the robbery, Mount Pleasant police found a few
10 people and a few things. The defendant was found minutes
11 after this robbery occurred just several blocks away from
12 the site of the robbery. Shortly after the defendant was
13 found, Randi Parks, the gunman, was found hiding under a
14 dump truck less than one block away from where the
15 defendant was located. And in Randi Parks's pocket, the
16 police found the victim, Mr. McElhenney's, wallet, and
17 near that dump truck where Randi Parks was found the next
18 morning, the police found the gun used in this robbery
19 laying in the grass.

20 The defendant is charged with two counts of
21 armed robbery, one for each of the victims. Armed
22 robbery is defined as a robbery while armed with a deadly
23 weapon which includes a pistol, or a handgun. A robbery
24 is defined as the unlawful taking of personal property
25 from the person of another or in his presence by violence

1 or by putting such person in fear. You will also be
2 introduced to a law called hand of one. It says that a
3 crime is committed by two or more people who are acting
4 together in committing a crime. The act of one is the
5 act of all those people.

6 I conclude by reminding you that this case is
7 about making money by taking money, and it's about the
8 fear that two men felt, the fear that was thrust upon
9 them with the sweep of a revolver on their walk home from
10 a night of live music at their local bar.

11 After you've heard all the evidence, I'm
12 going to ask you to hold this defendant accountable for
13 his actions by returning a verdict of guilty for the
14 armed robberies -- verdicts of guilty for the armed
15 robberies of Shane Burnett and Glenn McElhenney.

16 Thank you.

17 MR. BUCHANAN: My name is Rick Buchanan. I'm
18 an attorney for the defendant, Ricky Lamont Hayes. My
19 co-counsel is Ed Hawkins.

20 On behalf of Ricky and Ed, I want to thank
21 you for being here today. I want to thank you for your
22 service. I don't think there is too many people that got
23 that letter in the mail that said you got jury duty and
24 ran inside and said, Honey, I've got jury duty today, and
25 I'm going to be there for a week and I'm going to be out

1 of work for a week. I'm really excited. I've always
2 wanted to do jury duty.

3 I don't think that happened, probably, and
4 you came down here on a rainy Monday morning. You don't
5 even park in the parking lot, I don't believe, next to
6 the courthouse. They make you walk two or three blocks
7 in the rain. They put you in a big room, and they say,
8 Speak up. We can't hear you. And lawyers are sitting
9 there taking everything down. We're looking at you;
10 we're staring at you, prying and poking. I apologize for
11 that, but that's just how the system works, because
12 without you, we couldn't do this.

13 You are the most important people in the
14 courtroom. We have the judge, the bailiffs, prosecutors;
15 we have defense attorneys. It doesn't work without you,
16 and, really, your country only calls on you twice, once,
17 possibly at the time of war, for a draft, which we
18 haven't had for 40 years, and the one other time is to do
19 jury duty, and I thank you for doing that. I know it's a
20 sacrifice for you and your family, believe me.

21 The judge in his opening statement talked
22 about proof beyond a reasonable doubt. He talked about
23 the burden is always on the State, that our client, Ricky
24 Lamont Hayes, is innocent until proven guilty. I want
25 you to imagine that he's cloaked in a robe of innocence

1 today, not unlike the robe that the judge is wearing
2 today. I want you to imagine that because as of right
3 now, he's innocent, and it's up to the prosecutor to take
4 every thread from that robe off of him, all right? And
5 the judge will instruct you on what proof beyond a
6 reasonable doubt is.

7 What I think it is, is that if they don't
8 take every thread off of that robe and you're not
9 satisfied with it, you've got to find him innocent.
10 That's the system.

11 The prosecutor talked about this case. When
12 I was a young prosecutor, I thought the most important
13 part of the case was the opening statement. The opening
14 statement, I was going to get up there and I was going to
15 blow them away, and they're all going to believe me and
16 everything is going to be okay, but as the judge said,
17 this isn't evidence. We're just telling you our side of
18 the case. All right?

19 You're going to hear from a man by the name
20 of Randi Parks. Randi Parks is a liar and Randi Parks is
21 a con man, and I want you to hold me to that from what he
22 talks about, because the person that put a gun in
23 Mr. McElhenney's stomach, sent him to the hospital, put a
24 gun in his face, put a gun in Mr. Burnett's stomach, put
25 it in his face, reached down and took their money and

1 took their phone is Randi Parks, not my client.

2 I want you to ask yourself who was found with
3 the gun? Who was found with the wallet, and where did
4 this telephone end up? And I want you to ask yourself,
5 where is the DNA and where are the fingerprints? They
6 don't have them. This is a big deal. It's an armed
7 robbery. This is the biggest moment of Mr. Rick Hayes's
8 life.

9 I know you would probably rather be somewhere
10 else right now, and you you're here, and by the end of
11 the week, you're going to make one of the biggest
12 decisions of your own life. It doesn't deal with your
13 own family or you or your loved ones, but when we're all
14 finished, when the judge is finished, when I am finished
15 and the State is finished, you're going to have the last
16 word, and you see if they prove that they have taken
17 every thread off of the cloak that he is cloaked in
18 today. You ask yourself that question at the end of the
19 case.

20 Again, I thank you for being here. I know
21 it's a sacrifice. I know you'll take it seriously. I
22 know you'll pay attention, and, again, on behalf of
23 Ricky, thank you.

24 THE COURT: All right. Folks, it is 12:30
25 now. Let's go ahead and break until 2:00, and we'll have

1 you come back at 2:00 and we'll have the first witnesses
2 ready for you at that time.

3 Now, you've heard the opening statements.
4 You haven't heard any evidence yet, but, again, I want to
5 remind you: Don't talk about the case with anybody,
6 begin deliberations, and don't talk to even each other
7 about the case. You can go to lunch with anybody. You
8 can talk to each other, if you want to, during the jury
9 breaks and while you're at lunch, but you can't talk
10 about the case. All right?

11 And stop and think about it. It's just a
12 matter of fairness to everybody. The reason why you
13 don't want to talk to anybody else about the case is
14 because you have taken a oath that says, I'll make my
15 decision based on what I hear in this courtroom, the
16 evidence, and the law that the judge tells me.

17 If you make it based on what other people
18 think about the case, well, they weren't here. They
19 didn't hear it. Those of you that were here, you get to
20 talk about the case, and they can influence you when you
21 are deliberating, but you shouldn't be influenced by
22 somebody who hasn't been here, hasn't heard anything, and
23 they're just basically telling you what they think about
24 stuff. That is improper. It's not fair to either side.

25 You wouldn't want to be on trial and have

1 your decision made by one of your jurors spouse's or next
2 door neighbors or bartender or friends or something like
3 that. So that's just a matter of fairness. It's not
4 proper for you to have those influences on you. The
5 reason why it's not proper to begin deliberations amongst
6 yourselves or discussions, even, is because trials are
7 just like life. There's usually two sides to every
8 story. Throughout the trial, you'll hear questions on
9 direct examination, and you'll start having impressions
10 about that, but then the other side will get up and
11 they'll have cross-examination, and suddenly you'll go,
12 Oh, yeah. I see this in maybe just a little bit
13 different light now.

14 That doesn't mean your first impressions
15 weren't right. You might go back to them, but just like
16 life, as you find out more about stuff, you realize,
17 well, maybe it's not as simple as it first seemed, and
18 then you got to hear all of the evidence that before you
19 begin your deliberations. That's also just a matter of
20 fundamental fairness.

21 So that's why we say don't discuss the case
22 with each other. Didn't talk about it with anybody else.
23 You can go to lunch wherever you want with whomever you
24 want. Enjoy it. It's a little bit -- well, it's a lot
25 like it was this morning when I came in, otherwise, but

SHANE BURNETT - DIRECT

1 downtown is a nice place to walk around, so take your
2 time and enjoy it, and if you would be back in the jury
3 room at 2:00, we'll resume with the first witness at that
4 time. All right?

5 Thank you for your time.

6 (Jury recessed.)

7 THE COURT: Okay. See y'all at 2:00. Have
8 your first witness ready.

9 A F T E R N O O N S E S S I O N

10 THE COURT: Welcome back, folks. We are now
11 going to begin with the State calling their next witness.
12 Mr. Solicitor, when you're ready.

13 MR. ZIEGLER: Thank you, Your Honor. The
14 State calls Mr. Shane Burnett.

15 SHANE BURNETT,

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

18 DIRECT EXAMINATION

19 BY MR. ZIEGLER:

20 Q. Good afternoon, Mr. Burnett.

21 A. Hi.

22 Q. How old are you, Mr. Burnett?

23 A. Forty-two.

24 Q. What part of town do you live in?

25 A. Near Cainhoy.

SHANE BURNETT - DIRECT

1 Q. How long have you lived in Charleston?

2 A. In Charleston, greater Charleston, for about five
3 years from the Atlanta area.

4 Q. Are you married?

5 A. I am.

6 Q. Do you have any children?

7 A. I do. I've got a 13-month-old little boy and
8 another little girl on the way.

9 Q. What is your educational background?

10 A. Degree in business administration from University
11 of Georgia, a handful of securities designations, six and
12 seven. I was a financial advisor for a few years.

13 Q. What is your employment history? Where are you
14 employed now?

15 A. I'm currently a business analyst for the
16 Charleston market for Mattress Firm.

17 Q. And where did you work before that?

18 A. Before that, I was a truck driver.

19 Q. What about your financial career?

20 A. I was a financial advisor for Edward Jones for
21 about five years until -- prior to moving to Charleston.

22 Q. Okay. I want to direct you to the night of May 6,
23 2013, and the early morning hours of May 7, 2013. Were
24 you the victim of an armed robbery that night?

25 A. I was.

SHANE BURNETT - DIRECT

1 Q. What were you doing that night prior to this
2 robbery?

3 A. Let's see. So Glenn and I walked from our to
4 house to Art's Bar and Grill, watched a band play, had a
5 couple of beers, and then were walking home and that's
6 what happened.

7 Q. Did you live near Art's?

8 A. I did, less than a half mile away. Lived within
9 walking distance.

10 Q. And where is Art's Bar?

11 A. Coleman Boulevard, quarter mile from Shem Creek,
12 headed away from the Ravenel Bridge.

13 Q. And you said Glenn went with you. Who was Glenn?

14 A. Glenn is right over there.

15 Q. Okay.

16 A. A friend of mine.

17 Q. Okay.

18 A. We all live in the neighborhood together. Three
19 of us went, me, Glenn, and another guy name Ronnie, who
20 went home earlier than ourselves, so then the armed
21 robbery occurred when Glenn and I were walking home.

22 Q. You said you had some beers. How much did you
23 have to drink at Art's?

24 A. Two, possibly three.

25 Q. Two and three what?

SHANE BURNETT - DIRECT

1 A. I'm sorry. Two or three beers.

2 Q. Once you decided to leave Art's, how were you
3 planning to get home?

4 A. Walk.

5 Q. Did you know approximately when y'all decided to
6 walk home from Art's?

7 A. It was probably 11:30, 12:00, somewhere in that
8 area.

9 Q. And when you left Art's, which side of the street
10 were you walking on from Art's?

11 A. It would be southeast side? On Coleman Boulevard,
12 heading away from Ravenel Bridge, we were on the
13 right-hand side, the side where Moultrie Middle School
14 is.

15 Q. And what were y'all -- what were y'all doing when
16 you were walking home?

17 A. Just walking. I think we were singing a song or
18 something.

19 Q. Okay. What was the street lighting at that time?

20 A. Pretty well lit, not a lot of foot traffic. I
21 would say medium to light car traffic on Coleman
22 Boulevard.

23 Q. Did you see anyone else around at the time?

24 A. Other than car traffic, no. I can't say I
25 remember seeing any foot traffic, any other pedestrians.

SHANE BURNETT - DIRECT

1 Q. Where were you on Coleman Boulevard when this
2 robbery began?

3 A. Again, on the side of the road, on the sidewalk in
4 front of the farmer's market near Moultrie Middle School.
5 It's a little plaza that's known -- they commonly do a
6 farmer's market during the week in the summer.

7 Q. And please tell the jury your account of the
8 robbery that occurred on May 7th, 2013 after you were --
9 as you were walking home from Art's Bar. Please tell the
10 jury what happened.

11 A. Okay. Walking down the street. I was on the
12 street side. Glenn was on the side of the school. I
13 think we were walking arm and arm or something.

14 Anyway, two black males ran up from this side. We
15 turned to face them, so now my back and Glenn's back was
16 to Coleman Boulevard, and a third ran around behind us.
17 I didn't get a real good look.

18 One of the guys put a gun in Glenn's stomach and
19 said, Give me whatever you got. He dumped out some
20 things on the ground.

21 The guy turned the gun on me. He said, Give me
22 whatever you got.

23 And I said, I don't have anything. And he
24 put the gun to my head, and I said, Oh, hold on, I got
25 something.

SHANE BURNETT - DIRECT

1 So I threw whatever I had on the ground, they
2 went for it. The cop ran up behind us with his gun drawn
3 and we hit the dirt, and that was kind of it. The whole
4 thing lasted less than ten seconds.

5 Q. What did you empty from your pockets?

6 A. A little pack of cigars, a pocketknife, cell
7 phone, and some loose change.

8 Q. And who picked -- did anyone pick those up?

9 A. Yeah. Two, possibly three people bent to pick it
10 up. I can't tell you whether it was two or three of
11 them. Right when that was happening, I heard "freeze" or
12 "get on the ground", and I turned around and saw the
13 officer running, so --

14 Q. What did you do with your wallet?

15 A. For whatever reason, I had a lot of cash in my
16 wallet that night, which is something I don't normally
17 ever do, but I did, and I didn't want those guys to get
18 it.

19 So I took it out. When I threw all my stuff
20 on the ground, they went for it, and I picked my wallet
21 up out of my back pocket and I threw it behind me out
22 into traffic to get it away from me. I don't know why I
23 did it, I just did, and that's when the officer ran over.

24 Q. And which way did these robbers flee when the
25 officer showed up?

SHANE BURNETT - DIRECT

1 A. So if my back is at Coleman Boulevard and the --
2 I'm calling it the farmer's market plaza is in front of
3 me, they ran that direction, towards the --

4 Q. Okay.

5 A. -- of Mount Pleasant, and away from Coleman
6 Boulevard.

7 Q. And I want to go into a few of the details of the
8 incident. How many robbers were there did you see?

9 A. There was definitely two in front of me, and at
10 least one behind me.

11 Q. And in a statement that you gave to the police,
12 did you tell the police that there were four robbers,
13 four people --

14 A. I think at the time I did say four. I know for a
15 fact there was at least three.

16 Q. Okay. But do you know if there was a fourth
17 person?

18 A. I don't remember. I'm not sure.

19 Q. And these robbers, these three that you saw, what
20 was their demeanor?

21 A. Frantic, scattered, unplanned, nervous. They just
22 jumped around a lot.

23 Q. Okay.

24 A. Like they were trying to stop us from running away
25 or something.

SHANE BURNETT - DIRECT

1 Q. Mr. Burnett, I want to ask you about each of the
2 individuals that you saw to help the jury to
3 differentiate among them. Let's start with the person
4 that you say had a gun.

5 A. Uh-huh.

6 Q. Can you give a description of that person?

7 A. I can. He appeared to me to be under the age of
8 30, maybe closer to 25, fairly light-skinned black male,
9 a little bit shorter than me. I'm five-nine. Couldn't
10 really tell if there was facial hair or not. The gun was
11 kind of in my way between this part of his face and my
12 eyes.

13 Q. And what was your impression of that person? How
14 did you react to that person?

15 A. For the first couple seconds, I thought it was a
16 joke. I thought it was some kid playing around. My
17 second thought was, he just looked smaller than me, that
18 I could physically take him if I had to until the gun was
19 pointed in my face, so for a second, confusion -- I was
20 just confused. I couldn't figure out what was going on,
21 and then anger/fear.

22 Q. And the other person who was, you said, in -- ran
23 in front of you, what did that person look like?

24 A. This guy was maybe my height but quite a bit
25 heavier than the first guy, the guy I'm talking about,

SHANE BURNETT - DIRECT

1 the guy with the gun. He was heavier than that, maybe a
2 little stockier. Looked to me like he had some kind of a
3 facial scar, or something wasn't right about his eye or
4 his face. I was mainly focussed on the gun, but he also
5 had fairly light skin, and I would say about the same age
6 range, 25 to 30 years old.

7 Q. What was your impression of him?

8 A. That guy looked like he had been in trouble,
9 like -- I wouldn't mess with him.

10 Q. Okay.

11 A. I was almost more scared of him than I was of the
12 guy that was holding the gun.

13 Q. And then there was a third person.

14 A. Uh-huh.

15 Q. And you said that person was sort of behind you?

16 A. Yeah.

17 Q. What did he look like? What was his stature?

18 A. The only description I could really give, an
19 accurate, honest description, is that he was taller and
20 darker skinned. Also a black male, but a little taller
21 than the group, taller than me, and darker complected.
22 That's about all I could say. He was behind me. I
23 couldn't get a good look.

24 Q. The gun that you saw, can you describe that gun at
25 all? What do you remember about the gun?

SHANE BURNETT - DIRECT

1 A. I know a fair amount about firearms. It appeared
2 to me to be a 38 caliber, something similar to a Smith &
3 Wesson six shot revolver, black.

4 Q. And where was that gun pointed?

5 A. First it was pointed at Glenn's stomach and then
6 my stomach and then my head.

7 Q. And the property that you said you earlier
8 testified you threw on the ground, was any of that
9 recovered as far as you know? Did you ever receive any
10 of that back?

11 A. I never received any back, no, any of it back.

12 Q. Was it picked up by the robbers?

13 A. Yes, it was, yes.

14 Q. After the men, the robbers, three robbers fled,
15 what happened?

16 A. Right after they fled, Officer Gillespie gave
17 chase for a little bit. Went -- I don't know, three four
18 minutes, maybe less. He came back, and he said he felt
19 like it wasn't safe for him to give chase by himself into
20 the darkness. So he came back.

21 A few seconds later, he said, you know, We need to
22 get into a safer spot, so we went back across the street
23 to Wild Wing Cafe, just a well-lit area, and then we
24 called the ambulance for Glenn.

25 Q. Okay. Did you go to the police station? Did you

SHANE BURNETT - DIRECT

1 give a statement?

2 A. I did.

3 Q. After this incident occurred, did you ever see
4 any -- did you read any news stories or see any photos?

5 A. Yes, I did. The next morning I was curious if it
6 was on the news anywhere, so I did a little Google search
7 for it, and there was a story, but one of the news
8 stories -- I don't know if it was four or five, I don't
9 remember, but it showed these mugshots, and the story had
10 my name, my full first and last name in the story and
11 Glenn's.

12 So I called the news station and told them to take
13 my information and Glenn's off the web site, which they
14 did a few minutes later, but to answer your question,
15 yes, I did see three photos the next day.

16 Q. And you said you gave a statement to the police
17 the night of the robbery. Some of the details you
18 testified today, why were some of those left out of your
19 statement? Were you asked all of those questions about
20 the stature --

21 A. Those details? I was never really asked about
22 that. As a matter of fact, when I was giving that
23 statement, one of the investigators, or somebody in the
24 police department, said, We've got three people in
25 custody, so I didn't think it -- they already had the

SHANE BURNETT - DIRECT

1 guys in custody, so I didn't think it was important to
2 give a whole lot of description. They weren't looking
3 for them anymore.

4 Q. And you -- and in that statement, did you say that
5 the defendants, the suspects, had no facial hair? Did
6 you write no facial hair at one point?

7 A. I think I did write no facial hair. I couldn't be
8 100 percent sure. Again, the one person I saw real
9 clearly was the gun guy that had the gun in my face, and
10 just from my line of sight to his face, it was just kind
11 of covering this area, so -- he looked like he either had
12 a dirty face or some kind of real closely cropped facial
13 hair, but I couldn't be certain.

14 Q. And the person behind you, were you able -- were
15 you able to see what kind of hair he may or may not have
16 had?

17 A. I couldn't say.

18 Q. Okay.

19 MR. ZIEGLER: Your Honor, may I approach the
20 witness?

21 THE COURT: You may.

22 BY MR. ZIEGLER:

23 Q. Mr. Burnett, do you recognize these photos?

24 A. Yes, sir, absolutely.

25 Q. What are they?

SHANE BURNETT - DIRECT

1 A. That is -- these are both pictures of Coleman
2 Boulevard, standing in Coleman Boulevard. This one is of
3 Moultrie Middle School, and this one's basically the
4 same -- well, Coleman Boulevard, but facing a different
5 angle. That's the farmer's market.

6 Q. Okay.

7 A. Plaza, that I keep calling it.

8 MR. ZIEGLER: Thank you. Your Honor, State
9 moves to admit State's Exhibits 1 and 2, photos of
10 Coleman Boulevard.

11 MR. HAWKINS: No objection, Your Honor.

12 THE COURT: Admitted.

13 (State's Exhibit Nos. 1 and 2 were marked for
14 identification and admitted into evidence.)

15 BY MR. ZIEGLER:

16 Q. I'm now showing you State's Exhibit 2. Can you
17 please describe for the jury where you were when this
18 robbery started and where it occurred, and kind of show
19 the jury how it happened using the photo.

20 A. Sure. Can I approach the screen or should I just
21 stay seated?

22 THE COURT: Yeah, that's fine. I thought we
23 were in a different courtroom. They sometimes have one
24 of those things where you touch it on there, but if you
25 need to stand up there and point, that's fine.

SHANE BURNETT - DIRECT

1 THE WITNESS: So Glenn and I were walking
2 this direction. I was on the street side of the
3 sidewalk, Glenn was on the other side, and this is right
4 about where it occurred.

5 BY MR. ZIEGLER:

6 Q. Okay.

7 A. So right about here. And then when the guys came
8 up around this side, when two of them came up around this
9 side, we turned in this direction, facing that with our
10 back toward Coleman Boulevard. Another one came up
11 behind us, so he was either on this grass or possibly
12 standing a little bit in the road.

13 When the officer intervened, he ran this
14 direction. The guys fled that direction, the three guys
15 fled that direction.

16 Q. Okay. And this is State's Exhibit 1. Can you
17 point out Moultrie Middle School in that.

18 A. Yeah, I can. It's -- this is Moultrie Middle
19 School.

20 Q. Okay. And so where was -- in relation to that,
21 where was the robbery?

22 A. Further down this direction. Robbery occurred
23 right about here. That first picture you have, it looks
24 to me like it was taken from here facing that direction
25 because the -- again, I keep calling it the farmer's

SHANE BURNETT - DIRECT

1 market plaza, but it's behind that group of trees right
2 there.

3 Q. Okay. Thank you.

4 A. You're welcome.

5 Q. Did you and Mr. McElhenney go to Art's Bar often?

6 A. I wouldn't say often. Once every two months or
7 something. Not very often, no.

8 Q. And a couple final questions for you, Mr. Burnett.
9 The -- when -- let's see. Between you and Glenn, who
10 threw their property on the ground first?

11 A. Glenn did.

12 Q. Okay. And how many of the robbers went to the
13 ground when Glenn threw his property to the ground?

14 A. How many of them went to the ground --

15 Q. If you know, if --

16 A. Yeah. I don't really know. Two, maybe. I can't
17 say for 100 percent certain.

18 Q. Okay.

19 A. Two, maybe three.

20 Q. Was it the individual -- who went -- but which
21 individuals did you see go to the ground to pick up --

22 A. The two in front of me definitely did.

23 Q. Okay.

24 A. The two in front of me, which one of them was the
25 one that then turned the gun on me.

SHANE BURNETT - DIRECT

1 Q. And when you threw your property on the ground --

2 A. Uh-huh.

3 Q. -- which individual picked it up?

4 A. If memory serves me, all three of them did at that
5 point.

6 Q. And did it appear to you that they kept that
7 property?

8 A. Yes.

9 MR. ZIEGLER: Court's indulgence, please,
10 Your Honor.

11 BY MR. ZIEGLER:

12 Q. Mr. Burnett, the person that was behind you, you
13 said he was taller. What was he doing over the course of
14 the robbery? What was his role? How did he participate?
15 Start with when you say the robbers were shuffling, or
16 moving about.

17 A. He was just kind of corralling us as if trying to
18 block us in case one of us wanted to run away, just kind
19 of doing this.

20 Q. Did he participate, in your view, in the robbery?

21 A. You mean other than being part of an armed
22 robbery?

23 Q. Did he --

24 A. He never touched me.

25 Q. Okay.

1 A. He may or may not have actually gone down to pick
2 up items that I threw on the ground, but --

3 Q. But you said that all three of the robbers went to
4 the ground?

5 A. When they were taking my belongings, yes, I feel
6 pretty certain that all three of them were going down to
7 grab whatever was there.

8 MR. ZIEGLER: I have no further questions for
9 this witness. Please answer question that defense may
10 have.

11 THE COURT: Cross?

12 CROSS-EXAMINATION

13 BY MR. HAWKINS:

14 Q. Good afternoon, Mr. Burnett. I am sure that was
15 one of the worst nights of your life. Hopefully that was
16 your worst night ever, and we appreciate you being here.

17 You said you had two or three beers at Art's Bar.
18 Had you had anything to drink earlier in the day?

19 A. No, not that I recall, no.

20 Q. And I know you said you go there maybe once every
21 month or so, but at this time, were you living with
22 Mr. McElhenney, sharing an apartment or anything?

23 A. No, sir. We were just neighbors, lived down the
24 street from one another.

25 Q. At the same location -- at the same apartment

SHANE BURNETT - CROSS

1 complex?

2 A. No, no. We live on the same street. He lives in
3 a house a few doors down from where my house was.

4 Q. So you were both walking from Art's Bar to your
5 house and him to his house because they're close by?

6 A. Correct, yeah.

7 Q. So you're not roommates or anything like that?

8 A. Just neighbors.

9 Q. Got you. Okay. And is it safe to say you've gone
10 past Moultrie school a whole bunch in a car or walking?

11 A. Yeah, yes, sir.

12 Q. You're familiar with that area?

13 A. Yes, sir, very familiar.

14 Q. Now, you testified that where y'all were was very
15 well lit; is that correct?

16 A. Yes, sir.

17 Q. And I assume you've ridden by there at night
18 fairly often?

19 A. I have.

20 Q. And I think every time you go by there you relive
21 it?

22 A. Of course.

23 Q. And probably avoid going by there for that very
24 reason. When you go by there at night, you see there is
25 a quite a few lights in front of Moultrie school?

1 A. Yes, sir.

2 Q. And there are also several flood lights that are
3 in the farmer's market that you're talking about?

4 A. I can't speak for flood lights in the farmer's
5 market area. I think there's a couple back there, but
6 Coleman Boulevard is fairly well lit, yes.

7 Q. And that section where you were is very well lit.
8 And now the way I understand your testimony, you kind of
9 got a pretty decent look at the guys in front of you,
10 hardly got a look at the other person at all; is that
11 correct?

12 A. I would say that's a fair statement, yes.

13 Q. And in your statement that you gave that night --
14 well, let me back up.

15 After Gillespie does a chase, tries to chase,
16 realizes he can't catch them, comes back to you guys, he
17 took you across to the shopping center, and there is a
18 Wild Wings restaurant in there.

19 Now, I know y'all were looking for a well-lit
20 location, right? There's a gas station that's
21 immediately across the street from there, is there?

22 A. There is, yes, sir.

23 Q. And it's very well lit at night. Was there any
24 particular reason why y'all didn't go there as opposed to
25 Wild Wings?

SHANE BURNETT - CROSS

1 A. I was being led by Officer Gillespie.

2 Q. And y'all walked down there. You didn't get in
3 his car and drive to Wild Wings; is that correct?

4 A. Correct, and to answer your question, Gillespie
5 was doing business checks, I think he called it, in that
6 area, so his car was closer to -- his police car was
7 closer to where we were going over to Wild Wings.

8 Q. Right.

9 A. So that might have been part of his decision why
10 we went there as opposed to the gas station.

11 Q. And you went down in front of Wild Wings. Can you
12 tell me approximately how long y'all were in front of
13 Wild Wings before you left and went to the station?

14 A. Twenty, thirty minutes.

15 Q. And there was also a police officer with you the
16 whole time. You were never left alone. From the time he
17 came back to chasing the suspects, you were never left
18 alone, were you?

19 A. Correct.

20 Q. About how long -- I know at some point while
21 you're there in front of Wild Wings, Mr. McElhenney
22 needed EMS, and he was transported; is that correct?

23 A. Yes, sir.

24 Q. And did they transport him while you were still
25 there?

1 A. Yes.

2 Q. Okay. And how long were you there after he left?

3 A. After Glenn left, how long was I there? Ten
4 minutes, maybe fifteen.

5 Q. And then you were taken to the station.

6 A. Yes, sir.

7 Q. And you gave a written statement.

8 A. Yes, sir, correct.

9 Q. Now, at the point you're in front of Wild Wings,
10 they're looking for suspects; is that correct?

11 A. I believe so, yes, sir.

12 Q. You had no information that any suspects were in
13 custody when you were in front of Wild Wings?

14 A. That's correct.

15 Q. And the police officer, Gillespie, asked you --
16 when he came back to you, he was trying to get more
17 specific information from you about the suspects; is that
18 correct?

19 A. I'm sorry. Ask me the question again?

20 Q. Didn't I say it well. He runs off, chases him for
21 a few minutes, then comes back, and at that point he
22 tries to get more specifics about what happened and what
23 they looked like; is that accurate?

24 A. Yes, sir.

25 Q. And the description you gave to him was three or

SHANE BURNETT - CROSS

1 four black males dressed in black; is that correct?

2 A. Yes, sir.

3 Q. And do you recall if you told Officer Gillespie
4 anything different from what you told him in your
5 statement half an hour or so later?

6 A. I don't recall, no. I wouldn't say I recalled
7 that one statement was different from the other.

8 Q. And at the station, once you go to the station,
9 you give a statement, and you said you thought there was
10 four. I know you testified today that you're not
11 positive, but you thought there were four, and you said
12 they were 18 to 25 years old; is that correct?

13 A. You're asking me if that's what I told them at
14 that time?

15 Q. Yes.

16 A. Yes, sir. I believe that's what I said.

17 Q. And they were black males?

18 A. Yes.

19 Q. All wearing black clothing?

20 A. Yes, sir.

21 Q. And there was no facial hair?

22 A. You're asking me if I told them at that time if
23 there was facial hair or no facial hair?

24 Q. Yes.

25 A. Yes.

1 Q. And -- I'm sorry. Have you reviewed your
2 statement?

3 A. I have looked at it, yes. I don't know if at the
4 moment when Gillespie and I were standing in front of
5 Wild Wings whether I told him there was facial hair or no
6 facial hair. I do know on my report, my official report
7 a couple hours later, that I wrote no facial hair. I'm
8 familiar with that.

9 Q. And I think you also wrote hair length was short?

10 A. At that time I told the officer it was either they
11 had a sweatshirt hoody or some kind of like dreadlocks or
12 something. I just remember long hair or a hoody. Again,
13 at the time I was writing all that down, I was under the
14 impression that the guys were in custody, so I wasn't
15 real specific about that.

16 Q. And that was your understanding from law
17 enforcement, that we got the guys in custody, right?

18 A. Yeah.

19 Q. So everybody is kind of slacking off of making
20 sure we had the perfect description at that point, would
21 that be accurate?

22 A. I definitely wouldn't use the term slack off, but
23 I don't know that I was -- they told me they had three
24 guys in custody, so to me, whether they had long hair or
25 hoodies was no longer relevant at that time.

SHANE BURNETT - CROSS

1 Q. Okay. While you are standing in front of Wild
2 Wings -- do you know what a show-up is?

3 A. No, sir.

4 Q. Well, a show-up is where they bring a suspect and
5 put him or her in front of a victim and, Say do you
6 recognize this person?

7 Did they ever do that that night? Did they
8 ever bring any suspects that were in custody and put them
9 in front of you at Wild Wings?

10 A. No, sir.

11 Q. And they didn't that whole night?

12 A. Correct.

13 Q. Now, you probably watched television and know what
14 a lineup is. A lineup is when they show you live people
15 that look kind of similar and let you see if it's one of
16 those people, or they'll show you what is known as a
17 six-pack, six photographs, and say, Do you recognize
18 anybody?

19 Did they do that that night.

20 A. No, sir.

21 Q. Did they do that after that night?

22 A. No, sir.

23 Q. That's been almost -- not quite two years, but
24 you've never been given a lineup, never asked to identify
25 the suspects?

1 A. That's correct.

2 Q. Okay.

3 MR. HAWKINS: Beg the Court's indulgence.

4 I have nothing further, and thank you for
5 your indulgence there, sir.

6 THE COURT: Redirect?

7 REDIRECT EXAMINATION

8 BY MR. ZIEGLER:

9 Q. Mr. Burnett, after this incident, was it a calm
10 atmosphere or were you upset or shocked? How did you
11 feel after it?

12 A. Like I said, at first I thought it was a joke, and
13 then all of a sudden you realize it's real, so thankful.
14 Thankful to still be breathing; scared, angry, just
15 relieved.

16 Q. And you testified that you saw photos of suspects
17 from news stories.

18 A. I did.

19 MR. HAWKINS: I don't think I asked anything.
20 This is redirect.

21 THE COURT: That's true. You're limited to
22 what he brought up on cross for redirect.

23 MR. ZIEGLER: Thank you, Your Honor. Court's
24 indulgence, please.

25 BY MR. ZIEGLER:

SHANE BURNETT - REDIRECT

1 Q. Let's say that the police had shown you a lineup
2 weeks after the --

3 MR. HAWKINS: Objection, Judge. That's a
4 speculative story. He's getting in if they had done
5 something that they all testified they didn't do.

6 THE COURT: Well, it's speculative. If he
7 didn't ever get shown a lineup, there is no reason to ask
8 him what would have happened if he had, so sustained.

9 MR. ZIEGLER: Court's indulgence please, Your
10 Honor.

11 BY MR. ZIEGLER:

12 Q. Mr. Burnett, you testified that these three
13 robbers were dressed in black clothing, or dark clothing.
14 Do you remember exactly the clothing or you just remember
15 the general color of it?

16 A. No. I couldn't -- I couldn't -- I wouldn't say
17 exact, no. It was definitely dark clothing. I felt like
18 it was a hoody, sweatshirt with a hood pulled over their
19 head. I couldn't really -- to be honest, I couldn't say
20 anything about what kind of pants or shorts or what color
21 or tennis shoes.

22 Q. Okay.

23 MR. ZIEGLER: No further questions, Your
24 Honor.

25 THE COURT: Recross?

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1 MR. HAWKINS: Nothing further, Your Honor.

2 THE COURT: You may step down. Thank you.

3 Next witness?

4 MR. ZIEGLER: State calls Mr. Glenn
5 McElhenney.

6 ROBERT GLENN McELHENNEY,
7 having been first duly sworn,
8 was examined and testified as follows:

9 DIRECT EXAMINATION

10 BY MR. ZIEGLER:

11 Q. Good afternoon, Mr. McElhenney.

12 A. How are you?

13 Q. Doing well. You said your full name is Robert
14 Glenn McElhenney?

15 A. Yeah.

16 Q. What do you go by?

17 A. Glenn.

18 Q. How old are you, Mr. McElhenney?

19 A. Forty-nine.

20 Q. And where do you live?

21 A. Mount Pleasant.

22 Q. Are you from Charleston originally?

23 A. Uh-huh.

24 Q. Where did you grow up?

25 A. Huh?

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1 Q. Where did you grow up?

2 A. Isle of Palms.

3 Q. Are you married?

4 A. Divorced.

5 Q. Do you have any children?

6 A. Three kids; 14, 17, and 18.

7 Q. And what is your education?

8 A. I'm -- I don't have an education. I started
9 construction when I was about 15 years old.

10 Q. Did you do -- did you go to high school for some
11 time?

12 A. About tenth grade or so.

13 Q. And then you said you began working. What kind of
14 work were you doing?

15 A. Construction, framing, renovations, remodelling.

16 Q. And what's your employment history?

17 A. I started my own business in 1990 and just kept it
18 going till I got several hernias and had a lot of
19 operations, so now I'm disabled.

20 Q. What was that business called?

21 A. Marlin, M-a-r-l-i-n, Wood Works, Blue Marlin.

22 Q. I want to direct you to the night of May 6, 2013,
23 and the early morning hours of May 7, 2013. Were you the
24 victim of an armed robbery that night?

25 A. Yes, I was.

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1 Q. Where had you been earlier in the night before the
2 robbery?

3 A. At Art's Bar and Grill.

4 Q. And who did you go there with?

5 A. With Shane.

6 Q. How did you get to Art's?

7 A. We walked.

8 Q. And what did you do at Art's that night?

9 A. Drink a few beers, listened to a band. One of our
10 favorite bands, Baby Fat, was playing.

11 Q. And about how many beers do you think you had at
12 Art's?

13 A. I probably had about three there and three before
14 I went, so six total.

15 Q. Okay. And were you intoxicated or were you --

16 A. I was buzzing.

17 Q. Were you coherent?

18 A. I was coherent, but I was buzzing.

19 Q. Were you able to stand up and walk?

20 A. Oh, yeah, yeah. I wasn't that buzzing.

21 Q. Do you have a good memory of --

22 A. Oh, yeah.

23 Q. Do you know about when you and Shane decided to
24 walk home?

25 A. Probably about midnight.

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1 Q. And which side of the street were you walking on?

2 A. We were walking on the Moultrie Middle School
3 side, over by the farmer's market.

4 Q. What were you doing as you were walking home?

5 A. Me and Shane were goofing around. We were arm in
6 arm, singing a song. I don't know what song it was.

7 Q. Did you see anyone else around?

8 A. No. There wasn't nobody else around.

9 Q. What was the street like at that time?

10 A. It was -- it's Coleman Boulevard, you know. It's
11 somewhat lit, you know. You can see, you know. Right
12 where we were at, I think there was a streetlight there,
13 but there's a big old oak tree right there, and it was
14 still dark right there. But, I mean, you could still
15 see. It's not pitch black.

16 Q. Okay. Where on Coleman were you when the robbery
17 began?

18 A. Right under that big oak tree where the steps come
19 down from the farmer's market, right before the school.

20 Q. I'll show you, Mr. McElhenney, State's Exhibit 2.
21 Could you point out for the jury, please, where you were
22 referring to with this oak tree where the robbery
23 occurred.

24 A. Yeah. This is the oak tree right there.

25 Q. Where did the robbery occur?

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1 A. Right there.

2 Q. Okay. Now, Mr. McElhenney, please tell the jury
3 your account of the robbery that occurred on May 7, 2013
4 there by that oak tree.

5 A. Me and Shane left Art's. I think they had an
6 intermission of the band. We left Art's and started
7 walking back toward our house on Coleman. As we got up,
8 didn't see nobody. That's why they called it -- you
9 know, it was silent as stone when they jumped out, but as
10 we got up toward that tree, that's when one of them
11 jumped out with a hoody and went straight for me with the
12 gun in my stomach, and I think I mumbled, Man, you got to
13 be kidding me.

14 And I threw my stuff immediately to the ground
15 because I thought he was going to shoot me. I was
16 sitting there just waiting, sitting there waiting for
17 something to happen. I was waiting for him to shoot me,
18 and I didn't get a good look at him. I know he had a
19 hoody. I know when he threw the stuff to the ground the
20 other two jumped right on top of it.

21 Q. Okay. You say the other two. How many robbers
22 were there?

23 A. Three.

24 Q. And one of them had the gun. You said you threw
25 your stuff on the ground. What did the other two do, the

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1 other two that didn't have the gun?

2 A. Those were the two that were on the ground.

3 Q. And what was the property that you had thrown on
4 the ground?

5 A. My wallet and my phone.

6 Q. How did they go to the ground to get it?

7 A. They were all jacked up. I mean, you know, it was
8 crazy. They was always fast, you know. Like Shane said,
9 they were kind of corralling us. It was really fast,
10 man. They immediately went to the ground for my stuff.

11 Q. What did you do after you threw your stuff down?

12 A. I saw them pop the gun up to Shane's head, and I
13 said, Oh, my God, that's going to get crazy.

14 And then just within ten seconds, our hero comes
15 running across Coleman. I could heard him striding
16 across Coleman, and I guess he said, Freeze. Get down on
17 the ground, whatever, but I know I went to the ground.

18 And they took off running toward the school,
19 across toward and he took chase to them and
20 then came right back to us a couple minutes after and
21 then walked -- I think the reason why we didn't go to
22 that gas station was because we were at an angle, coming
23 from -- you know what I'm saying, the gas station is
24 here, and we're coming at an angle this way.

25 So we kind of took a short cut to Wild Wings to go

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1 to that gas station, and they wanted us to wait from
2 where I was, and we were all fired up. I mean, it was
3 crazy.

4 Q. Okay. Well, I want to go back to the actual
5 robbery for a few items.

6 Where, again, was the gun as it was pointed at
7 you?

8 A. He had jammed it in my stomach. At the time I had
9 been battling these hernias, and I literally had one the
10 size of a watermelon here and one the size of a
11 cantaloupe here, and he jammed it into this one right
12 here. That's when I just -- I said, Oh, crap, he's going
13 to shoot me.

14 I kept waiting -- I might have even closed my eyes
15 and said, Okay. We'll get this taken care of now.

16 Q. Well, can you give a -- what do you remember about
17 the three individuals that robbed you?

18 A. I don't remember much. They all had hoodies, and,
19 like I said, I was more worried about the gun..

20 Q. Okay.

21 A. I thought he was going to -- I thought for sure he
22 was going to shoot me, you know.

23 Q. Do you know for a fact they all had hoodies or --

24 A. I know two of them had hoodies. The one with the
25 gun had the hoody. That much I know.

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1 Q. What was the general coloring?

2 A. I don't remember. I couldn't tell you what color
3 pants they were wearing. I couldn't tell you. I think
4 it was dark gray, black, something like that.

5 Q. And, again, how were these three individuals
6 behaving towards you?

7 A. They were jacked up, jacked up.

8 Q. Were they aggressive in any way?

9 A. Oh, yeah; oh, yeah, yeah.

10 Q. How many, all of them or some of them were being
11 that way or were they all?

12 A. All three of them.

13 Q. What do you remember about the gun that was
14 pointed at you?

15 A. You know, I remember being a revolver, but I'm old
16 school and my dad used to have a nickle plated, so maybe
17 I put two and two -- I thought it might have been a
18 nickle-plated gun, but I knew it was a revolver for sure.
19 I mean, that's one thing I was definitely concentrating
20 on, was the gun itself.

21 Q. And, again, what was the property that you gave to
22 the robbers?

23 A. A leather wallet that my daughter had given me.
24 Had a blue marlin on it, and my little flip phone, not a
25 smart phone, but the old flip phones, and probably \$60

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1 cash that was in the wallet, my ID; I'm not sure about
2 credit cards that were in there.

3 Q. Did the robbers take those things, as far as you
4 could see?

5 A. Yeah.

6 Q. After the robbery occurred and Officer Gillespie,
7 you said, took you to Wild Wings, what did you do then?

8 A. Well, if you ever had hernias, that sucker started
9 coming out, so I was like, You know what? I think I'm
10 going to go and get them to push it back in.

11 So Shane talked me into going and taking a ride
12 back to the hospital, so they called EMS and I left.

13 Q. Were you in pain?

14 A. Yeah, I was hurting. Again, I might have done it
15 myself, but, you know, it all happened so quick. It
16 could have been when I threw myself on the ground because
17 I thought there was going to be a shootout at the OK
18 Corral. I wanted to make sure I was okay.

19 Q. What was your phone number at that time?

20 A. . That's what it is now.

21 Q. Did you ever get your phone back?

22 A. Yeah. My friend had called me from Michigan
23 saying that a guy -- they were just building Moultrie
24 Middle School at the time, or -- well, they were actually
25 finishing it up, and one of the workers found it in the

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1 street, and I think a detective went and met the guy and
2 got it.

3 Q. And was it returned to you then?

4 A. For -- what now?

5 Q. Was it returned to you?

6 A. Yeah. I ended up getting it back about a week
7 later. I think they took it for evidence for a little
8 while. Well, they did something with it. I don't know
9 what.

10 MR. ZIEGLER: May I approach the witness,
11 Your Honor?

12 BY MR. ZIEGLER:

13 Q. Mr. McElhenney do you recognize that?

14 A. It's my wallet, blue marlin.

15 Q. What did you say was on it?

16 A. Blue marlin. My daughter got me this for
17 Christmas one year.

18 MR. ZIEGLER: For identification purposes,
19 this is State's Exhibit 3 that contains a wallet that
20 Mr. McElhenney identified. The State will not move it
21 into evidence at this time, but it's been identified.

22 THE COURT: All right.

23 BY MR. ZIEGLER:

24 Q. Finally, Mr. McElhenney, how did you feel during
25 and after this robbery?

1 A. I'll tell you one thing, I'm paranoid now. I
2 don't like people coming up behind me. I felt
3 intimidated, to be honest with you. I kind of felt like
4 Shane would have got a swung on him. I'm glad we didn't
5 because the gun was loaded. He probably would have shot
6 us.

7 MR. ZIEGLER: Court's indulgence, Your Honor.

8 No further questions for this witness, Your
9 Honor. Mr. McElhenney, please answer any questions the
10 defense has for you. Thank you.

11 THE COURT: Cross?

12 MR. HAWKINS: Thank you.

13 CROSS-EXAMINATION

14 BY MR. HAWKINS:

15 Q. Mr. McElhenney, I'm Ed Hawkins. I'm real sorry
16 for what happened to you guys that night, and I'll try
17 not to prolong this, but I have to ask you a few
18 questions.

19 I think you testified it's fairly well lit where
20 y'all were, and where you were, you're close to, directly
21 across the street from, that gas station; is that
22 correct?

23 A. No. The gas station is farther down.

24 Q. A little bit further past that?

25 A. Yeah.

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1 Q. So you were at the entrance to the Wild Wings
2 shopping center?

3 A. Yeah. Well, the shopping center starts at that
4 red light and goes almost all the way to the other red
5 light.

6 Q. But there are quite a few streetlights right about
7 there where you are?

8 A. Yeah. There's some over there on the Moultrie
9 sidewalk as well.

10 Q. Right. And you're familiar with the farmer's
11 market area to know there is a couple of flood lights in
12 the farmer's market?

13 A. I go there in the daytime for the farmer's market,
14 but I'm not sure at night.

15 Q. Okay. And the man with the gun -- you know, you
16 can say, Give me all your money, and someone would
17 consider that jamming it into your stomach, but you're
18 saying literally jammed it in your stomach?

19 A. Yes, sir.

20 Q. And you felt immediate pain from that?

21 A. Yeah, yeah, yeah.

22 Q. And --

23 A. I mean, you know, yeah. I felt pain, I guess. My
24 adrenaline was so jacked up, you know, that --

25 Q. Sure.

1 A. -- first instinct was to grab him, but I'm glad I
2 didn't.

3 Q. Me too. I'm glad you got out of there. You said
4 you really didn't get a good look at these guys, except
5 for the guy with the gun?

6 A. Not really. I was worried about the gun. You
7 know, they were -- they were moving a lot, and, you know,
8 like I said, I thought for sure he was just going to
9 shoot me, you know, so I think that's why I wasn't really
10 -- I didn't care what they looked like.

11 Q. I understand. And so basically the best you can
12 say is it was three black males dressed in dark clothing.
13 All three had hoodies or something like that, correct?

14 A. Two of them I know did.

15 Q. Okay. And it was fairly soon after the robbery,
16 maybe ten or fifteen minutes when -- you're in pain from
17 the get-go, but only about ten minutes or so later you're
18 asking to be treated; is that correct?

19 A. No. It's probably about 20 minutes, I would
20 think. It had to be long enough for us to walk across
21 Coleman.

22 Q. Right.

23 A. And then walk toward Wild Wings, and Shane was
24 right. His car was parked down in that shopping center,
25 so, you know, that could have been a reason why we were

—ROBERT GLENN McELHENNEY - CROSS—

1 heading that way as well.

2 Q. And were you ever aware while you were there in
3 front of Wild Wings that there was at least one suspect
4 in custody?

5 A. No, sir.

6 Q. Okay. And you heard me asking questions about the
7 show-up. Did they ever bring a suspect in front of you?

8 A. No, sir.

9 Q. And no lineup either, and you didn't give a
10 statement that night because you went to the hospital?

11 A. Yeah. It was about a week later. I gave a
12 statement to Officer Eckert.

13 Q. And that statement, you said you saw a gun more
14 than you saw anything else, and three black males dressed
15 in dark clothing is the best you could see there?

16 A. Yeah. Like I said, I was worried about the gun.
17 My concentration was on the gun.

18 Q. I don't think anybody could blame you for that,
19 Mr. McElhenney.

20 MR. HAWKINS: Court's indulgence.

21 I have no further questions.

22 THE COURT: Redirect?

23 MR. ZIEGLER: No further questions, Your
24 Honor.

25 THE COURT: All right. You can step down.

1 All right, folks. Let's take five minutes.
2 Everybody just came back from lunch when we started, so
3 let's let everybody go to the rest room, and we'll talk
4 about our schedule for the rest of the afternoon and
5 we'll come back with the next witness when you have a
6 chance.

7 So we'll have you back in about ten, fifteen
8 minutes.

9 (In open court, jury not present.)

10 MR. ZIEGLER: We have a couple issues that
11 have come up about the evidence. The State intends to
12 introduce the backpack and letters that were in the
13 backpack in the vehicle of the third suspect, and the
14 third suspect is not on trial today and the defense will
15 object to the introduction of the backpack and the
16 letters. We have argument at the appropriate time on
17 that.

18 THE COURT: Do you want to put that in on
19 this witness at this time?

20 MR. ZIEGLER: No. It would be with Corporal
21 Myers later today.

22 THE COURT: Well, let's deal with this
23 witness, see where we're going today.

24 (Recess taken.)

25 MR. BUCHANAN: Judge, we're ready.

1 THE COURT: Okay. Bring the jury in. Myers
2 is the third person you wanted to call, right?

3 (In open court, jury present.)

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

6 MR. ZIEGLER: State calls Officer Alex
7 Gillespie.

8 MR. BUCHANAN: Judge, may we approach,
9 please?

10 (Discussion held at sidebar.)

11 THE COURT: Let me send the jury out while we
12 discuss this for a second.

13 (In open court, jury not present.)

14 THE COURT: All right. Okay. On the record?

15 MR. BUCHANAN: Judge, first off, I want to
16 apologize to the Court. It's my understanding that Alex
17 was going to bring in or attempt to bring in this
18 information through Officer Myers, and we were going to
19 do that after this witness.

20 As this witness takes the stand, I thought he
21 was going to be discussing the actual robbery, but he's
22 going to go into detail, I believe, on a notebook --
23 excuse me, a knapsack that was found in the car of the
24 codefendant.

25 THE COURT: Did he find it?

1 MR. ZIEGLER: Your Honor, we do not plan to
2 introduce that backpack through Officer Gillespie, but
3 Officer Gillespie is the one who made the traffic stop on
4 the vehicle of the codefendant.

5 THE COURT: Okay.

6 MR. ZIEGLER: And through the normal course
7 of this investigation of this entire property, they
8 pulled over a third suspect.

9 THE COURT: Okay.

10 MR. ZIEGLER: And that's part of the
11 investigation of the entire case, regardless if that
12 third defendant is being tried or not.

13 THE COURT: I'm missing -- how do you think
14 you can keep that out?

15 MR. BUCHANAN: Judge, it just seemed unfair
16 that they've severed this other person. Their lawyer
17 could have moved and tried to keep anything out that was
18 taken out of that car. There's Fourth Amendment issues
19 and so on.

20 If you're going to allow us to do that, we'll
21 make any motions at that time that we think may be
22 necessary.

23 THE COURT: I guess I'm just a little bit
24 confused as to why you're arguing this right now. You're
25 not trying to get it through this witness, you're just

1 linking this witness to the stop? Is that the deal?

2 MR. BUCHANAN: I thought they were, Your
3 Honor, and I apologize --

4 MR. HAWKINS: He's not going to discuss the
5 backpack at all?

6 MR. ZIEGLER: We don't -- no, we don't need
7 him to -- no. If you rule that he shouldn't, then --

8 THE COURT: I don't know what's coming on. I
9 wasn't trying this case yesterday, so I don't know
10 anything about it. All I heard about his role today is
11 he's the guy that ran across the street, said, Hey, stop.

12 Those guys ran off and he chased them. Other
13 than that, I don't know anything about it, so if he's
14 going to do something other than testify that's what he
15 did, I couldn't catch them, and I came back, took these
16 guys across the street to the Wild Wing or whatever it
17 is, I don't know what the purpose of this has got to do
18 with the knapsack.

19 MR. ZIEGLER: He then searched the area for
20 any more suspects. There was a third suspect he was
21 searching for, and, in the course of that search, made a
22 traffic stop.

23 THE COURT: Okay.

24 MR. ZIEGLER: On a vehicle driven by the
25 third suspect, so after he interrupted the robbery, he

1 continued to investigate the case. So --

2 THE COURT: Okay. He can testify he did
3 that. He stopped another car. Did he search the car or
4 did someone else search?

5 MR. ZIEGLER: He assisted with the search,
6 but someone else led the search and actually found the
7 items in it, but he was present for the search.

8 THE COURT: Okay. So that's just what you
9 want him to say, I stopped another car. Somebody else
10 conducted the search, end his line of questioning, and
11 presumably somebody else came in and did the search?

12 Help me out here. I do not know what these
13 people are going to say.

14 MR. ZIEGLER: All right. Well, he did
15 participate in the search, so I would think that his
16 personal observations from that search would be able to
17 be introduced.

18 THE COURT: Okay.

19 MR. EVANS: I think what they're concerned
20 with is him saying we found letters with my client's name
21 on it in the course of the search without introducing the
22 evidence. We don't intend to introduce the physical
23 evidence through this witness, but I guess you guys are
24 concerned about him bringing that fact up, right?

25 MR. HAWKINS: Sure.

1 MR. EVANS: And I think our position is he is
2 entitled to -- I mean, I think it kind of flows together.
3 I don't think they have standing to object, not to
4 abandoned property or, you know, property coming up in
5 someone else's vehicle, but I think it kind of flows
6 together, but I think if the letters are inadmissible, he
7 can't prove them.

8 THE COURT: You're not trying to get in the
9 contents through this witness, correct?

10 MR. ZIEGLER: Correct, not the physical --

11 THE COURT: He's just going to testify that a
12 search took place, he participated in it, and they found
13 a knapsack, and then somebody else is going to come in
14 and say, This is what was in that knapsack? Is that
15 where we're going with this?

16 MR. ZIEGLER: Yes.

17 THE COURT: Okay. I think it's perfectly
18 fine for this witness to testify to what he did that
19 night. Okay?

20 MR. HAWKINS: We're not objecting to anything
21 coming in about the counterfeit.

22 MR. EVANS: So we're not going to go into the
23 contents of the backpack with this witness.

24 MR. ZIEGLER: He can say what they are.

25 THE COURT: No, he can say he stopped the car

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1 and he found the knapsack.. You're telling me two
2 different things now. Stick with what the deal is. He
3 either inventoried the knapsack and you want to get it in
4 through him, or you didn't. Which is it?

5 MR. ZIEGLER: He did not inventory the
6 knapsack, no.

7 THE COURT: Okay. Well, then you couldn't
8 possibly get it in through him. Okay? All right?

9 MR. ZIEGLER: Yes.

10 THE COURT: All right. Everybody ready to go
11 now? Bring the jury back in.

12 (In open court, jury present.)

13 You may begin.

14 MR. ZIEGLER: Thank you, Your Honor.

15 ALEX GILLESPIE,

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

18 DIRECT EXAMINATION

19 BY MR. ZIEGLER:

20 Q. Good afternoon, Officer Gillespie.

21 A. Good afternoon, sir.

22 Q. Which law enforcement agency are you a member of?

23 A. I work for the Mount Pleasant police department.

24 Q. What's your current assignment with Mount
25 Pleasant?

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1 A. Currently I work for the patrol division, sir.

2 Q. And what are your duties in that?

3 A. You answer calls in an assigned district, any
4 calls that come out. If you're in that area, you go to
5 that area and handle calls.

6 Q. How long have you been on that assignment?

7 A. It will be four years in May that I've been
8 working for Mount Pleasant.

9 Q. What about your total time in law enforcement?

10 A. Prior to Mount Pleasant, I worked at a prison for
11 mix months, so -- totalling about four years up to this
12 point I would say, sir.

13 Q. Officer Gillespie, I want to direct you to May 7,
14 2013, just after midnight. Do you remember witnessing a
15 robbery that night?

16 A. Yes, I do.

17 Q. Were you on duty at the time?

18 A. Yes, I was.

19 Q. Where in Mount Pleasant were you working that
20 night?

21 A. My assigned district that night, it's referred to
22 as district two. Basically it's the Ravenel Bridge Chuck
23 Dawley Boulevard -- excuse me. Coleman Boulevard, Chuck
24 Dawley, Chuck Dawley to Johnnie Dodds, and then
25 everything in the middle, which includes Moultrie Plaza,

ALEX GILLESPIE - DIRECT

1 Brookgreen Shopping Center, Brookgreen neighborhood,
2 Shemwood, Cooper Estates, areas like that, sir.

3 Q. Were you a patrol officer at that time?

4 A. Yes, sir, I was.

5 Q. Specifically, what area were you in when you
6 witnessed this robbery?

7 A. I was conducting business checks. We're assigned
8 to check each of the businesses during third shift. You
9 basically go out secure the door handle to make sure that
10 business is secure. You leave a note stating that you
11 checked that business and what time, so I was across the
12 street at Moultrie Middle School from Coleman Boulevard.
13 There is a BP gas station, and next to it there is a
14 little plaza. One of the places is called London hair
15 salon.

16 Basically I saw two gentlemen, the two victims,
17 walking down Coleman. I noticed them. It was about
18 12:15. They were talking a little loudly. I assumed
19 that they were leaving a bar somewhere, so I kind of said
20 to myself in my head, I'm going to get up with them as
21 soon as I check this door.

22 I turned around, I pulled on a door. A
23 second later, I turned back around, and the two victims
24 were then surrounded by three black males.

25 Q. And before we get into further details of that, in

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1 what county did this occur?

2 A. Charleston County, sir.

3 Q. Okay. And approximately what time did the robbery
4 occur?

5 A. Approximately 12:15 a.m.

6 Q. Okay. So you were at a door to a business, and
7 you saw two white males walking on a sidewalk?

8 A. Yes, sir.

9 Q. And then what happened after that?

10 A. Like I said, I saw them walking. They were
11 talking kind of loudly. Big thing we do is get out with
12 people at that time of night, make sure they're not too
13 intoxicated to be walking on the roadway.

14 So as I previously stated, I made a conscious note
15 to myself to get up with them as soon as I checked this
16 door. So I turned around, pulled on the door, a few
17 seconds later, turned back around. The same two males
18 that were walking north on Coleman were now surrounded by
19 three black males.

20 Q. And what did you do at that point?

21 A. I thought it was strange, but it looked like they
22 were talking back and forth, so I didn't really think
23 anything of it. I thought maybe they know them, so I
24 started walking across Coleman Boulevard. This section
25 of Coleman has five lanes. There is two northbound

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1 lanes, two southbound, and then the fifth lane would the
2 unprotected median.

3 As soon as I got to the middle lane, which would
4 be the unprotected median, I saw one of the victims'
5 hands go up in the air like this. At that point I knew
6 they were getting robbed. I immediately unholstered my
7 weapon, my handgun, and I yelled out, Hey.

8 As soon as I did that, the three black suspects,
9 black males, excuse me, turned toward me, and once they
10 realized I was a police officer, they ran.

11 Q. Where did they run?

12 A. Next to Moultrie Middle School on Coleman, there's
13 an area that they use for farmer's market. It's kind of
14 like a little plaza with an overhang. They cut directly
15 through that plaza and headed towards Simmons Street.

16 Q. And did you pursue them?

17 A. Yes, sir. I immediately began a foot pursuit with
18 these three gentleman. I followed them through that
19 plaza towards Simmons Street. While I was chasing them,
20 I also dispatched information stating, I'm chasing three
21 black males headed toward the area of Simmons Street.
22 They just performed a robbery.

23 When I got to Simmons Street, I saw I think at
24 least two of the suspects headed toward Rose Lane, which
25 is directly off Simmons, and I didn't know where the

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1 third suspect was. At that point, I decided to stop
2 pursuing on foot. I knew they had some type of weapon.
3 I didn't know what they had, and I didn't want to pursue
4 them and put myself in danger, and I also wanted to go
5 check on the victims at that point.

6 I told dispatch that I had lost visual contact
7 with the suspects. I returned back to the victims and
8 dispatched the information.

9 Q. Thank you, Officer Gillespie. I want to go back
10 to a few details.

11 How many robbers did you see?

12 A. I saw three black males, sir.

13 Q. And could you tell what kind of clothing they were
14 wearing?

15 A. Not specifically. I know they were all dressed in
16 dark clothing. That night I saw one of them had a black
17 hat on it. It looked like white or silver lettering on
18 it, and there was at least one hooded sweatshirt on one
19 of the suspects.

20 Q. Do you remember seeing anybody wear shorts?

21 A. I do not recall that, sir.

22 Q. Now, when you returned to deal with the two -- to
23 ensure the victims' safety, what did you do with the
24 victims?

25 A. I immediately asked them what had happened, and

ALEX GILLESPIE - DIRECT

1 one of the victims stated that they were robbed at
2 gunpoint. They specifically said it was a Smith & Wesson
3 38 caliber. I asked him how he knew what kind of weapon
4 that was. He said a family member had that same handgun.

5 I immediately told my other officers they were
6 armed with a handgun. I asked them if they needed EMS.
7 One of them stated they did. They had some medical
8 issues that needed to be worked out. I then moved them
9 from that position on Coleman, across the street, to --
10 it's called Moultrie Plaza, and there is a Wild Wings
11 there. It is a well-lit area where we were standing. It
12 was pretty dark out, and for their safety and mine, I
13 decided to move them to a more lit area, so that's what
14 we did.

15 Q. And did -- where did the victims go from there,
16 once other officers arrived?

17 A. Once other officers arrived, one of the victims, I
18 believe -- is it Mr. McElhenney? He was transported with
19 EMS with another detective, and the other victim,
20 Mr. Burnett, I believe, went to headquarters with another
21 detective to speak with them in their vehicle.

22 Q. Okay. And what was the demeanor of the victims
23 when you were with them?

24 A. They were definitely in shock and very scared.
25 They kept repeating, He shoved a gun into my stomach.

—ALEX GILLESPIE - DIRECT—

1 Another one, the other victim, stated, He pointed the gun
2 directly in my face.

3 At that time one of the victims, their wife was
4 pregnant, and he said all he was thinking about was his
5 unborn child. They were definitely in fear for their
6 life. They were very scared. They were hysterical.

7 Q. Do you remember over dispatch they said there were
8 four robbers at one point?

9 A. I do remember that. I only saw three, but through
10 talking with the victims, they stated that there could be
11 three or four. They weren't exactly positive, so at that
12 point, I did advise dispatch there might be possibly
13 four, and that was strictly going off of what the victim
14 stated, not what I had observed.

15 MR. ZIEGLER: May I approach the witness,
16 Your Honor?

17 THE COURT: Uh-huh.

18 BY MR. ZIEGLER:

19 Q. Officer Gillespie, I'm going to show you what will
20 be marked for identification purposes as State's Exhibit
21 5 and State's Exhibit 6. Do you recognize these?

22 A. Yes, sir.

23 Q. What are those?

24 A. These are photographs of the area in which the
25 robbery took place. The bottom photo is actually where I

ALEX GILLESPIE - DIRECT

1 was standing, the business door I was checking, and then
2 across the street is where the victims were robbed.

3 MR. ZIEGLER: Your Honor, the State moves to
4 admit State's Exhibits 5 and 6 into evidence.

5 MR. HAWKINS: No objection, Your Honor.

6 THE COURT: Admitted.

7 (State's Exhibit Nos. 5 and 6 were marked for
8 identification and admitted into evidence.)

9 BY MR. ZIEGLER:

10 Q. This is State's Exhibit 6 now being shown on the
11 projector. Officer Gillespie, could you please point out
12 for the jury anything of note in this photo that you just
13 mentioned before?

14 A. May I stand up?

15 Q. Yes.

16 A. Okay. I'll just say that right there on the left,
17 the white building, that's the gas station. Directly to
18 the right, the corner of that red building, there is a
19 doorway on the far left, and that's, as I stated, where I
20 turned around, checked the door handle, turned back
21 around and the two victims were surrounded by three black
22 males.

23 Q. And do you recognize this photo as well?

24 A. Yes, sir. Right where the roadway curves on the
25 right side of the photograph, that's the entrance of the

—ALEX GILLESPIE - DIRECT—

1 roundabout to Moultrie Middle School, and the victims
2 were standing within that area before that driveway, and
3 that's where they were robbed.

4 Q. And when you first saw these white males, where in
5 this picture were you?

6 A. Like I said, you can see the green sign on the
7 left top right there. Just to the right of that was the
8 doorway, so I was standing there and I saw them walking
9 up the sidewalk.

10 Q. Okay. And how did you approach them across the
11 street?

12 A. Initially, I was just walking, because, like I
13 said, they didn't look like they were in distress
14 originally. It was strange to me to see two people and
15 then a second later five people, so I was initially
16 walking, and, like I said, when I got to the middle lane,
17 the median, that's when I saw one of the victims' hands
18 go up, and at that point I unholstered my weapon and
19 yelled hey and ran at them.

20 Q. Okay. Now, after you -- after the victims left
21 the scene, were you at any time made aware that any
22 suspects had been located?

23 A. Yes. It was now Detective Ivey. At the time it
24 was just Officer --

25 MR. HAWKINS: Objection. I believe there is

ALEX GILLESPIE - DIRECT

1 some hearsay testimony here.

2 THE COURT: Sustained. He can't say what
3 somebody else said.

4 BY MR. ZIEGLER:

5 Q. Did you participate in the search for any suspects
6 in this case after that --

7 A. Yes, and all I was going to state is another
8 officer said -- he located -- another officer located
9 another suspect.

10 Q. And when you were searching for a suspect,
11 suspects, how many were you searching for?

12 A. I was searching for one. At that point we already
13 had two suspects detained.

14 Q. Where did you search?

15 A. My sergeant -- I was directed to go to the
16 are of Greenwood Street, Bank Street. That's
17 where they found two of the suspects, so we were looking
18 for the third suspect in that area.

19 Q. Approximately how long did you look for that
20 suspect?

21 A. We were looking for approximately 45 minutes on
22 foot in the surrounding area, just trying to canvass the
23 area and try to get the area searched for them.

24 Q. And when did you leave the area? What happened
25 then?

—ALEX GILLESPIE - DIRECT—

1 A. After searching for approximately 45 minutes, our
2 sergeant had advised -- he gathered us all up and he
3 advised us -- we were advised to --

4 MR. HAWKINS: Objection. I know the officer
5 is doing his best to not say what other people are
6 telling him, but he's still doing it.

7 THE COURT: All right.

8 MR. ZIEGLER: Your Honor, the State would
9 submit those items aren't offered to prove the truth of
10 that, it's just --

11 THE COURT: What are you offering it for?

12 MR. ZIEGLER: Just to show how Officer
13 Gillespie proceeded in the investigation and why he --
14 what he knew, why he proceeded in the way that he did.

15 MR. HAWKINS: I think he can testify as to
16 what he did without testifying as to whether he was told
17 to do that or based on this information I did something.
18 He could testify about what he did.

19 THE COURT: Sustained.

20 BY MR. ZIEGLER:

21 Q. Did you leave the area?

22 A. Yes. We had not located the third suspect, so I
23 left the area in hopes to broaden our perimeter, I guess
24 you could say. We were hoping that the third suspect
25 would leave the area, thinking that we had given up and

ALEX GILLESPIE - DIRECT

1 we weren't going to look for them any longer.

2 Q. And when you were leaving the area, what happened?

3 A. I was driving down Morrison Street, towards Royall
4 Avenue, which is in the and when I got to
5 the stop sign at Morrison Street and Royall, a green Jeep
6 driven by a black male drove past me, towards Coleman
7 Boulevard at a high rate of speed.

8 I immediately got behind the green Jeep and I
9 based that vehicle driving approximately 35 miles per
10 hour in a 25 mile per hour zone so I initiated a traffic
11 stop on that vehicle.

12 Q. Approximately how long did that occur after the
13 incident?

14 A. I would say -- approximately maybe an hour or so,
15 because we were in the area looking for -- approximately
16 45 minutes. I was out with the victims for approximately
17 15, 20 minutes after the incident occurred, so I would
18 say a little bit over an hour, sir.

19 Q. And where did this traffic stop end up? Where did
20 it occur?

21 A. I'm not sure of the address, but it's an Exxon gas
22 station on Coleman. It's directly across from Page's
23 Okra Grill on Coleman Boulevard.

24 Q. Approximately how far was that from the location
25 of the robbery incident?

ALEX GILLESPIE - DIRECT

1 A. If you were to go straight down Coleman, I would
2 say less than a quarter mile away from where the robbery
3 occurred, sir.

4 Q. And what did you do once you initiated that
5 traffic stop? Did the driver stop?

6 A. Yes, they did stop. I advised dispatch of the
7 traffic stop, the reason for the stop. I advised that it
8 was driven by one black male. We were looking for a
9 suspect that fit that description. That's not why I
10 stopped them. I stopped them for the speeding, of
11 course. I did not approach the vehicle until my sergeant
12 came on the scene. I wanted a second officer because he
13 could have been possibly armed.

14 Q. And did you ever approach the vehicle?

15 A. Yes, I did. When my sergeant arrived on scene, we
16 approached the vehicle. When we're approaching it, the
17 standard procedure is to shine your flashlight in the
18 back of the vehicle to ensure there is no weapons, no one
19 hiding in the back of the car.

20 When I was approaching the vehicle, I did see a
21 black baseball cap with white lettering and a black
22 hooded sweatshirt along with Latex gloves in the back
23 seat of the car, and I made contact with the driver, who
24 was Darren Belt.

25 Q. And do you remember anything about Mr. Belt's

1 description?

2 A. Yes. His hair was in kind of two cornrolls {sic},
3 and it came down to two -- not braids, but cornrolls on
4 the back of his head. Additionally, there is something
5 wrong with his right eye. I don't know if it's a
6 disfigurement, but it definitely stood out to me.

7 Q. And did you -- at what point was this person
8 eventually arrested? Did you arrest this person or --

9 A. I did not arrest them, no, sir.

10 Q. Okay. Was he arrested?

11 A. Yes, he was.

12 Q. Did you issue him any citations?

13 A. Yes, I did. I issued him a citation for speeding.

14 Q. And after this driver, Mr. Darren Belt, you said,
15 was arrested, was his vehicle searched, as far as you
16 know?

17 A. Yes, it was.

18 Q. Okay. Officer Gillespie, I'm now going to show
19 you what's been marked as State's Exhibit 4. Do you
20 recognize this?

21 A. Yes, I do.

22 Q. What is it?

23 A. It's a map of Coleman Boulevard and the
24 surrounding areas in Mount Pleasant.

25 MR. ZIEGLER: The State moves to admit

ALEX GILLESPIE - DIRECT

1 State's Exhibit 4 into evidence.

2 THE COURT: What is it?

3 MR. ZIEGLER: A map.

4 THE COURT: Any objection?

5 MR. HAWKINS: No, Your Honor.

6 THE COURT: Admitted.

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

9 BY MR. ZIEGLER:

10 Q. Officer Gillespie, please show the jury on this
11 map where the incident occurred, the robbery incident,
12 and also where this traffic stop occurred.

13 A. Moultrie Middle School is right here. Where I
14 would have been would have been right across the street
15 right there at this building, and the robbery occurred in
16 approximately this area right there.

17 Q. And where did the traffic stop occur?

18 A. The traffic stop was right here. The gas station
19 is right here at this intersection right there.

20 Q. And where was the area you were patrolling before
21 making that traffic stop?

22 A. We were patrolling in the area on foot in the area
23 of Greenwich, King Street, right in this area right here
24 on foot, and then when I was advised to leave the area, I
25 was driving down Morrison Street, and I saw the suspect

ALEX GILLESPIE - DIRECT

1 driving the green Jeep in this direction at a high rate
2 of speed.

3 Q. Okay.

4 MR. ZIEGLER: Court's indulgence, Your Honor.
5 May I approach the witness, Your Honor?

6 THE COURT: You may.

7 BY MR. ZIEGLER:

8 Q. Officer Gillespie, would you please mark on this
9 map the two areas you just showed us; first, the incident
10 location of the robbery; second, the location of the
11 traffic stop, approximately. You can abbreviate IL and
12 the traffic stop location, please.

13 State now displaying, again, State's Exhibit
14 4. Are those your markings, Officer Gillespie, on this
15 map?

16 A. Yes, they are.

17 Q. And is that where the incident location was and
18 the traffic stop was?

19 A. Yes. The spot marked IL is the incident; TS is
20 for traffic stop.

21 MR. ZIEGLER: Court's indulgence, please,
22 Your Honor.

23 State has no further questions for this
24 witness, Your Honor. Officer Gillespie, please answer
25 any questions the defense has for you.

ALEX GILLESPIE - CROSS

1 THE WITNESS: Yes, sir.

2 THE COURT: All right. Cross?

3 CROSS-EXAMINATION

4 BY MR. HAWKINS:

5 Q. Good afternoon, Officer Gillespie.

6 A. Good afternoon, sir.

7 Q. I want to get clarification, if I can. First of
8 all, as far as the location, I understand you were in
9 front of that salon, and you had previously seen
10 Mr. Burnett and McElhenney prior to that; is that
11 correct?

12 A. Yes, sir.

13 Q. And after you put the note on the door, you turned
14 around and you see -- is that when you saw
15 Mr. McElhenney, Mr. Burnett, and these three black males?

16 A. Yes, sir.

17 Q. So you're still standing on the opposite side of
18 Coleman Boulevard from them and angled down a little bit
19 down the street from them; is that correct?

20 A. Yes, it is.

21 Q. And so then you start walking -- decide to go over
22 there and check this situation out?

23 A. That's correct.

24 Q. And there is nothing -- just some instinct told
25 you that something is a little odd, but other than that,

1 nothing is really going on at that point in your mind,
2 right?

3 A. At that point, no.

4 Q. And so you start walking into the road, into
5 Coleman Boulevard.

6 A. Yes, sir.

7 Q. Okay. And if I'm saying it wrong, just stop me,
8 but my understanding is you're walking into Coleman
9 Boulevard, kind of at an angle across, not right across,
10 but kind of an angle; is that right?

11 A. Yes, at an angle directly towards them.

12 Q. And then toward the middle, there is basically
13 five lanes, as you testified?

14 A. Yes, sir.

15 Q. And you basically get into the middle lane, and at
16 that point, if I understood your testimony, that's when
17 you see the guys with their hands up; is that correct?

18 A. Yes. I saw one of the victims raise his hands in
19 the air.

20 Q. And could you tell me how close you were -- you're
21 in the middle of the turn lane, essentially, but how
22 close are you from where you are at that point to where
23 the victims and the three black suspects were?

24 A. I'm terrible at estimating distance, so I don't
25 know exactly how far I was, sir.

ALEX GILLESPIE - CROSS

1 Q. Well, were you farther than where -- from me to
2 you, from right here?

3 A. Yes, sir, I was.

4 Q. Substantially, just a little bit, or --

5 A. I would say a little bit, sir.

6 Q. Okay. So maybe the back of the courtroom
7 distance?

8 A. I would have to go back to that location, sir.

9 Q. And trust me, I'm not trying -- I know this is
10 hard. Don't ask me how many feet something is either,
11 but I'm just trying to give the jury some sort of a feel
12 how close you were.

13 A. I'm trying to remember how wide lanes are in the
14 road. I think it's approximately eight feet -- let's say
15 ten feet, to make it easy, two more lanes, that's 20
16 feet, and the sidewalk, I would say, is approximately
17 three, four feet wide. So let's say I was 30 feet away,
18 sir, approximately.

19 Q. And at that point, you immediately pull out your
20 gun?

21 A. Yes, sir.

22 Q. And did you immediately yell hey?

23 A. Yes, immediately.

24 Q. And did you immediately start running?

25 A. Once I yelled hey, they all three looked at me and

1 started to run once they looked at me.

2 Q. So you didn't run -- you didn't get any closer
3 than where you already were because at that point you
4 said hey and they ran.

5 A. Yes, sir.

6 Q. So that 30 feet you're talking about is about how
7 close you were when you last saw them?

8 A. A rough estimate, yes.

9 Q. Okay. Thanks. And I'm sure you're real familiar
10 with Coleman Boulevard. If you start at Simmons Street,
11 go down to the second driveway at Moultrie, there's six
12 streetlights there; does that sound right?

13 A. I wouldn't know, sir.

14 Q. But there's lots of streetlights through there?

15 A. In that area, it was actually a very dark area.
16 It wasn't well lit, in my opinion. There are
17 streetlights, though, yes, sir.

18 Q. And there is also streetlights up there around
19 Moultrie where the driveway is, the roundabout, I
20 believe?

21 A. I would imagine so.

22 Q. And there are a couple floodlights there in the
23 farmer's market; is that correct?

24 A. There are, but they were not on.

25 Q. They were not on that night?

ALEX GILLESPIE - CROSS

1 A. No, sir.

2 Q. At that point, you gave chase to the three
3 suspects.

4 A. I did, yes, sir.

5 Q. And you also got on your radio and called out a
6 description.

7 A. I think as far as my description went, it was
8 three black males, so, yes, sir, I did call in a
9 description.

10 Q. Three black males, and you told them that you were
11 in pursuit?

12 A. Yes. I believe I said dark clothing as well.

13 Q. And, Officer, all these -- from that point on, for
14 the next hour, at least, there is a whole lot of talk
15 back and forth on y'all's radio?

16 A. Yes, sir.

17 Q. And those conversations between you and your
18 sergeant and you and dispatch, those are all recorded,
19 aren't they?

20 A. Yes.

21 Q. Have you listened to the dispatch audio from that
22 night?

23 A. Yes, sir, I have.

24 Q. How recently was it when you listened to it?

25 A. I didn't listen to the whole thing, but I listened

ALEX GILLESPIE - CROSS

1 to the majority of it. I believe it was two or three
2 days ago, yes, sir.

3 Q. So you heard -- when you listened to it, you heard
4 called out a description three black males, dark
5 clothing; is that correct?

6 A. I'm not sure exactly what I said, no.

7 Q. But you think it was something close to that?

8 A. I don't recall.

9 Q. Do you remember saying anything more specific than
10 three black males in dark clothing?

11 A. I don't recall that, no, sir.

12 Q. And at some point, after a little bit while you're
13 still there on the scene and there with the two victims,
14 did you learn that there were two suspects in custody not
15 too far away?

16 A. Yes, sir, I did.

17 Q. And did you -- do you recall saying over your
18 radio when -- this discussion about the victims IDing
19 them, you told dispatch that one of the victims is pretty
20 shaken up, but I think the other one might be able to do
21 a show-up. Do you recall that?

22 A. I don't recall that, but I imagine that is what I
23 said, sir.

24 Q. So if I told you one of them could possibly do a
25 show-up, you wouldn't dispute that?

ALEX GILLESPIE - CROSS

1 A. If that's what the recording says, sir.

2 Q. Okay. And, Officer, when you were calling out
3 this description initially, as you're chasing these guys,
4 y'all are trained to give the best description you
5 possibly can, aren't you?

6 A. Yes, sir.

7 Q. And you know the better description you give to
8 the people on the radio the better chance of somebody
9 spotting them and catching them?

10 A. That is correct.

11 Q. So you gave the best description you could that
12 night.

13 A. Yes, at that point.

14 Q. Based on what you saw?

15 A. Yes, I did.

16 Q. Okay. And when you were talking to
17 Mr. McElhenney, is it your understanding, as you're
18 standing there and he's in some discomfort and some pain,
19 that -- you didn't hear his testimony today, did you?

20 A. No, sir, I did not.

21 Q. But he was clearly in substantial pain that night;
22 is that correct?

23 A. Yes, he was.

24 Q. And is it your understanding that pain was from
25 being poked hard in the stomach with a gun?

ALEX GILLESPIE - CROSS

1 A. Yes, sir. That is what he said.

2 Q. You're aware, aren't you, that there is cameras
3 pretty much all over Moultrie Middle School?

4 A. Not aware of that, but it's a school. I hope it
5 has surveillance cameras, sir.

6 Q. You never noticed any cameras on the corners of
7 that school there?

8 A. I can't say I have, sir.

9 Q. Do you have a reason to believe they're not there
10 if I tell you they're there?

11 A. I have no reason not to believe you, sir.

12 Q. In your investigation, did you y'all go check and
13 see whether there is any footage of the suspects on the
14 sidewalk or running through that area?

15 A. I personally did not, no, sir.

16 Q. Okay. And as far as that BP station, are you
17 aware that there is approximately nine cameras at that
18 BP station?

19 A. I'm not aware of that, no, sir.

20 Q. Any reason to dispute that there is nine cameras
21 at that station?

22 A. No, sir.

23 Q. Okay. And no reason to dispute that two of them
24 point towards this area?

25 A. Makes sense.

ALEX GILLESPIE - CROSS

1 Q. Coleman Boulevard?

2 A. Yes, sir.

3 Q. Did you take any steps to go back and check video
4 on those -- on that BP cameras?

5 A. I did not, but a patrol level officer, we did the
6 initial calls. With something that is this serious, it
7 is usually passed on to the investigator's office, and
8 that's what I did.

9 Q. And that was just not your job to do that; is that
10 correct?

11 A. I was not instructed to do that, no, sir.

12 Q. All right. Beg the Court's indulgence. Actually,
13 one last question.

14 You're going on vacation tomorrow, aren't
15 you? Did we misunderstand that?

16 A. I don't know what that has to do with this case,
17 sir.

18 Q. Pardon?

19 A. I don't know what that has to do with this case.

20 Q. I was going to wish you a happy vacation, if you
21 are going on vacation.

22 THE COURT: Redirect?

23 MR. ZIEGLER: No further questions.

24 THE COURT: You can step down.

25 THE WITNESS: Thank you, Your Honor.

DAVID IVEY - DIRECT

1 THE COURT: Do you need him for anything
2 else?

3 MR. HAWKINS: No, Your Honor.

4 THE COURT: You're free to go. You don't
5 have to come back.

6 MR. EVANS: State calls David Ivey.

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

10 DIRECT EXAMINATION

11 BY MR. EVANS:

12 Q. May it please the Court: Good afternoon,
13 Detective Ivey. How are you? Where are you currently
14 employed?

15 A. At the Mount Pleasant police department.

16 Q. What is your rank there?

17 A. I'm a detective.

18 Q. How long have you been with the Mount Pleasant
19 police department?

20 A. I've been there for three years now.

21 Q. What was your rank back in 2013?

22 A. I was a patrol officer.

23 Q. And on the evening of the incident why we're here,
24 where were you that evening?

25 A. When the incident occurred, I was doing a business

DAVID IVEY - DIRECT

1 check down on Ben Sawyer Boulevard when I heard on the
2 radio the incident had occurred.

3 Q. What is a business check?

4 A. Basically, we have a program called the Night
5 Watch Program where we are given a list of all the
6 businesses in the districts that we worked, and
7 throughout the course of the weeks that we're on that
8 shift, we have to go to every single business and check
9 the doors, make sure it's secure and things like that.

10 Q. Did you find out about this incident at some point
11 that night?

12 A. I did. I heard on the radio Officer Gillespie
13 saying an armed robbery had just occurred, so I decided
14 to respond to it.

15 Q. Where were you located when you got that radio
16 call?

17 A. On Ben Sawyer Boulevard.

18 Q. From your understanding of where the incident
19 location was, how far was that away?

20 A. I would estimate it's probably three miles down
21 the road.

22 Q. So what did you do when you got that radio call?

23 A. I immediately got back to my vehicle and drove to
24 where Officer Gillespie was near Moultrie Middle School.

25 Q. Did you make contact with Officer Gillespie?

DAVID IVEY - DIRECT

1 A. I believe -- to the best of my recollection, I
2 believe I pulled up on Coleman Boulevard and rolled down
3 my window and spoke to him that way, just to get the
4 details of what was happening.

5 Q. Did he give you a description of the suspects?

6 A. Yes, sir. He said there was three black male
7 suspects in dark clothing.

8 Q. What did you do as a result of that description?

9 A. As a result of that description, I decided to
10 drive into a neighborhood called the of Mount
11 Pleasant which is where he indicated the suspects had run
12 into, so I decided to start on Simmons Street, which was
13 the general direction traveling he indicated to me they
14 had run and started basically to drive through the
15 neighborhood streets.

16 Q. And I'm referring here to State's Exhibit 4.
17 Detective Ivey, do you recognize what this exhibit
18 depicts?

19 A. Yes, I do.

20 Q. Could you show for the jury sort of what you did
21 that night on this map. You can stand up and point if
22 you want.

23 A. Okay. Where it says IL, that's --

24 Q. You could actually go -- sure.

25 A. This is Coleman Boulevard in yellow. Ben Sawyer

DAVID IVEY - DIRECT

1 Boulevard -- Coleman Boulevard turns into Ben Sawyer
2 Boulevard much further down, so I was coming from this
3 direction. This IL stands for incident location, where
4 is the approximate location where the armed robbery
5 occurred. This is Moultrie Middle School right here, so
6 when I came, I was coming from this direction.

7 I spoke very briefly to Officer Gillespie, and
8 this is the general direction of travel that they said
9 the three suspects had run, so I began on Simmons Street
10 and began to drive in the general neighborhood area of
11 the which is what these streets represent
12 here.

13 Q. Did you make contact with anybody shortly
14 thereafter?

15 A. Yes, sir. This is King Street, right here. I was
16 driving on Royall Street. I turned on to King Street.
17 Right at the intersection of King Street -- on this map,
18 it says Street, but I believe it's
19 Street in this section and Hampp Fludd in this section.
20 At the intersection of King Street and Hampp Fludd, I
21 made contact with Mr. Hayes, the defendant.

22 Q. Which direction was he going?

23 A. When I saw him, he was about right here and he was
24 coming this direction, basically this direction, down
25 Hampp Fludd on to King Street.

DAVID IVEY - DIRECT

1 Q. He was on foot?

2 A. He was on foot, yes, sir.

3 Q. What did you do next?

4 A. I immediately --

5 Q. You can sit down.

6 A. Sure. When I first encountered him, I was coming
7 up King Street. Like I said, he was coming on Hampp
8 Fludd. I immediately radioed to dispatch that I was out
9 with a black male on King Street. And I got out of my
10 vehicle, and he saw me, as I was pulling up, and, you
11 know, hollered at me and put his hand up and started
12 walking towards my vehicle, as if to flag me down.

13 So I got out, and I immediately told him to
14 stop where he was and to show me his hands. I wanted to
15 make sure he wasn't armed.

16 Q. Why did you want to make sure he wasn't armed?

17 A. Well, my immediate thought when I first saw him --
18 I mean, I'm in the area of the to patrol for
19 three suspects who were involved in an armed robbery, so
20 my immediate thought when I saw him, is that he was very
21 likely involved in this armed robbery as a suspect, and
22 so since Officer Gillespie had told me one of the
23 suspects had a handgun, I wanted to make sure he didn't
24 have a handgun.

25 Q. What time of night was this?

DAVID IVEY - DIRECT

1 A. This is just after midnight. It was dark out.

2 Q. And is there -- do you remember what day of the
3 week it was?

4 A. I actually don't.

5 Q. Is there typically a lot of foot traffic in the
6 at this time of night?

7 A. No. The area of the was an area I had
8 worked for several months, and I had driven that area at
9 night and there was never anybody out.

10 Q. So you made contact, and he identified himself as
11 Ricky Hayes?

12 A. Yes.

13 Q. Did he say anything else to you?

14 A. Yes. He said that -- he said that two individuals
15 had just pointed a gun at him and tried to shoot him, and
16 so I inferred from that they actually fired a shot at
17 him, but we cleared that up and they had just pointed a
18 gun at him, is what he was saying, and that he was
19 running from them.

20 And as I was talking to him, it was very clear he
21 was very out of breath when I was speaking to him.

22 Q. What did he look like other than being out of
23 breath?

24 A. He had dark clothing on. He -- I mean, at one
25 point, I told him to sit down on the ground and he did

DAVID IVEY.- DIRECT

1 sit down, and then he laid down on the ground, from --
2 presumed he was very out of breath.

3 Q. Did you kind of continue to ask him questions
4 about this alleged robbery incident?

5 A. I did, I did. I asked him several questions
6 regarding -- I asked him, you know, how many people were
7 involved in this. I tried to get a description of those
8 individuals from him. I tried to find out where he was
9 at when this occurred, and I tried -- I asked him to
10 describe the handgun to me that they had used.

11 Q. Was he able to give you any useful information
12 about the armed robbery that he was the victim of,
13 apparently?

14 A. There was some confusion, and I watched the video
15 several times and I still am a little confused. He
16 said -- I couldn't tell if he said he was coming from his
17 cousin Doug's house or going to his cousin Doug's house,
18 but he said basically two guys, and one of them had a
19 hoody on, basically pointed at gun at him and he had run
20 from them.

21 He was in what he called a cut, which I think is
22 like a cut through, through the woods, is what I presume
23 from that.

24 Q. And this might have been kind of obvious from the
25 map, but about how far from the incident location did you

DAVID IVEY - DIRECT

1 make contact with the defendant?

2 A. It was approximately three or four blocks.

3 Q. All right.

4 MR. EVANS: May I approach the witness, Your
5 Honor?

6 THE COURT: Uh-huh.

7 BY MR. EVANS:

8 Q. I show you what has been marked as State's Exhibit
9 7. Would you describe what that is?

10 A. It was a video that was made from a camera from
11 the recording in my vehicle.

12 Q. And those are your initials on there?

13 A. Yes.

14 Q. And you have watched that?

15 A. Yes.

16

17 MR. EVANS: I move to admit this as State's
18 Exhibit 7 and publish a portion of it.

19 MR. HAWKINS: No objection, Your Honor.

20 THE COURT: Admitted. You may publish.

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

23 BY MR. EVANS:

24 Q. And, Detective Ivey, this video, could you explain
25 to us kind of how it's generated.

DAVID IVEY - DIRECT

1 A. It's a digital system that's in my vehicle. There
2 is a camera that is mounted to the very front of my
3 vehicle that points out through the dash and it records
4 on to an SD card.

5 Q. I apologize, Your Honor. Technology is never as
6 quick as we want it to be.

7 Do you recognize this? And kind of walk us
8 through what is going on.

9 A. I don't remember the exact street I was on, but
10 this is the area of the I'll recognize it
11 later when I turn on to Royall Street because it's right
12 before I turn on to King Street, where is where I
13 encountered Mr. Hayes.

14 Q. And there are other officers?

15 A. You see another patrol car. There were several in
16 the area.

17 Q. And was the audio on here?

18 A. Audio is a microphone that I have on my belt, and
19 there is also -- there is also a microphone inside the
20 vehicle as well that records, so --

21 Q. What are you doing right here?

22 A. If you saw that, that is my spotlight on the side
23 of my vehicle. This is either Perry Street or Bank
24 Street. That is the Edward Jenkins housing area that I
25 just passed. I believe this is on Royall Avenue that I'm

DAVID IVEY - DIRECT

1 on now. I'm about to turn on to King Street where I
2 encounter Mr. Hayes.

3 Q. Detective Ivey, what did you do at this point in
4 the video?

5 A. At this point, we had a supervisor come over there
6 who had a set of thermal -- we call them goggles.
7 They're like a thermal camera so we can use -- I'm not
8 really -- I mean, it detects heat, basically, when you
9 look through it. So we used -- we had him come over and
10 myself and Corporal Myers began to look in that area to
11 see if we could find a handgun from anywhere or another
12 suspect that was possibly involved.

13 Q. And referring to State's 4 again, so you continued
14 to look on foot in the area?

15 A. Yes.

16 Q. Where on that map were you looking?

17 A. Right here is King Street and Hampp Fludd and
18 Greenwich, and this is where we began looking, in that
19 general area off Hampp Fludd since that is where I had
20 seen Mr. Hayes coming from.

21 Q. Did you make contact with someone eventually on
22 Hampp Fludd Street?

23 A. I did. I made contact with Randi Parks.

24 Q. Describe that.

25 A. Myself and Corporal Myers were, like I said, on

DAVID IVEY - DIRECT.

1 Hampp Fludd, looking for a handgun or any suspects.
2 There was -- about midway down King Street and Morrison
3 Street on the left-hand side of the road there was a
4 large dump truck parked on the side of the road, and we
5 looked in the bed of the dump truck, in the cab of the
6 dump truck.

7 There was a huge brush pile in front. We were
8 looking all through that, and we were standing next to
9 the dump truck, basically in the street, and I happened
10 to look down underneath the dump truck and I saw a pair
11 of shoes underneath the dump truck and looked a little
12 bit further. I could see that there was an individual
13 actually laying on the drive axle of this truck. It was
14 a pretty large dump truck, and it was -- the bed of the
15 actual truck is at least this high off the ground. There
16 was plenty of room under there.

17 So we called the individual out. That was
18 Randi Parks. That's how he identified himself to us, and
19 he had two wallets on him. One wallet had an ID in it
20 for Randi Parks, and the other wallet had an ID inside of
21 it for Mr. McElhenney, who is one of the victims.

22 MR. EVANS: May I approach, Your Honor?

23 THE COURT: You may.

24 BY MR. EVANS:

25 Q. I'm handing you some photographs. Do you

DAVID IVEY - DIRECT

1 recognize those photographs?

2 A. Yes, I do.

3 Q. And did you, in fact, take some of those
4 photographs?

5 A. Yes. The first two are a printout from Google
6 maps, and the remainder are photographs that I actually
7 took with my camera.

8 Q. What do those depict?

9 A. Those depict -- the first five of them, it looks
10 like, are pictures of the dump truck that we found Randi
11 Parks underneath of, and then the last four are pictures
12 of Mr. McElhenney's wallet.

13 Q. Are each of those pictures a fair and accurate
14 representation of whatever they depict to be?

15 A. Yes.

16 MR. EVANS: Your Honor, at this time I would
17 seek to admit State's 8 through 18 into evidence and
18 publish for the jury.

19 THE COURT: Any objection?

20 MR. BUCHANAN: No objection, Your Honor.

21 THE COURT: They're admitted.

22 (State's Exhibit Nos. 8 through 18 were
23 marked for identification and admitted into evidence.)

24 BY MR. EVANS:

25 Q. I'm referring to State's Exhibit 8. Could you

DAVID IVEY - DIRECT

1 identify that for the jury, please.

2 A. Certainly. This is King Street, right here. This
3 is Hampp Fludd. When I initially encountered Mr. Hayes,
4 he was coming this direction down King Street. My
5 vehicle was driving this way down Hampp Fludd, and my
6 vehicle was driving this way up King Street from what we
7 saw in the video.

8 Q. And I'm referring to what is marked State's
9 Exhibit 9.

10 A. This is a closer picture of Hampp Fludd. This is
11 the water treatment plant right here, and approximately
12 midway between here -- and this is Morrison Street. Down
13 here is where the dump truck was on the left side of the
14 road. I think right around where this electricity pole
15 is where the dump truck was parked on the side of the
16 road.

17 Q. This is a little difficult to see. Could you tell
18 us about State's Exhibit 10.

19 A. Yes. This is a rather poor picture of the dump
20 truck. This is the passenger side door. The dump truck
21 is here. Here's the bed, and, of course, you see the
22 wheel right here.

23 Q. And can you kind of point out where you located
24 Randi Parks?

25 A. Yes, sir. There's a drive axle right under here.

DAVID IVEY - DIRECT

1 I think this is part of the frame maybe and then the
2 drive axle in this area is where he was located.

3 Q. This is Stat's Exhibit 11?

4 A. This is a better picture of the passenger door.

5 Q. And State's Exhibit 12?

6 A. This is the rear section of the dump truck, the
7 drive axle, you can barely see it, is right here, and
8 Mr. Parks was laying right in that area.

9 Q. State's 13?

10 A. And there's the drive axle he was laying on right
11 there.

12 Q. Can you kind of describe -- when you say laying on
13 it, what do you mean?

14 A. He literally was up on top of the axle with -- I
15 believe, if I remember right, he was facing down, laying
16 on his stomach, and his feet were on this side.

17 Q. And what is State's Exhibit 14?

18 A. That is vomit that's on the ground that we
19 discovered after we had gotten Mr. Parks out. This is
20 the drive axle that I indicated Mr. Parks was on, and
21 this is just a little ways behind it.

22 Q. And State's Exhibit 16?

23 A. That is Mr. McElhenney's wallet.

24 Q. And, again, State's 16?

25 A. That is also Mr. McElhenney's wallet.

DAVID IVEY - DIRECT

1 Q. And State's 17?

2 A. That's the ID that was inside his wallet.

3 Q. And 18?

4 A. That is also the ID that was in his wallet.

5 Q. That wallet, where was that located again?

6 A. That was on Randi Parks in one of his pockets.

7 Q. And who actually physically took it off of his
8 person?

9 A. Corporal Myers did.

10 Q. And you were present when that happened?

11 A. I was.

12 Q. I'll show you what is State's Exhibit 3. Do you
13 recognize that?

14 A. Yes. It's Mr. McElhenney's wallet.

15 MR. EVANS: I would move to admit State's 3
16 into evidence at this time.

17 MR. BUCHANAN: No objection.

18 THE COURT: Admitted.

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

21 BY MR. EVANS:

22 Q. So that is the wallet that was pulled off of Randi
23 Parks's person?

24 A. Yes, it.

25 Q. So what happened with Randi Parks after you found

DAVID IVEY - DIRECT

1 him up under the dump truck?

2 A. After we found him under the dump truck, we
3 identified him, and, like I said, we pulled both wallets
4 off of him. And then, immediately after that, I have a
5 Miranda card that I read off of, and I Mirandized
6 Mr. Parks at that time.

7 Q. Did he make any kind of statements to you?

8 A. Not that I can immediately remember. I know I
9 didn't go in and ask him a bunch of questions.

10 Q. About how long after you got the radio call about
11 the armed robbery did you make contact with the
12 defendant?

13 A. I believe it was approximately six minutes.

14 Q. Six minutes after the radio call?

15 A. Yes.

16 Q. And about how long thereafter did you make contact
17 with Randi Parks?

18 A. It was about 16 minutes.

19 Q. And about how far from the incident location was
20 Randi Parks located?

21 A. I would say he's virtually the same distance,
22 approximately three or four blocks, same as Mr. Hayes.

23 Q. And about how far from where Mr. Hayes was?

24 A. I would say he's 200 feet from the intersection
25 where I encountered him.

DAVID IVEY - DIRECT

1 Q. Beg the Court's indulgence.

2 Detective Ivey, when you located Randi Parks, did
3 you locate a gun?

4 A. No, I did not.

5 Q. Did you ask him about a gun?

6 A. I did. I asked him several times after I put him
7 in the back of my vehicle. I asked him where the gun was
8 numerous times.

9 Q. And were you still unable to locate it?

10 A. Correct.

11 Q. Beg the Court's indulgence.

12 So after you detained Mr. Parks, did you kind of
13 continue to search the area?

14 A. Yes.

15 Q. For about how much longer?

16 A. Probably another at least half hour.

17 Q. And did you respond and see a traffic stop?

18 A. I did.

19 Q. About how long after was that?

20 A. I transported Mr. Parks back to our police station
21 and then from there to the traffic stop. I can only
22 estimate it was probably in the neighborhood of an hour.

23 Q. And referring to State's 4, can you kind of show
24 us where the traffic stop is, to the best of your
25 recollection?

DAVID IVEY - CROSS

1 A. Yes, sir. When I got there, the traffic stop had
2 already occurred. This is at the intersection of Coleman
3 and Whilden Street. This is where I encountered
4 Mr. Hayes once again, and the traffic stop was right
5 here, as indicated.

6 MR. EVANS: Beg the Court's indulgence. Your
7 Honor, may I approach the witness?

8 BY MR. ZIEGLER:

9 Q. Detective Ivey, if you could, would you -- could
10 you mark on there where you made contact with the
11 defendant and where you made contact with Ricky Hayes and
12 Randi Parks.

13 A. (Indicating.)

14 MR. EVANS: I don't have any further
15 questions. Please answer any questions the defense may
16 have for you.

17 THE COURT: Cross?

18 MR. BUCHANAN: Thank you, Your Honor. May it
19 please the Court:

20 CROSS-EXAMINATION

21 BY MR. BUCHANAN:

22 Q. Good afternoon, Detective Ivey.

23 A. Good afternoon.

24 Q. Lamont Hayes waived you down when you went down
25 King Street; is that right?

1 A. Right.

2 Q. He wasn't hiding under a truck?

3 A. Correct.

4 Q. When you asked Ricky Hayes to get on the ground,
5 he got on the ground.

6 A. I asked him to sit down, sir.

7 Q. And he did that?

8 A. Correct.

9 Q. Ricky Hayes didn't have a gun on him.

10 A. Correct.

11 Q. Ricky Hayes did not have the victim's wallet on
12 him.

13 A. Correct.

14 Q. Ricky Hayes had nothing taken from this armed
15 robbery on him when you stopped him; is that correct?

16 A. That's correct.

17 Q. Okay. All right. Are you aware that Ricky's
18 grandparents live approximately two to three blocks away
19 on the corner of and Street where you
20 stopped him?

21 A. No, I'm not.

22 Q. So Ricky did everything you asked him to do when
23 you stopped him; is that right? You didn't have to go
24 under a truck? He waved you down?

25 A. Correct, yes, sir.

DAVID IVEY - CROSS

1 Q. All right. And you're at that point on King
2 Street in the okay. You then start
3 searching for a suspect, and that's Mr. Parks, and you
4 find Mr. Parks not just under a truck, but actually bored
5 under the truck, on the drive shaft of the truck. Is
6 that where he is?

7 A. That's correct.

8 Q. And much like the wicked witch in Gone With the
9 Wind {sic}, you see two feet sticking out, correct?

10 A. Correct.

11 Q. That's how you got him, right?

12 A. Yes.

13 Q. All right. You pull him out, and you pretty much
14 immediately read him his Miranda; is that right?

15 A. That's correct.

16 Q. Okay. And did he tell you who gave him the
17 wallet?

18 A. Not to my recollection.

19 Q. Okay. Did you plead with him to tell you where
20 the gun might be?

21 A. I did.

22 Q. You said, Please tell us where the gun is. There
23 are children in this area. Please tell us where it is.
24 Something could happen to these kids.

25 Is that what you said?

1 A. I did.

2 Q. And what did he say?

3 A. I don't remember the exact words. They're hard to
4 hear in the video, but he basically said he didn't know
5 where the gun was.

6 Q. He didn't know where the gun was. And where you
7 stopped Ricky, that's about four blocks away from where
8 this armed robbery took place; is that right?

9 A. That's correct.

10 Q. And it is about four blocks away from where
11 Mr. Parks had hid under the truck.

12 A. I'm sorry?

13 Q. That's about four blocks away from --

14 A. This location, yes.

15 Q. Okay. All right. And it's Mr. Parks who has
16 Mr. McElhenney's wallet on his person?

17 A. That's correct.

18 Q. That's all the pictures we've seen. I think it's
19 8 through 18 that we've just looked at, and that wallet
20 was not taken from Ricky Hayes, that wallet was taken
21 from Randi Parks?

22 A. Correct.

23 Q. Ricky Hayes wasn't hiding. He was waving you
24 down, right?

25 A. Correct.

DAVID IVEY - CROSS

1 Q. It was Mr. Parks who was cowardly hiding from you
2 underneath the truck?

3 A. He was under the truck, sir.

4 Q. Do you know -- do you have knowledge that the gun
5 was found close by the truck later that day?

6 A. Did I have knowledge of that? From an incident
7 report, yes, sir.

8 Q. So where the gun was found that you were pleading
9 with Mr. Parks to give you was found very near the truck
10 where you pulled him out.

11 A. Correct.

12 Q. Okay. Did he tell you he threw up while
13 underneath the truck?

14 A. I believe he did. It's been a long time, but I
15 believe he did say, yeah, that that was his vomit. It's
16 presumably his.

17 Q. Were you ever asked to do a showup -- were you
18 ever asked to take either Ricky Hayes or Randi Parks to
19 the victim Mr. Burnett so he could ID them?

20 A. I was not asked.

21 Q. Weren't asked?

22 A. No, sir.

23 Q. But you had stopped Mr. Hayes approximately ten
24 minutes after this had occurred?

25 A. Six minutes.

DAVID IVEY - CROSS

1 Q. Six minutes. Within six minutes, you had already
2 stopped him.

3 A. Yes, sir.

4 Q. Okay. But yet there wasn't a show-up done that
5 night where Mr. Burnett could make an ID, either positive
6 or negative, against Mr. Hayes; is that correct?

7 A. Not to my knowledge.

8 Q. Okay.

9 MR. BUCHANAN: Your Honor, the defense would
10 like to play the video where he's asking Mr. Parks to
11 tell him where the gun is. I don't think there is any
12 objection to that.

13 THE COURT: Okay. This is a different one
14 then the one we saw?

15 MR. BUCHANAN: Same one. It's our copy, and
16 it's going to be in our computer.

17 THE COURT: All right. Do you need them to
18 play it?

19 BY MR. BUCHANAN:

20 Q. Is that your voice on the video and audio?

21 A. Yes.

22 Q. Is that what you were asking that night?

23 A. Yes, sir.

24 MR. BUCHANAN: I have no further questions at
25 this time, Your Honor.

DAVID IVEY - RECROSS

1 THE COURT: Redirect?

2 MR. EVANS: Very briefly, Your Honor.

3 REDIRECT EXAMINATION

4 BY MR. EVANS:

5 Q. Detective Ivey, Mr. Buchanan was asking you
6 about the distance location from where the video took
7 place. Would you point out for us where the incident
8 location was?

9 A. Yeah. The incident location is marked with IL,
10 the circle right here. Where I encountered Mr. Hayes is
11 right here. He was coming this direction, down
12 Street, and where I encountered Mr. Parks was just a
13 little further down, or actually Hampp Fludd.

14 Q. And how long after the incident was this?

15 A. Encountered Mr. Hayes approximately six minutes
16 after the armed robbery, and about 16 minutes after that,
17 I encountered Mr. Parks.

18 MR. EVANS: I don't have any further
19 questions, Your Honor.

20 THE COURT: Recross?

21 MR. BUCHANAN: Briefly Your Honor. Could we
22 put that back up, please.

23 RECROSS-EXAMINATION

24 BY MR. BUCHANAN:

25 Q. Is this the incident location here?

1 A. Yes, sir.

2 Q. Okay. One, two, three. Is that three blocks from
3 Coleman Boulevard, going down Simmons Street?

4 A. To Morrison Street, yes, sir.

5 Q. Three blocks?

6 A. Yes, sir.

7 Q. That's where you found him?

8 A. Yes, sir.

9 Q. That's how close were you to where this incident
10 happened, and the victims are still down the street; is
11 that right?

12 A. Correct.

13 Q. Okay.

14 MR. BUCHANAN: I have no further questions.
15 Thank you.

16 THE COURT: All right. You can step down.

17 'Okay. Folks, that looks like a good place to
18 break for today, so I'm going to send you home with the
19 instructions we talked about earlier. Don't talk to
20 anybody about the case, including family members,
21 friends, neighbors, et cetera.

22 Now, if you haven't had any contact with the
23 family, as soon as you walk in the door, they're going to
24 say, Did you get picked for a jury?

25 You're going to say, Yes, I did, an armed

GARY MYERS - DIRECT

1 seconds, the grand larceny, both of which can come in;
2 the petty larceny can't.

3 MR. HAWKINS: Thank you, Your Honor.

4 THE COURT: Although with that kind of
5 record, I can't imagine how that would make a big
6 difference, but -- that's the ruling.

7 (Recess taken.)

8 (In open court, jury present.)

9 THE COURT: Welcome back, folks. Ms. Knight
10 has a sick child, and so I'm excusing her for the
11 remainder of the trial, so our alternate will be seated
12 as a regular juror now. It's Mr. -- is that pronounced
13 Ethier? All right. You're a regular juror now.

14 We will resume State calling their next
15 witness?

16 MR. ZIEGLER: The State calls Corporal Gary
17 Myers.

18 GARY MYERS,

19 having been first duly sworn,
20 was examined and testified as follows:

21 DIRECT EXAMINATION

22 BY MR. ZIEGLER:

23 Q. Good morning, Corporal Myers.

24 A. Good morning.

25 Q. How are you today?

GARY MYERS - DIRECT

1 A. I'm doing well.

2 Q. Good. What law enforcement agency do you work
3 fork?

4 A. Mount Pleasant police department.

5 Q. And what is your position?

6 A. I'm a corporal.

7 Q. How long have you been with the agency?

8 A. Since October of 2003.

9 Q. And what are your duties?

10 A. I work as a patrol officer at this time, and I'm
11 second supervisor over a team, so when my sergeant isn't
12 there, I would run a team.

13 Q. In May of 2013, what was your role? What was your
14 position in May of 2013?

15 A. Same. I was a corporal.

16 Q. I'm going to take you to May 7, 2013. Do you
17 remember where you were that night? Were you on duty?

18 A. I was. I was working patrol that night.

19 Q. And where were you in Mount Pleasant that night?

20 A. I believe I was in an all zones unit, which means
21 I could travel anywhere throughout town.

22 Q. Do you remember a report of an armed robbery?

23 A. I do, yes.

24 Q. And did you respond?

25 A. I did. It was called out that an armed robbery

GARY MYERS - DIRECT

1 had just occurred in front of Moultrie Middle School, and
2 I responded somewhere I believe in the middle of town,
3 responded over to the area of Simmons Street where three
4 males were seen running.

5 Q. What did you do when you got to the area?

6 A. I began patrolling Simmons Street down into what
7 we call the in town and began patrolling down
8 there for anyone that matched the description of the
9 suspects.

10 Q. Were any of these people that matched the
11 description found?

12 A. Yes. Detective Ivey had called out with a
13 gentleman matching the description. I believe it was
14 King Street and Greenwich. At that time I responded to
15 the area as his back up officer.

16 Q. Does Greenwich have another name as well?

17 A. A certain part of it is called Hampp Fludd.

18 Q. Okay. And did you respond to Officer Ivey's
19 location?

20 A. I did, yes.

21 Q. What did you observe there?

22 A. A gentleman by the name of Mr. Hayes was there on
23 the ground. He was saying that he had just run from two
24 people with a gun. He was extremely out of breath and
25 excited.

GARY MYERS - DIRECT

1 Q. How did he appear to you?

2 A. Extremely out of breath and excited.

3 Q. And after Mr. Hayes was apprehended, what did you
4 do then? Did you continue to patrol the area?

5 A. I did. Detective Ivey and I started to patrol in
6 the area of Hampp Fludd, which is just on the corner of
7 Greenwich there, the extension of Greenwich. At that
8 time, the detective and I were patrolling for any other
9 suspects. At that time Detective Ivey observed some feet
10 sticking out from underneath a flatbed truck, I believe
11 like a larger dump truck type vehicle. At that time, we
12 saw the feet and legs sticking out from under there and
13 we challenged that person and he complied.

14 Q. Who was that person?

15 A. Randi Parks.

16 Q. Did you search him?

17 A. We did, yes.

18 Q. What did you find on his person?

19 A. On his person was two wallets. One had an ID with
20 the name Randi Parks on it; the other had an ID with --
21 let me check real quick. I'm not sure how you say it. I
22 believe McElhenney was the last name on that ID in the
23 other wallet.

24 Q. Who did you understand Mr. McElhenney to be?

25 A. It was confirmed that that was one of the victims

GARY MYERS - DIRECT

1 of the armed robbery.

2 Q. And after Mr. Parks was apprehended, did you still
3 continue to search for any other suspects?

4 A. We did. At that time I was out on foot in that
5 area, continuing to look for anybody else. At that point
6 in time, Officer Gillespie had stopped the vehicle coming
7 out of the area at a high rate of speed. That was at the
8 corner of Whilden Street and Coleman at a gas station,
9 and I was asked to respond there.

10 Q. And when you responded to that traffic stop, did
11 you witness the driver ever being arrested at the traffic
12 stop?

13 A. Yes. Once I was on scene, he was arrested.

14 Q. And what was to happen to the vehicle that he was
15 driving?

16 A. He was the only occupant in the vehicle, and since
17 he was arrested, that vehicle was getting towed.

18 Q. And who searched the vehicle?

19 A. I completed an inventory of the vehicle.

20 Q. Okay.

21 A. So I searched it.

22 Q. And what did you find in the back seat of that
23 vehicle?

24 A. There was a bookbag in the back of the vehicle.
25 It had some personal belongings, I believe shoes, a

GARY MYERS - DIRECT

1 razor, and there was multiple letters in there that you
2 receive in the mail, and on those letters was the name
3 Ricky Lamont Hayes, and it had an address associated with
4 that name.

5 Q. Was this vehicle -- did it belong to Mr. Hayes?

6 A. That, I don't know. I don't recall. I don't
7 believe so.

8 Q. Was Mr. Hayes driving the vehicle?

9 A. No. He was not in that vehicle, no, not at that
10 time.

11 Q. I want to show you a few items, Corporal Myers.

12 I'm now showing you what has been marked as
13 State's Exhibit No. 19. Do you recognize that?

14 A. Yes. I believe that was the backpack that was in
15 the back seat, or one that looks just like it, yes.

16 Q. And did you collect this item?

17 A. I believe I removed it from the vehicle, but I
18 believe Officer Gillespie took it from the scene.

19 Q. Does it appear to be in the same condition as when
20 you found it in the vehicle?

21 A. As far as I remember, yes.

22 MR. ZIEGLER: At this time, Your Honor, the
23 State moves to admit State's Exhibit 19 into evidence.

24 MR. BUCHANAN: No objection.

25 THE COURT: Admitted.

GARY MYERS - DIRECT

1 (State's Exhibit No. 19 was marked and
2 admitted into evidence.)

3 BY MR. ZIEGLER:

4 Q. Now I want to show you some items that are
5 collectively marked as State's Exhibit 20. Do you
6 recognize these items?

7 A. Yes. I believe these would be the letters that
8 were in the -- they appear to be the letters that were in
9 that backpack.

10 Q. And to whom are those letters addressed?

11 A. Ricky L. Hayes, all four, I believe.

12 MR. ZIEGLER: Your Honor, the State moves to
13 admit State's Exhibit 20 into evidence.

14 THE COURT: Are those the letters?

15 MR. ZIEGLER: Yes, Your Honor.

16 THE COURT: All right. How many are there?

17 MR. ZIEGLER: Four letters.

18 THE COURT: All right. You're making it one
19 exhibit?

20 MR. ZIEGLER: Yes, Your Honor.

21 THE COURT: All right. Any objection?

22 MR. HAWKINS: No, Your Honor.

23 THE COURT: Admitted. Why don't you mark
24 them as 20-A, B, C, D.

25 (State's Exhibit Nos. 20-A, 20-B, 20-C, and

GARY MYERS - DIRECT

1 20-D were marked and admitted into evidence.)

2 BY MR. ZIEGLER:

3 Q. I'll publish State's Exhibit 20-A. Corporal
4 Myers, do you recognize that?

5 A. Yes. I believe that was in the backpack that
6 night.

7 Q. What is the name?

8 A. Ricky L. Hayes.

9 Q. What is the address on that letter?

10 A. , , South
11 Carolina,

12 Q. Now publishing State's Exhibit 20-B. Do you
13 recognize this?

14 A. Yes, sir. Same from that night.

15 Q. Where was it found?

16 A. In the bookbag as well.

17 Q. Who was it addressed to?

18 A. Ricky L. Hayes.

19 Q. Is that the same address as the previous letter?

20 A. It is, yes.

21 Q. Now publishing State's Exhibit 20-C. Where was
22 this one found?

23 A. That was found in the backpack as well.

24 Q. Who was it addressed to?

25 A. Ricky L. Hayes.

GARY MYERS - DIRECT

1 Q. Is that the same address on the previous letter?

2 A. It was, yes.

3 Q. Finally, Exhibit 20-D. Do you recognize this?

4 A. I do. That was in the backpack.

5 Q. Who was it addressed to?

6 A. Ricky Hayes.

7 Q. Is that the same address as previous?

8 A. It is, yes.

9 Q. Corporal Myers, do you know who the driver of the
10 vehicle was that Officer Gillespie conducted -- that
11 initially conducted the traffic stop on?

12 A. I don't recall specifically. I believe his last
13 name was Belt.

14 Q. Do you remember anything about his description?

15 A. I recall him being a black male. He had longer
16 hair, I believe in dreads. I believe one of his eyes was
17 a little different than normal.

18 MR. ZIEGLER: No further questions for this
19 witness, Your Honor.

20 Corporal Myers, please answer any questions
21 the defense has for you.

22 THE WITNESS: Yes, sir.

23 THE COURT: Cross?

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

CROSS-EXAMINATION

1
2 BY MR. BUCHANAN:

3 Q. Good morning, Corporal Myers.

4 A. Good morning.

5 Q. You were with Detective Ivey when you pulled
6 Mr. Parks out from under this dump truck?

7 A. Yes. I was with Detective Ivey.

8 Q. And you heard Detective Ivey read him his Miranda
9 rights; is that correct?

10 A. Yes, I believe so.

11 Q. Well, if I can approach, I'm going to give you
12 what I think is your supplement, if you can look at it,
13 or do you have it with you?

14 A. I have a copy of it.

15 Q. All right. Would you look at it?

16 A. Uh-huh.

17 Q. And see if you see in there that Detective Ivey
18 read Mr. Parks his Miranda rights and you were there and
19 heard this?

20 A. I believe I put Officer Ivey read him his Miranda
21 rights.

22 Q. So that's what he said.

23 A. Yeah.

24 Q. Okay. And you were the one that went through
25 Mr. Parks's pockets, correct?

GARY MYERS - CROSS

1 A. Correct.

2 Q. And you found Mr. McElhenney's wallet with the
3 fish, or the marlin, on it; is that right?

4 A. I don't recall exactly what the wallet looked
5 like, but yes, I did find an ID with his name on it, yes.

6 Q. And that was found on Mr. Parks?

7 A. Correct.

8 Q. The person who was hiding underneath -- really,
9 underneath and in this truck on the drive train, right?

10 A. Correct.

11 Q. All right. Did Mr. Parks say where he got that
12 wallet from?

13 A. I believe he said he got it from Ricky.

14 Q. All right. So after he received Miranda, the
15 first thing he said was he got the wallet from Ricky?

16 A. I believe so, yes.

17 Q. Okay. All right.

18 A. I don't know if it was the first thing he said,
19 but --

20 Q. It's one of the things he said?

21 A. Correct.

22 Q. Got it from Ricky?

23 A. Uh-huh.

24 Q. Okay. All right. Did you hear Officer Ivey plead
25 with Mr. Parks about, Where's the gun? Would you tell us

1 where the gun is? That, There's children in this area
2 and we don't want anymore --

3 MR. ZIEGLER: Objection, Your Honor.
4 Hearsay.

5 MR. BUCHANAN: He testified yesterday, Your
6 Honor.

7 THE COURT: Overruled. Go ahead. You can
8 answer.

9 THE WITNESS: I do recall him asking him
10 where the gun was.

11 BY MR. BUCHANAN:

12 Q. You did?

13 A. I heard him, yes.

14 Q. And what did Mr. Parks say?

15 A. I don't believe he would tell us where it was.

16 Q. So he didn't tell you where it was?

17 A. No.

18 Q. Did he ever tell you there was a gun?

19 A. That, I don't recall.

20 Q. Okay.

21 A. I know he didn't tell us that night where it was.

22 Q. But he did say that Ricky gave it to him.

23 A. I don't recall that. I don't know. About the
24 gun?

25 Q. I'm sorry. About the wallet.

GARY MYERS - CROSS

1 A. Yes.

2 Q. Okay. Thank you for clearing that up.

3 Now, as far as this stop on this Mr. Belt
4 fellow --

5 A. Yes.

6 Q. This is the car. You inventoried the car after
7 the arrest?

8 A. Yes.

9 Q. And that's where you found the backpack?

10 A. Correct.

11 Q. Were there any items in this backpack that were
12 taken from either of these victims, Mr. Burnett or
13 Mr. McElhenney?

14 A. Not that I recall.

15 Q. Were there any items found in that car that were
16 taken from Mr. McElhenney or Mr. Burnett, the victims in
17 this case?

18 A. Not that I recall.

19 Q. Okay. And you don't know how long that backpack
20 was in that car, do you?

21 A. No.

22 Q. Okay.

23 Beg the Court's indulgence, Your Honor.

24 MR. BUCHANAN: No further questions, Your
25 Honor.

RANDI PARKS - DIRECT

1 THE COURT: Redirect?

2 MR. ZIEGLER: None, Your Honor.

3 THE COURT: You may step down. Thank you.

4 Next witness?

5 MR. ZIEGLER: The State calls Randi Parks.

6 RANDI PARKS,

7 having been first duly sworn,

8 was examined and testified as follows:

9 DIRECT EXAMINATION

10 BY MR. ZIEGLER:

11 Q. Good morning, Mr. Parks.

12 A. Good morning.

13 Q. May I call you Randi?

14 A. Yes, sir.

15 Q. Thank you. How old are you, Randi?

16 A. Twenty-six.

17 Q. Where are you from?

18 A. New York.

19 Q. And -- where have you lived in South Carolina?

20 A. Columbia, South Carolina.

21 Q. When did you first live -- begin living there?

22 A. 2001.

23 Q. Okay. What kind of education do you have?

24 A. College.

25 Q. All college or some college or --

RANDI PARKS - DIRECT

1 A. Some.

2 Q. How many years?

3 A. About -- almost a year-and-a-half.

4 Q. And you graduated high school, I suppose?

5 A. Yes, sir.

6 Q. Are you married and have any children?

7 A. Yes, married.

8 Q. Do you have any children?

9 A. Just one.

10 Q. Okay. When did you get married?

11 A. 2010.

12 Q. Randi, if I tell you some of your convictions,
13 your criminal convictions, that you have in past, will
14 you remember those?

15 A. Yes, sir.

16 Q. Okay. And do you have a criminal record from the
17 past?

18 A. Yes, sir.

19 Q. Do you remember from 2004 possession with intent
20 to distribute controlled substance and proximity to a
21 school convictions?

22 A. Yes, sir.

23 Q. And what about a 2005 burglary second degree
24 nonviolent? Do you remember that?

25 A. Yes, sir.

RANDI PARKS - DIRECT

1 Q. And do you remember from 2012 that you had
2 convictions for four counts of burglary second degree and
3 two counts of grand larceny?

4 A. Yes, sir.

5 Q. Do you remember those? Do you remember those?

6 A. (Nods head.)

7 Q. Randi, are you familiar with the incident we're
8 here about today?

9 A. Yes, sir.

10 Q. Were you charged with two counts of armed robbery
11 for your involvement in the incident?

12 A. Yes, sir.

13 Q. Have you pled guilty to both of those charges?

14 A. Yes, sir.

15 Q. Have you been sentenced on those charges yet?

16 A. No, sir.

17 Q. And have you met with myself and others at my
18 office, the solicitor's office?

19 A. Yes, sir.

20 Q. And have you told myself and others in my office
21 what happened in this armed robbery?

22 A. Yes, sir.

23 Q. Have you been promised anything by my office?

24 A. No, sir.

25 Q. Have you received any benefit?

RANDI PARKS - DIRECT

1 A. No, sir.

2 Q. Now, did you have codefendants in this armed
3 robbery?

4 A. Yes, sir.

5 Q. And, Randi, I want to get into your prior
6 relationship with those codefendants. Do you know a
7 Darren Belt?

8 A. Yes, sir.

9 Q. How long have you known him, or since when have
10 you known him?

11 A. Since high school.

12 Q. Around when was that, do you remember?

13 A. '03, 2003, '02.

14 Q. And how did you come to know him? When were you
15 around him?

16 A. I stayed in the same neighborhood.

17 Q. Okay. How often did you see him in the past?

18 A. About every day.

19 Q. Where is he from, as far as you know?

20 A. Charleston, I think.

21 Q. Does he ever live in Columbia?

22 A. He used to.

23 Q. So when you knew him, he lived in Columbia in the
24 same neighborhood as you?

25 A. (Nods head.)

RANDI PARKS - DIRECT

1 Q. Does he have a nickname?

2 A. Yes, sir.

3 Q. What is that?

4 A. Lizard.

5 Q. And --

6 MR. HAWKINS: Judge, could we ask that he
7 maybe move a little closer to the microphone? We're
8 having trouble hearing what he's saying.

9 THE COURT: Move closer to the microphone.

10 BY MR. ZIEGLER:

11 Q. You said Darren Belt has a nickname of Lizard?

12 A. Yes, sir.

13 Q. Generally what does Darren Belt look like?

14 A. Short, light skinned, hair.

15 Q. Anything about his face?

16 A. Eye -- like, eye messed up.

17 Q. Okay. That is Darren Belt. Do you know Ricky
18 Lamont Hayes?

19 A. Yes, sir.

20 Q. What year do you know him since?

21 A. 2010.

22 Q. What do you call him?

23 A. Cousin. Used to be.

24 Q. Okay. So you call him your cousin. And what name
25 do you call him by?

RANDI PARKS - DIRECT

1 A. Mont, Lamont.

2 Q. And where did he live? Where has he lived in the
3 past?

4 A. Down here with his father.

5 Q. Where is his father's?

6 A. Columbia.

7 Q. Okay. And who is his father? Who is Lamont's
8 father to you?

9 A. My uncle.

10 Q. Is he your uncle by blood or do you call him that?

11 A. Not my blood. He's uncle, raised up with him.

12 Q. Did you ever live with him?

13 A. Yes, sir.

14 Q. Did Lamont ever live there with you at any time?

15 A. Yes, sir.

16 Q. So when Lamont was in Columbia, how often did you
17 see him?

18 A. When he was in Columbia, I guess every day.

19 Q. Randi, I want to direct you to May 6, 2013. I
20 would like you to take the members of the jury back to
21 the night before this armed robbery occurred.

22 What city were you in the night before the robbery
23 in Mount Pleasant that we're here about today?

24 A. Columbia, South Carolina.

25 Q. Who were you with?

RANDI PARKS - DIRECT

1 A. Me and Darren Belt.

2 Q. Okay. Generally what were the two of you doing?

3 A. Just getting back together, recently, haven't seen
4 him in a while.

5 Q. And did anything happen to you that night or that
6 morning?

7 A. That morning, we got robbed during a dice game.

8 Q. Around what time did that happen?

9 A. About 6:30, 7:00 in the morning, probably.

10 Q. After that happened, after you got robbed in this
11 dice game, what did you do after that?

12 A. We -- after the dice game, we had went to -- we
13 had went from my sister's house and ran back in the house
14 and made a few calls, and I decided to go towards -- we
15 decided to go toward my uncle house, me and Darren Belt.

16 Q. What was the last thing you said? You went to
17 whose house?

18 A. My uncle house.

19 Q. In whose vehicle?

20 A. Darren Belt's.

21 Q. What were you going to your uncle's house for?

22 A. To get up with Hayes.

23 Q. Who is that? Who's Hayes?

24 A. Ricky Lamont Hayes.

25 Q. Okay. Did he -- when you went to his uncle's

RANDI PARKS - DIRECT

1 house to get him, was Lamont there?

2 A. Yeah, he was there.

3 Q. Did he have -- did he have a gun with him at that
4 time that you saw?

5 A. I saw one.

6 Q. Did he have that gun the rest of that day?

7 A. Yeah. He brought it with him.

8 Q. Were you with Lamont and Lizard or Belt throughout
9 that day?

10 A. Yes, sir. After I picked him up and left, he was
11 with us the remaining of the day.

12 Q. At any time during that day, did the three of you
13 decide to go to Charleston?

14 A. Yes, Lamont did.

15 Q. Who did?

16 A. It was Lamont's idea, Ricky.

17 Q. It was his idea, you said?

18 A. Yeah.

19 Q. Did you and Belt agree to go to Charleston?

20 A. Yeah, after the fact, yes, sir.

21 Q. About when did y'all go to Charleston?

22 A. About 2:00, 2:30; probably about 2:30, 3:00
23 probably, in the afternoon.

24 Q. Why were you three -- why were you three going to
25 Charleston?

RANDI PARKS - DIRECT

1 A. He came up with the idea that he probably knew a
2 few people down here that we probably could rob.

3 Q. In whose vehicle did you drive to Charleston?

4 A. Darren Belt's.

5 Q. Who drove to vehicle.

6 A. I drove.

7 Q. What kind of vehicle did Darren Belt have?

8 A. A truck, a Jeep.

9 Q. So the three of you were driving to Charleston
10 together?

11 A. Yes, sir.

12 Q. Now, I want to move to the point when y'all made
13 it to Charleston. Do you know the Charleston area well?

14 A. No, not at all.

15 Q. How many times have you been to Charleston, if you
16 had to guess?

17 A. Like twice...

18 Q. And who was directing the three of you when you
19 got to Charleston?

20 A. Ricky was.

21 Q. Okay. Where did you first go when you got to
22 Charleston?

23 A. I guess the downtown area, I believe.

24 Q. Okay. Who were you -- where were you going?

25 A. I don't know. I never met the person, but Ricky

RANDI PARKS - DIRECT

1 was stopping to see somebody downtown, but the person
2 wasn't there, so I never got to him.

3 Q. Once you were in Charleston, were you driving?

4 A. No.

5 Q. Where did you go after downtown?

6 A. After downtown, we had stopped by one of Ricky's
7 friend's house.

8 Q. Where was that?

9 A. I guess Mount Pleasant, I guess, I believe; I
10 don't know. I'm not sure.

11 Q. And were you drinking or using any drugs that day?

12 A. Smoking weed, that's about it.

13 Q. Were you drinking?

14 A. I was drinking earlier that day, but not at this
15 time.

16 Q. Okay. So when you -- you said you went to a
17 friend's house, Ricky Hayes?

18 A. (Nods head.)

19 Q. Where was the next place you went after that?

20 A. We stopped by, I guess, his granddad's house
21 because the truck was smoking that we was driving.

22 Q. Speak up a little bit.

23 A. I said we stopped by, I guess, his grandfather's
24 house because the truck we were in was smoking, was
25 having problems.

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1 Q. So did anyone fix the truck?

2 A. Yeah, his granddaddy did.. There was a hose
3 leaking.

4 Q. Where did you go after you went to Ricky Hayes's
5 granddad's house?

6 A. From there we end up going to another girl house,
7 a white girl. I don't really know her name, but we stop
8 by a white girl house, and that's where we posted up for
9 a little bit.

10 Q. So what were y'all doing over there? What were
11 people talking about?

12 A. Basically going -- trying -- looking for somebody
13 else to rob, basically.

14 Q. Who was talking about that?

15 A. The girl and Ricky basically were going over, you
16 know, things we could do.

17 Q. Okay. What do you mean, things you could do?
18 What were they specifically talking about, the girl and
19 Ricky?

20 A. She was talking about some dude maybe we could
21 rob; we could get, you know, some pills and supposed to
22 be money.

23 Q. Okay. Why did you end up leaving that girl's
24 house?

25 A. We end up leaving because they kind of got in an

RANDI PARKS - DIRECT

1 altercation or whatever, but I think she wanted some more
2 money from him and he said no, and then her car was --
3 the keys was locked in her car where her purse was, and
4 she couldn't get to her purse and supposedly her daddy
5 was supposed to get the car open, using triple A or
6 whatever.

7 Q. So did you leave her house?

8 A. Yes, sir.

9 Q. And what time do you think you left her house? I
10 mean do you know --

11 A. It was late, late, probably around 11:00.

12 Q. And how did you leave there? Did you get back in
13 the car?

14 A. Yeah. I got in the back of the truck, end up
15 falling asleep.

16 Q. You fell asleep?

17 A. Yes, sir.

18 Q. Where did you think y'all were going at that time?

19 A. I thought we were going back to Columbia.

20 Q. So were you tired that night?

21 A. Yes. I been drinking and tired from being up for
22 a couple days.

23 Q. You were tired, you said?

24 A. Yes.

25 Q. So you thought you were returning to Columbia. I

RANDI PARKS - DIRECT

1 want to switch gears for a minute.

2 Randi, you said that you pled guilty in the armed
3 robbery incident that we're here about today; is that
4 right?

5 A. Yes, sir.

6 Q. Would you please look around the courtroom and
7 tell the members of the jury whether any of the people
8 who participated in that armed robbery with you are in
9 the courtroom today.

10 A. Yes, sir.

11 Q. Could you please point that person out.

12 A. Right there (indicating).

13 Q. What is that person wearing?

14 A. I guess a black suit with a blue shirt, tie.

15 MR. ZIEGLER: Let the record reflect the
16 witness has identified the defendant.

17 BY MR. ZIEGLER:

18 Q. So after you fell asleep in Lizard, or Belt's,
19 vehicle, what happened then?

20 A. I was woken up. I guess a while later I was woken
21 up. Car was already parked and stopped, and they was
22 telling me to get up.

23 Q. Who were they?

24 A. Get out of the car. Belt and Hayes.

25 Q. Okay. Did you get up?

RANDI PARKS - DIRECT

1 A. Yes, sir. They was already getting out of the
2 car, so by the time I throw everything back in my pocket
3 that fell out of my pocket when I fell asleep, my change
4 and wallet and stuff, and then I hop out of the car and
5 get out with them, getting ready to cross the street.

6 Q. And once you caught up with them, what happened
7 then? Did anyone say anything to you or point anything
8 out to you?

9 A. Yeah. I said, What going on? And Hayes tell me
10 that we about to rob two dudes that was walking.

11 Q. Can you describe those two dudes?

12 A. All I remember is one was tall; other one kind of,
13 I guess, shorter than the other dude and kind of, I
14 guess, frailer than the other dude.

15 Q. What was their race?

16 A. Caucasian.

17 Q. And as far as you could tell, what were the three
18 of you planning to do to those two men?

19 A. Once he gave me the gun and told me to go ahead
20 and catch him on the side, basically, I knew what time it
21 was.

22 Q. What was the last thing you said?

23 A. Once he gave me the gun and tell me to catch him
24 on the other side by the gate, I basically knew what was
25 going down.

RANDI PARKS - DIRECT

1 Q. Okay. When did you -- did you ever have a gun in
2 your hand?

3 A. Not at first, until he gave it to me.

4 Q. Who gave it to you?

5 A. Hayes.

6 Q. Okay. When did he give it to you?

7 A. Once we got across the street, he gave me the gun,
8 pointed out to where I was to take them, go around and
9 catch him on the other side of the fence, I guess.

10 Q. So you said Hayes gave you the gun, so you had the
11 gun at that point.

12 A. Yes, sir.

13 Q. So what did you do then?

14 A. I ran around to the other side. I was ready to
15 point and show them, and I came out the other side of the
16 fence, which is, I guess, in the middle of -- I said,
17 basically, I came around the fence and came where he
18 pointed at. And I came back around and I caught him in
19 the middle of the fence, and as I came out through the
20 fence, they was approaching, and I raised the gun up at
21 them and basically told them just give me what you got.

22 Q. Okay. Now showing State's Exhibit 2, do you
23 recognize this photo?

24 A. No, sir.

25 Q. You don't recognize this?

RANDI PARKS - DIRECT

1 A. No. It was nighttime.

2 Q. Oh, okay. Do you recognize the surroundings there
3 at all?

4 A. No, sir.

5 Q. Okay. Do you recognize any fence in the photo?

6 A. The fence look kind of familiar, but I really
7 couldn't tell. It was night. I couldn't see.

8 Q. All right. And when you said -- what did you say
9 to these men when you ran around them?

10 A. Give me what you got.

11 Q. Did they say anything?

12 A. One of them was, like, I guess, Are you serious?
13 And I'm, like, Yeah.

14 Q. Did you point the gun at them?

15 A. Yeah, towards their stomach.

16 Q. Okay. What did Ricky Lamont Hayes and Darren Belt
17 do?

18 A. They approached them from the behind, came from
19 behind and basically going -- how you say, grab them up,
20 basically, and I was pointing the gun from them.

21 Q. Did they or you take any property from those men?

22 A. Well, they did. I didn't. I was holding the gun
23 a few feet, I guess, from them, and Hayes and Belt did
24 all the basic work.

25 Q. How did they get the property, do you know?

RANDI PARKS - DIRECT

1 A. Going in their pocket, basically.

2 Q. Okay. How did the -- how did this robbery end?

3 A. I ran -- they started running, and basically they
4 started running, and, you know --

5 Q. Who are they?

6 A. Hayes and Belt. They started to running away, and
7 I'm still pointing the gun towards the victim. I heard,
8 Police, and that's when I turned around. And I still
9 couldn't really see who it was, and I ended up running
10 toward the other side because I wanted to get away from
11 the victims, and that's basically where the chase started
12 right there.

13 Q. Where did you run?

14 A. At first I ran through -- I guess there was a park
15 or a school there. I ran through that one. I ended up
16 jumping over some fence, and I ran straight across the
17 street into some woods.

18 Q. Did you hide anywhere?

19 A. When I came out the woods the first time, I hid
20 under this car, which was by a house, and then I thought
21 in my mind, This is the first place they're going to
22 look.

23 So I got up and I kept on running and came out to
24 another cut, and as soon as I come out through a cut, I
25 could see police cars coming down the street and I end

RANDI PARKS - DIRECT

1 up, I guess, going right across from me, and there was a
2 construction truck and I basically hide up under there.

3 Q. Repeat that last thing you said again. You said
4 the construction truck, what did you do?

5 A. I end up basically hiding under the construction
6 truck.

7 Q. Okay. So when you were under the truck, did you
8 ever throw up or anything?

9 A. Yes, sir.

10 Q. Did you ever -- when you were under the truck, did
11 you ever see Ricky Lamont Hayes?

12 A. As he came out the cut, as he came out from
13 basically the same little cut there, he came out, and as
14 soon as he came out and he said police, I seen him and
15 next thing you know he basically chasing me. He was
16 going toward him with his arms up at the time.

17 Q. Did you see him -- did you see him have an
18 encounter with the police?

19 A. Yes, sir. I could see from where I was at.

20 Q. Okay. You could see it from where you were?

21 A. Yes, sir.

22 Q. And what did you say he was doing?

23 A. At first it looked like he was waving him to him,
24 but I guess they were going to him anyway, basically.

25 Q. All right. What did you do then?

—RANDI PARKS - DIRECT—

1 A. Me, I stayed up under the truck for a while when
2 this was going on, and I see him basically cuff him, and
3 that's when I got back from under the truck. And there
4 was a fence right there, and I was about to hop the
5 fence, and as soon as I look up over the fence, the
6 police was on that side of the fence too, so I jumped
7 back down, and as I jumped back down, I dropped the gun,
8 and I couldn't find the gun.

9 I went to look for the gun, and the next thing I
10 heard was footsteps coming, so I ran under the truck.

11 Q. You said you dropped the gun.

12 A. Yes, sir.

13 Q. How did that happen?

14 A. As I was trying -- I was about to climb this fence
15 and police was on the other side of the fence, and when I
16 jumped back down, the gun must have dropped out of my
17 pants and fallen on the floor.

18 Q. And you said -- did you look for it then?

19 A. I tried. I couldn't see it. It was so dark.

20 Q. And so what did you do then?

21 A. Basically, I looked for a little bit, and then
22 after that, I seen -- I kind of heard footsteps and
23 lights and ended up running right back under the truck
24 and hiding under the axle again.

25 Q. Is that the same place you were hiding --

RANDI PARKS - DIRECT

1 A. The first time.

2 Q. Did the police find you there?

3 A. Eventually.

4 Q. Okay. When the police found you, what did you do?

5 A. Basically I gave myself up once they basically
6 said -- I guess they saw my foot when they approached,
7 and when they came up to the truck, I just got out from
8 the truck slowly and they threw me to the floor and
9 cuffed me.

10 Q. And did you have one of the victim's wallets in
11 your pocket?

12 A. Yes. After they searched me -- they ending up
13 searching me and took out my wallet and took out the
14 victim's wallet.

15 Q. Do you know how you got that?

16 A. Not at that time, when I first knew it. I don't
17 remember picking it up, but I must have seen it and
18 picked it up when I ran.

19 Q. Did the police ask you where that gun was?

20 A. Yes.

21 Q. Did you tell them where it was?

22 A. No, sir.

23 Q. Did you know exactly where it was?

24 A. I knew what area it was, but I didn't tell them.

25 Q. When you said you couldn't find the gun earlier --

RANDI PARKS - DIRECT

1 A. Yeah. As soon as I got in that police car, I was
2 passing in and out. I was drunk.

3 Q. You said the police found you. Let's talk about
4 what happened after the police found you, after you were
5 arrested, and talk about your dealings with the police
6 after that.

7 Did you go to the police station that night?

8 A. Yes, sir.

9 Q. And did you give a statement to the police the
10 night of the robbery?

11 A. Not really a statement, but they asked for a
12 description, I believe. A description -- I was in and
13 out. I was intoxicated.

14 Q. Did you tell -- so that night, when you're talking
15 to the police, did you tell them the whole truth that
16 night?

17 A. No, sir, not the whole truth.

18 Q. Did you lie to them at all?

19 A. Yes, sir. I gave them basically little details.

20 Q. Why did you lie?

21 A. At the time, because I didn't want to tell.

22 Q. Say that again?

23 A. At the time, I didn't want to tell on them.

24 Q. Tell on them, you said?

25 A. Yes, sir.

RANDI PARKS - DIRECT

1 Q. Why not?

2 A. Basically -- I don't know. We didn't have no -- I
3 really don't know what to say on that one.

4 Q. Okay. Were you protecting anyone or protecting
5 yourself?

6 A. Basically, protecting myself.

7 Q. Anyone else?

8 A. Well, them. At first I was looking out for them
9 too.

10 Q. Okay. So you gave -- did you give a statement to
11 the police the next day after the robbery occurred? Did
12 you go back to the police station?

13 A. Yes. After I recovered, Officer Eckert came back
14 and got me.

15 Q. And did you talk to him that day?

16 A. Yes, sir.

17 Q. Did you tell him the whole truth on that
18 particular occasion?

19 A. No, sir.

20 Q. Okay. Did you lie to him at all there?

21 A. Yes, sir.

22 Q. Why did you do that?

23 A. Again, being stupid, didn't really want to take
24 what was wrong with my actions.

25 Q. Okay. And so after you talked to Officer Eckert

RANDI PARKS - DIRECT

1 that next day, after the robbery, did he -- what happened
2 when he took you back to the jail?

3 A. I tried to flee.

4 Q. Why did you do that?

5 A. I don't really know. I had a lot of things going
6 in my mind, kind of black out and ran. I guess I seen a
7 chance and took it.

8 Q. Did Officer Eckert let you talk to anyone before
9 that happened?

10 A. Yes, sir.

11 Q. Who did you talk to?

12 A. I talked to my wife.

13 Q. Were there any events in your life that were
14 happening around that time?

15 A. Yes, sir. She was pregnant.

16 Q. Okay. So did you -- were you eventually -- I
17 mean, did you get away from Officer Eckert or did they --

18 A. For a little bit but not long. I end up basically
19 giving myself up. Got tired.

20 Q. Okay. After the robbery, did you receive any
21 letters from Hayes and Belt?

22 A. Yes, sir.

23 Q. And did you at one point send a letter to Belt's
24 lawyer saying he was innocent?

25 A. Yes, sir.

RANDI PARKS - DIRECT

1 Q. Was that true?

2 A. No, sir.

3 Q. Why did you write that letter, just in general?

4 A. Basically people were coming to me telling me I
5 better write that letter for him.

6 Q. Okay. Now, all these things that we've just
7 talked about, your visits to the police station where you
8 spoke with Detective Eckert, your running away,
9 attempting to run away at the jail, your writing this
10 letter to Belt's lawyer, did all that occur before you
11 came to the solicitor's office to be interviewed that
12 first time?

13 A. Yes, sir.

14 Q. And what changed? Well, first of all, at the
15 solicitor's office that first time, you said that was
16 after all these events that that we just talked about.
17 Did you tell the truth about what happened and who was
18 involved in the robbery?

19 A. At the solicitor's office, yes, sir.

20 Q. Did you identify photos of Ricky Hayes and Darren
21 Belt?

22 A. Yes, sir.

23 Q. Did you identify a photo of the gun that you used
24 in the robbery?

25 A. Yes, sir.

RANDI PARKS - DIRECT

1 Q. So what changed? Why did you come into the
2 solicitor's office and --

3 A. I decided to tell the truth, man up for what I was
4 responsible for, my own decision.

5 Q. Randi, at the time of this incident, did the
6 police take your phone?

7 A. Yes, sir.

8 Q. What was the phone number of that phone?

9 A. .

10 Q. You said --

11 A. .

12 Q. Do you recall anything that was in Belt's vehicle
13 before the robbery?

14 A. A bookbag.

15 Q. Whose was that?

16 A. Ricky Hayes.

17 Q. And these are just some miscellaneous notes. How
18 tall are you, Randi?

19 A. About five-eight.

20 Q. Randi, I'm going to show you an item, and I would
21 like you to see if you recognize it. This is marked for
22 identification purposes as State's Exhibit 21. Do you
23 recognize this?

24 A. Yes, sir.

25 Q. What is that?

RANDI PARKS - DIRECT

1 A. It's a gun we used for the robbery.

2 Q. Is that -- was that the gun that was in your hand?

3 A. Yes, sir.

4 Q. During the robbery?

5 A. Yes, sir.

6 MR. ZIEGLER: Your Honor, the State moves to
7 admit State's Exhibit 21 into evidence.

8 MR. HAWKINS: No objection, Your Honor.

9 THE COURT: All right. Ladies and gentlemen:
10 There's a weapon that has now been introduced into
11 evidence. Firearms make people very nervous. I want you
12 to rest assured that this gun has been disabled. There
13 is a lock going through it. It does not have any
14 ammunition in it. Ammunition won't get close to it, but
15 just out of a comfort zone to you, when the solicitor
16 gets up and holds it up, you'll see that it's got a
17 locking mechanism through it. There is no possible way
18 that it could be fired.

19 Later on when it goes back into the jury room
20 when you're deliberating, we usually keep the weapon and
21 the ammunition separately. You can look at them both,
22 but not at the same time. That's just to keep everybody
23 with the comfort level. All right? You may proceed.

24 (State's Exhibit No. 21 was marked and
25 admitted into evidence.)

RANDI PARKS - DIRECT

1 MR. ZIEGLER: At this time I would present
2 State's Exhibit 21 to the jury. Court's indulgence,
3 please, Your Honor.

4 BY MR. ZIEGLER:

5 Q. Randi, was that -- that gun that you've just
6 identified that you used in the robbery, is this the gun
7 that Ricky Lamont Hayes had earlier in that day?

8 A. Yes, sir.

9 Q. Is this the gun that he handed to you?

10 A. Yes, sir.

11 Q. So you said you hadn't been to Charleston many
12 times. How familiar are you with the Mount Pleasant
13 area?

14 A. Not at all.

15 Q. Of the three of you, you and Darren Belt and Ricky
16 Hayes, who knew the Mount Pleasant area?

17 A. Ricky Hayes.

18 Q. And who was directing you where to go in Mount
19 Pleasant?

20 A. Ricky Hayes.

21 MR. ZIEGLER: Court's indulgence please, Your
22 Honor. The State has no further questions for Mr. Parks.
23 Randi, please answer any questions the defense counsel
24 has for you.

25 THE COURT: All right. Before we begin

1 cross-examination, let's go ahead and take about a
2 ten-minute rest room break, and don't begin deliberations
3 or discussions about the case and we'll have you back in
4 about ten minutes. All right? Thank you.

5 (Recess taken.)

6 (In open court, jury present.)

7 THE COURT: All right. Welcome back, folks.
8 I apologize for the delay. We had an issue come up that
9 we've been trying to resolve and we've got to work on a
10 little bit more, so I'm going to go ahead and send y'all
11 to lunch while we do some more work on it and get ready
12 for the trial to resume back after lunch.

13 So go ahead and go to lunch. Report back to
14 the jury room at 2:00. Please, again, don't begin
15 deliberations or discussions about the case with each
16 other or try to find out anything about the case or post
17 anything on social media or anything like that. You're
18 welcome to go to lunch with any member of the jury panel
19 you want, but, again, please don't discuss the case, and
20 we'll see you back again at 2:00.

21 Thank you for your patience.

22 (In open court, jury not present.)

23 THE COURT: Okay. Let's meet back at 1:30.

24 MR. BUCHANAN: Your Honor, just so the
25 sheriffs know, one or two family members need to meet

1 with our client.

2 THE COURT: Yes. If you could, arrange for
3 that so they can meet somewhere. All right? See y'all
4 at 1:30.

5 (Recess taken.)

6 A F T E R N O O N S E S S I O N

7 THE COURT: Okay. Are you ready to go?
8 Let's bring the jury back in.

9 (In open court, jury present.)

10 THE COURT: Welcome back, folks. We're going
11 to get back on track right now with the cross-examination
12 of the witness. So, Mr. Buchanan, if you are ready.

13 MR. BUCHANAN: Thank you, Your Honor. May it
14 please the Court:

15 CROSS-EXAMINATION

16 BY MR. BUCHANAN:

17 Q. Mr. Parks, you are 26 years old?

18 A. Yes, sir.

19 Q. You are?

20 A. Yes, sir.

21 Q. And you have a high school diploma?

22 A. Yes, sir.

23 Q. And where did you go to high school?

24 A. A.C. Flora.

25 Q. And that's in Columbia?

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1 A. Yes, sir.

2 Q. And you have some college?

3 A. Yes, sir.

4 Q. And you said about a year-and-a-half of college?

5 A. Yes, sir.

6 Q. Okay. And this morning on direct examination, I
7 believe it was your testimony that you were asleep in the
8 back of Mr. Belt's car when someone woke you up and gave
9 you a gun and said, Let's go rob two people; is that
10 right?

11 A. Not exactly in that way. I just explained it that
12 way, sir.

13 Q. You tell me the right way. What happened? Were
14 you asleep in the back of Mr. Belt's car?

15 A. Yes, sir.

16 Q. What happened next?

17 A. Then we got out the car. They got out the car
18 first, and then I proceeded after I picked up the rest of
19 my stuff that belonged to me in the back seat, and I
20 caught up with them --

21 Q. What stuff did you get out of the back seat?

22 A. Wallet, change, a whole bunch of change. I had a
23 lot of change that day in my pocket.

24 Q. Okay. Then what happened?

25 A. And I seen the dude across the street, and after

1 we were across the street, we stopped right there at -- I
2 guess at the beginning of the block, the corner of the
3 block where he pointed out two men.

4 Q. Did you use this gun in the robbery (indicating)?

5 A. Yes, sir.

6 Q. This is the gun that you stuck in Mr. McElhenney's
7 gut, this gun?

8 A. Yes, sir.

9 Q. This is the gun you stuck in his face, putting him
10 in fear of his life? This gun?

11 A. Not in his face, but yes, sir, that is the gun.

12 Q. This is the gun that you stuck in Mr. Burnett's
13 stomach and he pushed it away and then you stuck it in
14 his face, this gun?

15 A. Not in his face, sir, but yes, sir.

16 Q. You did not stick this in his face?

17 A. No, sir.

18 Q. Where did you point it?

19 A. At his stomach.

20 Q. But you never pointed at Mr. Burnett's face?

21 A. No, sir.

22 Q. You never point at Mr. McElhenney's face?

23 A. No, sir.

24 Q. But you put it in their stomach?

25 A. Yes, sir.

1 Q. And you demanded that they give you whatever they
2 have?

3 A. Yes, sir.

4 Q. You're the gunman in this case?

5 A. Yes, sir.

6 Q. This is the gun you used?

7 A. Yes, sir.

8 Q. Did it have -- how many bullets did it have in it?

9 A. I don't know.

10 Q. It had four, didn't it?

11 A. Yes, sir.

12 Q. It was a loaded gun you were pointing in their
13 face, wasn't it?

14 A. Yes, sir.

15 Q. When you were asked earlier today on direct
16 examination who picked up the wallets and the phones and
17 everything they were trying to get out of their pockets
18 so you wouldn't shoot them, you said you didn't pick
19 anything up, that they picked it up, meaning Mr. Belt and
20 Mr. Hayes; is that right?

21 A. Yes, sir.

22 Q. No?

23 A. I said yes, sir.

24 Q. That's what you said?

25 A. Yes, sir.

1 Q. Okay. So they picked it up. You didn't pick
2 anything up. That's your testimony today?

3 A. I didn't say that. Earlier today I said that the
4 wallet I had I must have picked it up when I ran.

5 Q. Well, I want the jury to understand. So you said
6 you did pick up the wallet?

7 A. Yes, sir.

8 Q. You picked it up, nobody else, you did?

9 A. I -- it was on the floor, and I must have picked
10 it up.

11 Q. I'm going to remind you. This isn't a statement
12 you're giving to Detective Eckert. You swore an oath.
13 You're under threat of perjury. Do you understand?

14 A. Yes, sir.

15 Q. Do you understand where you are?

16 A. Yes, sir.

17 Q. So if you lie, you know you can be charged with
18 perjury. You know that?

19 A. Yes, sir.

20 Q. So I must have misunderstood you. I thought you
21 said, They picked everything up. I didn't pick
22 everything up, but now you're saying you picked up the
23 wallet.

24 A. Yes, sir. I always said that, from the beginning.

25 Q. Okay. You've always said that since the

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1 beginning?

2 A. I said they went in their pocket as I pointed the
3 gun at the victims.

4 Q. And you said they went into their pockets; is that
5 what you're saying?

6 A. Yes, sir, I did.

7 Q. All right. So they went into their pockets and
8 took the stuff. They didn't drop it out and throw it out
9 and throw it behind them and throw it on the street.
10 These two other characters went into their pockets; is
11 that right?

12 A. Yes, sir.

13 Q. And then they threw it on the ground, and then you
14 picked up the wallet?

15 A. The wallet must have fell on the floor.

16 Q. The wallet must have fallen. Okay. So you're
17 admitting today that you picked up Mr. McElhenney's
18 wallet; is that your testimony?

19 A. Yes, sir. It was --

20 Q. And what about his cell phone? You're under oath.
21 Did you take his cell phone too?

22 A. No, sir.

23 Q. As you're sticking this gun in people's faces
24 and/or stomachs and reaching down to get your bounty,
25 Officer Gillespie came from across Coleman Boulevard and

1 yelled at you, and you ran away, right? You ran as fast
2 as you could, didn't you?

3 A. Yes, sir.

4 Q. Okay. And you said, on direct examination, you
5 dropped the gun and looked for the gun, but couldn't find
6 the gun. Is that what you said earlier this morning?

7 A. Yes, sir.

8 Q. Okay. You didn't throw the gun away, you just
9 dropped it. You were trying to hide it, 'cause you went
10 back to look for it.

11 A. I went back -- well, it was in the same direct
12 spot. I was trying to jump over the fence when I dropped
13 the gun.

14 Q. You dropped the gun?

15 A. Yes, sir.

16 Q. So you jumped over a fence.

17 A. No, I was going to proceed to jump over the fence,
18 but it never happened. When I looked over the gate,
19 there was police on the other side of the fence.

20 Q. You were trying to jump over a fence?

21 A. Yes, sir.

22 Q. And that's when you dropped the gun?

23 A. Yes, sir.

24 Q. And that's when you're looking for it?

25 A. Yes, sir.

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1 Q. So when you climbed underneath that truck, you
2 still would have had the gun if you would have found it,
3 because you were looking for it. You weren't trying to
4 throw away evidence, you wanted to have that gun, didn't
5 you?

6 A. Yes, sir.

7 Q. Yes, sir. Thank you.

8 When you were pulled out from underneath this
9 pickup truck by Detective Ivey, Corporal Myers, they read
10 you your Miranda rights, didn't they?

11 A. Yes, sir, I think so.

12 Q. And the first question they asked you was, where
13 did you get the wallet, didn't they?

14 A. I think so.

15 Q. And you said, Ricky gave it to me, didn't you?

16 A. At the time -- I didn't give them that answer at
17 the time. I didn't even know I had the wallet.

18 Q. Did you tell Detective Ivey or Officer Myers
19 that you got it from Ricky?

20 A. Eventually, yes, sir.

21 Q. Not eventually, the first question they asked you,
22 did you tell them you got it from Ricky?

23 A. That was not the first person that asked me, sir.

24 Q. When you were taken into custody that night, did
25 they ask you that question?

1 A. Yes, sir.

2 Q. And did you tell them it was Ricky?

3 A. Yes, sir.

4 Q. You lied. That's a lie, isn't it?

5 A. I didn't tell them he picked it up. I didn't tell
6 them that. I told them I was with Ricky.

7 Q. Are you capable of telling the truth?

8 A. Yes, sir, I am.

9 Q. When they asked you where you got the wallet, what
10 did you say?

11 A. I said that --

12 Q. You said what?

13 A. Ricky Hayes gave me the wallet.

14 Q. Ricky Hayes gave you the wallet, and that was a
15 lie, right? You just testified you picked it up. He
16 didn't give it to you, did he?

17 A. No, sir.

18 Q. The first thing you told the police was, Ricky
19 Hayes gave me the wallet, and that is a lie, isn't it?

20 A. Yes, sir.

21 Q. The first words out of your mouth.

22 MR. ZIEGLER: Objection. Asked and answered.

23 THE COURT: Overruled.

24 MR. BUCHANAN: Thank you, Your Honor.

25 BY MR. BUCHANAN:

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1 Q. Second question, Detective Ivey: Please tell me
2 where the gun is. There's children in this area.
3 Someone could get hurt. They play out here all the time.
4 Please tell us where the gun is.

5 What did you say?

6 A. I don't know where it was at.

7 Q. You didn't know where it was at. You knew exactly
8 where it was at. It was next to the truck that you were
9 hiding under like a coward, wasn't it?

10 A. Yes, sir.

11 Q. Yes, it was. So the second question they asked
12 you, you lied. You're a liar. You lied.

13 A. Yes, sir.

14 Q. This morning on direct examination, when the
15 solicitor was talking to you, he said, You lied to the
16 police, didn't you? Didn't he ask you that question?

17 A. Yes, sir.

18 Q. And your answer was, I lied.

19 This morning, when you were on direct examination
20 and the solicitor asked you if you lied, you said yes, I
21 lied, right?

22 A. Yes, sir.

23 Q. Okay. And you said, I lied a little bit about the
24 details; is that your answer?

25 A. Yes, sir.

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1 Q. A little bit about the details. Let's keep that
2 in mind, and you said you lied because you were
3 protecting yourself, right?

4 A. Yes, sir, I believe so.

5 Q. After you robbed these people, after you ran like
6 a coward and hid under the truck, on the drive shaft with
7 your feet sticking out, you threw up, right?

8 A. Yes, sir.

9 Q. And they pulled you out, the first words out of
10 your mouth are a lie. They put you in cuffs, and they
11 take you to the police station; is that right?

12 A. Yes, sir.

13 Q. And while at the police station, Detective Eckert
14 wanted to speak with you; is that correct? I'm not sure
15 you can see Detective Eckert. Can you see him there?

16 A. Yes, sir.

17 Q. Okay. And he said, Will you talk with me?

18 And you said, Yeah, I'll talk with you. Didn't
19 you say that?

20 A. I don't remember saying that.

21 Q. You don't remember saying that?

22 A. Intoxicated.

23 Q. You were intoxicated. Didn't you say you had two
24 beers that day? Didn't you tell Detective Eckert you had
25 two beers that day?

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1 A. I told him I had more than two beers, but that's
2 what he put down.

3 Q. That's what he put down?

4 A. Yes, sir.

5 Q. Well, how many was it?

6 A. I said a few. I didn't know a number.

7 Q. Well, what is a number?

8 A. A few.

9 Q. Is a few three?

10 A. A little more than that.

11 Q. A little more. How much more than that?

12 A. A couple -- probably about six, seven.

13 Q. Six or seven. What kind of beer?

14 A. Bud Light.

15 Q. You lied about drinking. You said two beers to
16 Detective Eckert, and now you're saying six or seven Bud
17 Lights?

18 A. I never lied.

19 Q. You never lied, so he got it wrong?

20 A. Probably so.

21 Q. Probably so. Okay. Before your statement -- you
22 have a copy of your first statement? Do you have a copy
23 of it? Do you have a copy of your first statement?

24 A. Not on me.

25 MR. BUCHANAN: May I approach the witness,

1 Your Honor?

2 THE COURT: You may.

3 BY MR. BUCHANAN:

4 Q. This is a copy of your first statement. Do you
5 recognize that?

6 A. Yes, sir.

7 Q. You do? Okay. The first thing Detective Eckert
8 says is, Tell the truth. Be honest with me.

9 Isn't that the first thing he said?

10 A. Yes, sir.

11 Q. And you said you would, didn't you? Didn't you?

12 A. Yes, sir.

13 Q. And you lied, didn't you? Answer the question.
14 You lied.

15 A. Yes, sir.

16 Q. Look, you're going to have to speak up. This is a
17 big deal, okay? Speak up into the microphone. Okay.

18 Look at the first page of your statement. First
19 statement: May 7th, 2013, 2:40 a.m., 0240, the hours.

20 Did you say you were in the car, and the next
21 thing I remember they woke me up. I remember waking up
22 on the street. My cousin and -- my cousin and L were in
23 front of me, and I was in the back of the group.

24 My cousin L were having a conversation and trying
25 to get the attention of two white guys. I then saw the

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1 police flash and I ran.

2 You got a college education. You can read that,
3 right?

4 A. Yes, sir.

5 Q. And that's what you said?

6 A. Yes, sir.

7 Q. And that's a lie?

8 A. Yes, sir.

9 Q. Then, on the same page, Detective Eckert asked you
10 a question, Who had the gun?

11 And what was your answer?

12 A. I'm not sure.

13 Q. I'm not sure. Another lie, right?

14 A. Yes, sir.

15 Q. You had the gun. Okay.

16 Second page: Are your hands free there? Can you
17 turn to the second page, or do I have to do it for you?
18 Okay.

19 Third line: When you were arrested, question, you
20 had property in your possession that didn't belong to
21 you. Who did you get that from?

22 What was your answer?

23 A. I picked the wallet up and ran. I saw it on the
24 ground and I bent down and I picked it up.

25 Q. So you told Detective Ivey that Ricky gave it to

1 you, didn't you?

2 A. No, not on this paper.

3 Q. Not on that paper, when you got arrested.

4 Detective Ivey, the person who took you into custody, you
5 told him Ricky gave you the wallet. You've admitted that
6 is a lie, right?

7 A. Yes, sir.

8 Q. So that's a lie. Now you're telling Detective
9 Eckert about two hours later from this event that you
10 reached down and picked it up.

11 A. Yes, sir.

12 Q. It's you?

13 A. Yes, sir.

14 Q. You did it?

15 A. Yes, sir.

16 Q. And that's the truth?

17 A. Yes, sir.

18 Q. And that's the truth.

19 A. Yes, sir.

20 Q. Okay. Now, I want you to look at the jury when
21 you answer this next question. Look at them. They asked
22 you what happened when L and Lamont approached those
23 guys? What did you say? Last line.

24 A. I said it happened so fast, I don't know.

25 Q. You don't know what happened. Keep looking at the

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1 jury. Read the last line of the page when Detective
2 Eckert asked you, Do you have anything you want to add to
3 this statement? I want you to look at them when you read
4 it. Go ahead.

5 A. I said, I'm sorry for what happened to the guys.

6 Q. You're saying you're sorry for what happened to
7 the two guys. Two hours earlier you had a 38 in their
8 face.

9 Do you have a copy of your second statement?

10 A. No, sir.

11 MR. BUCHANAN: May I approach the witness,
12 Your Honor?

13 BY MR. BUCHANAN:

14 Q. Second statement: This one was taken the next
15 day. This happened early in the morning on May the 7th.
16 The next day the gun is recovered. The gun you dropped
17 but couldn't find and wouldn't tell Detective Ivey where
18 it is, they had to go out and find it themselves, and it
19 had been raining that night.

20 MR. ZIEGLER: Objection, Your Honor. These
21 are not questions.

22 THE COURT: You do have a little bit of room
23 to lead, but ask a question.

24 MR. BUCHANAN: Thank you, Your Honor.

25 BY MR. BUCHANAN:

1 Q. On May the 8th, 2013, the day after this occurred,
2 Detective Eckert came out to the Charleston County
3 Detention Center and picked you up and brought you to
4 Mount Pleasant, correct?

5 A. Yes, sir.

6 Q. And you agreed to give another statement to
7 detective -- a second statement, correct?

8 A. Yes, sir.

9 Q. Because he told you they had found the gun,
10 correct?

11 A. Yes, sir.

12 Q. Okay. And while you were preparing to be -- and I
13 think you even signed another Miranda, which is in front
14 of you, okay, waived your rights, agreed to talk to them,
15 you were joking around with Detective Eckert and Officer
16 Stevenson, saying, Boy, you look like Tom Cruise, and you
17 were kind of joking, around, right?

18 A. Yes, sir.

19 Q. Yes, you were making jokes. Okay. I want you to
20 turn to the third page in front of you, third page of
21 your statement.

22 Now, during the time you're giving this statement,
23 you're a smoker, right? You were a smoker in May of
24 2013?

25 A. Yes, sir.

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1 Q. And you needed a cigarette, right?

2 A. Yes, sir.

3 Q. And they let you have a cigarette break.

4 A. Yes, sir.

5 Q. And you took about a six-minute cigarette break at
6 the beginning of this interview, right? But you can't
7 smoke inside the police station, correct?

8 A. No, sir.

9 Q. So they put you in leggings, and you walked out
10 and you had a smoke, right?

11 A. Yes, sir.

12 Q. And they brought you back in and they were talking
13 to you, right?

14 A. Yes, sir.

15 Q. Okay. Okay. Third page of your second statement,
16 did you tell Detective Eckert, I don't know who the
17 wallet belonged to when I came out of the -- and there is
18 something scratched out.

19 Did you say you didn't know who the wallet
20 belonged to?

21 A. Yes, sir.

22 Q. Okay. But that's a lie. It belonged to
23 Mr. McElhenney because you stole it from him at gunpoint,
24 didn't you?

25 A. Yes, sir.

1 Q. Speak up. Yes?

2 A. Yes, sir.

3 Q. Okay. Then you say that you ran with the wallet,
4 and I was under -- I heard the police stopping around --
5 I then started puking because I didn't know what was
6 going on.

7 This is why you were hiding under the truck,
8 right?

9 A. Yes, sir.

10 Q. What do you mean you didn't know what was going
11 on? Tell me about that.

12 A. I guess I started puking because I was just tired,
13 just tired and all the alcohol was in me, short of
14 breath.

15 Q. You started puking because you just robbed
16 somebody, and there is police a few feet away. That's
17 why, isn't it?

18 A. No, not really.

19 Q. That's not the reason?

20 A. No, sir.

21 Q. Because you were drunk?

22 A. Yes.

23 Q. Okay. Okay. One line down from that, your
24 statement: I stayed there until I was caught. During
25 this time -- during this incident, I never saw a gun.

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1 Is that what you said in the second statement? Is
2 that right?

3 A. Yes.

4 Q. Yes?

5 A. That's what I said.

6 Q. It starts on the sixth line.

7 A. Yes, sir.

8 Q. I then started puking because I didn't know what
9 was going on. I stayed there until I was caught. During
10 this entire incident, I never saw a gun.

11 Correct?

12 A. Yes, sir.

13 Q. Now, this is like 36 hours later when you're
14 giving this statement, right?

15 A. Yes, sir.

16 Q. Okay. Then you go on to say, If I ever saw a gun,
17 I would have run away from Lamont. Robbing people is not
18 my MO.

19 Is that what you said?

20 A. Yes, sir.

21 Q. You're placing the gun with Lamont. You were
22 running away from him because he was the one jacking them
23 up, but you were the one with the gun. You were the one
24 jacking them up, right?

25 A. Yes, sir.

1 Q. No, sir?

2 A. Yes, sir.

3 Q. You have got to speak up. This is important.

4 A. She can hear me. You can't.

5 Q. You told them you used to kick doors, right? What
6 does kick doors mean?

7 A. Burglaries.

8 Q. What?

9 A. Burglaries.

10 Q. Burglaries. So you're saying, I don't use guns,
11 man.

12 MR. ZIEGLER: Objection. Relevance, Your
13 Honor.

14 THE COURT: Overruled.

15 BY MR. BUCHANAN:

16 Q. I don't use guns, man. I kick doors. Isn't that
17 what you're saying?

18 A. Yes, sir.

19 Q. Is that a yes, sir?

20 A. Yes, sir.

21 Q. I can't move this, but can you put your face in
22 there so we can all hear you and she can take it down?

23 So that's a lie too, isn't it? Isn't it?

24 A. Yes, sir.

25 Q. Okay. Look at the jury. Third to last line: In

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1 reference to this statement, I want to say I'm sorry to
2 the victims. I didn't know what was going on, but it
3 doesn't make it right.

4 Is that what you said? Did you look at them?

5 MR. ZIEGLER: Objection, Your Honor. It's
6 not a question.

7 THE COURT: Overruled.

8 BY MR. BUCHANAN:

9 Q. Is that what you said?

10 A. Yes, sir.

11 Q. Is that what you said?

12 A. Yes, sir.

13 Q. You didn't know what was going on. You would have
14 run away if there was a gun. That's not my MO. I'm a
15 burglar.

16 During this time, you were thirsty. Mount
17 Pleasant bought you a 20 ounce Coke, right?

18 A. Yes, sir.

19 Q. Yes?

20 A. Yes.

21 Q. I don't know --

22 A. Yes, sir.

23 Q. Okay. Thank you. You had another cigarette
24 break, right?

25 A. No, sir. I don't think so.

1 Q. You just had one cigarette break?

2 A. Yes, sir.

3 Q. One Coke. Okay. And then you were allowed to
4 call your mother from the Mount Pleasant police
5 department?

6 A. Yes, sir.

7 Q. And then Detective Eckert put you in his car, and
8 you were in handcuffs, and the handcuffs, he placed them
9 behind you, didn't he?

10 A. Yes, sir.

11 Q. And he put you in the front seat, and he put your
12 seatbelt on?

13 A. Yes, sir.

14 Q. Didn't he?

15 A. Yes, sir.

16 Q. And he was driving you back from the Mount
17 Pleasant police department, I think it's on Houston
18 Northcutt, and you went over 526, and I don't know if you
19 know that area, but you took the interstate back to the
20 jail; is that right?

21 A. Yes, sir.

22 Q. And while you were going back to the jail,
23 Detective Eckert let you use his phone to call your
24 girlfriend or wife or fiancée, and you got to talk with
25 her on his phone in the front seat of his vehicle, right?

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1 A. Yes, sir.

2 Q. Okay. That was awful nice of him, wasn't it?

3 A. Yes, sir.

4 Q. Okay. And then when he pulled in to the jail,
5 there's something called a sally port, like a big garage.
6 You've been to it before.

7 A. Yes, sir.

8 Q. And there's a gate. There's a steel gate,
9 correct?

10 A. Yes, sir.

11 Q. And it opens up and lets cars and vans in, and it
12 shuts behind, right?

13 A. Yes, sir.

14 Q. And on the other end, maybe 70 or 80 feet away,
15 maybe a little more is another gate that's steel, and it
16 shuts also, doesn't it?

17 A. Yes, sir.

18 Q. And Detective Eckert has to take his gun off of
19 him before he goes into the jail, so he had to take his
20 gun off before he goes into the sally port, didn't he?

21 A. I believe so.

22 Q. Okay. What do you mean you believe so? You saw
23 him do it, right?

24 A. No, sir.

25 Q. You didn't see him do it? Okay. When you were

1 walking from the car to the jail, inside the sally port,
2 is it like a garage with the kind of separate garage, one
3 opening, has one on each end, right?

4 A. Yes, sir.

5 Q. And it's steel, right? Doors? You had your cuffs
6 behind you, but you no longer have the leggings on, do
7 you?

8 A. No, I had the leggings on.

9 Q. You had the leggings on when you were smoking a
10 cigarette, didn't you?

11 A. Yes, sir.

12 Q. You did?

13 A. Yes, sir, I believe so.

14 Q. So you did have leggings on?

15 A. Not transporting me back, though.

16 Q. When you were transported back to the jail, were
17 you wearing leggings?

18 A. No, sir.

19 Q. Okay. And your hands were cuffed behind you, like
20 I'm holding my hands now?

21 A. Yes, sir.

22 Q. When you're taken to the jail by Detective Eckert,
23 you were walking next to him, and the gate of the sally
24 port, the exit gate, was wide open, wasn't it?

25 A. Yes, sir.

RANDI PARKS - CROSS

1 Q. Okay. And you took off and escaped; isn't that
2 correct?

3 A. Yes, sir.

4 Q. Okay. And while you're escaping from Detective
5 Eckert, you somehow, Houdini-like, get your handcuffs
6 from behind you, underneath you, and get it in front of
7 you; is that correct?

8 A. No, sir.

9 Q. They were always behind you?

10 A. They was behind me until they came off.

11 Q. They came off?

12 A. Yes.

13 Q. Okay. So somehow you were pulling on it, and you
14 got a hand free?

15 A. Yes, sir.

16 Q. Okay. So you were trying to get out of the cuffs?

17 A. No. When I ran and fell, the cuffs must have came
18 off by itself. I got up and it was off.

19 Q. You ran from Detective Eckert, and Detective
20 Eckert gave chase; is that right?

21 A. Yes, sir.

22 Q. Okay. But as far as you know, he doesn't have a
23 weapon at this time, right?

24 A. I don't know. I'm not sure.

25 Q. Okay. You ran in some woods, some marsh, and you

1 hid from him, didn't you?

2 A. Yes, sir.

3 Q. Okay. And you had the cuffs off you at this
4 point, correct?

5 A. Yes, sir.

6 Q. And he said when he finally found you, and it was
7 only him, he said, Come out, and you stood up and you
8 started coming out, right?

9 A. Yes, sir.

10 Q. He said, Get on the ground. He's going to recuff
11 you, right?

12 A. Yes, sir.

13 Q. And then you started fighting with him. You start
14 resisting arrest, didn't you?

15 A. Yes, sir.

16 Q. Yes. You started kicking him, didn't you?

17 A. No, I didn't start kicking him.

18 Q. You started fighting him, didn't you?

19 A. He had his knee up in my back.

20 Q. Only because you were trying to get away.

21 A. I had already gave myself up, though, so I felt it
22 was extra movement he was putting forward. Yes, sir, he
23 was hurting; yes, sir.

24 Q. So he was exercising police brutality?

25 A. If you want to put it that way.

RANDI PARKS - CROSS

1 Q. I'm not putting it that way.

2 A. Your words, not mine.

3 Q. They are my words. I'm asking you, was he?

4 A. I'm saying he was using extra force.

5 Q. I'm sorry. What?

6 A. I just said he was using extra force.

7 Q. He was using extra force. This is after you just
8 escaped from the Charleston County Jail. You're saying
9 he's using extra force? As a matter of fact, he alone
10 could not totally get you under control because it took a
11 retired North Charleston police officer to stop and help
12 him get you under control. It took two people, didn't
13 it?

14 A. Another person came.

15 Q. It took two people, didn't it?

16 A. Yes. Another person came.

17 Q. Yes or no?

18 A. Yes. I said yes.

19 Q. When they finally got you into the jail, you were
20 saying you wanted to commit suicide, didn't you?

21 A. No.

22 Q. You didn't say that?

23 A. No, sir. I didn't say that.

24 Q. Did they put you in a unit for suicide watch?

25 A. Yes, they did.

1 Q. They did? And this is May the 8th, 2013, right?

2 A. Yeah, I think so.

3 Q. Okay. Two statements, two lies. Lies, lies,
4 lies, in each statement, correct?

5 A. Yes, sir. Is that a question?

6 Q. Yes. You lied in every statement you ever gave?
7 Yes?

8 A. Yes. A little bit, yes.

9 Q. Yes, a little bit? You think this is a little
10 bit? Look, when I ask a question, you're supposed to
11 answer, okay? Is it a little bit to you or is it a lot?

12 A. You say a lot.

13 Q. A lot. Between May 8th -- let me back up for a
14 moment. You were arrested on May the 9th for escape,
15 weren't you?

16 A. Yes.

17 Q. And you got a \$50,000 bond on that, didn't you?

18 A. Yes.

19 Q. And your escape charge, before you ever came in
20 here today, was dismissed by a solicitor for the
21 Charleston County solicitor's office, wasn't it, on
22 August 19th, 2014? Your escape charge has been
23 dismissed, hasn't it?

24 A. Yes, sir.

25 Q. Third interview, this one recorded, November 14th,

RANDI PARKS - CROSS

1 2013. You have a lawyer. Mr. Murphy, right?

2 A. Yes, sir.

3 Q. There's a prosecutor, not this prosecutor, but
4 there was a prosecutor at that time, right?

5 A. Yes, sir.

6 Q. And there was Mr. Matt Casey, an investigator with
7 the Charleston County solicitor's office, right?

8 A. Yes, sir.

9 Q. And Detective Eckert were all in a room in this
10 building, and they interviewed you on that date, for the
11 third time, right?

12 A. Yes, sir.

13 Q. And that's when you said, Gee, whiz, I'm going to
14 tell the truth now, and then you said you were the guy
15 with the gun, right?

16 A. Yes, sir.

17 Q. Okay. I'm telling you this is on audio, okay?

18 Did you say Darren put the knife to the dudes'
19 throats, meaning the dudes that were being -- the poor
20 victims' throats during this robbery?

21 A. Yes, sir, I believe I did.

22 Q. And that never happened, did it?

23 A. Yes, sir, it did.

24 Q. You're saying there were knives put to the throats
25 of these victims?

1 A. I saw a knife, yes, sir.

2 Q. When you said to the throats of the victim, is
3 that what happened?

4 A. Yes, sir.

5 MR. BUCHANAN: Court's indulgence, Your
6 Honor.

7 BY MR. BUCHANAN:

8 Q. Earlier today when you were on direct examination
9 with the solicitor, you believe he went over your
10 criminal record, and your criminal record -- and I'm
11 sorry. I was preparing to cross-examine you, and I
12 didn't hear everything, but I want to make sure what you
13 said earlier was correct.

14 Did you say that in 2004 you were convicted for
15 carrying a weapon on school property?

16 A. Yes, sir, a juvenile.

17 Q. As a juvenile, and as a juvenile, you were
18 arrested for possession with intent to distribute a
19 Schedule one, two, three, drug in 2004 also?

20 A. Yes, sir.

21 Q. And that you were convicted of possession with
22 intent to distribute a drug near a school; is that right?

23 A. That's when I was a juvenile.

24 Q. Is that right?

25 A. Yes, sir.

RANDI PARKS - CROSS

1 Q. And that in 2005, you were convicted for one count
2 of second degree burglary; is that right?

3 A. Yes, sir.

4 Q. Okay. 2012, one year before this occurred, this
5 event we're talking about today, you were convicted on
6 four counts of second degree burglary; is that right?

7 A. Yes, sir.

8 Q. And two counts of grand larceny; is that correct?

9 A. Yes, sir.

10 Q. Is it also true that you had been out of the South
11 Carolina Department of Corrections on those charges for
12 approximately 60 days when you did this crime?

13 A. Yes, sir.

14 Q. You had been out two months and you did it?

15 A. Yes, sir.

16 MR. BUCHANAN: Court's indulgence, Your
17 Honor.

18 BY MR. BUCHANAN:

19 Q. So your testimony today is that you picked up the
20 wallet, not Ricky; Ricky didn't do it, you, right?

21 A. Yes, sir.

22 Q. Also, on your confession of November the 14th,
23 2013, didn't you say you never touched the victims?

24 A. Yes, sir.

25 Q. You say you never touched the victims?

1 A. Yes, sir.

2 Q. But did you touch the victims. You put the gun
3 right in their stomachs, didn't you?

4 A. I was a few feet from them. The gun never
5 contacted their skin.

6 Q. The gun never contacted the victims.

7 A. No, sir.

8 Q. When you came down from Columbia -- beg the
9 Court's indulgence, Your Honor.

10 Did Lamont pay for the gas to get to Charleston?

11 A. Yes, both of us.

12 Q. Okay. And Lamont had the money to get everybody
13 back to Columbia?

14 A. Yes, sir.

15 Q. Okay. And did he have money, or counterfeit
16 money, that he was using?

17 A. At the time -- yes, sir. He had counterfeit on
18 him.

19 Q. So he had money?

20 A. Yes.

21 MR. BUCHANAN: Nothing further, Your Honor.
22 Thank you.

23 THE COURT: Redirect?

24 MR. ZIEGLER: Court's indulgence please, Your
25 Honor.

RANDI PARKS - REDIRECT

1 REDIRECT EXAMINATION

2 BY MR. ZIEGLER:

3 Q. Randi, when you testified earlier today, did you
4 say you were protecting yourself when you were lying to
5 police?

6 A. Yes, sir, myself and others.

7 Q. So you also said you were protecting others as
8 well?

9 A. Yes, sir.

10 Q. And who were you protecting?

11 A. Darren and Ricky Hayes.

12 Q. Defense counsel asked you further about the
13 incident where you attempted to run away from Corporal
14 Eckert, and you already admitted today that you did that,
15 right?

16 A. Yes, sir.

17 Q. Did you ever apologize to Corporal Eckert?

18 A. Yes, sir, I did.

19 Q. Randi, have you pled guilty to two counts of armed
20 robbery in this case?

21 A. Yes, sir.

22 Q. Have you taken responsibility for your role in it?

23 A. Yes, sir.

24 Q. And have you been sentenced on that yet?

25 A. No, sir.

1 Q. Have any promises been made to you?

2 A. No, sir.

3 Q. Have you known -- excuse me.

4 Who was with you the night of this robbery? Who
5 did this robbery with you?

6 A. Ricky Hayes and Darren Belt, myself.

7 Q. Who gave you the gun?

8 A. Ricky Hayes.

9 MR. BUCHANAN: Your Honor, I don't know if
10 this is redirect or not.

11 THE COURT: Well, it is redirect. What is
12 your point?

13 MR. BUCHANAN: He went into it -- he went
14 into these questions on direct.

15 THE COURT: Well, he's only limited to what
16 you went into on cross on redirect, and I believe you
17 went into this, if that answers the question.

18 MR. BUCHANAN: Thank you.

19 BY MR. ZIEGLER:

20 Q. And defense counsel also mentioned some
21 counterfeit money. Did you also have counterfeit money
22 in your possession?

23 A. Yes, sir.

24 Q. You did?

25 A. Yeah. I got caught with some.

RANDI PARKS - RECROSS

1 Q. Where did you get that?

2 A. From Ricky.

3 MR. ZIEGLER: Court's indulgence, please,
4 Your Honor.

5 BY MR. ZIEGLER:

6 Q. Do you know where Ricky got the counterfeit money?

7 A. What he gave me, yeah.

8 Q. Where?

9 A. One of their houses we had stopped in before the
10 robbery.

11 Q. Okay.

12 MR. ZIEGLER: No further questions, Your
13 Honor.

14 THE COURT: Recross?

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

17 RECROSS-EXAMINATION

18 BY MR. BUCHANAN:

19 Q. Mr. Parks, you've pled guilty to two counts of
20 armed robbery; is that correct?

21 A. Yes, sir.

22 Q. You have a lawyer; is that correct?

23 A. Yes, sir.

24 Q. You talked to your lawyer about what that carries?

25 A. Yes, sir.

1 Q. What does it carry?

2 A. Sixty years.

3 MR. ZIEGLER: Objection, Your Honor.

4 MR. BUCHANAN: It shows bias. We're allowed
5 to go into this.

6 THE COURT: What is your objection?

7 MR. ZIEGLER: May we approach, Your Honor?

8 (Discussion held at sidebar.)

9 BY MR. BUCHANAN:

10 Q. You know you're looking at 60 years in jail,
11 right?

12 A. Yes, sir.

13 Q. And you talked to your lawyer about that, right?

14 A. Right.

15 Q. And there's a minimum of ten years in jail, right?

16 A. Yes, sir.

17 Q. And you're hoping to get ten years in jail by your
18 testimony today, aren't you?

19 A. Not really, sir.

20 Q. You're not?

21 A. No, sir.

22 Q. You're hoping to get more?

23 A. I'm doing of it my own will.

24 Q. I'm sorry. What?

25 A. I'm doing it of my own will.

JEREMY ABLE - DIRECT

1 Q. Your testimony?

2 A. Yes.

3 Q. You don't want to do 60 years in jail, do you?

4 A. No, sir.

5 Q. You would rather have ten?

6 A. I got to take what comes to me.

7 Q. And the escape charge that carries five years
8 without even testifying has already been dismissed,
9 correct?

10 A. Yes. I found that out recently.

11 MR. BUCHANAN: Thank you. No further
12 questions.

13 THE COURT: All right. Folks, let's take ten
14 minutes while we get the rest of the day planned out,
15 and, again, don't begin deliberations or discussions.
16 We'll have you back in, hopefully, really ten minutes.

17 (Recess taken.)

18 (In open court, jury present.)

19 THE COURT: Okay. Call your next witness.

20 MR. ZIEGLER: State calls Jeremy Able.

21 JEREMY ABLE,

22 having been first duly sworn,

23 was examined and testified as follows:

24 DIRECT EXAMINATION

25 BY MR. ZIEGLER:

JEREMY ABLE - DIRECT

1 Q. Good afternoon, Mr. Able.

2 A. Good afternoon.

3 Q. How are you today?

4 A. Doing well, thank you.

5 Q. Did you travel today?

6 A. I did.

7 Q. Where did you come from?

8 A. I came from Greenwood, South Carolina.

9 Q. Where are you employed?

10 A. I'm currently employed with Chandler Construction
11 Services based out of Greenville, South Carolina.

12 Q. And have you ever worked in Charleston for
13 Chandler?

14 A. I have, yes, sir.

15 Q. When was that?

16 A. That was approximately three our four months ago
17 for a period of about two years.

18 Q. Okay. And have you been made familiar with an
19 investigation about an incident that occurred on May 7,
20 2013?

21 A. Yes, sir, I have.

22 Q. And on May 7th, 2013, were you working in
23 Charleston at that time?

24 A. Yes, sir, I was. I was working in Mount Pleasant.

25 Q. And what kind of project were you working on?

A. We were working on the renovation of an underground water and sewer system in the of Mount Pleasant.

6 A. My duties at that time at Chandler, I was a crew
7 truck driver. I drove the truck that had the crew that
8 did the actual work itself from any certain location and
9 point in time, from Jedburg to Mount Pleasant that
0 particular morning, and I was also a driver and an
1 operator with equipment which entitled me to operate and
2 run any equipment or vehicles that we had.

15 A. Yes, sir. As a matter of fact, I did. I operated
16 our crew truck in question. I operated our crew truck
17 from Jedburg to the area in the in Mount
18 Pleasant, and I also operated a flatbed dump truck.

22 A. Yes, sir, I certainly do.

24 A. This photo shows the flatbed dump truck I drove
25 that day as well as a front end loader that is used as a

JEREMY ABLE - DIRECT

1 piece of equipment as well, what the main -- the center
2 of this picture is the flat bed dump truck.

3 Q. All right. Thank you. And approximately what
4 time on May 7th, 2013 did you first drive that truck that
5 you're referring to, the dump truck?

6 A. The time was approximately 8:00.

7 Q. And where did you drive it?

8 A. The best of my recollection, I drove that truck to
9 North Charleston by way of Coleman Boulevard and the
10 Ravenel Bridge and I-26.

11 Q. And are you -- on that particular morning, are you
12 absolutely positive which way you drove that truck, or
13 did you sometimes go different ways to North Charleston?

14 A. There were some times when I would go different
15 ways to North Charleston, but I would either have went
16 down 526 and possibly come back down I-26, but I could
17 have went either way, you are correct, sir.

18 Q. And have you driven -- you had driven that route
19 before from down Coleman Boulevard toward the Ravenel
20 Bridge?

21 A. Oh, yes, sir.

22 Q. Numerous times?

23 A. Yes.

24 Q. Common?

25 A. Yes, very common.

JEREMY ABLE - DIRECT

1 Q. So was it possible that morning that you took that
2 route on Coleman?

3 A. Oh, yes, sir, certainly, certainly.

4 Q. And, again, what did you go to North Charleston to
5 do?

6 A. The best I can recall, I think I went to pick up
7 some asphalt. I think we were either -- we were paving
8 roads into the as we would tear them up, and
9 we were also replacing dirt and sand, so I very well
10 could have picked up dirt and sand and asphalt in the
11 North Charleston area.

12 Q. And after you did that, approximately what time
13 did you come back with the truck, do you know?

14 A. It was approximately 10:00 when I arrived back
15 into the area of where the truck was parked.

16 Q. On May 7, 2013?

17 A. Yes, sir.

18 Q. And did you park the truck near the place where
19 you picked it up?

20 A. Yes, sir. It would have been in the same general
21 vicinity as where I would have picked it up at. On that
22 side of the road is generally where we always park that
23 truck when we get done with it.

24 Q. Okay.

25 MR. ZIEGLER: No further questions, Your

1 Honor.

2 THE COURT: Cross?

3 MR. HAWKINS: May it please the Court:

4 CROSS-EXAMINATION

5 BY MR. HAWKINS:

6 Q. Just very briefly, Mr. Able. If I understand your
7 testimony, you got in the truck there at Hampp Fludd
8 Street.

9 A. Yes.

10 Q. And you drove to North Charleston?

11 A. Yes, sir.

12 Q. And if I understood you correctly, it's kind of
13 50/50 as to whether you drove from there to the Ravenel
14 Bridge, headed up that way, or if you kind of went to the
15 right towards 526 and drove that way, correct? You're
16 just not sure which one it was?

17 A. That particular morning, yes, that's correct. I
18 generally would have went one way or the other, depending
19 on which place I was going. Based off of the statements
20 I made at that time, those were accurate, I would have
21 certainly recalled them those days as well, but as far as
22 today, I just -- I couldn't tell you 100 percent, but it
23 would be likely I would travel either direction.

24 Q. I'm going to show you State's Exhibit 26.

25 A. Yes, sir.

JEREMY ABLE - CROSS

1 Q. Is that the actual truck that you drove?

2 A. Yes, sir, it is. That is the truck.

3 Q. And this truck is used for hauling -- does it
4 have -- is that a load of dirt on the back of it or
5 what's --

6 A. Let's see. What I could tell from this picture is
7 a bush in the background.

8 Q. Is that what it is?

9 A. Yes, sir. It does not look loaded at all, as I
10 can notice, because the tailgate is open, but yes, sir,
11 that would be used to haul the assortment of dirt, trash,
12 asphalt, anything of the sort.

13 Q. And -- excuse me. This truck is not a luxury
14 automobile with a nice smooth ride and nice shock
15 absorbers. This is a work truck, right?

16 A. Yes, sir.

17 Q. And it's kind of a bouncy ride?

18 A. With respect to a Cadillac, yes, sir.

19 Q. And that's what it's made for, for hauling
20 equipment, things like that?

21 A. Yes, sir.

22 MR. HAWKINS: No further questions, Your
23 Honor. Have a safe trip back to Greenwood.

24 THE COURT: Any redirect?

25 MR. ZIEGLER: No, sir.

DIANA LAPP - DIRECT.

1 THE COURT: You may step down. Thank you.

2 THE WITNESS: Thank you, Your Honor.

3 THE COURT: Call your next witness.

4 MR. ZIEGLER: State calls Detective Diana
5 Lapp.

6 DIANA LAPP,

7 having been first duly sworn,

8 was examined and testified as follows:

9 DIRECT EXAMINATION

10 BY MR. ZIEGLER:

11 Q. Hello, Detective Lapp. How are you today?

12 A. Good. And you?

13 Q. Very well. What police agency do you work for?

14 A. Mount Pleasant police department.

15 Q. How long have you been working for Mount Pleasant?

16 A. Eight years.

17 Q. And what's your total career in law enforcement?

18 A. Eight years.

19 Q. Okay. And what is your position?

20 A. I'm a detective.

21 Q. What does that entail, for job duties?

22 A. Investigations of criminal matters from A to Z.

23 Q. I want to direct you to May 7th, 2013. When did
24 you go into work that day?

25 A. In the morning.

DIANA LAPP - DIRECT

1 Q. Okay. What were you tasked with that morning when
2 you got to work?

3 A. Well, I was briefed by my Sergeant Hembree about
4 the incident the prior evening, and I was --

5 Q. What was that incident?

6 A. An armed robbery had occurred, and I was to try to
7 locate some of the property belonging to the victims that
8 was still outstanding, mainly cell phones.

9 Q. How many cell phones were you looking for?

10 A. Two.

11 Q. And what was the first thing you did in this
12 investigation?

13 A. I called the numbers for the phones. One of the
14 phones I was able to locate -- somebody answered, and
15 Kenneth Ford was the person on the phone, or he
16 identified himself as Kenneth Ford. That was the phone
17 number for Mr. McElhenney.

18 Q. What was that phone number?

19 A.

20 Q. Did you ever find the other phone that you were
21 looking for?

22 A. No, sir.

23 Q. Did anyone else -- did you call that phone?

24 A. I did, and there was no answer, and I believe it
25 had terminated service.

DIANA LAPP - DIRECT

1 Q. What did you do after you spoke to Mr. Ford?

2 A. Mr. Ford gave me his address, and I and Sergeant
3 Hembree went to his address and met with him, retrieved
4 his cell phone, and took a written statement from him
5 about where he found the phone.

6 Q. And did you collect the phone?

7 A. I did.

8 Q. And after you collected that phone, what did you
9 do after that?

10 A. Sergeant Hembree and I went over to Hampp Fludd
11 Street when we were looking for the other cell phone,
12 other items related to the robbery.

13 Q. Now showing you State's Exhibit 26, it's just
14 being marked for identification purposes at this point.
15 Do you recognize this photo?

16 A. Yes.

17 Q. What is it?

18 A. This is Hampp Fludd Street. This is the area
19 where the Chandler Construction truck was, where we
20 located the gun.

21 Q. Okay.

22 MR. ZIEGLER: State moves to admit State's
23 Exhibit 26 into evidence.

24 MR. HAWKINS: Which one is that? No
25 objection.

DIANA LAPP - DIRECT

1 THE COURT: It's admitted.

2 (State's Exhibit No. 26 was marked for
3 identification and admitted into evidence.)

4 BY MR. ZIEGLER:

5 Q. Detective Lapp, can you please explain to the jury
6 what this photo shows.

7 A. Well, that's Hampp Fludd Street, and the vehicle
8 to the right, the gray sedan that's just in front of the
9 people in the street, that is my car. And I'm standing
10 on the right of the gentleman in the fluorescent vest.

11 Q. And did you locate any gun in that area?

12 A. We did.

13 Q. Where was it in relation to the truck that was
14 there on that photo?

15 A. It was between the truck and my vehicle. There's
16 a fence that ran along -- it might be best --

17 Q. Sure --

18 A. So to the right of the truck, you can see the
19 fence that runs alongside of that. Just a few feet
20 behind the truck, right against the fence in the grass,
21 was the revolver.

22 Q. Okay. And did you pick the gun up? Did you leave
23 it there? Did you make any calls after that?

24 A. We called the crime scene to come out and collect
25 that.

DIANA LAPP - DIRECT

1 Q. Was there anything placed over the weapon?

2 A. Just after we saw it lying in the grass, it
3 started to drizzle, and there was a Styrofoam plate
4 somebody had tossed to the ground, placed that overtop of
5 the gun to try to contain any evidence that might be on
6 the weapon.

7 Q. Okay. I'm now showing you State's Exhibit No. 27.
8 Do you recognize that photo?

9 A. Yes. It looks like the area just behind the
10 truck.

11 Q. And do you see in this photo where the weapon was
12 located?

13 A. I can't see the weapon in this picture, but it
14 looks to be the Styrofoam plate there, and that was the
15 only one along the fence, so I have to assume it was
16 under that one.

17 MR. ZIEGLER: State moves to admit State's
18 Exhibit No. 27 into evidence.

19 MR. HAWKINS: No objection.

20 THE COURT: Admitted.

21 (State's Exhibit No. 27 was marked for
22 identification and admitted into evidence.)

23 BY MR. ZIEGLER:

24 Q. Detective Lapp, does this represent the area where
25 the gun was located?

DIANA LAPP - DIRECT

1 A. Yes.

2 Q. What did you do after that?

3 A. Returned to the station and secured the cell phone
4 that I obtained from Mr. Ford into evidence.

5 Q. Was that cell phone returned to the victim?

6 A. I'm not sure.

7 Q. Do you remember speaking to Jeremy Able?

8 A. I do.

9 Q. And did he tell you where he -- what he did that
10 morning, where he drove that truck?

11 A. Yes, sir. I spoke to him. He told me that he had
12 driven the Chandler Construction truck that was in the
13 photos to North Charleston, and the route that he took
14 was from the down Coleman Boulevard
15 southbound, over the Ravenel Bridge to I-26.

16 Q. And do you know approximately what time you got to
17 that location out on Hampp Fludd Street?

18 A. I'm not sure.

19 Q. Do you remember what time you went to Mr. Ford's
20 residence?

21 A. I don't know the exact time, but I took a
22 statement from him, and it should have the date and time
23 on top of the statement, which as soon as we took the
24 statement, we went to Hampp Fludd.

25 Q. Would your memory be refreshed by looking at your

DIANA LAPP - CROSS

1 report from that date?

2 A. I have my report here.

3 Q. Okay.

4 A. And I did not note the time.

5 Q. If you look on the third line of the first large
6 paragraph --

7 A. I'm sorry. I did note it. So I met with Mr. Ford
8 at his residence in downtown Charleston at 10:45 a.m.

9 Q. And was it after that that you went to Hampp Fludd
10 Street and located the gun?

11 A. Yes.

12 MR. ZIEGLER: No further questions, Your
13 Honor. Please answer any questions the defense may have.

14 THE COURT: Cross?

15 CROSS-EXAMINATION

16 BY MR. HAWKINS:

17 Q. Detective, I have a couple questions for you.

18 When you met with Mr. Ford to retrieve the cell
19 phone --

20 A. Yes, sir.

21 Q. -- you went to his house to get the cell phone?

22 A. Yes.

23 Q. Okay. And that is -- give me roughly the
24 neighborhood where that was.

25 A. I don't know the name of it. I could give you the

1 address.

2 Q. Okay.

3 A. It's

4 Q. What is that close to in Mount Pleasant?

5 A. It's not very far from the bridge. It was a short
6 drive over the bridge.

7 Q. From the Ravenel Bridge?

8 A. Yes, sir.

9 Q. And what is your understanding of where he located
10 that phone?

11 A. At the corner of McGrath Darby Boulevard and
12 Coleman Boulevard, the intersection.

13 Q. Which is basically the intersection where the
14 Yorktown is; is that correct?

15 A. Just on the opposite side, if you're heading to
16 the Ravenel Bridge.

17 Q. Right. At that intersection where the Yorktown is
18 but the opposite side from that; is that correct?

19 A. Yes, sir.

20 Q. On the sidewalk?

21 A. He said it was in the area of the sidewalk.

22 Q. And you drove -- did you drive directly from there
23 to Hampp Fludd when you -- I'm sorry. Scratch that.

24 Do you know if from Hampp Fludd to the location
25 where your understanding this phone was located was 1.7

1 miles, would that sound accurate?

2 A. That sounds accurate.

3 Q. Okay. If I tell you I measured that, you would
4 have no reason to dispute that it's 1.7 miles?

5 A. No, sir. Sounds right.

6 Q. When you went back to Hampp Fludd and you found
7 the gun that morning, it was located very close to where
8 the truck was; is that correct?

9 A. Yes.

10 Q. And close to a fence also?

11 A. Yes.

12 Q. And it was -- it did not appear to have been
13 hidden. Like, if I'm going to hide the gun, I'm going to
14 come stick it underneath this bag, but that's not what
15 you saw when you found this gun. It was sitting pretty
16 much on top of the ground, wasn't it?

17 A. Yes. It looked like it had been placed next to
18 the fence.

19 Q. But just placed on the ground against the fence?

20 A. There was nothing on top of it.

21 Q. Okay. Okay.

22 MR. HAWKINS: Nothing further. Thank you
23 very much.

24 THE COURT: Redirect?

25 REDIRECT EXAMINATION

ANGELA MITCHELL - DIRECT

1 BY MR. ZIEGLER:

2 Q. Detective Lapp, when you spoke to Mr. Ford who had
3 that phone, did you have any reason to suspect that he
4 was involved in any wrongdoings as far as he obtained
5 that phone?

6 A. No, sir. Matter of fact, he had been calling
7 numbers from the phone, trying to find the owner.

8 Q. Okay.

9 MR. ZIEGLER: No further questions, Your
10 Honor.

11 MR. HAWKINS: Nothing further, Your Honor.

12 THE COURT: You may step down. Thank you.
13 Next witness?

14 MR. ZIEGLER: State calls Angie Mitchell.

15 ANGELA MITCHELL,

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

18 DIRECT EXAMINATION

19 BY MR. ZIEGLER:

20 Q. Good afternoon, Angie. Ms. Mitchell, how are you
21 today?

22 A. Well. How are you?

23 Q. Very well. What agency are you employed by?

24 A. Mount Pleasant police department.

25 Q. How long have you been working for Mount Pleasant?

ANGELA MITCHELL - DIRECT

1 A. A little over 14 years.

2 Q. And what positions have you held with the
3 department?

4 A. I've been animal control officer, a police
5 officer, and currently I do evidence and crime scene.

6 Q. And in that current position with evidence and
7 crime scene, what kind of duties do you have?

8 A. It's basically two functions. One is just the
9 evidence room where we take care of all the evidence
10 that's brought in by either myself, the other crime scene
11 officers, or any police officer in general. We take care
12 of that evidence, and my other function is crime scene,
13 where I go out into the scene and collect evidence,
14 processings, that kind of thing.

15 Q. And on May 7th, 2013, what did you do that day as
16 part of your duties?

17 A. One of the things I did, I was called by the
18 detectives who were out at Hampp Fludd Street, and they
19 had found a firearm. They requested that I come out,
20 photograph it, and collect it and bring it back to the
21 police department, and that's what I did.

22 Q. Had they moved it in any way at that point?

23 A. No. They hadn't moved it. It had started to rain
24 a little bit, so they just kind of held the scene and put
25 a plate over top of it to keep the weather from doing any

ANGELA MITCHELL - DIRECT

1 damage to it.

2 Q. And did you -- what did you do when you got to the
3 scene?

4 A. Initially, I talked to them briefly. They kind of
5 told me what they had found, where it was, and every
6 scene I go to, no matter how big, no matter how small, I
7 take photographs.

8 And I just took several photographs of the firearm
9 and removed -- well, I took photos of where the plate was
10 and then removed the plate and took photographs of the
11 firearm and opened the cylinder to see if there were any
12 shells in it or not.

13 Q. Were there?

14 A. There were four, yes.

15 Q. Okay. Did you collect the weapon?

16 A. I did. I immediately collected it and placed it
17 into a cardboard box that's designed to hold firearms,
18 and it was placed into one of those and I took it back to
19 the station with me.

20 Q. I'm now showing you State's Exhibit 21. Does that
21 appear to be the weapon you collected?

22 A. Yes, sir.

23 Q. And I'm showing you what has been marked for
24 identification purposes as State's Exhibit 22. Do you
25 recognize this item?

ANGELA MITCHELL - DIRECT

1 A. Yes. Those are the four rounds that I took out of
2 it.

3 Q. Okay.

4 MR. ZIEGLER: Your Honor, the State moves at
5 this time to admit State's Exhibit No. 22 into evidence.

6 MR. HAWKINS: No objection.

7 THE COURT: Admitted.

8 (State's Exhibit No. 22 was marked for
9 identification and admitted into evidence.)

10 BY MR. ZIEGLER:

11 Q. Ms. Mitchell, I'll show you what has been marked
12 for identification as State's Exhibits 28 through 32, if
13 you look at these and let me know if you recognize those.

14 A. I do. These are the photographs I took while on
15 scene. That's my hand holding the gun.

16 Q. Okay.

17 A. Yes. Those are the photos I took.

18 MR. ZIEGLER: Your Honor, the State moves to
19 admit State's Exhibits 28 through 32 into evidence.

20 MR. HAWKINS: No objection.

21 THE COURT: Admitted.

22 (State's Exhibit Nos. 28, 29, 30, 31 and 32
23 were marked for identification and admitted into
24 evidence.)

25 BY MR. ZIEGLER:

ANGELA MITCHELL - DIRECT

1 Q. Now publishing State's Exhibit 26, do you
2 recognize this photo?

3 A. I do.

4 Q. What does this show?

5 A. That's Hampp Fludd Road, or Street, Hampp Fludd
6 Street, Hampp Fludd Drive in Mount Pleasant, and you
7 can't see it on that photo. That's kind of like further
8 away kind of to show where this is in relation to where
9 I'm standing, and there's a -- you can't see it in this
10 photo because I'm just kind of showing where I'm going
11 to, but that's Hampp Fludd Road, and that's the truck
12 that was in question.

13 Q. What does this photo show? This is State's
14 Exhibit 27.

15 A. That's getting a little closer. The little white
16 disk is the paper plate -- or not paper plate, it's like
17 a Styrofoam plate. The gun is underneath that plate, and
18 that is just to show where I'm going to.

19 Q. This is State's Exhibit 28.

20 A. That's a closer up of the Styrofoam plate.

21 Q. And what is under that plate?

22 A. The firearm is under that plate.

23 Q. And State's Exhibit 29.

24 A. That was vomit that was left at the scene.

25 Q. And that was -- that was a zoomed in photo?

ANGELA MITCHELL - DIRECT

1 A. Yes. I'm sorry, it was, and there may have
2 been --

3 Q. This is State's Exhibit 27.

4 A. Yeah, it's right by that piece of wood.

5 Q. What is?

6 A. The vomit is right near that piece of wood.

7 Q. All right. Thank you. I'm now showing you
8 State's Exhibit 30.

9 A. And that's the firearm that was underneath that
10 plate.

11 Q. Okay. This is State's Exhibit 31.

12 A. That's a closer up of the firearm.

13 Q. And State's Exhibit 32.

14 A. That's with the cylinder open where you can see
15 the four live rounds that are in there, and there was
16 only four in there.

17 Q. What did you do with the gun after you collected
18 it?

19 A. I brought it back to the station and immediately
20 logged it into evidence. Normally, if it's something
21 that we as crime scene officers collect, we bring it
22 straight in and log it, find a place for it in the
23 firearms section, and put it in there.

24 Q. Did you attempt to retrieve any forensic evidence
25 from the gun?

ANGELA MITCHELL - DIRECT

1 A. I did. I put -- I tried to get maybe some touch
2 DNA off the trigger because that was a rough surface.
3 You may leave some skin cells on there, and on the -- I'm
4 sorry, on the hammer and the trigger both, and I
5 attempted to get DNA from those. Those were boxed up and
6 sent to SLED, and they didn't come back with any kind of
7 conclusive results.

8 Q. And, in general, do you know why that was?

9 A. There could be any reasons. Touch DNA isn't
10 always the best. You don't know what you're going to
11 get. I could touch this and maybe not leave some DNA.
12 It's just there is not enough skin cells that would be
13 left, but that firearm had been in the weather for the
14 night, so whether there was a lot of rain, a lot of dew
15 that night, I don't know.

16 I'm not the scientist behind all of that. I just
17 do what I do to collect it, and I couldn't tell you the
18 reasons why. There could be several, but it was
19 inconclusive.

20 MR. ZIEGLER: Court's indulgence, please,
21 Your Honor.

22 No further questions for this witness.

23 THE COURT: Cross?

24 MR. BUCHANAN: Yes, Your Honor.

25 CROSS-EXAMINATION

1 BY MR. BUCHANAN:

2 Q. Good afternoon, Officer Mitchell. How are you?

3 A. Good. How are you?

4 Q. You took that photograph?

5 A. I did.

6 Q. Okay. And you said -- you know, I never asked
7 this question before, but the vomit was found underneath
8 where that board is?

9 A. No. It's not underneath it, it's kind of to the
10 side.

11 Q. To the right or to the left?

12 A. It's in front of it. The way I'm looking at it,
13 it would be to my left.

14 Q. To the left.

15 A. Yes.

16 Q. Okay. All right. And the gun is underneath a
17 Styrofoam plate near the fence; is that correct?

18 A. Yes, sir.

19 Q. Okay. And how far would you say the vomit is from
20 where you found the gun?

21 A. Probably about ten feet or so.

22 Q. About ten feet?

23 A. Yeah.

24 Q. And to the right, is that the back of a pickup
25 truck?

ANGELA MITCHELL - CROSS

1 A. Yes, it is.

2 Q. Okay. All right. I know you're not an expert.

3 A. Uh-huh.

4 Q. But you attempted to take lifts from this gun.

5 A. Yes, sir.

6 Q. And you sent it to SLED.

7 A. Yes, sir.

8 Q. And it came back either negative or they just
9 couldn't match anything; is that correct?

10 A. Yes.

11 Q. Okay. Were fingerprints tried to be taken?

12 A. Yes, sir.

13 Q. And did you try to do lifts?

14 A. Yes, sir.

15 Q. And were those negative?

16 A. Yes.

17 Q. And, again, I know you're not an expert. If they
18 object, we have to stop, but could it possibly be because
19 it was raining or the dew that came out that night that
20 you couldn't take lifts or get the DNA from the gun?
21 Would that be a reason?

22 A. It's possible.

23 Q. Okay. All right.

24 MR. BUCHANAN: I have no further questions.
25 Thank you.

KENNETH FORD - DIRECT

1 morning.

2 (Recess taken.)

3 (January 15, 2015.)

4 THE COURT: Is there anything we need to take
5 up before we bring the jury in?

6 MR. ZIEGLER: No, Your Honor.

7 MR. BUCHANAN: No, Your Honor. I don't think
8 so.

9 (In open court, jury present.)

10 THE COURT: All right. Welcome back, folks.
11 We're going to start this morning with the State calling
12 their next witness.

13 MR. ZIEGLER: Thank you, Your Honor. The
14 State calls Mr. Kenneth Ford.

15 KENNETH FORD,
16 having been first duly sworn,
17 was examined and testified as follows:

18 DIRECT EXAMINATION

19 BY MR. ZIEGLER:

20 Q. Good morning, Mr. Ford. Are you doing all right
21 today?

22 A. Yes, sir.

23 Q. Mr. Ford, how old are you?

24 A. I'm 62 years old.

25 Q. Have you always lived in Charleston?

KENNETH FORD - DIRECT

1 A. All my life.

2 Q. And what part of town, generally, do you live in?

3 A. On the west side, around Congress Street.

4 Congress Street, I live in that area.

5 Q. And what do you do for a living.

6 A. I'm a house painter.

7 Q. How long how long have you been doing that?

8 A. Too long. About 35 years.

9 Q. Are you familiar with the incident, the events
10 that we are here about today, what you did on May 7th,
11 2013?

12 A. I was on my way to work. I was working in a
13 subdivision in Mount Pleasant called Sawgrass. On that
14 particular day, I catch a ride so I can catch a bus over
15 to Mount Pleasant in order to get back to 17 to catch a
16 ride to go to Sawgrass, and after getting off the bus on
17 that day, me and this young lady, she was showing me how
18 to get back to 17, and she showed me, walking across the
19 road there.

20 Q. Where was it that you got off the bus?

21 A. First service station on the right-hand side,
22 right there. When you got off the bridge, I got off
23 there.

24 Q. Is that where Patriot's Point is?

25 A. You know where the old television station was,

KENNETH FORD - DIRECT

1 right at that corner?

2 Q. Right.

3 A. It would be across from there.

4 Q. So that's where you got off the bus?

5 A. Yes, sir.

6 Q. And then from there, did you cross the street?

7 A. We crossed the road right there, and then --

8 Q. Was that Coleman Boulevard?

9 A. I think that's Coleman, and then we got on to the
10 left-hand side because I had to go out to that -- going
11 through there, I'm not familiar with Mount Pleasant. But
12 that road that's going there, she was working at some
13 hotel. She was showing me how to get back to 17 on that
14 day, so I was going to walk through there.

15 I was crossing the road, and then when I got
16 there, we crossing -- then I looked down, and I saw a
17 telephone. I seen a telephone, and I picked it up. A
18 few feet, maybe five, six feet away from it, there was a
19 battery, so I insert the battery and the phone was
20 operational.

21 So I hadn't had time to check on anything, so at
22 that time I went to catch my ride to work, and after
23 doing that, I started making calls on the phone, trying
24 to track who the phone belonged to. After contacting one
25 of the persons that was in the phone, she said to me

—KENNETH FORD - DIRECT—

1 that -- it was a female. She said, This is my son's
2 phone, or something like that.

3 Q. Okay.

4 A. After doing so, I gave her my telephone number and
5 my address to contact me, you know, where the phone is
6 located. And after that, maybe about 20 minutes later, a
7 detective called the phone from Mount Pleasant police
8 department and said that they were coming around to
9 retrieve the phone. So I gave them my address, they came
10 around, and I gave them a statement telling them about
11 finding it, and here we are.

12 Q. Okay. And you said when you got the phone, you
13 were trying to figure out whose it was, calling numbers
14 in it.

15 A. Yes, sir.

16 Q. And when the police came to speak with you, did
17 they collect that phone from you?

18 A. They did, they did.

19 Q. I'm going to show you a photograph, and I would
20 just like you to tell me now if you can identify it, if
21 you recognize the photo.

22 A. Yes, sir.

23 Q. And that is State's Exhibit 33 for identification
24 purposes. In general, what does that photo show? What
25 road is that? What intersection?

KENNETH FORD - DIRECT

1 A. This road here with the yellow line is, is where
2 the bus comes across, and here to the right of it is
3 where we got off, the service station here. We was
4 crossing the road here to the left of the road, facing
5 this way, and right about where this -- if you just look
6 at the pole here, the phone was here.

7 Q. Okay. And I'll have you show the jury this in
8 just a minute.

9 MR. ZIEGLER: At this time, the State moves
10 to admit State's Exhibit 33 into evidence.

11 MR. HAWKINS: I don't think I have an
12 objection. Just very briefly -- no objection, Your
13 Honor.

14 THE COURT: Admitted.

15 (State's Exhibit No. 33 was marked and
16 admitted into evidence.)

17 BY MR. ZIEGLER:

18 Q. Okay. Mr. Ford, if you could, please -- if you
19 could stand up and reach the TV, point to -- you can come
20 through that door right there. Show the jury, please,
21 where you got off the bus and where you crossed the
22 street and where you found the phone.

23 A. Here is where I get off the bus, in this area
24 here. So we proceeded across the road here, and here --
25 the phone was located right in this area right here, and

KENNETH FORD - CROSS

1 the battery was a little further, near the corner here.

2 Q. Okay. And so it was sort of in that grassy area
3 as you walk in the street?

4 A. Yes, sir. It wasn't in the street, it was here.

5 Q. Okay.

6 A. Somewhat closer to the sidewalk, the grass.

7 Q. And could you explain a little more clearly
8 whether the phone and the battery were attached to each
9 other or were they disconnected?

10 A. They were disconnected. When I discovered that
11 phone, I thought somebody had just dropped it, like they
12 jog around there or something like that. They might have
13 dropped their phone, so it was separate.

14 Q. Okay. So as if it had been dropped on the ground?

15 A. Yes, sir.

16 MR. ZIEGLER: No further questions for this
17 witness, Your Honor. Mr. Ford, please answer any
18 questions defense counsel has for you.

19 THE WITNESS: Certainly.

20 CROSS-EXAMINATION

21 BY MR. HAWKINS:

22 Q. Good morning, Mr. Ford. How are you today?

23 A. Fine, sir.

24 Q. Just have a couple questions for you. I
25 misunderstood where you lived. Do you live where?

1 A. I live in the city of Charleston.

2 Q. And I understand you were getting transportation,
3 and did you cross at the red light?

4 A. No, sir. We didn't cross right at the light, no.
5 Traffic was light that morning, so we headed straight on
6 across the road there. I was with someone. She was
7 showing me because I wasn't familiar with the area, and
8 she was giving me directions to get back over to 17.

9 Q. Okay. And you saw the phone first or the battery
10 first?

11 A. I saw the phone first, and after walking a few
12 feet, I saw the battery.

13 Q. Okay. And I'm going to put this photograph back
14 up if I can. This photograph here --

15 A. Yes, sir.

16 Q. We are looking as if we were coming from downtown
17 into Mount Pleasant; is that correct?

18 A. Yes, sir.

19 Q. And where it looks like a van back there at the
20 far right, that would be the street -- if I took a right
21 there, that's where you go back to the Yorktown and all
22 that; is that correct?

23 A. Yes, sir.

24 Q. And the gas station you're talking about is right
25 there on the right also?

KENNETH FORD - CROSS

1 A. Yes, sir.

2 Q. And from -- and you were standing -- there's a
3 palm tree in this photograph, right at the end of the
4 road. Do you see that?

5 A. Yes, sir, I see it.

6 Q. And were you on this side of the palm tree or on
7 the other side of the palm tree?

8 A. It was nearer to me. Like, you see where this
9 palm tree is here, to the left here, to the left of you?

10 Q. The one that is right beside the road?

11 A. Yes, sir.

12 Q. Yes, sir.

13 A. You see that? So I was heading up that end,
14 getting on the road right there, at that point.

15 Q. Well, were you closer --

16 A. I was to the right, right of it.

17 Q. In this photograph, were you slightly to the right
18 of that palm tree that's by the road?

19 A. Yes, sir.

20 Q. And I believe you said the phone was found -- in
21 your statement that you gave way back when, you said it
22 was found on the sidewalk?

23 A. Right to the sidewalk when you get past that palm
24 tree right there, and about five feet further, there was
25 the battery.

1 Q. Okay. And on the sidewalk?

2 A. I can't remember exactly where the battery was,
3 but I know the battery was about five feet away, going
4 toward the corner.

5 Q. Okay. And the phone, was it on the sidewalk?

6 A. Well, it wasn't exactly at the sidewalk, it was
7 right at the edge of the sidewalk and the grass right
8 there. It was located in that general area.

9 Q. So right where the sidewalk meets the grass?

10 A. Yes, sir.

11 Q. And where you were standing when you found the
12 phone, coming back this way in this photograph, you're
13 only a couple hundred yards from the Ravenel Bridge where
14 you go to downtown Charleston or to Columbia; is that
15 right?

16 A. Well, as soon as the bus got across the bridge,
17 sir, the bell rang and then we got off -- it stopped
18 right at the corner. The bus doesn't stop at the corner.
19 It stops further down before you get to that corner, and
20 we get off there.

21 Q. What I was asking, though, is where you're
22 standing, you're not far at all from where the bridge is,
23 right? You're only a couple hundred yards from where you
24 go up on the bridge, right?

25 A. Yeah. I think that's the on ramp there, yes, I'm

DANIEL ECKERT - CROSS

1 pretty sure.

2 Q. All right. And this is your only involvement in
3 this entire case? You found this phone and that's it?

4 A. Trying to do the right thing to return it, yes,
5 sir.

6 MR. HAWKINS: I have nothing further. Thank
7 you, Your Honor.

8 THE COURT: Redirect?

9 MR. ZIEGLER: Nothing further, Your Honor.

10 THE COURT: You may step down. Thank you.
11 All right. Next witness?

12 MR. ZIEGLER: State calls Corporal Dan
13 Eckert.

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

17 DIRECT EXAMINATION

18 BY MR. ZIEGLER:

19 Q. Good morning, Corporal Eckert.

20 A. Good morning.

21 Q. What law enforcement agency are you a member of?

22 A. I work for the Mount Pleasant police department.

23 Q. And what is your current assignment with Mount
24 Pleasant police department?

25 A. Currently, since December of 2011, I'm assigned to

DANIEL ECKERT - CROSS

1 the criminal investigations bureau. I'm a corporal,
2 which means when the sergeant's not there, I am
3 responsible for supervision of the unit. I also work
4 cases that are assigned, cases for follow up, cases that
5 come in on a daily basis.

6 Q. How long have you been in that position?

7 A. Since December of 2011. I was selected to go into
8 the criminal investigations bureau.

9 Q. And what did you do with the department before
10 that?

11 A. I've had numerous positions with the police
12 department. Back in November of 2001, I started as a
13 communications dispatcher, 911 operator. From there, a
14 position became available. It was called a community
15 service officer.

16 The community service officer handled calls for
17 service where the suspects weren't there, where they
18 weren't on scene because it was an unarmed position, and
19 I just progressed right along. Law enforcement is all
20 I've ever done. It's what I wanted to do.

21 After working about five years as a community
22 service officer, I went to the police academy, and in
23 2006, I became a police officer, at which time I was
24 assigned to the patrol operations bureau. In July of
25 2011, I was promoted to supervisor, had a short stint on

DANIEL ECKERT - CROSS

1 the road as a patrol corporal, like Corporal Myers spoke
2 about yesterday, and then in December of 2011, the
3 position became available in the criminal investigations
4 bureau.

5 Q. Thank you. Are you the lead investigator on the
6 case we're here about today?

7 A. Yes.

8 Q. So I want to direct your attention to May 7, 2013.
9 Do you remember responding to investigate an armed
10 robbery incident that night?

11 A. I do.

12 Q. Where did that robbery occur?

13 A. That occurred in front of Moultrie Middle School,
14 645 Coleman Boulevard, located in the town of Mount
15 Pleasant, county of Charleston, State of South Carolina.

16 Q. And where in Mount Pleasant had you been working
17 that night?

18 A. I had been called out. As I was saying, being a
19 supervisor, we're often on call to call out when crimes
20 occur after hours, per se, and I had been out with
21 another detective, following up on a matter that he had
22 been called out to.

23 We were up in the Brickyard subdivision at that
24 time, which is in the north end of Mount Pleasant near
25 Hamlin Road and Highway 17 north.

DANIEL ECKERT - CROSS

1 Q. And did you then respond to the area of Moultrie
2 Middle School?

3 A. Once we cleared from the Brickyard and got the
4 situation resolved up there, we did respond to the area
5 of the I didn't specifically go to
6 Moultrie. It was chaotic. There was a lot of activities
7 going on. I had learned through my police radio that
8 officers had located two individuals in the area of Hampp
9 Fludd Street, which is in the section of
10 Mount Pleasant.

11 Q. So there were two individuals in custody at that
12 point?

13 A. Correct.

14 Q. And when you -- did you go to that location where
15 those individuals were held?

16 A. Yes.

17 Q. And where was that again?

18 A. That's on Hampp Fludd Street. It's in the
19 area of Mount Pleasant. It's between King Street
20 and Morrison Street -- there's a water tower out there.
21 It's behind the Mount Pleasant waterworks, water tower.

22 Q. And were you briefed on the situation at that
23 point?

24 A. I was -- I was brought up to speed on what had
25 occurred. I had met with the duty supervisor who was

DANIEL ECKERT - CROSS

1 running the road that night, and he brought me up to
2 speed on what had occurred, what he learned as well.

3 Q. And the two individuals who had been found, did
4 you order them to be taken anywhere?

5 A. Yeah. When you run an investigation, it's always
6 good to try to lock people into a written statement as to
7 what occurred, what events had happened that night, and
8 instead of doing that on the side of the road in the car,
9 its better to do it in a secure place at the police
10 station. I got all my paperwork there. I got my files,
11 statements are there. People have to use bathroom,
12 whatever the case may be. It's always better to go back
13 to the police department.

14 Q. And who were the individuals that were taken back
15 to the police department from Hampp Fludd?

16 A. It was Ricky Lamont Hayes and Randi Parks.

17 Q. And did you return to the police station as well?

18 A. I did.

19 Q. And what did you do when you arrived there?

20 A. When I arrived at the police station, I met with
21 Detective Buchanan. He had been called out, as I stated.
22 We were working another investigation earlier in that
23 night. I made sure he was okay, and he was talking with
24 one of the victims. I then went across the hall, at
25 which point I encountered Ricky Lamont Hayes as he was

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1 being walked into an interview room.

2 Q. And did you then attempt to interview Mr. Hayes?

3 A. I did.

4 Q. Is Mr. Hayes the defendant here today?

5 A. Yes, he is.

6 Q. And at the beginning of that interview, did you
7 advise him of his Miranda rights?

8 A. I did, from the Mount Pleasant police department
9 advisement of rights form.

10 Q. And did he indicate that he understood those
11 rights?

12 A. He initialed each prong, each element of Miranda,
13 which gave me the indication that he understood what his
14 rights were, yes.

15 Q. Do you recognize that form?

16 A. I do. That's the Mount Pleasant police department
17 advisement of rights form that I filled out at 5/7/2013
18 at 1:20 in the morning.

19 Q. Okay. And did you use this form to explain
20 Mr. Hayes's rights to him?

21 A. I did.

22 MR. ZIEGLER: State moves to admit State's
23 Exhibit 35 into evidence.

24 MR. HAWKINS: No objection, Your Honor.

25 THE COURT: Admitted.

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1 (State's Exhibit No. 35 was marked for
2 identification and admitted into evidence.)

3 BY MR. ZIEGLER:

4 Q. I'm now showing you State's Exhibit 35. Could you
5 read the rights that were explained to Mr. Hayes, please.

6 A. And I promise the court reporter I'll go slow.

7 What this says is that Corporal Daniel P. Eckert,
8 that's myself, has advised that he's a member of the
9 Mount Pleasant police department and further advised me
10 that I have the absolute right to remain silent and do
11 not have to answer questions or give a statement and this
12 fact cannot be used against me, that if I do answer
13 questions or give a statement, anything I say can and
14 will be used against me in a court of law, that I have a
15 right to consult with a lawyer of my choice before I
16 answer questions or give a statement and also have him
17 present while I'm being questioned, that if I wish to
18 talk to a lawyer or have him present but am unable to
19 afford to hire a lawyer, one will be appointed to
20 represent me free of charge, that if I decide to answer
21 questions or give a statement without having a lawyer
22 present representing me, I have the absolute right during
23 this interview to stop answering questions and remain
24 silent.

25 Q. And is there a place to initial next to each of

1 those rights?

2 A. There are, there is.

3 Q. How many are there total?

4 A. There's five prongs.

5 Q. Did the defendant initial next to those,
6 indicating he understood his rights?

7 A. He did.

8 Q. And after that, did the defendant waive those
9 rights?

10 A. It was kind of complicated and kind of tricky. I
11 then read the waiver of rights section to the defendant,
12 at which time the defendant told me, I'm not going to
13 sign your form, and I'm not going to give you a written
14 statement, but I'll talk to you.

15 Q. Okay. So he said he would speak with you.

16 A. Correct.

17 Q. And did he then speak to you?

18 A. We spoke briefly, very briefly.

19 Q. And what did he tell you?

20 MR. HAWKINS: Objection, Your Honor. We
21 renew our previous motion based on Mr. Hayes having
22 invoked his Miranda rights that night.

23 THE COURT: All right. That objection is
24 overruled.

25 Folks, the witness is going to tell you now

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1 what the defendant said to him out of court. It is
2 ultimately -- I made a pretrial motion that you can be
3 allowed to hear this testimony. It is up to you
4 ultimately when you are deliberating to determine whether
5 or not this statement was made freely, voluntarily, and
6 intelligently and whether there was a free, voluntary,
7 and intelligent waiver of his Miranda rights. All right?

8 You may proceed.

9 THE WITNESS: Again, like I said, it was a
10 very brief conversation. He told me that he had just
11 left a friend's house, 15 minutes prior. He encountered
12 three people when he was coming through an area that he
13 called the cut. He said that he was going to his cousin
14 Doug's house, and he said that he was going to his cousin
15 Doug's house.

16 BY MR. ZIEGLER:

17 Q. Okay. Did you know who Doug was?

18 A. That's when I began to ask a few questions, based
19 on what was being told to me. I asked him who Doug was.
20 I asked him, What is Doug's last name? He couldn't tell
21 me what Doug's last name was.

22 Q. And did he say anything about a church?

23 A. He said that Doug lived near a church. I asked
24 him the name of the church. He couldn't tell me the name
25 of the church.

1 Q. And who was the friend whose house he was coming
2 from, did he say?

3 A. He said that he only knew her as Excursion. She
4 was a female companion who said that she was a stripper,
5 and at that point I asked him for her phone number, at
6 which point he pulls his phone out of his pocket to give
7 me her phone number.

8 Q. Did you take his cell phone at that time?

9 A. At that point I did. That's practice. When Dan
10 Eckert -- excuse me. When Dan Eckert puts somebody into
11 an interview, Dan Eckert likes to empty all their
12 pockets. You never know what they have on them. You
13 don't want property to get misplaced.

14 When I was on patrol as a patrol officer, I
15 carried plastic bags, you know, in my car, and I would
16 empty people's pockets out routinely and put it in a
17 plastic bag. If they had money on them, count their
18 money out in front of them. That's the last thing I
19 want, is somebody to say I'm taking their property or
20 taking their money. People work hard, you know, and I
21 don't want to get messed up with losing people's
22 property.

23 So yes, at that point, I did take his phone from
24 him.

25 Q. Did anything else happen in the interview?

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1 A. After that, I then indicated to Mr. Hayes that we
2 had an individual in another interview room who was
3 claiming to be his cousin and that that individual said
4 that he was involved in an armed robbery that night.

5 At that point, Mr. Hayes began to demand to know
6 who the individual was, what the individual's name was
7 that was saying he was involved in an armed robbery.
8 Based on the way that Miranda had played out at that
9 point, that, I'm not going to sign your form. I'm not
10 going to waive, but I'll talk to you, at that point it
11 was too much on the edge, and at that point I just
12 decided to shut it off.

13 I indicated to Mr. Hayes that if he wanted to talk
14 to me at another time, he could talk to me. He would
15 know how to get in touch with me. My name would be on
16 his paperwork, and he could follow up with me at another
17 time when he had counsel.

18 Q. And after that interview concluded, what did you
19 do?

20 A. I then went over and spoke with the codefendant,
21 Randi Parks, who was in an interview in the same area at
22 the Mount Pleasant police department.

23 Q. Did you inform Mr. Parks of his Miranda rights?

24 A. I did. Same type of form. It's a standard form
25 that we have at the police department.

1 Q. And he waived those rights?

2 A. He did waive those rights, yes.

3 Q. Did he agree to speak with you?

4 A. He did.

5 Q. And did you begin to interview him?

6 A. I did. I began to discuss the facts of the night
7 in question.

8 Q. Were you interrupted at the time beginning of that
9 interview?

10 A. I was. The patrol room is basically our workroom.
11 People can go in there, type reports. I'm in the
12 interview room. It's a closed door. At one point I hear
13 a knock on the door. Another officer asks me to step out
14 and speak with me.

15 At that point, I learned that Officer Gillespie
16 and Sergeant Horton were out with another subject that
17 they believed could possibly be involved in this
18 incident, and they asked to -- asked me to give Sergeant
19 Horton a call on his cell phone.

20 Q. And did you speak to a Sergeant Horton and ask him
21 about what was happening?

22 A. I did. I placed a call to Sergeant Horton. He
23 informed me that Officer Gillespie located a vehicle
24 leaving the area at a high rate of speed, at
25 which point he initiated a traffic stop on him. Sergeant

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1 Horton reminded me we were looking for a third individual
2 who was possibly going to be involved in this armed
3 robbery. Sergeant Horton then asked me if Mr. Hayes and
4 Mr. Parks were cooperating.

5 I told him that Mr. Hayes really didn't cooperate
6 and that he was -- that I was through with him; however,
7 I was just sitting down with Mr. Parks, and Mr. Parks
8 said he was going to cooperate.

9 Q. And did you ask Mr. Parks to describe the third
10 individual who was involved in the robbery?

11 A. I did. Sergeant Horton asked if I could get some
12 information on this possible third suspect and relate it
13 back to him. He would appreciate it. They were on the
14 stop. I told him that I would follow back up with him
15 shortly.

16 I then went back into the interview room, and
17 Mr. Parks had indicated that he was going to talk to me,
18 that he was going to cooperate, at which point I asked
19 him to begin describing the third subject who was
20 involved in this armed robbery to me.

21 Q. Did you provide him any details of what that third
22 suspect looked like or --

23 A. I didn't have any details at that point. You
24 know, since being on the scene, I had only -- being on
25 the scene for a short period and then being back at the

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1 station, I only dealt with Mr. Hayes and Mr. Parks, so I
2 had nothing to give him. It was me trying to elicit
3 information from him.

4 Q. Okay. And what did he tell you about the
5 description of that person, that third person?

6 A. He told me that the third person was a black male.
7 He said that he had cornrows in his hair. He said that
8 he had a distinct feature that is very noticeable, some
9 sort of problem with one of his eyes, and he really
10 couldn't go into detail, said that he was a black male.
11 Said that he was either in a Jeep or a truck. Couldn't
12 particularly remember the color at that point.

13 I then called Sergeant Horton back and gave him
14 those few details that I had received from Parks at that
15 point.

16 Q. Did he say what that third suspect goes by?

17 A. Oh, I'm sorry. He said he goes by L.

18 Q. And did he mention anything to you about any
19 contents of that vehicle that the other suspect was found
20 in?

21 A. Sergeant Horton said, See if he can give you
22 anything else and call me back.

23 I then went back in and asked Parks if there was
24 anything in the vehicle that he could remember, and he
25 said that he remembers a bag being in the back seat of

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1 the vehicle; however, he said he didn't remember much
2 more about the vehicle because when they left where they
3 had been, he got in and went to sleep, but he did
4 remember a bag being there.

5 I then called Sergeant Horton back at that time,
6 relayed the information about the possible bag. I then
7 asked Sergeant Horton if the individual was cooperating,
8 if the individual was willing to come to the police
9 station and sit down and talk with me to see if he had
10 information about what happened in the case. Sergeant
11 Horton said he didn't want to come to the police station.
12 He said he wouldn't come in and talk to you.

13 At that point I asked Sergeant Horton, or I asked
14 him, I said, Do you think it would be beneficial for me
15 to come out and try to talk to him?

16 And he said, Yeah. You're handling the case. It
17 probably would be good for you to come out and talk to
18 him.

19 I then had some officers who were in patrol room
20 sit with Parks while I responded out to the scene where
21 they had conducted the traffic stop.

22 Q. And when you responded to that scene at the
23 traffic stop, what did you do there?

24 A. At that point I met with them at 323 Coleman
25 Boulevard. It's an old Scotchman gas station where

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1 Coleman and Whilden -- where they fork off. You can go
2 into the or you can continue northbound on
3 Coleman.

4 I spoke briefly with Officer Gillespie and
5 Sergeant Horton. I then went up and made contact with
6 the vehicle. At that point I introduced myself to him as
7 a detective with the Mount Pleasant police department and
8 informed him that we were following up on an armed
9 robbery that had occurred earlier in the night.

10 Q. And what did you notice about his appearance?

11 A. The features that Randi Parks had described to me
12 were matching up. I was out with a black male who had --
13 who had somewhat of cornrows, or a big type of braid in
14 his hair. I wear my hair kind of short. I'm not up on
15 all the new trending hairstyles, but from what I could
16 see, it appeared to be cornrows.

17 The one thing that stood out was the injury to the
18 eye, or the issue that he had going with his eye, and I
19 even asked him. I said, Not to be disrespectful, or
20 something to that effect, but what happened to your eye?

21 And he said, I would rather not talk to you
22 about that.

23 He was in a Jeep. Parks had said it was
24 either a truck or a Jeep, so there were some things that
25 were gelling together with Parks's story at that point.

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1 Q. And what was the name of this third person with
2 the eye injury?

3 A. His name was Darren Belt.

4 Q. And did he tell you what he was doing in the area?

5 A. He said he was looking for a subdivision, and he
6 began to name off various names of subdivisions, and at
7 that point I listened to him for a bit and I stopped him
8 because I've lived in Mount Pleasant since December of
9 2000, and the names of the subdivisions that he was
10 naming didn't exist in Mount Pleasant.

11 Q. And did you ask him if he would speak with you?

12 MR. HAWKINS: Objection. I think we're going
13 to object. He is simply putting in complete hearsay
14 testimony and the third party is not here.

15 THE COURT: Sustained.

16 BY MR. ZIEGLER:

17 Q. And as a result of your dealings with Mr. Belt's
18 traffic stop, was he placed under arrest?

19 A. He was.

20 Q. And what was he charged with?

21 A. He was also charged with two counts of armed
22 robbery.

23 Q. Are those charges still pending?

24 A. They are still pending.

25 Q. After Mr. Belt, the third suspect, was arrested,

1 did you return to the station then?

2 A. I did.

3 Q. And what did you do there?

4 A. At that point I directed Detective DeCamp to
5 interview Mr. Belt and I went back to interviewing
6 Mr. Parks.

7 Q. In that interview with Mr. Parks, is that the
8 interview that had been interrupted with the traffic
9 stop?

10 A. That's correct, yes.

11 Q. So you resumed the interview?

12 A. Yes.

13 Q. In that interview, did Mr. Parks tell you the
14 complete truth?

15 A. No.

16 Q. Did he seem to minimize his own involvement?

17 A. Yes.

18 Q. Did he mention that the defendant, Ricky Lamont
19 Hayes, was involved in the robbery incident?

20 A. He did.

21 Q. And at the conclusion of that interview, what
22 happened?

23 A. At the conclusion of the interview, it was
24 determined at that point that he was going to be charged
25 with two counts of armed robbery for each of the victims

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1 who were robbed as they tried to walk home on Coleman
2 Boulevard that night.

3 MR. ZIEGLER: Court's indulgence, please,
4 Your Honor.

5 BY MR. ZIEGLER:

6 Q. Corporal Eckert, what happened after Mr. Parks was
7 arrested?

8 A. After Mr. Parks was arrested, he was transported
9 to the Charleston County Detention Center for processing.
10 At that point I completed paperwork in reference to the
11 case.

12 Any time you do an arrest, you got do a booking
13 sheet. You have to make sure victims are notified of
14 court hearings. You have to type what's called an
15 warrant affidavit. It goes over to the bond court. The
16 bond judge reviews the facts of the affidavit. There's a
17 bond hearing, and now, mind you, I had been out since
18 6:00 that night. Once I completed all that paperwork, I
19 went home for the day.

20 Q. And at that time was the defendant charged with
21 armed robbery as well?

22 A. He was.

23 Q. And so were all three individuals -- Mr. Parks,
24 the defendant, and Mr. Belt, were all three charged with
25 two counts of armed robbery that night?

1 A. They were.

2 Q. And so you went home, and when did you return to
3 work?

4 A. The following day, on May the 8th.

5 Q. Did you learn any updates in the investigation?

6 A. Yeah. I was brought up to speed on the case at
7 that point. I learned that a gun had been recovered
8 within close proximity to where Mr. Parks had been
9 located.

10 I also learned that one of the victim's cell
11 phones had been recovered. At that point, it was
12 determined that we were going to attempt another
13 interview with Mr. Parks, based on the fact that we
14 located the gun and information, you know, obtained that
15 night. I didn't know where the gun was. I didn't have a
16 gun. There wasn't a gun involved.

17 So we went back and signed Mr. Parks out of the
18 jail at that point to conduct another interview.

19 Q. And in that second interview with Mr. Parks, did
20 he give any more information?

21 A. A little bit more began to come out. It seemed
22 like it was flowing a little more freely. In my
23 experience, you never get the whole truth during any
24 interview. Obviously, we strive to get the truth. You
25 know, this is a victim crime, and we were trying to do

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1 what's best for the victims.

2 Q. And did Mr. Parks continue to minimize his own
3 involvement in the robbery?

4 A. He did, he did. Looking back on it now, yes, he
5 did.

6 Q. Did he end that second interview -- did he
7 continue to implicate the defendant, Ricky Lamont Hayes
8 and Darren Belt in the incident?

9 A. He did. That's the thing that always stayed the
10 same. It was always the three of them.

11 Q. And I'll go back to just something you just
12 mentioned. Is it common for people to tell you the truth
13 right away the first time when you talk to them?

14 A. No, no. People always minimize involvement. It's
15 a lot to accept an armed robbery, you know.
16 Unfortunately, people look for ways to get out of being
17 held responsible.

18 Q. And so --

19 A. It's rare that we get someone to come in and say,
20 you know, it was me. I did it. You got me.

21 Q. And during this second interview with Mr. Parks,
22 was he provided with any comfort breaks?

23 A. He was. He was given the opportunity to smoke on
24 at least one occasion. I believe there was a bathroom
25 break somewhere in there. I also purchased him a cold

1 Coke from the vending machine.

2 Q. And is that common?

3 A. It is, especially when you believe someone is
4 cooperating. You try to make them as comfortable as
5 possible, especially if they're going to cooperate and be
6 honest with you.

7 If you determine that they're not being honest
8 with you, you know, back to the jail and we're done. If
9 you're not going to talk, you're not going to cooperate
10 with me, then we're just going to send you back to the
11 jail.

12 Q. So when you're interviewing someone, you're not
13 trying to make them uncomfortable or miserable?

14 A. No, no. You know, the way I was brought up, you
15 treat people the way you want to be treated, and
16 that's -- you know, when I took this job, you know, you
17 take an oath, and I wouldn't want to be treated badly,
18 you know, and I don't like to treat people badly.

19 I don't like to talk down to people. I don't want
20 people to think that I think I'm better than them.
21 That's just not me. That's not the person who I am.

22 Q. And at the conclusion of the second interview with
23 Mr. Parks, did you take him back to the jail at that
24 point?

25 A. I did. I'm the one that transported him from

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1 headquarters. During the interview, Mr. Parks -- it was
2 determined that Mr. Parks thought he could tell me, or
3 show me, where they had been hanging out that night, so
4 prior to going back to the jail, he pointed out a
5 subdivision, and he pointed out a house where he thought
6 they had been hanging out at.

7 Q. Where was that house?

8 A. That was in the subdivision, on
9

10 Q. And did Mr. Parks direct you to that?

11 A. He pointed it out, or we went slow through the
12 neighborhood. Obviously his hands were behind his back
13 at that point, so it's not like he could say, That's the
14 house, and, you know, when we got to the house, he
15 directed me to the house. He said that there should be a
16 red car out front, and, you know, without pulling out my
17 case file, to the best of my recollection, there was a
18 red car out there at that time.

19 Q. And what was that house? Did he say they had been
20 there?

21 A. He said they had been there. He said that's the
22 white girl's house that he had been hanging out at that
23 night, prior to this incident.

24 Q. Okay. Did you proceed on to the jail at that
25 point?

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1 A. At that point, yes. We left _____ , got
2 back out on to 526, 526 to Dorchester, Dorchester to
3 Leeds, Leeds to the sally port.

4 Q. During that time, did you allow Mr. Parks to make
5 any phone calls?

6 A. I did. Mr. Parks I thought at that point was
7 being cooperative, was being honest with me. I knew that
8 he was in some serious trouble. I know it's tough to get
9 phone calls at the jail, to make phone calls. He told me
10 that he had a baby on the way. You know, kind of hit me
11 in the heart, you know, so I said, I'll let you call your
12 wife, or your wife or fiance, and let her know where
13 you're going to be and that you're safe and -- you know.

14 So with his hands behind his back, he gave me the
15 number, and I put it on speakerphone and allowed him to
16 talk to his loved one.

17 Q. And what happened when you got back to the jail?

18 A. We get back to the jail. You can't take a gun
19 into the jail. It's standard procedure. You can't take
20 any weapons, you know, into the jail. That day, I was
21 dressed as I am today, shirt, tie, not like what you saw
22 Corporal Myers wearing, a duty belt with mace or a baton
23 or anything like that.

24 So I secured my duty weapon, and then I went and
25 got him out of the vehicle, and something that day told

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1 me, Grab your radio. Grab your radio.

2 Usually when I walk someone in, it's quick, and,
3 you know, just leave the radio in the car, but something
4 that day told me to grab my radio. So I had gotten him
5 out of the car, and the way the radios are in the car,
6 the little portable walkie-talkie goes into a little
7 docking station, so you have to reach in, push a button,
8 and grab it out, and looking back, hindsight, I noticed
9 he got a little fidgety as he's standing at the car, and
10 I looked at him and said, Don't go anywhere.

11 So I get my radio out of the car, shut the door,
12 and we go to start walking into the sally port. Now,
13 mind you, he had been completely -- what I thought was
14 being completely cooperative at that point. At one point
15 the gates on the sally port opened, traffic comes in,
16 traffic goes out. You got to keep a constant flow going
17 in the jail. He -- I screwed up. I should have been
18 holding on to him, escorting him properly. I didn't.
19 It's been a huge learning lesson for me.

20 Sally port's open. Bam. He takes off, hands
21 behind his back, mind you.

22 Q. Did you pursue him?

23 A. I did.

24 Q. Where did he go?

25 A. He went down the driveway, and as he's running

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1 down the driveway, he's able to get his hands from behind
2 his back in front of him. It's like he almost hops
3 through. At that point, training kicks in. You know,
4 I'm from Mount Pleasant. I don't know that area of North
5 Charleston.

6 So I get on my radio, and I start relaying what's
7 going on. He goes down an embankment and through a
8 creek. I wasn't familiar with the area. I didn't have
9 any of my tools with me, anything to protect myself. I
10 wasn't wearing a bulletproof vest. Mind you, he's a
11 fleeing felon at that point, so I circle -- I'm not going
12 down in the swamp. I had some nice clothes on too.

13 I circle around, and as he -- as I'm circling
14 around, I start hearing some rattling over in these
15 bushes, and I parallel up, and I'm calling for help, and
16 people from Mount Pleasant are running code to me. The
17 duty lieutenant is saying get people from the jail to
18 him, get people to him so they can get this
19 guy contained.

20 At this point I see him over in the bush. I'm
21 like, Come out. I think I threw in there, I'm going to
22 send a dog in.

23 People don't like the K-9. I see him. He's like,
24 All right. I give up, and he goes to put his hands up.

25 At that point he had fled from me. He had managed

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1 to get his hands from behind his back to in front of his
2 back, and he was able to slip out of one handcuff. At
3 that point, instinct kicked in, and I took him to the
4 ground. My goal at that point was to control him.

5 He had fled. He was a fleeing felon, and I was
6 trying to get him secured back in handcuffs. Now, in
7 handcuffs, they have what's called a double locking
8 mechanism, so I had double locked the cuffs, so to get
9 that to unlock and to properly get it back on him, I had
10 to take my key and unlock the handcuffs.

11 Mind you, adrenaline is going and he starts
12 fighting, kind of resisting, actively resisting me.

13 Q. Were you then able to get him back into custody?

14 A. There was a retired North Charleston police
15 officer who works for the school district that saw that
16 I'm fighting the guy. He stops, runs over. What's going
17 on?

18 At that point, he and I get him in custody and the
19 jail staff ends up getting out there and everyone gets
20 there.

21 Q. He was returned to the custody of the jail?

22 A. He was. At that point, I was -- I let the jail
23 staff take control of them. They wanted to make sure I
24 was okay, and they walked him back into the jail.

25 Q. So that occurred May 8, 2013, you said?

1 A. Correct.

2 Q. And in November 2013, were you present for an
3 interview with Mr. Parks at my office, solicitor's
4 office?

5 A. Yes, I was.

6 Q. Did Mr. Parks apologize to you at that time?

7 A. He did. He said he was sorry for what he did,
8 that he made up some stories about me during that
9 incident, and he was sorry.

10 Q. And during the interview in the solicitor's
11 office, did Mr. Parks -- was he minimizing his
12 involvement in the robbery anymore?

13 A. I didn't think so, no.

14 Q. Did he admit that he held a gun in the robbery at
15 that point?

16 A. He did. He said that he was the gunman, that he's
17 the one that robbed the two individuals that were -- he
18 said that he was the gunman, and he held the gun that was
19 used to rob the two individuals that walked home that
20 night along Coleman Boulevard.

21 Q. And did he continue to say that Darren Belt and
22 the defendant, Ricky Lamont Hayes, also participated in
23 the robbery?

24 A. He did. That's never changed.

25 Q. Just a few miscellaneous items, Corporal Eckert.

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1 In your experience with the defendant, how
2 tall is he.

3 A. I would say between five-ten and six feet tall.

4 Q. And approximately how long was the interview with
5 Ricky Lamont Hayes that night of the robbery?

6 A. At most, 20 minutes.

7 Q. Was he in any discomfort during that interview or
8 did he -- was it a long interview?

9 A. No. It was very short and brief. I go back to
10 the whole issue of Miranda. Is he waiving? Is he not
11 waiving? Is he really going to talk to me? Once I threw
12 that information out about the robbery and he kind of got
13 indignant, I said, I'm done. I couldn't get a clear
14 answer from him on the waiver of rights form, and that's
15 the last thing I want to do, is violate somebody's
16 rights.

17 Q. Did he seem to understand what was happening?

18 A. He did.

19 Q. Did he seem coherent?

20 A. He was.

21 Q. Did he seem to understand what his rights were?

22 A. Yes. I mean, he initialed and signed the
23 advisement section stating that he understood them.

24 Q. Did he say he would speak with you?

25 A. Yes.

1 Q. When you were investigating this incident soon
2 after it happened, why was there no what we call or what
3 you call a show-up done with the victims?

4 A. You know, the first thing I was thinking is I'm
5 driving to the scene. I got a lot of things going on in
6 my mind. Are the victims safe? Are they injured? Are
7 they okay? And when I got on scene, I asked Sergeant
8 Horton, I said, Have you done a show-up, a show-up with
9 these victims?

10 And Sergeant Horton didn't think it was a good
11 idea at the time because they seemed pretty worked up.
12 If they're worked up, I don't want to subject them to
13 something like that. Also, one of the victims had to be
14 transported to a hospital for injuries that were
15 sustained during this incident.

16 Q. And so was there a decision made not to conduct a
17 show-up?

18 A. Yeah. Sergeant Horton has been doing this job for
19 20 plus years. I was, you know, the new supervisor, 18
20 months in at that point, and I looked at him for his
21 advice that night, and at that point, based on what I had
22 learned from him and the revolving investigation, I said,
23 Okay. We're not going to do a show-up.

24 Q. Was that because of the totality of what had
25 occurred?

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1 A. The totality of everything that was going on, the
2 totality of the circumstances.

3 Q. And why was there no lineup presented to the
4 victims?

5 A. Lineups are great if it's Monday through Friday
6 between business hours, 8:00 to 5:00. I can call the
7 detention center. I can shoot the detention center an
8 e-mail, I need a lineup on X, Y, Z defendant, and I can
9 usually get it back like that.

10 With -- you know, this is 1:00, 2:00 in the
11 morning. No one is working in the ID unit at that hour.
12 You have to wait until the next morning.

13 SLED wasn't an option at that point, South
14 Carolina Law Enforcement Division, to prepare me a
15 lineup. The next day it would have been great to show
16 them a lineup, but the media had gotten ahold of this
17 story and the photos of the three individuals and put it
18 out on the news prior to us being able to get back in
19 front of the victims and show them a lineup.

20 Now, if I show them a lineup with somebody that
21 they've seen on the news, that's not a good thing.
22 That's, you know, going to taint their decision. You
23 know, you see a guy on the news that's been charged, you
24 know, that would taint their decision, so that's why we
25 didn't do, you know, partially -- we couldn't do a

1 lineup.

2 We couldn't get the paperwork to do a lineup, and
3 then, you know, the media had gotten a jump on us when I
4 was sleeping that morning.

5 Q. And I would like to go back to the description
6 that Mr. Parks provided of the third individual besides
7 the defendant, the third individual who was involved in
8 the robbery with him, and that was at the time of the
9 traffic stop that you have discussed.

10 A. Uh-huh.

11 Q. Did you provide him any details about the
12 individual driving the vehicle at the traffic stop, the
13 vehicle prior to giving him the descriptions you had?

14 A. I had no details to provide. Sergeant Horton, all
15 he would tell me is he thought they were out with a third
16 subject, and he asked that I give him details, so I got
17 no details. I couldn't provide him any details.

18 Q. Corporal Eckert, I'm now showing you what has been
19 marked for identification purposes as State's Exhibit 34.
20 Do you recognize this item?

21 A. I do.

22 Q. And what is that?

23 A. That is a cell phone, the cell phone that
24 Mr. Hayes had taken out of his pocket in the interview
25 room that night to give me the phone number of the

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1 female's house that they had been in.

2 Q. Is that a phone that you took from him?

3 A. That is.

4 Q. Does it appear to be in the same condition as when
5 you collected it?

6 A. It does.

7 MR. ZIEGLER: Your Honor, the State moves to
8 admit State's Exhibit 34 into evidence.

9 MR. HAWKINS: No objection.

10 THE COURT: Admitted.

11 (State's Exhibit No. 34 was marked for
12 identification and admitted into evidence.)

13 MR. ZIEGLER: Court's indulgence, please,
14 Your Honor.

15 Thank you, Corporal Eckert. I have no
16 further questions for you. Please answer any questions
17 defense counsel has been for you.

18 THE WITNESS: Yes, sir.

19 THE COURT: Cross?

20 MR. BUCHANAN: Thank you, Your Honor. May it
21 please the Court:

22 CROSS-EXAMINATION

23 BY MR. BUCHANAN:

24 Q. Detective Eckert, good morning.

25 A. Good morning. Sorry about that, sir.

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1 Q. You are a detective, Corporal Eckert?

2 A. That's me, correct.

3 Q. I'm going to call you Detective, if I may.

4 A. That's fine.

5 Q. Is that okay?

6 A. Yes, sir.

7 Q. Detective Eckert, you have been with the Mount
8 Pleasant police department 14, 15 years?

9 A. 11/5/2001, yes, sir.

10 Q. And you are a supervisor?

11 A. Correct.

12 Q. And you are the chief investigating detective on
13 this case?

14 A. Yes.

15 Q. And on the night of May the 6th, early morning of
16 May the 7th, you were handling a fight or something going
17 on at Brickyard Plantation in the town of Mount Pleasant;
18 is that correct?

19 A. We were actually up in the Brickyard, getting
20 ready to execute a search warrant for another
21 investigation that we had gone out on earlier that night
22 when a fight call did go out in a bar in the Brickyard,
23 and patrol was kind of far away. We were sitting,
24 waiting on our crime scene person, and the amenity center
25 area of the Brickyard, I did get that call, yeah. We

1 rode over there to help, yes.

2 Q. So that's a yes. Okay. And then you received a
3 call that there had been an armed robbery in front of
4 Moultrie Middle School on Coleman Boulevard; is that
5 correct?

6 A. That is correct.

7 Q. Brickyard is -- help me out here, six, seven miles
8 from Moultrie Middle School?

9 A. Easily, if not more.

10 Q. Maybe ten? Okay. All right. So you're about ten
11 miles away. You finished up work there. You raced to
12 Hampp Fludd Street; is that right?

13 A. I wouldn't say raced. I drove the normal speed
14 limit.

15 Q. You didn't get there too quick?

16 A. I didn't run lights, sirens, blue light.

17 Q. You just drove there?

18 A. I just drove down there.

19 Q. All right. How long do you think it took you to
20 get there?

21 A. I'd say, easily, 20 to 25 minutes? I mean, that's
22 the best guess. I never looked at the cab report to see
23 when I got on scene or anything like that.

24 Q. Fair enough. And you have the report in front of
25 you; is that correct?

1 A. I do.

2 Q. Okay. Your second to last paragraph, your second
3 line --

4 A. Are we going the major --

5 Q. Yes, not -- just so we're on the same page, mine
6 is probably a little different than yours. We're
7 starting on this page, okay?

8 A. Okay.

9 Q.. All right?

10 A. Second to the last paragraph?

11 Q. Yes. Second line. When you got there, when you
12 got to Hampp Fludd Street --

13 A. Uh-huh.

14 Q. -- I immediately asked Sergeant Horton if the
15 show-up was completed on the two suspects that were
16 currently in custody.

17 Did you ask that? First thing you did was, Has
18 there been a show-up?

19 A. Yeah.

20 Q. Okay. And tell me if I'm wrong: A show-up is
21 when there's a crime committed, and you have a victim, or
22 victims, and suspects are apprehended a very short time
23 later and within close proximity. So you have victims in
24 one area, and you have suspects in another, and you
25 either bring the suspects to the victims to possibly make

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1 an ID or you bring the defendants to the suspects to
2 possibly give an ID; is that right? Is that how it
3 works?

4 A. Our practice at the Mount Pleasant police
5 department is to bring the victim to the suspect. It's
6 not good to be moving suspects around.

7 Q. Okay.

8 A. And, you know, yeah, that's a good practice;
9 however, that's not how it played out that night. Like I
10 said, Sergeant Horton indicated to me that the guys were
11 too worked up.

12 Q. Let's talk about that for a minute. Sergeant
13 Horton, has he testified in this courtroom?

14 A. No, sir.

15 Q. Okay. Do you know if Sergeant Horton was at the
16 crime at Moultrie Middle School or across the street
17 where they took the victims to Wild Wing, or was he at
18 Hampp Fludd Street?

19 A. It's my understanding that prior to him going to
20 Hampp Fludd Street, he had met with officers who were out
21 at the Wild Wings with the victims, from where the
22 victims had been moved from the area of Moultrie over to
23 the area of Wild Wings.

24 Q. Okay. All right. And you heard -- you've been in
25 here the whole time, right, the whole trial?

1 A. I have.

2 Q. And you heard Officer Gillespie's testimony; is
3 that right?

4 A. I did.

5 Q. And you hear his cross-examination answer as far
6 as whether there was one victim that could possibly give
7 a possible ID.

8 MR. ZIEGLER: Objection, Your Honor.
9 Pitting.

10 MR. BUCHANAN: Your Honor, he's already
11 testified.

12 THE COURT: Overruled.

13 THE WITNESS: Can you ask that one more time?
14 I'm sorry.

15 BY MR. BUCHANAN:

16 Q. You were in the courtroom when Officer Gillespie
17 was on cross-examination. Do you remember that?

18 A. I do.

19 Q. Do you remember him saying that officer
20 dispatch -- he said that there was one victim that
21 possibly could give an ID. Do you remember that?

22 A. Yes.

23 Q. Okay. Fair enough. So you never went to Moultrie
24 Middle School or Wild Wing. You went right to Hampp
25 Fludd Street where they had Parks. They found Parks on

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1 Hampp Fludd Street, right?

2 A. They found Parks under the truck on Hampp Fludd,
3 and they found the defendant near King and Hampp Fludd,
4 yes. I went to the scene where they had the two suspects
5 because Detective DeCamp was going to meet with the
6 victims over at the Wild Wings. Large scene, blocks
7 apart. We both didn't need to be at the same place.

8 Q. Did you help Officer Ivey or Myers or anyone else
9 who was there trying to find this gun?

10 A. Yeah. We canvassed the area. There was a house
11 over on Morrison Street that we checked. I don't have
12 the particular numbers. I didn't note that that night,
13 but we did canvass. It was really dark that night, and,
14 I mean, I couldn't find the gun.

15 Q. Okay. All right. And you were in the courtroom
16 yesterday when Mr. Parks said that he dropped the gun,
17 and it was so dark he couldn't even find it, because he
18 was looking to pick it up. Do you remember that?

19 A. I do remember that, yes, sir.

20 Q. It was dark.

21 A. It was very dark, overgrown with bushes, not a lot
22 of streetlights.

23 Q. But the next day after the dew and the rain, it
24 was found almost right next to where that truck was
25 located, wasn't it?

1 A. It was.

2 Q. Okay. We heard Officer Myers yesterday say that
3 the first or second thing -- both were lies, but for the
4 sake of argument here, the first thing that Mr. Parks
5 said when he was pulled from under this truck and
6 received his Miranda warning was when he said, Where did
7 you get the wallet?

8 He said, Ricky gave it to me.

9 Is that what he said?

10 A. Yes. That's what was related to me.

11 Q. When was that related to you?

12 A. When I had arrived down on Hampp Fludd Street and
13 was meeting with Sergeant Horton.

14 Q. At this point you can't find the gun. You have
15 two suspects. You have him transported to the Mount
16 Pleasant police department, which is a mile and a half
17 away, would you say?

18 A. Yeah, a mile and a half, two miles, something like
19 that.

20 Q. All right. And you have Mr. Hayes in your
21 interview room; is that right?

22 A. That is correct.

23 Q. Investigation room, what you call it?

24 A. He was -- as I was walking into the patrol room,
25 we crossed paths, and he was placed into an interview

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1 room within the patrol room, yes, sir.

2 Q. Okay. And does that room have a camera or video
3 or audio in that room?

4 A. At the time it did not, no, sir.

5 Q. But it does now?

6 A. It does now, yes, sir.

7 Q. But on that night it didn't?

8 A. On that night it did not.

9 Q. All right.

10 A. Something we've been wanting for a long time and
11 finally got.

12 Q. Okay. Fair enough. And there was kind of this
13 back and forth banter: Do you want to talk to me? Do
14 you not want to talk with me?

15 I'll talk with you, but I don't want to give up
16 Miranda. That kind of thing, right?

17 A. It was back and forth, yes.

18 Q. Okay. And State's 35, this is State's 35,
19 correct?

20 A. Correct.

21 Q. And the first part of it is his Miranda waivers,
22 correct?

23 A. Correct.

24 Q. His constitutional rights, correct?

25 A. Correct.

1 Q. Okay. And he initialed all of those, right?

2 A. That is correct.

3 Q. Okay. And you signed it and he signed it and it's
4 dated, right?

5 A. Yes.

6 Q. He understood it?

7 A. Yes.

8 Q. And there's a second part where it's a waiver of
9 rights, where you waive Miranda; is that correct?

10 A. That is correct.

11 Q. And there's a line through it, and you signed it,
12 but it's undersigned by Mr. Hayes; is that right?

13 A. That is correct.

14 Q. And it's updated; is that right?

15 A. Yes, it's updated. There's the time down there at
16 the bottom.

17 Q. All right. And what did you write there?

18 A. I wrote that he invoked Miranda.

19 Q. You wrote that he invoked Miranda, and are these
20 your initials?

21 A. Those are his initials.

22 Q. So it's 1:24 a.m. on May 8th, 2013?

23 A. Right.

24 Q. And the judge has decided what is going to come
25 in, and it's already come in, but this is what you showed

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1 him, right?

2 A. Yes.

3 Q. Okay. We know now that Mr. Parks had
4 Mr. McElhenney's wallet, correct?

5 A. Correct.

6 Q. And we know now that Mr. Parks had the gun, was
7 the gunman, and couldn't tell Officer Ivey after Officer
8 Ivey was pleading with him to tell him where the gun was,
9 correct?

10 A. Correct.

11 Q. Mr. Hayes was found with no gun, no wallet, no
12 phone, nothing taken from these victims; is that right?

13 A. That is correct.

14 Q. Okay. And are you aware that Ricky's grandparents
15 live, by driving, about three tenths of a mile from where
16 you stopped them?

17 A. I have. I've been in their house before.

18 Q. Okay. And, actually, it's a shorter distance than
19 that if you walk.

20 A. Go up the hill, through the project, across the
21 street.

22 Q. Right, but you can't drive through the project.

23 A. Correct.

24 Q. So if you're walking, about two tenths of a mile?

25 A. As the crow flies.

1 Q. As the crow flies, exactly. So that's where you
2 found him?

3 A. I didn't find him. That's where he was found.

4 Q. That's where Ivey found him. Got you. Okay.

5 So he tells you this story, what he was doing and
6 where he was and where he was coming from, and you didn't
7 believe him?

8 A. I thought that there were some inconsistencies in
9 it, yes.

10 Q. All right. And then he -- for some reason, he
11 still had his phone with him, right?

12 A. Yes.

13 Q. Okay. When you take people into custody, do they
14 still have their phones on them?

15 A. If they're getting transported, like I indicated,
16 you know, previously, my best practice is to -- you know,
17 if they're under arrest, they're subject to search, and
18 when they go to the jail, they can't take their property
19 into a unit with them.

20 Like I said, my best practice is to take their
21 property from them, bag it, and that way nothing gets
22 lost.

23 Q. I know what yours is. Here is what I'm asking:
24 He was taken from the scene to the police station; is
25 that right? Was he cuffed at that time and all that

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1 stuff? Was -- when you saw him at the police station,
2 was he cuffed?

3 A. When I saw him at the police station? Yes, he was
4 cuffed.

5 Q. But he still had a phone on him.

6 A. He did.

7 Q. And then when you found his story wasn't adding
8 up, you told him, We got somebody next door who is
9 telling us you're his cousin and you're involved in it;
10 is that right?

11 A. That's correct.

12 Q. And he became irate; is that right?

13 A. Yeah. He began demanding, wanting to know who was
14 implicating him in this armed robbery.

15 Q. And you wouldn't tell him?

16 A. That's correct.

17 Q. Okay. All right. And did he beg you at that
18 point to do a lineup?

19 A. I don't remember that, no.

20 Q. May he have done that and you don't remember?

21 A. I'm going to refresh myself here from my report.

22 No. I don't remember him asking for a lineup,
23 and, furthermore, we can't get photos at that time to do
24 a lineup.

25 Q. Okay. There has never been a show-up; there's

1 never been a lineup; there's never been a six pack
2 offered to the victims to pick out Ricky Lamont Hayes; is
3 that correct?

4 A. That is correct.

5 Q. They've never been given an opportunity to ID our
6 client; is that correct?

7 A. That is correct.

8 Q. You leave Ricky's room, and Parks is in the other
9 room, right, BA room.

10 A. That's correct.

11 Q. I'm older than you. We call it the BA room. That
12 is where you take people who are arrested for DUIs,
13 correct?

14 A. Correct.

15 Q. We used to call it a Breathalyzer, didn't we?

16 A. We did.

17 Q. But now they don't use a Breathalyzer machine
18 anymore.

19 A. Right.

20 Q. But people like us may still call it a BA. And in
21 this room, they use now what's called a Datamaster to
22 attempt to get people's alcohol on their breath and that
23 kind of thing. You're in that room?

24 A. Correct.

25 Q. Okay. And that room has a camera, doesn't it?

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1 A. Yes. And that camera is the property of the South
2 Carolina Law Enforcement Division, and it's used to
3 record Datamasters and Datamasters only.

4 Q. Right. So if I were arrested for DUI first in
5 Mount Pleasant, I would be taken to the Mount Pleasant
6 police department and taken to the BA room, and there
7 would be a camera that would come on, and you could hear
8 and see everything I was saying and doing?

9 A. Correct.

10 Q. Okay. And that would be a misdemeanor, right? A
11 DUI first is a misdemeanor? Would you agree with me on
12 that?

13 A. Yeah.

14 Q. But for an armed robbery felony, no camera.

15 A. You know --

16 Q. No video.

17 A. I'm down here on the ladder. People up here on
18 the ladder make that decision.

19 Q. There is no -- you've got a camera, but you can't
20 turn it on because you don't have someone sitting there
21 with a misdemeanor, right? Okay.

22 A. I don't make the decisions.

23 Q. Okay. I hear you.

24 All right. So you're in the BA room with Parks,
25 and you ask him if he wants to talk with you, and he says

1 yes.

2 A. He does.

3 Q. Okay. And the first thing you tell him is, Be
4 honest with me.

5 A. That's correct.

6 Q. And then he lied. He was anything but honest; is
7 that correct?

8 A. There were quite some stories told.

9 Q. Yes. All right. When -- and he signed his
10 Miranda waiver. He signed the Miranda constitutional
11 rights. He initialed all. That was the first statement;
12 right?

13 A. Yes, sir.

14 Q. All right. When you were talking with him, had
15 you run his -- what we call rap sheet?

16 A. Not at that point.

17 Q. NCIC?

18 A. I had not.

19 Q. So you don't know his criminal background?

20 A. I don't know his background. I don't know
21 anything about him.

22 Q. You don't know he's a career criminal?

23 A. I didn't know anything about him.

24 Q. You didn't know that. All right.

25 A. Maybe later on I think he told me he had been

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1 arrested --

2 Q. We're going to get to that. But at that time,
3 you're sitting there talking to this guy, and you don't
4 know that -- we heard it yesterday, this laundry list for
5 a 26-year-old young man of felony and other types of
6 convictions. You don't know that?

7 A. I didn't know that at the time, no.

8 Q. Okay. All right. And you start to interview
9 him, and you get a call from Sergeant Horton saying, Hey,
10 I think we might have a third suspect down here?

11 A. Yes, sir.

12 Q. And he starts talking about this L person, right?

13 A. Correct.

14 Q. Okay. He calls him L. I know him as L; is that
15 right?

16 A. Yes, sir.

17 Q. Okay. And I don't want to jump too far ahead, but
18 you were at all three statements and interviews, the
19 one -- this one we're talking about, on May the 7th, the
20 one on May the 8th, and, again, the one that was in the
21 solicitor's office on November the 14th, 2013; is that
22 correct?

23 A. That is correct.

24 Q. Okay. And you remember at that time Mr. Casey
25 asked Mr. Parks about knowing Mr. Belt; is that correct?

1 That's L.

2 A. Mr. Casey asked Mr. Parks if Mr. Belt was L?

3 Q. Yes.

4 A. Yes.

5 Q. And he said yes, right?

6 A. Yes.

7 Q. And he said he went to AC Flora High School with
8 him, correct?

9 A. Correct. There was a transcript of it, okay? I
10 was present. I don't know it verbatim.

11 Q. I know it was a long time ago. I know you got a
12 lot going on. Could he have said they lived and grew up
13 in the same neighborhood together for ten years?

14 A. Yes.

15 Q. Knew him as L?

16 A. L.

17 Q. Went to high school with him and grew up with him,
18 right?

19 A. Uh-huh.

20 Q. Okay. After -- and you admit you had a long
21 night. After you -- so you leave Mount Pleasant police
22 department, and you go to the Scotchman; is that what it
23 is, the gas station?

24 A. Yes, at 323 Coleman.

25 Q. Just across Shem Creek, coming from Charleston?

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1 A. Yes.

2 Q. And that's where Belt is stopped.

3 A. Correct.

4 Q. So that takes a while to do that?

5 A. Yes.

6 Q. All right. Then you come back, correct?

7 A. Correct.

8 Q. And you reenter the BA room; is that right?

9 A. Yeah, because -- I'm sorry. Yes, because Parks is
10 still in there. And at that point, the interview room in
11 the criminal investigations bureau in my office, we moved
12 Parks over there, and Belt is put into either the
13 interview room or another one of the BA rooms.

14 Q. Okay. And you are asking a series of questions,
15 and he told you that he remembered waking up in the back
16 of Mr. Belt's car, right?

17 A. That is true.

18 Q. And that it was Ricky and L who were walking down
19 the street; is that correct, ahead of him?

20 A. Yes, sir.

21 Q. And it looks like they were getting the attention
22 of two white guys; is that what he said?

23 A. Yes.

24 Q. And then you asked him who had the gun; is that
25 right?

1 A. I did.

2 Q. And his answer was, I'm not sure?

3 A. That's what he said.

4 Q. That's what he said. Okay.

5 THE COURT: Mr. Buchanan, might this be a
6 good stopping point to take a break? It's been about an
7 hour and a half since we started. Everybody might want
8 to take a coffee break, so let's take ten minutes. Let's
9 everybody take a nature break, and we'll resume back in
10 about ten minutes.

11 (Recess taken.)

12 THE COURT: All right. Everybody ready in
13 bring the jury back.

14 (In open court, jury present.)

15 THE COURT: All right. We will resume with
16 the cross-examination.

17 BY MR. BUCHANAN:

18 Q. Thank you, Your Honor. May it please the Court:

19 Detective Eckert, excuse me if I've already asked
20 this question. The first interview in the morning of May
21 7, 2013 of Mr. Parks, you asked him who had the gun, and
22 he responded he didn't know anything about a gun.

23 A. He said he didn't know who had it, correct.

24 Q. Okay. And you also told him that he was found in
25 possession of Mr. McElhenney's wallet, and he replied, I

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1 picked the wallet up when I saw it on the ground and bent
2 down and picked it up; is that correct?

3 A. Correct.

4 Q. Okay. So at this point, you know he's a liar.

5 A. I knew -- that was on the 7th?

6 Q. 7th.

7 A. I knew there were some things changing in his
8 story, correct, from what he had told officers out on the
9 street to now what he's telling me.

10 Q. Right. Well, you can call it changing stories.
11 He lied.

12 A. Okay.

13 Q. He either lied to Ivey or he's lying to you,
14 right?

15 A. Correct.

16 Q. Okay. So as far as who had a gun, didn't have a
17 gun, Ricky went up ahead of me. I woke up, whatever, we
18 know that, and you knew that night that Ivey -- you found
19 out from Ivey or Myers that he had said, under Miranda,
20 that Ricky, Ricky gave me the gun, and then now he's
21 saying, I bent down and picked up the gun, right?

22 A. You mean the wallet?

23 Q. Excuse me. The wallet.

24 A. Correct. There was some conflicts in the story,
25 yeah, but, like I said, we always don't get the truth.

1 Q. You call it a conflict. I call it a lie. We'll
2 leave it at that. All right.

3 Let's make sure we are on the same page, if I may
4 approach the witness, Your Honor.

5 A. Where are you at?

6 Q. It's the second page of this first statement, and,
7 again, ours aren't numbered the same, but it's this one.

8 A. I was actually looking at the statement, or do you
9 want me to be on that one?

10 Q. Either one.

11 A. Go ahead.

12 Q. All right.

13 A. Sorry about that.

14 Q. Do you remember asking him how much he had to
15 drink that night?

16 A. Yeah.

17 Q. Okay. And what did he say?

18 A. Two beers.

19 Q. And what did he say yesterday on the stand?

20 A. I can't --

21 Q. Under oath, under threat of perjury, what did he
22 say?

23 A. He said something like six or seven beers and that
24 I had made that up, something to that effect.

25 Q. So he lied on the stand yesterday, didn't he?

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1 A. I believe so. I mean, he told me that he had two
2 beers that night.

3 Q. And I think he somehow --

4 MR. ZIEGLER: Objection, Your Honor. Pitting
5 witnesses.

6 THE COURT: Overruled.

7 MR. BUCHANAN: Thank you, Your Honor.

8 BY MR. BUCHANAN:

9 Q. Okay. So after you had this interview about the
10 gun, the wallet, about the beer, about the laws, and I'm
11 on that same page now?

12 A. Yes, sir.

13 Q. At the bottom, you wrote, Based on the written
14 statement that I was provided by Mr. Parks?

15 A. Okay. I'm sorry. Let me go to that. Go ahead.
16 I remember typing that.

17 Q. Just take your time.

18 A. Uh-huh.

19 Q. So you're on that page now?

20 A. Yep, yep.

21 Q. Got it? Okay. Based on the written statement
22 that was provided by Parks, the fact that Parks was found
23 under the work truck, the fact that Parks was found in
24 possession of the victim's wallet that was just stolen
25 during the armed robbery, after Parks placed L and Ricky

1 Lamont Hayes on Coleman Boulevard when he came in
2 possession of the wallet, the fact that Belt was found in
3 possession of the personal items that belonged to Hayes,
4 that's Belt, not Hayes, I informed Parks that he, Hayes,
5 and Belt were all being charged with two counts of armed
6 robbery; is that correct?

7 A. That is correct.

8 Q. That's what you based your arrest on?

9 A. Correct.

10 Q. It had been a long night, 6:00 or 7:00 in the
11 morning by this time. You want to go home. You go home,
12 get some rest, right?

13 A. Yes.

14 Q. Okay. You didn't come in until -- this is the
15 early morning hours, and let's just make it exactly what
16 it is. You took the first statement at 2:40 a.m. on May
17 the 7th of Mr. Parks; is that right?

18 A. Correct.

19 Q. Okay. That takes a while. Booking takes a while.
20 All that stuff takes a while. You got to call the
21 victims and all that stuff, police officers, detectives,
22 and you finally go home around sunrise, would that be
23 right?

24 A. Safe to say.

25 Q. All right. And you get some rest. You get some

1 sleep?

2 A. Yes. I'm sorry.

3 Q. You come in the morning of May the 8th, the next
4 day, right?

5 A. Right. Probably about 8:00 in the morning.

6 Q. And at that time, you find out that -- I think
7 it's Sergeant Hembree. Correct me if I'm wrong.

8 A. You're correct.

9 Q. They found the gun?

10 A. Correct.

11 Q. They found a gun?

12 A. A gun.

13 Q. Okay. At that time it was a gun, and they found
14 it right next to the truck where Mr. Parks was hiding and
15 throwing up; is that right?

16 A. Correct.

17 Q. Okay. So you think, I better talk to Mr. Parks
18 again, right?

19 A. Safe to say.

20 Q. Okay. So you left Mount Pleasant. You drove to
21 the Charleston County Detention Center, and you picked up
22 Mr. Parks and you brought him back to the Mount Pleasant
23 police department, correct?

24 A. Yes.

25 Q. Okay. And while you were -- and just to be on the

1 safe side, you had him sign another Miranda warning,
2 another Miranda waiver, and he did that; is that correct?

3 A. That is correct.

4 Q. Okay. And while you were doing that, he was
5 joking around with Detective Stevenson about him looking
6 like Tom Cruise, kind of cracking jokes.

7 A. Correct.

8 Q. That was his attitude?

9 A. Correct.

10 Q. At this time, I'm losing track of time, but maybe
11 36 hours later or so from when this crime took place, do
12 you now have -- when you're talking to Parks, second
13 time, do you now have his criminal record, his NCIC rap
14 sheet in front of you?

15 A. I had reviewed it. It wasn't sitting in front of
16 me in the interview, but I did have a chance to look at
17 it, noticed that he had some prior burglaries and other
18 things, yes.

19 Q. All right. Okay.

20 I wish our pages had the same number, and I
21 apologize, but if I could approach the witness, it's this
22 page here.

23 A. Okay. I'm pretty familiar on this report, but go
24 ahead.

25 Q. It says furthermore?

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1 A. If you got -- you can ask and --

2 Q. I just want -- Your Honor, point out to the Court
3 that some of these --

4 A. I found it. I'm here. Sorry about that.

5 Q. Good. Okay.

6 A. They don't put all the page numbers up on the top,
7 and its tough to keep them straight, but I'm here. Sorry
8 about that.

9 Q. Nowhere in your report does it say you had his
10 NCIC rap sheet in front of you. Nowhere in your report
11 does it say that, does it?

12 A. No.

13 Q. So did you write in this report on May the 13th,
14 Furthermore, I was confident that Parks had a good
15 understanding of Miranda as he told me that he had been
16 in prison for burglary, so it was my belief that he had
17 some prior interactions with law enforcement.

18 Did you write that?

19 A. This is my report. I typed it, yes.

20 Q. Okay. Well, to me, that doesn't sound like you
21 knew about his rap sheet. It seems to me like you were
22 relying on what he was saying.

23 A. I had previewed his -- I had looked at his rap
24 sheet, and, I mean, he's telling me he's gone to prison
25 before. So we're talking about Miranda, basic

1 constitutional rights, and I wanted to make sure that
2 they knew what Miranda was. Any high school, you get a
3 basic law class that talks about Miranda and the
4 constitution. He had some college, and he had been in
5 trouble before, so it was safe to me -- you know, without
6 knowing his rap sheet inside and out -- I'm sorry, his
7 criminal history inside and out that he knew what his
8 rights were. And, furthermore, there had been a lapse in
9 time, some 36 hours, as you even described it, and, you
10 know, I wanted to make -- I wanted him to know that I had
11 further questions for him about this robbery.

12 I was reengaging him. I didn't know if he had
13 sought legal counsel between that time. I wanted him to
14 know I was going to talk to him, and I needed to talk to
15 him about this and he had the right not to talk to me.

16 Q. Okay. Thank you.

17 You had briefly looked over his criminal record,
18 but you didn't put that in your report. Would that be
19 safe to say?

20 A. I mean, call it what you want, whether I examined
21 it line by line or briefly or what, but I had some
22 knowledge of it. I hadn't gone -- I don't remember if I
23 went through it line by line or what, but, I mean, he's
24 admitting that he has been in trouble before, that
25 he's -- you know, it talks about the burglaries and that

1 he had gone to prison for them.

2 Q. Okay.

3 A. So at some point, he's been in the criminal
4 justice system, where he's had interactions with law
5 enforcement and the courts, and the statement was made
6 just to show that he understood what we were talking
7 about, the seriousness of it.

8 Q. The second statement when you're interviewing him,
9 does he still stick to the story where he's waking up --
10 now he -- let me back up for a minute.

11 Did he seem drunk to you the first time you were
12 talking to him?

13 A. I felt that he had been drinking.

14 Q. Uh-huh.

15 A. I didn't know particularly how much he had been
16 drinking. We were carrying on a conversation. He wasn't
17 falling out of his chair, falling down drunk, lying on
18 his face, anything like that. I've dealt with some drunk
19 people in my days. I'm worked numerous DUIs in my
20 career.

21 We were carrying on a conversation. I felt he had
22 been drinking more than two beers. You know as well as I
23 do two is the standard answer. I can't make him tell me
24 how many he's had to drink, and he was willing to
25 continue carrying on a conversation with me.

1 Q. Do you think he was coherent?

2 A. Yeah. I thought he was coherent.

3 Q. Did he understand the difference between right and
4 wrong?

5 A. I mean, you always hope they do.

6 Q. Okay. That's a tough question, I admit. Thanks
7 for attempting to answer it. I hate to jump around like
8 that, and I apologize to you. I apologize to the jury.

9 May 8, second interview, before the interview even
10 started, he smokes a cigarette, and he's in leg irons,
11 right? Kind of shuffles outside and has a cigarette?

12 A. Yes, correct.

13 Q. Somebody from your office bummed a cigarette from
14 him?

15 A. It's funny how we get those, but --

16 Q. Okay. All right. You had a cigarette for him?

17 A. Yes. There was one left over from a pack we keep
18 in the drawer.

19 Q. And at this time, he again said, being Parks,
20 stated that it was, L and Ricky were up ahead and it
21 looked like they were jacking up these guys, and I came
22 up after them.

23 A. He said something to the fact that it looked like
24 they were jacking him up, and then it looked like they
25 were talking to him, and then I came up after the fact.

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1 Q. And we know it was him sticking the gun and --

2 A. And at that point, I didn't know that.

3 Q. I understand that, but that's what he's telling
4 you now?

5 A. Yes.

6 Q. And this is also the statement where he said if I
7 knew there was a gun -- he's still not saying there was a
8 gun. If I knew there was a gun, I would have run away
9 from a gun. If Ricky had a gun, I would have run away
10 from it because I don't do guns. I'm just a burglar.

11 Is that pretty much what he said?

12 A. You summed it up.

13 Q. After this interview, second interview where he
14 lies more, did you thank him for his help?

15 A. I thanked him for what I thought was him being
16 cooperative.

17 Q. At that time you thought he was being truthful and
18 cooperative?

19 A. Correct.

20 Q. Although you really knew from the first time he
21 had lied about whether -- where he got the wallet from
22 because he either lied about Ricky Hayes the first time
23 or he tells the truth the second time, right?

24 A. Yeah. Like I said, in my experience, they're not
25 honest. I mean, you know, they want to see -- it's like

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1 a game of cards to them almost. They want to see your
2 hand, and I wasn't ready to show it. I thought we had
3 gotten closer to the truth during this interview.

4 Q. And you thanked him for his help?

5 A. I did.

6 Q. Okay. All right.

7 MR. BUCHANAN: Beg Court's indulgence, Your
8 Honor.

9 BY MR. BUCHANAN:

10 Q. Okay. Second interview -- okay. And I know this
11 is important stuff, and I'm sorry to be laborious, but it
12 is what it is.

13 Parks is pulled out of the truck, tells Ivey,
14 Ricky gave me the gun.

15 You talk to him later that evening. He says, I
16 picked up the wallet.

17 A. Yeah.

18 Q. Excuse me, the wallet. Mr. McElhenney's wallet.

19 MR. ZIEGLER: Objection, Your Honor. The
20 contents are hearsay. Mr. Parks never denied making
21 these statements.

22 THE COURT: You're talking about the wallet
23 that's in evidence, right?

24 MR. ZIEGLER: The statements that Parks gave
25 to Corporal Eckert.

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1 THE COURT: What is your question?

2 MR. ZIEGLER: Well, the contents of the
3 interview statement are hearsay, the contents of the
4 interview that Parks told to Corporal Eckert in the
5 second interview.

6 THE COURT: Overruled. Go ahead.

7 MR. BUCHANAN: Thank you.

8 BY MR. BUCHANAN:

9 Q. Second interview, first time, Ricky gave it to me;
10 second time, I reached down and picked it up. The third
11 time, which is the second interview on May the 8th, he
12 tells you, Ricky told me to pick it up. Right?

13 A. Yes.

14 Q. So which of those lies did you believe?

15 A. What I believe is that the three of them were
16 still there, together, and did this robbery together.

17 Q. That's not the question. I know what you believe
18 as far as that is concerned. My question is: Which lie
19 do you believe that he was saying, either to Ivey, to you
20 the first time, or you the second time?

21 A. What did I believe?

22 Q. Uh-huh.

23 A. I would go back to what I believe is that the
24 three of them were still together during this incident
25 that occurred on Coleman Boulevard in the early morning

1 hours of May the 7th.

2 Q. You would agree that he gave three completely
3 different statements about the wallet? You would agree
4 with that?

5 A. I would agree with that.

6 Q. All right. And after the end of this interview,
7 you thanked him.

8 A. Correct.

9 Q. Knowing that he's given three completely different
10 statements about where the wallet was and how he got the
11 wallet.

12 A. At that point I thought we had gotten closer to
13 the truth, and I thought that he was being forthcoming
14 and honest, at that point. We pulled him back out of the
15 jail. I told him I needed him, you know, to be honest
16 with me.

17 We found the gun. It was up near the truck where
18 you were hiding, and, you know, I thought that he was
19 being cooperative at that point, that he was being
20 truthful with me.

21 Q. Who did you think had the gun at this point in
22 your investigation?

23 A. I didn't know.

24 Q. All right. After this second interview, you put
25 him in your car, and he was cuffed with his cuffs behind

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1 his back and put his seatbelt on, and you drive over 526
2 and get off at Dorchester. You take a ride on Leeds,
3 take a left into Charleston County Detention Center, and
4 then you pull up to the sally port; is that correct?

5 A. That's correct.

6 Q. Help me out here, because I wasn't too clear on
7 this. Do you unholster your weapon and put it in some
8 sort of vault or something before you drive in?

9 A. No, no. You can drive into the sally port. You
10 can't enter the jail, though, with your gun. When I get
11 out of my car, I put it in my trunk.

12 Q. So you went and put it in your trunk, and that's
13 how you do it.

14 A. Correct.

15 Q. So this is all on video, so let's try to get this
16 part straight. Let me back up. This part isn't video.
17 You've already let him make phone calls to his
18 grandparents.

19 A. Fiancee.

20 Q. Well, no, at the jail.

21 A. At the station, I think we did allow him some
22 phone calls, yeah.

23 Q. All right. And then you're on your way back to
24 the jail, and you allowed him to use your phone. Is that
25 your personal phone?

1 A. It is.

2 Q. And you think he's helping you out, and he's got a
3 pregnant wife or girlfriend or fiancée or something, and,
4 you know, you said, you know, Look, I'm treating people
5 like I would like to be treated, and you let him make
6 this phone call, right?

7 A. Correct.

8 Q. Okay. And he said in his statement -- and I know
9 these pages don't match up, but we're on this part --

10 A. I'll just keep it open.

11 Q. You might want to do that. Where you're leaving,
12 you're getting to the jail?

13 A. Uh-huh.

14 Q. And talking about the phone call you want to make,
15 although this is not common practice, Mr. Parks provided
16 me with information that I thought was very beneficial to
17 my case, so I wanted to allow him to call his wife as he
18 told me she was pregnant and expecting a baby.

19 A. Correct.

20 Q. And you let him do that?

21 A. Correct.

22 Q. Okay. The sally port is like -- correct me if I'm
23 wrong. It's like a big garage, an appendage to the jail,
24 the back of the jail, and has a steel graded gate as you
25 go in, and it opens up and then it closes, right?

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1 A. You are correct.

2 Q. Okay. And then you go in and park, and on the
3 other end, when you're leaving, it has the same gate, and
4 when you get permission to leave and everything is safe,
5 they open it up and out you go, right?

6 A. Correct.

7 Q. So it's got one entrance, one exit, and it's,
8 what, maybe 100 feet long?

9 A. Probably a good football field. It's long.

10 Q. And there's vans and police cars and all that
11 stuff in there, and you park in there, right?

12 A. Yes.

13 Q. And when you drove in that day, although Mr. Parks
14 had been in leggings when he was in Mount Pleasant, he
15 wasn't in leggings when you brought him back to the jail?

16 A. That's right.

17 Q. But his cuffs were on behind him?

18 A. Correct.

19 Q. Okay. And as you park -- and as you pull in and
20 as you park, there is a car waiting to get out -- it's
21 waiting to leave, right?

22 A. Right.

23 Q. You've seen it, right?

24 A. Yeah.

25 Q. And you get out of your vehicle, go around the

1 back, and that car leaves. Gate's open.

2 A. Correct.

3 Q. It's a sunny day, right?

4 A. Yeah.

5 Q. It's wide open, and he gets -- now, that's not the
6 way you're supposed to do it, is it?

7 A. No. There's no policy or procedure in place.
8 That's the constant flow of traffic in and out of there.
9 People come and go in and out of there all the time.
10 There is no policy or anything in place that says you can
11 only move prisoners when the gates are closed.

12 I have no control over when those gate open, when
13 they close. That's the control room at the jail. There
14 is no policy in place on that, no. I would disagree with
15 you on that.

16 Q. Okay. Maybe it's the jail's fault --

17 A. No. I'm not saying it's the jail's fault. I
18 mean, I should have held on to him that day, and I
19 didn't, but there's nothing in place that says you can't
20 walk around in here, or you can't move prisoners back and
21 forth to the door if the gates on the sally port are
22 open.

23 At the old jail, they never even ran the gates on
24 the sally port. They were always open, where it would go
25 out to Leeds Avenue, where bond court is now. Those

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1 gates never went up or down, so -- and since 2006,
2 there's -- no. I'm unfamiliar with what you're talking
3 about, that it's a policy somewhere. I don't know that.

4 Q. You learn something new every day. I didn't know
5 that. Thank you.

6 So you can take prisoners out that are charged
7 with two counts of armed robbery that are career
8 criminals and not in leggings and have the sally port's
9 doors, gates, wide open and walk him up to the jail?
10 There is no policy against that? You can do that if you
11 feel like it?

12 A. Yeah. I would say it's at the discretion of the
13 officer. You know, he was completely cooperative while
14 at Mount Pleasant and didn't -- there were times when he
15 was outside, didn't try to run, didn't try and escape,
16 didn't try anything crazy. I guess he just saw the
17 opportunity at the jail and risked it.

18 Q. This was the person earlier who was cutting up
19 jokes with the officers. This was the person that you
20 gave a Coke to. This was the person that took smoke
21 breaks. This was the person you were letting call their
22 grandparents in Columbia. This was the person you let
23 borrow your own phone, although that's not policy?

24 MR. ZIEGLER: Objection, Your Honor. That's
25 not a question.

1 THE COURT: Sustained.

2 BY MR. BUCHANAN:

3 Q. When you walked to the jail to put Mr. Parks back
4 in the custody of the jail, you were aware that the sally
5 port door was wide open.

6 A. Sure.

7 Q. Okay. And he took off running, and you took off
8 after him?

9 A. Correct.

10 Q. And you didn't even have a weapon?

11 A. That's correct.

12 Q. Do you think he saw you put your weapon --

13 A. I don't know if he was paying attention to me or
14 not. I don't know.

15 Q. And he ran -- tell me if I'm wrong. As he was
16 running, he somehow got the cuffs from the back to the
17 front?

18 A. Correct.

19 Q. Okay. And you saw that.

20 A. I did.

21 Q. Okay. And then you lost sight of him.

22 A. I had a good idea, generally, where he was,
23 thinking of my safety in mind, not wanting to hurt
24 myself, knowing that other people were coming. I wasn't
25 going down in the marsh, you know? Who knows what is

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1 down there? Who knows whether there is weapons down
2 there? I wasn't going to risk my safety. As long as I
3 had him contained in that area and I could direct the
4 officers that were coming to me, that was my goal.

5 Q. Let me ask the question again: You lost sight of
6 him?

7 A. I generally had an idea where he was, yes. Did I
8 physically see him the whole entire time? No.

9 Q. That's it. Right there. Stop. You answered the
10 question.

11 You told him you were sending in the dogs, and he
12 put his hands up and his hands were no longer together?

13 A. Correct.

14 Q. And he comes toward you out of this marsh, ditch,
15 correct, whatever it was?

16 A. It was shrubbery.

17 Q. Did you tell him to get on the ground?

18 A. I believe so, and I took him to the ground, yes.

19 Q. So you took him to the ground, and he continued to
20 fight with you?

21 A. Correct.

22 Q. All right. And you were worried, and you don't
23 have your weapon, and you were worried -- he was trying
24 to get to your radio.

25 A. My radio was on the ground. He had one hand

1 free -- he was trying to grab at my radio, and at that
2 point I remember from training, at the criminal justice
3 academy, one of the instructors is, like, They'll use
4 whatever they can on you, and the last thing I wanted him
5 to do was grab my radio and try to hit me in the head
6 with it.

7 That was my line of communication. That's what
8 you don't want.

9 Q. Right. If he would have been cooperative, okay,
10 You got me. You cuff him, bring him in, it's still
11 escape but he doesn't fight with you, he doesn't resist
12 arrest, he doesn't try to assault you, all of that
13 happened, right?

14 A. Right.

15 Q. How tall are you?

16 A. Six-seven.

17 Q. You're like, you know --

18 A. I've been dropping weight, though.

19 Q. You look good. You look good. I need to get your
20 diet. But you're like offensive tackle big, and you
21 still couldn't get this guy under control.

22 A. He was fighting.

23 Q. Okay. We saw him yesterday. We saw how big he
24 was. It took a retired officer from North Charleston to
25 help you subdue him.

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1 A. He stopped and helped. He controlled one arm,
2 like I said, you know. At that point I had all kinds of
3 stuff going through my head, nerves, adrenaline -- I was
4 arced up. I was pumped up. The lock on my handcuff, it
5 was double locked because he escaped out of it, so then
6 you got to do some fine motor control; put the cuff key
7 in, get it to unlock, get the cuff to spin so you can get
8 him back into custody.

9 Yeah, a guy -- a good citizen from North
10 Charleston who used to be a police officer, he stopped
11 and helped me.

12 Q. Okay. And then you put him back, finally, into
13 the jail, and was he saying anything about, I want to die
14 or commit suicide, or anything like that?

15 A. You know, like I testified to, the deputies from
16 the detention center actually walked him back. I
17 remember vaguely when we got to the door of the jail,
18 there was some expletives, I want to die, and I told
19 them, I said, I'm done with him. Please book him, and
20 you guys need to watch him.

21 Q. And then you went back up and went back to your
22 office in Mount Pleasant and did some paperwork, and you
23 did an affidavit and you served it on him the next day.

24 A. I think he was served at bond court. We get to
25 send -- I prepare the affidavit. It gets sent over to

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1 bond court. Bond court officer meets with the judge.
2 They sign it, and he was served for unlawful escape, yes.

3 Q. And you went to the bond hearing?

4 A. I might have. I could have. I don't remember 100
5 percent, though.

6 Q. Do you know he got a \$50,000 bond?

7 A. I do.

8 Q. And do you know that case has been dismissed by
9 the solicitor's office?

10 A. I do.

11 Q. Do you know that was in August of 2014?

12 A. That was news to me when I was sitting at the
13 table.

14 Q. You didn't even know it was --

15 A. I didn't know when it was dismissed. I thought
16 it was more recent.

17 Q. You're the victim in that case. What do you think
18 of that?

19 A. Well, what I think is I make the best case
20 possible on any case I have, and they're the ones that
21 have to prosecute. The solicitor's office has to
22 prosecute it, and if they feel there is not enough to go
23 forward, then, I mean, you know, it gives me things to
24 work on. This was a huge learning lesson to me. You
25 learn something new every day.

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1 Q. Good point. So that happened, the case on May 8.
2 You were at the round table in the solicitor's office
3 when Mr. Parks gave his third statement, correct?

4 A. Correct. I was there with Matt Casey and his
5 attorney.

6 Q. Okay. All right.

7 A. Mr. Murphy, I believe.

8 Q. Okay. And you were in court yesterday; is that
9 correct?

10 A. Correct.

11 Q. And as he said on November the 14th, Mr. Parks, he
12 said that he never touched either victim with the barrel
13 of that gun. He never shoved it in. He was two or three
14 feet away.

15 Did you hear that yesterday?

16 A. I did.

17 Q. And he also said that he was about three or four
18 feet away; is that right?

19 A. Two or three or three or four? You just said two
20 or three.

21 Q. And he also said that Belt had a held a knife to
22 one of the victims' necks. Did you hear that?

23 A. Yes.

24 Q. All right. Do you have any information as far as
25 that is concerned?

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1 A. I have no information about a knife. During one
2 of my previous statements, I had asked him about a knife,
3 and he said he didn't know who had a knife.

4 Q. Let me talk to you about the cell phone. We'll
5 try to keep this all straight. The cell phone that was
6 found by Channel Two, is that Mr. McElhenney's cell
7 phone?

8 A. I have nothing to do with the cell phone. I don't
9 know. I mean --

10 Q. But wait a minute. You're the chief detective,
11 okay? I've been waiting to ask this question of the
12 chief detective. Whose cell phone did they find by
13 Channel Two?

14 A. From reading the reports and reviewing the
15 reports, I believe it's Mr. McElhenney's.

16 Q. Okay. All right. And that was taken from him at
17 gunpoint on, more or less, the corner of Simmons and
18 Coleman Boulevard; is that right?

19 A. Correct.

20 Q. And then Mr. Hayes was found on the corner of King
21 and Hampp Fludd, kind of also known as Street,
22 or Drive, right?

23 A. Yes. One side is Greenwich, the other side is
24 Hampp Fludd, kind of in the intersection there.

25 Q. And Mr. Parks was found on Hampp Fludd. We know

DANIEL ECKERT - CROSS

1 all about that. The truck, we have seen pictures. We
2 know about that, right?

3 A. Right.

4 Q. And that is about three blocks down Simmons Street
5 from where this occurred, right?

6 A. Correct.

7 Q. Okay. And Officer Ivey testified he was flagged
8 down six minutes after this occurred by Mr. Hayes; is
9 that right?

10 A. Right.

11 Q. Okay. Mr. Hayes wasn't found with anything; Parks
12 was found with the wallet and the gun, right?

13 A. Yes.

14 Q. But this phone deal, from Hampp Fludd Street to
15 the corner of Coleman Boulevard, whatever that -- you
16 know, the Yorktown street?

17 A. McGrath and Patriot's Point Boulevard.

18 Q. Yeah. Thank you. That's about 1.7 miles away?

19 A. It sounds like you guys have driven it or measured
20 it out.

21 Q. You're not going to say it's not, right?

22 A. Yeah.

23 Q. Okay. All right. There is no way you can get
24 from Hampp Fludd Street or the corner of Simmons and
25 Coleman to Channel Two and back from Hampp Fludd Street

1 in six minutes or 15, 20 minutes, is there, if you're on
2 foot?

3 A. Maybe if you run the Cooper River Bridge Run as a
4 marathon runner.

5 Q. But they're not?

6 A. Right.

7 Q. When Parks was telling you about his pregnant
8 girlfriend, you testified that it hit you in the heart,
9 didn't it?

10 A. Yeah. I felt for the guy.

11 Q. All right. And you did him a favor, because you
12 knew he was in a lot of trouble, and you did him a favor
13 by letting him use your phone?

14 A. Correct.

15 Q. And you might agree with me that you dropped your
16 guard down when you were taking him into the jail.

17 A. I did.

18 Q. Okay. And we know now that that was a really big
19 mistake?

20 A. It was a learning lesson, and, you know, you build
21 from learning lessons. I'm thankful I didn't get hurt or
22 anybody else got hurt.

23 Q. Okay.

24 A. I don't think it was the end of the world. I
25 didn't catch time off or anything.

DANIEL ECKERT - CROSS

1 Q. Okay. Court's indulgence, Your Honor.

2 It would be safe to say Randi Parks lied in every
3 statement he's ever made; is that true?

4 A. Yeah. I think there were some lies in each of the
5 statements he's made, yes, and we found that out
6 yesterday.

7 Q. And that under oath, under oath yesterday, he lied
8 too.

9 MR. ZIEGLER: Objection, Your Honor.
10 Pitting.

11 THE COURT: He's not pitting him against
12 anybody.

13 THE WITNESS: I think there were some
14 discrepancies, and what he said from the 14th of November
15 to what he testified to yesterday.

16 BY MR. BUCHANAN:

17 Q. Okay. So I call it lies; you call it
18 discrepancies. Whatever the jury says.

19 This event happened either in front of -- and you
20 saw the pictures, either in front of the farmer's market,
21 more or less on the corner of Simmons and Coleman
22 Boulevard, or more down the street in front of Moultrie
23 Middle School; is that right?

24 A. Correct.

25 Q. Okay. And there are cameras on Moultrie Middle

1 School; is that correct?

2 A. There were.

3 Q. Okay. And you checked all those cameras?

4 A. I -- and I knew you were going to bring this up.
5 I did send an e-mail to the school resource officer after
6 the robbery, and during the report I neglected to put
7 that in the report. And I checked with her when this
8 trial started to see if she had a copy of the e-mail.

9 It gets recycled out with the trash, but I do
10 remember checking with her, and she said she reviewed
11 them back --

12 Q. No, don't say anything about her.

13 A. Sorry. I was told that the cameras were reviewed
14 and it wasn't captured anywhere.

15 Q. Okay. All right. Did you review them?

16 A. I don't have access to them. I have to count on
17 other people to review them.

18 Q. You're a detective. How do you not have access to
19 them?

20 A. They're not going to let me just walk into
21 Moultrie Middle School and pull up cameras. There is
22 processes you have to go through, and I initiated the
23 steps to see if it was captured on video, and I was told
24 it wasn't.

25 Q. You send an e-mail?

DANIEL ECKERT - CROSS

1 A. Yeah. That's how we communicate.

2 Q. And these don't exist anymore?

3 A. The e-mail?

4 Q. No, the video.

5 A. I don't know. We would have to check with the
6 school board, but the information that I gathered was
7 that it was never captured on video. Furthermore, there
8 is a big tree out in front of where it happened, so if
9 there is a camera, it would have been blocked.

10 Q. Across the street, there is a BP station, and they
11 have a lot of cameras there. Two of them face Coleman
12 Boulevard. Did you check those cameras?

13 A. No, I didn't, because from my training and
14 experience in dealing with other crimes in the area,
15 those cameras cover that lot. I've never -- I've handled
16 numerous incidents in the town where we've had to go and
17 pull video from other establishments, and I've seen their
18 cameras before and it's never shot at that angle to
19 capture where this incident would have taken place, so I
20 didn't check there, no.

21 Q. This incident took place more or less right across
22 the street from the station?

23 A. No. It was further down, I would say more across
24 the street from the clock tower at Moultrie Plaza where
25 you've got a portion of -- in front of that paint store

1 there. It looks like there is some overgrown shrubbery,
2 and then there is the gas station. It shoots at an
3 angle.

4 Q. What shoots at an angle?

5 A. Their camera cover that lot. It wouldn't have
6 shot at the angle as to where they were.

7 Q. I'm going to show you State's Exhibit No. 6, which
8 is in evidence, I believe. Is that the gas station?

9 A. That is the gas station.

10 Q. Is that more or less across the street from
11 Moultrie Middle School?

12 A. Not where the incident occurred.

13 Q. Is it across the street from Moultrie Middle
14 School?

15 A. It's across the street from Moultrie Middle.

16 Q. Okay. And this event took place in front of
17 Moultrie Middle School, or right next to it; is that
18 correct?

19 A. Between the farmer's market and the school, yes,
20 more so in front of the farmer's market.

21 Q. And this is a gas station and convenience store?

22 A. A small convenience store, yes.

23 Q. Did you check and see if there was any video of
24 these three men at this store prior to this incident?

25 A. No, I did not.

DANIEL ECKERT - REDIRECT

1 Q. Thank you. After you had arrested Parks, Hayes,
2 and Belt, did you or anyone in the Mount Pleasant police
3 department look for other suspects?

4 A. No. We were told there were three, and we thought
5 we had the three guys in custody.

6 Q. And you considered the case closed, based on the
7 statements --

8 A. The statements, yes.

9 Q. -- by Mr. Parks?

10 A. Yes.

11 Q. The liar?

12 MR. BUCHANAN: I have no further questions.
13 Thank you.

14 THE COURT: Redirect?

15 MR. ZIEGLER: Thank you, Your Honor.

16 REDIRECT EXAMINATION

17 BY MR. ZIEGLER:

18 Q. The Miranda form that you present to Ricky Lamont
19 Hayes and other people you were interviewing, is that a
20 Court document or a legally binding document, or is it an
21 internal form used by Mount Pleasant police department?

22 A. It's an internal form used by the Mount Pleasant
23 police department in their investigations.

24 Q. Are in person photo lineups -- in your experience,
25 in photo lineups, are they done often these days?

1 A. Are you talking, like, the six individuals, lining
2 them up?

3 Q. I'm sorry, actual in person lineups where you
4 would have six people lined up in a row in person?

5 A. No.

6 Q. So how are lineups normally done?

7 A. Like I mentioned previously, we get photos, you
8 know, from an outside source, either the Charleston
9 County Detention Center or the South Carolina Law
10 Enforcement Division, and they prepare the lineup for us.
11 They pick the six individuals, and then what we do is we
12 copy, cut, and paste them, so we take the picture and
13 paste them through our computer. I'm not sitting there
14 with scissors and tape, but we paste it on to a blank
15 document, and then an independent administrator is who
16 shows the lineup.

17 Q. So, again, were you able to obtain any photo
18 lineup the night of the incident?

19 A. No.

20 Q. You discussed the BA room. Did you say there was
21 a camera in there?

22 A. There is.

23 Q. And what is -- what's the arrangement with that
24 camera?

25 A. It's to be used for Datamaster tests only, breath

DANIEL ECKERT - REDIRECT

1 alcohol analysis.

2 Q. Does anyone else regulate that?

3 A. The South Carolina Law Enforcement Division.

4 Q. Is that a separate entity from the Mount Pleasant
5 police department?

6 A. It is.

7 Q. And are you permitted to use that for things other
8 than --

9 A. The agreement is that it's for breath tests only.

10 Q. Again, is it your experience that when you first
11 speak to someone about a crime, is it your experience
12 that they'll tell you all about that the first time, all
13 the truth?

14 A. No.

15 Q. Does it come out a little bit at a time?

16 A. You get a little bit at a time. You try and make
17 the most out of the interview. You're trying to get as
18 much information as you can and verify the information,
19 but, no, it's never forthcoming where they come in and
20 give you everything.

21 Q. Did Mr. Parks -- did Mr. Parks, in your interviews
22 with him, did he consistently identify the other
23 individuals involved in this robbery?

24 A. He did.

25 Q. Who did he say they were?

1 A. The defendant, Ricky Lamont Hayes, and Darren
2 Belt.

3 Q. In an investigation like this, what is it like
4 when you're out investigating something like this, an
5 incident like this?

6 A. Well, I mean, we were kind of spread out all over.
7 The incident happened near the farmer's market by
8 Moultrie Middle School. There was a chase that was
9 given. We had somebody that was located under a truck,
10 somebody at another intersection.

11 We move people. We're getting EMS involved. So
12 it's quite chaotic and you make the best to control the
13 scenes the best you can, try to get evident collected and
14 do the best you can with what you're dealt.

15 MR. ZIEGLER: No further questions, Your
16 Honor.

17 THE COURT: Recross?

18 MR. BUCHANAN: None, Your Honor. Thank you.

19 THE COURT: All right. You can step down.
20 Thank you.

21 All right. You want to call your next
22 witness?

23 MR. ZIEGLER: State calls Mr. Jerry Roberts.

24 WILLIAM JERRY ROBERTS,
25 having been first duly sworn,

WILLIAM JERRY ROBERTS - DIRECT

1 was examined and testified as follows:

2 DIRECT EXAMINATION

3 BY MR. ZIEGLER:

4 Q. Good morning, Mr. Roberts. Who you are you
5 employed by?

6 A. City of Charleston Police Department.

7 Q. And what is your job there?

8 A. I'm a digital evidence analyst in the digital
9 multi media evidence unit and supervisor for that unit.

10 Q. So what is the field that you work in?

11 A. It's digital evidence. Basically, it's the
12 investigation and extraction from digital media, CD, cell
13 phones, anything digital.

14 Q. And do you have any licenses in that field?

15 A. Yes, sir. I've been certified through the
16 Treasury Department for small computers. I've been the
17 former director at SWGDE, the scientific working group
18 for digital evidence at the University of Central
19 Florida. I also am a technical matter expert for
20 ASCLD/LAB in digital multimedia evidence.

21 Q. And do you have -- can you give a summary of any
22 education or seminars you've had in the field? Don't go
23 through all of them, but --

24 A. Yeah. I've been through all of the major
25 operating systems, vendor derived hardware and software

WILLIAM JERRY ROBERTS - DIRECT

1 and case access data. Again, I am also trained by the
2 FBI in Quantico in digital evidence, and I have run our
3 lab for the last 13 years.

4 Q. Which lab is that?

5 A. Charleston Police Department digital lab. It's an
6 ASCLD/LAB nationally accredited laboratory.

7 Q. Are you experienced in retrieving and analyzing
8 the contents of cell phones?

9 A. Yes, sir.

10 Q. How many phone analyses or retrieving contents
11 have you done, approximately?

12 A. Thousand or so.

13 Q. Have you ever testified as an expert before in
14 this field?

15 A. Yes, sir, in this court.

16 MR. ZIEGLER: Your Honor, the State moves to
17 qualify Mr. Roberts as an expert in the field of digital
18 evidence.

19 MR. HAWKINS: No objection, Your Honor.

20 THE COURT: All right. Folks, you know how
21 at the beginning of trial I told you that we usually have
22 witnesses come up and they tell you what they saw, they
23 heard, they felt, they smelt? We don't usually let
24 witnesses come in and give us their opinion about
25 evidence. The law says be however, when somebody,

WILLIAM JERRY ROBERTS - DIRECT

1 because of training or experience in some field has risen
2 to the level of expertise in that field, we allow them to
3 come in, if they're qualified as an expert, and get to
4 tell you their opinion about evidence and the basis for
5 their opinion in that field.

6 This witness has now been qualified as an
7 expert in the field of digital imaging of evidence.
8 He'll be allowed to give you his testimony in the form of
9 an opinion.

10 You can decide how much weight to give his
11 testimony based on his qualifications that you heard and
12 all the other evidence that you will hear and have heard
13 throughout the trial. You decide how much weight to give
14 his testimony, based on all of the evidence that you hear
15 in the trial.

16 You're not necessarily required to give an
17 expert witness's testimony any greater weight than you
18 would any other witness, other any other evidence, for
19 that matter.

20 So having said that, he is now qualified and
21 you can ask him questions.

22 MR. ZIEGLER: Thank you, Judge.

23 BY MR. ZIEGLER:

24 Q. Mr. Roberts, did you receive any requests for work
25 from the Mount Pleasant police department in regards to

WILLIAM JERRY ROBERTS - DIRECT

1 this case?

2 A. Yes, sir. On January 7th, 2014, I received a
3 forensic work request from the Mount Pleasant police
4 department to analyze a digital telephone.

5 Q. And when did you complete that work?

6 A. I actually took assignment and possession of the
7 phone July 15th, 2014, and it was completed on the 16th,
8 the next day, and returned to Mount Pleasant on the 20th
9 of July 2014.

10 Q. And what kind of -- what did you generate from
11 your work analyzing that phone?

12 A. We have several pieces of hardware in the lab that
13 we utilize, depending on the device that we get, and we
14 use a device known as the UFED, which stands for uniform
15 forensic extraction device. It's from a company called
16 Cellebrite, and they're a leading manufacturer of that
17 type of equipment.

18 Basically, it's a piece of hardware that we take a
19 device and place it on, and it automatically puts the
20 device, recognizes the device, and outputs a report in
21 the form of a binary file, which we then take and feed
22 through -- they have a report reader that reads the data
23 and fills in the blanks for us. There is no real
24 interaction on our part or manipulation of the hardware
25 other than plugging the device into it, and it tells us

WILLIAM JERRY ROBERTS - DIRECT

1 what is supported for that device to be extracted from
2 it.

3 Q. So in simple terms, what does that report show, as
4 far as the --

5 A. It shows the contents and a physical acquisition,
6 which was done here. It just shows the entire contents
7 that were located on the phone, or read on the phone, and
8 transferred from the phone to a USB device, thumb drive.

9 Q. Does it show any contacts that are in the phone,
10 such as other phone numbers?

11 A. Yes, sir. Depending upon the device and what is
12 supported, it can recover photos, SMS messages, video
13 text messages, video messages, and call logs and such.
14 It's really based on what the vendor supports on that
15 particular device. On this device, contacts were
16 supported, as were SMS messages.

17 Q. Do you recognize this item? This is State's
18 Exhibit 34.

19 A. Yes, sir. That would have been one of the cell
20 phones submitted for analysis and submitted to our lab.
21 This is my initials on this evidence label.

22 Q. And did you analyze the contents of that phone?

23 A. Yes, sir.

24 Q. And on the date that you analyzed the phone, did
25 you say that was July 15th, 2014?

1 A. It was July 15th, 2014, yes, sir.

2 Q. On that date, was there a contact in that phone
3 for anyone named Randi?

4 A. Yes, sir, there was.

5 Q. And what was the phone number associated with
6 Randi in the contact list?

7 A. It was located on page six of the report, and it
8 was in place holder number 55. The number listed was

9

10 Q. Is that report an accurate reflection of the
11 contents of that phone on the date you analyzed it?

12 A. Yes, sir, it is.

13 MR. ZIEGLER: No further questions for this
14 witness, Your Honor. Mr. Roberts, please answer any
15 questions defense counsel may have.

16 THE COURT: Cross?

17 CROSS-EXAMINATION

18 BY MR. HAWKINS:

19 Q. Good morning, Mr. Roberts.

20 A. Hey.

21 Q. If could understand what you just testified, what
22 was the date that you analyzed this?

23 A. The date was July 15th, 2014.

24 Q. Okay. And the solicitor just asked you about a
25 contact.

WILLIAM JERRY ROBERTS - CROSS

1 A. Yes.

2 Q. And if I understood your testimony, a contact for
3 this other cell phone, or for somebody named Randi shows
4 up on that phone; is that correct?

5 A. Yes, sir.

6 Q. That's all it says, essentially, if I hand you --
7 not literally, but if I hand you my cell phone and you
8 plug it into this machine, if I've got a contact on my
9 list that says mom, it's going to come up and say mom,
10 222-2222, right?

11 A. Any information that you've entered as associated
12 with that contact, yes.

13 Q. Like an address --

14 A. Address, e-mail, or phone number, yes, sir.

15 Q. And that's all it shows?

16 A. Yes, sir.

17 Q. It shows that this phone had a contact for this
18 person?

19 A. Yes, sir.

20 Q. And that's what you saw there; is that correct?

21 A. Yes, sir, correct.

22 MR. HAWKINS: Nothing further, Your Honor.

23 THE COURT: Redirect?

24 MR. ZIEGLER: None, Your Honor.

25 THE COURT: You can step down. Thank you.

KEVAN SHERBINE - DIRECT

1 THE WITNESS: Thank you.

2 THE COURT: Next witness?

3 MR. EVANS: State calls Kevan Sherbine.

4 KEVAN SHERBINE,

5 having been first duly sworn,

6 was examined and testified as follows:

7 DIRECT EXAMINATION

8 BY MR. EVANS:

9 Q. Good morning, Officer Sherbine. How are you?
10 Where are you currently employed?

11 A. I'm employed at the sheriff Al Canon Detention
12 Center..

13 Q. How long have you been working at the jail there?

14 A. Four years in March.

15 Q. And what is your rank?

16 A. I'm a detention officer first class.

17 Q. And what are your specific duties at the jail?

18 A. The primary point of contact between inmates and
19 their public defenders and attorneys, other outside
20 agencies, law enforcement and non-law enforcement that
21 want to meet with them and talk with them. I handle
22 about 90 percent of the subpoenas that are served on the
23 jail, as well as I assist the other regular lobby
24 officers with their day-to-day duties as needed.

25 Q. So if, for instance, my office serves a subpoena

KEVAN SHERBINE - DIRECT

1 for jail phone calls, would that go through you as the
2 custodian?

3 A. It would, yes.

4 Q. Can you kind of describe how that process works
5 when you get a subpoena for jail phone calls.

6 A. I get a subpoena for jail phone calls, whether it
7 be from a solicitor or law enforcement agency. I look
8 and make sure what information they're looking for, the
9 name of the inmate, the date of the calls they're looking
10 for.

11 I then input that information into our database
12 where we keep all the phone calls. I run a search. Once
13 the results come back, I hard copy burn it on a disk, put
14 a label on it, and seal it until the agency picks it up.

15 Q. Can you tell us how those records are maintained
16 for each inmate?

17 A. They are issued a PIN number when they come in the
18 booking process. That PIN number is used anytime for an
19 outgoing phone call and is in our database system and
20 held for a period of time.

21 Q. So each inmate gets a unique PIN?

22 A. They do, yes.

23 Q. And when they want to make a call, they plug in
24 their PIN number, and that pops up in the database?

25 A. Yes.

—KEVAN SHERBINE - DIRECT—

1 Q. And it's sorted by date range, generally?

2 A. Date range, generally, yes.

3 Q. I'm showing you what has been marked for
4 identification purposes as State's Exhibit 25. Do you
5 recognize that?

6 A. I do, yes.

7 Q. What is that?

8 A. It's an audio CD of calls made by the defendant.

9 Q. And does that actually have your signature on it?

10 A. It does, yes.

11 Q. And so what's the defendant's name on that disk?

12 A. Ricky Hayes.

13 Q. And what date range was that produced for? You
14 can open it, if you need to.

15 A. Yeah. May 7, 2013 through June 7th, 2013.

16 Q. So would that have been in response to a subpoena?

17 A. Yeah.

18 Q. From, for instance, my office?

19 A. Yes, it would.

20 Q. And are these records that are produced on that
21 disk kept in the ordinary course of your business?

22 A. They are, yes.

23 Q. And by you as the custodian of those records?

24 A. Yes.

25 MR. EVANS: Your Honor, at this time I move

—KEVAN SHERBINE - DIRECT—

1 to admit State's Exhibit 25 into evidence and publish for
2 the jury a couple phone calls.

3 MR. HAWKINS: Your Honor, we would object
4 based on our previous motion on that same issue.

5 THE COURT: It's overruled. You may publish.

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

8 BY MR. EVANS:

9 Q. Let me back up, Officer Sherbine. The phone
10 system, does it play a prerecorded message when the call
11 goes out?

12 A. It plays a prerecorded message letting the caller
13 know their call is being monitored and recorded.

14 Q. So everybody that makes a phone call from the jail
15 understands that this is being recorded?

16 A. Yes.

17 MR. EVANS: For the record, the first call
18 I'm publishing is from May 7, 2013, beginning at 1317 and
19 58 seconds. And, Your Honor, the second call we're
20 publishing is from May 7, 2014 beginning at 1326 and 5
21 seconds. I'm going to fast forward to about six minutes
22 into that phone call, Judge.

23 (Whereupon, the recording was played for the
24 jury.)

25 MR. EVANS: I don't have any further

KEVAN SHERBINE - DIRECT

1 questions, Officer Sherbine. Please answer any questions
2 the defense may have for you.

3 BY MR. BUCHANAN:

4 Q. Good morning, Officer Sherbine. How are you? In
5 the normal course of business, you were in charge of
6 these ingoing and outgoing telephone calls from the
7 Charleston County Jail?

8 A. The outgoing calls, yes.

9 Q. And you know nothing about this case.

10 A. I do not.

11 Q. Okay. You just get the recordings. You get a
12 subpoena, you lock on the PIN number, you deliver the
13 goods, right?

14 A. That's correct.

15 Q. You didn't know anything about the case?

16 A. I don't.

17 Q. And what you heard today, you don't really know
18 what you're listening to or hearing, right?

19 A. No, sir.

20 MR. BUCHANAN: Okay. I don't have any
21 further questions. Thank you.

22 MR. EVANS: I don't have any further
23 questions for this witness.

24 THE COURT: All right. You may step down.
25 Let me see y'all up here for a second.

1 All right? Now, we'll bring them in, ask if
2 you have any other witnesses. The State will rest. I'll
3 explain that means they've heard all their evidence, that
4 we'll now call your witness.

5 If, after you called these two witnesses,
6 Mr. Hayes wishes to change his mind, he indicated that to
7 one of your lawyers; otherwise, after you call that
8 second witness, when I ask you to call your last witness,
9 you'll say defense rests, so if you change your mind, you
10 can up to that point.

11 All right?

12 MR. BUCHANAN: Your Honor, just briefly, can
13 we be granted some time between when we close and our
14 closing arguments, or are you going to go right into
15 closing arguments?

16 THE COURT: Oh, no. We'll take a few-minute
17 break before we begin. Anything else? All right. Let's
18 bring the jury in.

19 (In open court jury present.)

20 THE COURT: Okay, folks. We will resume now.
21 State, call your next witness.

22 MR. ZIEGLER: Your Honor, the State rests.

23 THE COURT: All right. You have now heard
24 all of the evidence that the State is going to present in
25 this trial, and so we will now have the defendant call

TINA SKEETER - DIRECT

1 his first witness.

2 MR. HAWKINS: Thank you, Your Honor. We
3 would call Tina Skeeter.

4 TINA SKEETER,
5 having been first duly sworn,
6 was examined and testified as follows:

7 DIRECT EXAMINATION

8 BY MR. HAWKINS:

9 Q. Officer Skeeter, you're dressed in uniform. Tell
10 us, please, where you work.

11 A. At the Charleston County Detention Center.

12 Q. And how long have you worked there?

13 A. Three years.

14 Q. And what is your job there?

15 A. I'm a dress-out officer.

16 Q. And what does that mean?

17 A. That means once an inmate is processed in our
18 center and we're about to move him into a unit, I'll
19 dress him into an official uniform and take his clothing.

20 Q. Okay. And were you working the detention center
21 back on May the 7th in 2013?

22 A. Yes.

23 Q. Okay. And as part of your job, is it the normal
24 part of your job to see -- when I walk into the detention
25 center, you take my coat, my pants, my shoes, and you

TINA SKEETER - DIRECT

1 don't throw those away, do you?

2 A. No, sir.

3 Q. And what do you do with those?

4 A. I package your clothes into the bag that I brought
5 with me; any valuable property, jewelry, money, wallet,
6 ID, we put in a vault.

7 Q. And you label that with -- the person who's
8 incarcerated, you put their name on it and tag that and
9 it's kept?

10 A. Yes.

11 Q. Okay. And are you familiar with Ricky Lamont
12 Hayes who is the defendant in this case?

13 A. Familiar --

14 Q. Are you familiar with the situation? Is he an
15 inmate -- has he been incarcerated at the Charleston
16 County Detention Center?

17 A. Yes.

18 Q. And was he brought in there on May the 7th of
19 2013?

20 A. Yes.

21 Q. And were articles of clothing taken away from him?

22 A. Yes.

23 Q. And as part of the normal course of your job, it
24 was bagged, and you have those today; is that correct?

25 A. Yes.

TINA SKEETER - DIRECT

1 Q. Would you show me any article of clothing that you
2 have, please, ma'am.

3 A. Pants.

4 MR. HAWKINS: If I could publish this to the
5 jury.

6 THE COURT: You didn't offer it into
7 evidence. Is there an objection --

8 MR. EVANS: I object to them publishing them
9 until they're in evidence.

10 THE COURT: Are you objecting to admission?

11 MR. EVANS: Can I take a look at them before
12 I make up my mind, Your Honor?

13 Judge, I don't have any objection.

14 THE COURT: All right. They're admitted.
15 You can publish them now.

16 MR. HAWKINS: Judge, I'm offering these pants
17 as Exhibit 1.

18 (Defendant's Exhibit No. 1 was marked for
19 identification and admitted into evidence.)

20 BY MR. HAWKINS:

21 Q. Now, are there also some shoes that are in that
22 bag that were taken from Mr. Hayes that night?

23 A. Yes, sir.

24 MR. HAWKINS: And I would offer these shoes
25 as Defendant's Exhibit 2.

TINA SKEETER - DIRECT

1 MR. EVANS: No objection, Your Honor.

2 THE COURT: They're admitted.

3 (Defendant's Exhibit No. 2 was marked for
4 identification and admitted into evidence.)

5 MR. HAWKINS: And I would like to publish
6 these to the jury.

7 THE COURT: Go ahead.

8 BY MR. HAWKINS:

9 Q. Just to be clear, this is what Ricky Lamont Hayes
10 was wearing when he was brought in on May the 7th, 2013;
11 is that correct?

12 A. Yes.

13 Q. All right.

14 MR. HAWKINS: Nothing further.

15 MR. EVANS: Judge, I have a couple questions.

16 THE COURT: Go ahead.

17 MR. EVANS: Good afternoon, Officer Skeeter.

18 Could I see that paper, the information, please?

19 May I approach the witness, Your Honor?

20 THE COURT: You may.

21 MR. EVANS: I beg the Court's indulgence.

22 Judge, I don't have any questions for this
23 witness.

24 MR. BUCHANAN: Just to be clear, those were
25 marked Exhibits 1 and 2?

JULIA SANTANA -- DIRECT

1 THE COURT: Defendant's? All right. You may
2 step down. Thank you.

3 All right. Next witness?

4 MR. HAWKINS: Yes, Your Honor. We would call
5 Julia Santana.

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

9 DIRECT EXAMINATION

10 BY MR. HAWKINS:

11 Q. Officer Santana, thanks for being here, and can
12 you tell jury where you work.

13 A. Charleston County Detention Center.

14 Q. And what area do you work there?

15 A. Intake.

16 Q. What does that mean?

17 A. I intake people that are coming into the facility.
18 I also take pictures and fingerprints of people in that
19 facility.

20 Q. And that's what is done in the normal course of
21 your job?

22 A. Yes, sir.

23 Q. Do you also -- when you take pictures of people,
24 do you hang on to those photographs?

25 A. They're held on to in the system, and I can access

JULIA SANTANA - DIRECT

1 them.

2 Q. And you can access them whenever you want to?

3 A. Yes, sir.

4 Q. Did you take photographs of Ricky Lamont Hayes on
5 May 7, 2013 when he was brought to the detention center?

6 A. Yes.

7 Q. And do you have those photographs still in the
8 system at the detention center?

9 A. Yes, sir.

10 Q. And did you bring those photographs with you
11 today?

12 A. Yes.

13 Q. Could I look at those, please, ma'am.

14 Officer Santana, this is a black -- and I'm
15 going to give you some of those documents back, but this
16 is a black and white photograph; is that right?

17 A. Yes, sir.

18 Q. You actually take a color photo?

19 A. Yes, sir.

20 Q. And you don't have a copy of the color photo with
21 you?

22 A. We don't have a color copier in our area.

23 MR. HAWKINS: I beg the Court's indulgence.

24 May we approach, Your Honor? Just a matter
25 of point here.

1 (Discussion held at sidebar.)

2 BY MR. HAWKINS:

3 Q. Officer Santana, tell me what that is right here.

4 A. That is a picture of Mr. Hayes the day he came in.

5 Q. And the day he came in was May 7, 2013?

6 A. Yes.

7 Q. And you took this photograph?

8 A. Yes.

9 MR. HAWKINS: At this point, Judge, I would
10 offer this as Defendant's 3.

11 MR. ZIEGLER: No objection.

12 THE COURT: Admitted.

13 (Defendant's Exhibit No. 3 was marked for
14 identification and admitted into evidence.)

15 MR. HAWKINS: Publish this.

16 Nothing further, Your Honor.

17 THE COURT: Cross?

18 MR. ZIEGLER: Thank you, Your Honor.

19 May I approach the witness, Your Honor?

20 THE COURT: You may.

21 CROSS-EXAMINATION

22 BY MR. ZIEGLER:

23 Q. Hello, Mrs. Santana. Can you identify this photo?

24 A. It's the photo I took of Mr. Hayes when he came
25 in.

1 Q. And what is the date on that photo?

2 A. 5/7/2013.

3 Q. Is that when he was booked?

4 A. Yes, sir.

5 Q. Okay. Is this photo in color or black and white?

6 A. Color.

7 Q. Can you tell what color shirt that the defendant
8 is wearing in this photo?

9 A. Black.

10 Q. Thank you.

11 MR. ZIEGLER: No further questions for this
12 witness, Your Honor.

13 MR. HAWKINS: We have nothing further, Your
14 Honor.

15 THE COURT: All right. You can step down.

16 Before she leaves, did you want to put that
17 picture in? You just asked her about it.

18 MR. ZIEGLER: No, Your Honor.

19 THE COURT: All right. Next witness?

20 MR. HAWKINS: We have nothing further, Your
21 Honor.

22 THE COURT: All right. Defense rests. State
23 have anything in reply? State have anything in reply?

24 MR. ZIEGLER: No, Your Honor.

25 THE COURT: You heard all the evidence you're

1 going to hear in this case. We'll send you back to the
2 jury room while you get ready for the last phase of the
3 trial, which is the closing arguments and I will charge
4 you on the law.

5 While you have heard all the evidence in the
6 case, it is improper to begin deliberations or
7 discussions about the case. This won't take long, maybe
8 15 minutes max, so just go back and we'll have you back
9 in about 15 minutes for this next phase.

10 (In open court, jury not present.)

11 THE COURT: All right. Do you have any
12 motions you want to make at this point?

13 MR. HAWKINS: Yes, Your Honor. We renew our
14 motion for a directed verdict on the same grounds we
15 mentioned.

16 THE COURT: All right. For the same reasons,
17 they're denied. Anything else? All right. So everybody
18 is basically okay with the jury charge at this point?
19 Other than you want --

20 MR. EVANS: Yes, sir.

21 THE COURT: Let me ask you this: Does
22 anybody -- both parties, if you agree, I'll charge on the
23 law before you make your closing arguments. Both parties
24 would have to agree to it. It often sounds strange to me
25 that we do it the way we do it, but if both parties

1 agree, I'll charge first and you do closings, but both
2 parties have to agree.

3 MR. BUCHANAN: Your Honor, defense would
4 agree.

5 MR. ZIEGLER: State would agree, Your Honor.

6 THE COURT: Well, then, will y'all have a
7 problem with me giving a copy of the jury charges to the
8 jury when they retire to deliberate?

9 MR. BUCHANAN: No, Your Honor.

10 MR. ZIEGLER: No, Your Honor.

11 THE COURT: All right. Well, I'll see you
12 back in 15 minutes.

13 (Recess taken.)

14 (In open court, jury not present.)

15 THE COURT: All right. Everybody is in the
16 courtroom, including the defendant. Anything from the
17 State?

18 MR. ZIEGLER: Nothing further from the State,
19 Your Honor.

20 THE COURT: Nothing further from the defense?

21 MR. BUCHANAN: Nothing further from the
22 defense, Your Honor. Thank you.

23 THE COURT: All right. Bring the jury in.

24 (In open court, jury not present.)

25 THE COURT: Welcome back, folks. We are now

1 going to enter into the last phase of the trial. I'm
2 going to charge you on the law first, and then you will
3 hear the closing arguments in which the lawyers will
4 summarize the facts that you heard, take the law that I
5 charge to you, and make an argument in an attempt to
6 persuade you to render a verdict on their side's behalf.

7 Again, remember, the lawyers were not
8 witnesses. They're not going to be testifying. They're
9 only going to be talking about the evidence. What they
10 say is not to be considered by you as evidence. They are
11 simply making argument. All right?

12 Now, during the trial, I told you from the
13 beginning up until the end here that you and I have
14 certain duties to perform. My job was to preside over
15 the trial and make sure that they follow our rules of
16 procedure and rule on admissibility of such things as
17 evidence. You consider only the evidence that is before
18 you that you heard during this trial. That would be
19 testimony from the witness stand and these things down
20 here that were admitted into evidence. These are the
21 only things you can consider during this trial.

22 I now also have the additional duty of
23 charging you on the law that applies to the facts of this
24 case. You have a duty that you took at the beginning of
25 the trial to accept the law as I charge it to you, and if

1 you think I have some idea of what the law is and it does
2 not agree with what I tell you it is or what you wish it
3 would be, then you have a duty under the oath that you
4 took to apply the law as I charge it to you.

5 You, as jurors, are the sole judges of the
6 facts. My job as a trial judge does not permit me to
7 comment on or make any statement about the facts in the
8 case. You are the sole judges of the facts. You may not
9 infer from what I have said during the progress of this
10 trial in ruling on admissibility or otherwise that I now
11 say during the course of the instruction that I have any
12 opinion about the facts of this case. The law does not
13 permit me to have an opinion about the facts of the case.
14 It is solely a matter for you, the jury, to determine.
15 It is your job and duty as jurors to determine the
16 effect, value, weight, and truth of the evidence
17 presented during this trial.

18 I remind you that the fact that the defendant
19 was arrested, charged, and indicted in this case is not
20 evidence in this case, and it cannot be considered by you
21 as evidence of guilt in this case, nor does it create any
22 presumption or inference of guilt.

23 The indictment is simply the formal written
24 notice which contains the charge that is made against the
25 defendant, and it is the formal document by which this

1 case is brought before this Court. The defendant pled
2 not guilty to those indictments, and that plea casts a
3 burden on the State to prove the defendant guilty beyond
4 a reasonable doubt.

5 A person who is charged with committing a
6 criminal offense in South Carolina is never required to
7 prove himself innocent. This is an important rule of law
8 in this country, that a defendant in a trial is always to
9 be presumed innocent of a crime which he is indicted
10 unless and until his guilt has been proven satisfying you
11 of his guilt beyond a reasonable doubt.

12 This presumption of innocence is not a mere
13 legal theory. It's not just some legal phrase. This is
14 a substantial constitutional right of which every
15 defendant is entitled. This presumption of innocence
16 accompanies the defendant from the time he is charged
17 throughout the trial unless and until you reach a verdict
18 of guilt based upon evidence satisfying you of that guilt
19 beyond a reasonable doubt.

20 I also instruct and I want to emphasize to
21 you the fact that the defendant did not testify is not a
22 factor for you to consider in any way during your
23 deliberations. You must not consider this at all in your
24 consideration of the question of guilt or innocence of
25 the defendant. This is not to be considered by you in

1 any manner whatsoever. A defendant has a constitutional
2 right to remain silent, and the assertion of this right
3 must not be considered by you in your deliberations.

4 I repeat that under your oath you are to draw
5 no conclusion whatsoever from the fact that the defendant
6 in this case did not testify. The fact that he did not
7 testify should not even be considered in the jury room.
8 It should not be discussed or considered in the jury
9 room.

10 The burden of proof, as I stated to you, is
11 on the State. The defendant is not required to prove his
12 innocence. The burden of proof remains on the State to
13 prove guilt beyond a reasonable doubt. The State has the
14 burden of proving the defendant guilty beyond a
15 reasonable doubt. Some of you may have served as jurors
16 in civil cases where you were told that it is only
17 necessary to prove that a fact is more likely true than
18 not true, such as by the greater weight or the
19 preponderance of the evidence.

20 In criminal cases, the State's proof must be
21 more powerful than that. It must be beyond a reasonable
22 doubt. Proof beyond a reasonable doubt is proof that
23 leaves you firmly convinced of the defendant's guilt.
24 There are very few things in this world which we know
25 with absolute certainty, and in criminal cases the law

1 does not require proof that overcomes every possible
2 doubt. If, based on your consideration of the evidence
3 you are firmly convinced that the defendant is guilty of
4 the crime charged, then you must find the defendant
5 guilty. On the other hand, if you think there is a real
6 possibility that the defendant is not guilty, then you
7 must give the defendant the benefit of the doubt and find
8 him not guilty.

9 Now, in a trial there is usually two types of
10 evidence that is presented. There is direct evidence and
11 there is circumstantial evidence. Direct evidence
12 directly proves the existence of a fact, and it does not
13 require deduction. Circumstantial evidence is proof of a
14 chain of facts and circumstances that indicate the
15 existence of a fact. Crimes may be proven by
16 circumstantial evidence, and the law makes no distinction
17 between the weight or value to be given to either direct
18 or circumstantial evidence; however, to the extent that
19 the State relies on circumstantial evidence, all of the
20 circumstances must be consistent with each other and,
21 when taken together, point conclusively to the guilt of
22 the accused beyond a reasonable doubt. If these
23 circumstances merely portray the defendant's behavior as
24 suspicious, then the proof has failed.

25 Again, the State has the burden to prove the

1 defendant guilty beyond a reasonable doubt, and this
2 burden rests with the State, regardless of whether the
3 State relies on direct evidence, circumstantial evidence,
4 or some combination of the two.

5 As jurors you must necessarily determine the
6 credibility of witnesses who testified in this case.
7 Credibility simply means believability. It becomes your
8 duty as jurors to analyze and to evaluate the evidence
9 and to determine what evidence convinces of you its
10 truth. In determining the believability of witnesses who
11 have testified in this case, you may believe one witness
12 over several witnesses or several witnesses over one.
13 You may believe the testimony of a witness in its
14 entirety or you may reject the testimony of a witness in
15 its entirety. You may believe a part of the testimony of
16 a witness and reject the remaining part of the testimony
17 of that same witness. If you reject part, you may still
18 accept the remainder of a witness's testimony.

19 You may consider whether any witness has
20 expressed to you or has exhibited to you any interest,
21 bias, prejudice, or any other motive in this case, and
22 you may consider the appearance and demeanor of the
23 witness on the witness stand. You are not bound to
24 decide this case based on the number of witnesses a side
25 produced. I also told you that in a trial we ordinarily

1 don't let people come in and state their opinion about
2 evidence in this case; however, we make an exception for
3 expert witnesses, and those are people who, because of
4 education or specialized training or experience in some
5 area, are qualified as experts, and they may give you
6 their opinion and state the reason for their opinion.

7 You can give an expert's testimony as much or
8 as little weight as you think it deserves. If you don't
9 think it's based on sufficient education or experience,
10 or you conclude the expert's opinions are not sound or
11 outweighed by other evidence, you may disregard the
12 opinion entirely.

13 You are not compelled to blindly accept an
14 expert's opinion. You have the right to consider the
15 testimony in light of all of the circumstances and give
16 it such weight, if any, that you think it's entitled to.
17 Although I must make an initial determination of
18 admissibility, I told you that you cannot consider any
19 confession made during this trial or that you heard
20 evidence of any confession during this trial unless you
21 find beyond a reasonable doubt that the accused gave his
22 statement freely and voluntarily under the totality of
23 the circumstances.

24 You should consider the voluntariness of the
25 confession under the totality of the circumstances. The

1 receipt of Miranda warnings and the ability to understand
2 those warnings are appropriate factors to consider in
3 deciding whether the confession is freely given.

4 Now, if a crime is committed by two or more
5 people who are acting together in committing the crime,
6 then the act of one is considered the act of all. A
7 person who joins with another to commit an unlawful act
8 is criminally responsible for everything done by the
9 other person which happens as a probable or natural
10 consequence of the acts done in carrying out the common
11 plan and purpose.

12 For example, two people can be guilty of
13 killing another person when only one of the two had a
14 gun, there was only one bullet, and only one fired the
15 shot that caused the death. If two or more people are
16 acting together or are together -- if two or more people
17 are acting together, assisting each other in committing
18 the offense, the act of one is the act of all, or, as it
19 is sometimes said, the hand of one is the hand of all.

20 Prior knowledge that a crime is going to be
21 committed without more is not sufficient to make a person
22 guilty of that crime. Mere knowledge that another person
23 is going to commit a crime, even if the defendant is
24 present when the crime is committed, is not sufficient to
25 convict the defendant as a principal. Guilt as a

1 principal is shown by actual or constructive presence at
2 the scene as a result of prior arrangement. Therefore, a
3 finding of a prior arranged plan or common scheme is
4 necessary for a finding of guilt as a principal.

5 The State must prove beyond a reasonable
6 doubt by competent evidence the theory of the hand of one
7 is the hand of all. When a person does act in the
8 presence of and with the assistance of another, the act
9 is done by both. When two or more acting with a common
10 plan or intent are present at the commission of the
11 crime, it does not matter who actually commits the crime.
12 All are guilty. The hand of one is the hand of all.

13 Present at the commission of a crime means to
14 be sufficiently near to aid and abet and assist in the
15 commission of a crime; however, mere presence at the
16 scene of a crime is not sufficient to convict one as a
17 principal on the theory of aiding and abetting. Intent
18 is also a necessary element, for there must have been a
19 common design or common intent to commit the crime, and
20 the crime must have been committed pursuant thereto with
21 the person aiding and abetting by some overt act.

22 Intent means intending the result which
23 occurs -- which actually occurs, not accidentally or
24 involuntarily. Intent may also be shown by acts and
25 conduct of the defendant and other circumstances from

1 which you may naturally and reasonably infer intent.

2 Again, the State must prove these elements
3 beyond a reasonable doubt. Mere presence at the scene is
4 not sufficient to prove someone guilty of a crime. A
5 defendant's presence where a crime is being committed or
6 mere association with a person who commits a crime does
7 not make a defendant an accomplice or an aider or an
8 abettor of the person committing the crime. The burden
9 is on the State to prove every element of the crime
10 charged.

11 If you find after reviewing all of the
12 evidence that the State has proved that the defendant was
13 only present at the scene of the crime and that they have
14 not proved beyond a reasonable doubt any other
15 participation in the crime, then you must find the
16 defendant not guilty. The law is that proof of at the
17 scene of the crime is not sufficient to find somebody
18 guilty.

19 Now, the defendant was indicted or charged
20 with armed robbery. In order to prove this offense, the
21 State must first prove beyond a reasonable doubt that the
22 defendant took personal property from the person or
23 presence of another person.

24 Property is in the presence of a person if it
25 is within the person's reach, inspection, observation, or

1 control so that the person could, if not overcome with
2 violence or prevented by fear, keep possession of the
3 property. The State must also prove beyond a reasonable
4 doubt that the defendant carried the property away
5 intending to permanently deprive the owner of the
6 property and to keep the property for the defendant's own
7 use.

8 The slightest removal of the property or the
9 complete possession of the property, even for an instant,
10 by a defendant is sufficient to show a taking and
11 carrying away of the property. The taking and carrying
12 away of the property must have been done with violence or
13 by putting the owner of the property in fear of violence.

14 Finally, the State must prove beyond a
15 reasonable doubt that the defendant was armed with a
16 deadly weapon during the robbery. A deadly weapon is any
17 instrument, article, or substance which is likely to
18 cause death or great bodily harm.

19 Whether an instrument has been used as a
20 deadly weapon depends on the facts and circumstances of
21 each case. The following are examples of instruments
22 which may be deadly weapons: A pistol, a shotgun, a
23 rifle, a dirk, a dagger, a knife, a slingshot, metal
24 knuckles, a razor, gasoline, a firebomb, Molotov
25 cocktail, lighter fluid. A gun may be a deadly weapon

1 even if it is not operating.

2 In determining your verdict of guilty or not
3 guilty, you cannot consider any possible penalty for any
4 particular crime. The punishment for the crime is a
5 matter for me to determine and should never be considered
6 by you in any way whatsoever in arriving at a verdict of
7 guilty or not guilty, and then, finally, your verdict
8 must be unanimous. In other words, all 12 must agree.

9 Now, I've charged you on the law. The
10 lawyers will now argue, or make closing arguments, as to
11 why you should render a verdict on their client's behalf.
12 Under our rules, because the State has the burden of
13 proof, they have the right to close, so you will hear
14 from the defense lawyer first, and then you will hear
15 from the prosecutor second.

16 I will then come back, go over the
17 indictments and where you will write your verdict when
18 they are completed with their closing arguments.

19 So, Mr. Buchanan, you're ready, you may
20 begin.

21 MR. BUCHANAN: Thank you, Your Honor. May it
22 please the Court: Mr. Ziegler, Mr. Foreman, ladies and
23 gentlemen of the jury: Good afternoon.

24 Well, we've been together since Tuesday
25 morning, and it's been a long week for everyone. Just

1 daily grind -- just getting through a day, normal day is
2 kind of hard. When you're on jury duty, it makes it ten
3 times as hard, so, again, I want to thank you for doing
4 your duty, and I know you will continue to do your duty.
5 It's appreciated by Mr. Hayes and also my co-counsel,
6 Mr. Hawkins.

7 On Tuesday, I believe it was Tuesday morning,
8 I told you the first thing is that there was a person by
9 the name of Mr. Parks that is a liar, and I wanted you to
10 hold me to that. I want you to continue to hold me to
11 that. Is he a liar in your opinion? That's up to you.
12 All right? That's what I said on Tuesday. You heard his
13 testimony. You heard that as soon as he was pulled out
14 from under a truck where he was cowering, he pointed the
15 finger at my client, that he gave him Mr. McElhenney's
16 wallet, and now we know that that's a lie.

17 About an hour and a half later, he's being
18 interviewed by Detective Eckert, and he says, I just
19 picked up the wallet and ran. It was those other two
20 guys. It was L and it was Lamont. They were doing it.
21 I was just following them. They were up ahead. They
22 just woke me up.

23 Well, we know that's a lie. We know he was
24 the leader. We know he was the one up front. We know he
25 was the one with the gun. We know all that now. They

1 didn't know it at the time. You know, we could be here
2 until 8:00 at night if I talked about all his lies, all
3 right? And I'm not going to do that to you. You've been
4 taking notes. You've been very attentive. You've heard
5 everything.

6 There is just a few things I want to point
7 out: Every time he was interviewed, every time, he lied,
8 and that's three times. The morning of May the 7th,
9 2013; the afternoon of May the 8th, 2013; and on November
10 the 14th, 2013. There is lies within everything he says.

11 On the stand yesterday, under oath -- you can
12 correct me if I'm wrong; it's the way I remember it -- he
13 said he never stuck the gun in Mr. McElhenney's stomach.
14 Are you kidding me? Under oath, under oath, he said that
15 this other person, who's not on trial today, held a knife
16 to their throats. We've heard from both victims, and I
17 never heard that.

18 He also said, under oath, on direct, in my
19 opinion, correct me if I'm wrong, Those other guys bent
20 down and picked up all that stuff, but now we know he
21 bent down and picked up the wallet.

22 He could not tell the truth if his life
23 depended on it. When he talked about the gun, did you
24 pick up on this? He didn't throw the gun away, like, The
25 cops, get rid of the gun, did he?

1 He was trying to jump that wooden fence on
2 Hampp Fludd Street. He was trying to jump that wooden
3 fence on Hampp Fludd Street when Officers Ivey and Myers
4 start walking down Hampp Fludd from King Street, and he
5 dropped the gun. He's looking for the gun. It's so dark
6 he can't find it. Thank God he couldn't find it. What
7 would have happened if Corporal Ivey and Officer Myers
8 pulled him out from under that truck? He had four rounds
9 in that gun.

10 This gun, these rounds, he was holding, not
11 my client. We all agree on that. Even Mr. Parks. These
12 are scary things, I know. They played it for you. We
13 played it for you. Did you hear the part -- I'm losing
14 track of time, but I think it was Tuesday -- when Ivey
15 was talking on his video, from his car camera, and you
16 could hear him pleading with Parks about, Please tell me
17 where the gun is. Where's the gun? Where is the gun?
18 Please tell me where the gun is. There's children in
19 this area. They play here all the time. It's by the
20 waterworks. Tell me where the gun is.

21 Nothing about the gun, nothing. Nothing
22 about a gun. If he would have told him where the gun was
23 that night, they would have a better chance of getting
24 DNA and fingerprints off this gun. He testified
25 yesterday, the officer from Mount Pleasant. Not for

1 sure, but they have a better chance, because there's dew
2 on it, starting to rain. Guess what? They could have
3 washed off of it.

4 There is no DNA there. Why is there no DNA?
5 It's because Parks wouldn't tell them where the gun is.
6 So he lied about the gun. He put children in jeopardy,
7 and he hurt their case. He hurt our case because we
8 don't know because Parks said he got this gun from
9 Lamont, also known as Ricky.

10 Now, let me ask you this: That's all you've
11 heard, in my opinion. Did they check with Columbia? Did
12 they check with the FBI? Did they trace this gun to him?
13 Where did the -- he gave me the gun. I got back in the
14 car, and he gave me the gun. Okay?

15 That's what you've got. That's all you've
16 got. Those are ugly, aren't they? You're going to get
17 all this stuff because it's all in evidence. You'll
18 bring it back with you, and I know you'll look at all of
19 it and talk about all of it. I want you to pick out one
20 picture that was the scene where Mr. Hayes is picked up
21 on the corner of King and Hampp Fludd Street.

22 Try to find it. It's not here. This is all
23 Parks. It's his vomit; it's his gun; Mr. McElhenney's
24 wallet. It's Parks's bullets. It's not here.

25 So Tuesday, since Tuesday, I told you Parks

1 is a liar, and I said there's no DNA and there's no
2 fingerprints. Did I mislead you? Did I lie to you? And
3 part of the reason there's no fingerprints and no DNA is
4 because of Parks, not because of my client.

5 Identification: When you go back and
6 deliberate, I want you to ask yourself who ID'd my client
7 as being at the scene and what he was doing?
8 Mr. McElhenney had a gun in his face, in his stomach. I
9 got to tell you, I wouldn't be making a very good
10 ID either, okay? I would have thought, just like him,
11 oh, God. I shut my eyes, and I thought this was it,
12 because that's how close it came.

13 No ID. Mr. Burnett couldn't give an ID, and
14 you'll recall, with your notes, what he said. As I
15 recall what he said was that people had hoodies on.
16 Maybe Mr. McElhenney said this also. There were three
17 hoodies. No one said that you saw my client on video.
18 You can watch it again. Is he wearing a hoody?

19 Mr. Burnett said no facial hair in his
20 statement. The statement was taken that night, that very
21 night. No facial hair, no hoody, no facial hair. Long
22 hair.

23 You've seen the picture that was taken of my
24 client that we introduced, not the State, that we
25 introduced. Does he have facial hair today just like he

1 had then? Dark clothing, dark clothing, dark clothing,
2 dark clothing. Do these look dark to you? Mr. Burnett
3 testified that the area they were in on Coleman Boulevard
4 is well lit, as did Officer Gillespie.

5 Officer Gillespie was in the middle of the
6 median on Coleman Boulevard, looking at a well-lit area,
7 when these people took off and didn't notice these shoes.
8 Who introduce these shoes? The defense did, not the
9 State. If we wouldn't have introduced them, you wouldn't
10 know about it.

11 First thing Detective Eckert does when he
12 gets to the scene is say, Did you do a show-up? We're
13 all kind of getting the lingo of what a show-up is. No,
14 didn't do it. Too upset.

15 I got to hand it to Mr. Burnett. I got to
16 tell you, this clown stuck a 38 in his stomach and he
17 pushed it away. \$170? He's not giving it to him. He
18 throws it out into the street. That guy has got some
19 hutzpah. The way he reacted, I would have done the same
20 way, all right? He wasn't shook up. He was three blocks
21 away when they got Ricky Hayes, six minutes after this
22 happened, and they didn't do a show-up.

23 When it was clear, it just happened: Is that
24 the guy who did it? They didn't do it. Fifteen minutes
25 later, they're dragging this clown out from underneath

1 the truck. Did they do a show-up? No. He's right
2 there. He's three -- you can stand on Coleman Boulevard
3 and look down Simmons Street and almost see where these
4 people are, and they didn't drive him down there.

5 This is all really important stuff. This is
6 real important. There is video cameras at Moultrie
7 Middle School in the front and on the side, and because
8 they thought they had their men, they did an e-mail, an
9 e-mail. This man can arrest people for felonies, put him
10 on trial for his life and liberty, but somehow we don't
11 know how to get video. We're not capable of that.

12 It's called a subpoena. You don't have it.
13 You will never see it; it doesn't exist. It hadn't been
14 introduced.

15 Right across the street is a BP station. It
16 has cameras. It is so bright -- I might be exaggerating,
17 a little bit of hyperbole -- you can see it from space,
18 okay? It is bright. Why do I think it's bright?
19 Because the cameras need a lot of light to see who's
20 walking around because they're going to get robbed.

21 Did they check that? Well, that's down the
22 street a little bit. Not really. It doesn't really
23 point to where this is happening. They got a man on
24 trial for armed robbery, and you heard how many years
25 he's looking at from this clown yesterday, and they

1 didn't even look for it.

2 Wasn't there a possibility they were there
3 earlier? Wasn't there a possibility they were out there
4 getting a beer or a Coke or a candy bar, could have
5 possibly -- it happened right across the street. Could
6 they have been there a half hour earlier, ten minutes
7 earlier, an hour earlier? Could they?

8 Well, we got them. We got them; we got them.
9 What did Mr. Burnett say? Well, you know, I really
10 wasn't thinking that much about giving a statement
11 because they told me they had him. Done deal, over.
12 Case closed.

13 Could you follow this telephone thing? I got
14 to tell you, I had a hard time. You're probably smarter
15 than I am, but you talk about it amongst yourselves when
16 you go back there, the phone, okay? I believe it's
17 Mr. McElhenney's phone they found on Coleman Boulevard,
18 more or less right in front of where the Yorktown is.
19 Most of you probably know where that is. That's a about
20 two miles away from where this incident happened.

21 They stopped my client six minutes after it
22 happened. When I was a kid, I liked to read comic books,
23 and there was a comic -- actually, they made a movie
24 about it called the Flash. Flash could go all over the
25 world. My client is not Flash. He couldn't have been

1 there and back, and you got to give him some credit,
2 Parks couldn't either.

3 How did that phone get there? Well, what I
4 think they were trying -- they brought this truck driver
5 in, drove a dump truck, and what I think they're trying
6 to tell you, maybe they'll tell you, but what I think
7 they're trying to say is the phone fell off the dump
8 truck when the driver drove it the next day and it fell
9 off. This nice man that came in today found it. He came
10 in, was trying to find the owner. The guy rides a bus,
11 and he's still trying to find out the true owner of the
12 phone. That's a pretty good guy, okay?

13 How did this phone get there? It's right at
14 the base of -- those that live in Mount Pleasant, it's
15 right at the base of the Ravenel Bridge. Now, supposedly
16 there is someone else that's been arrested. He's not
17 being tried today. He's not being tried, but he had a
18 car, so I get one theory could be he was driving around
19 and he was right at the bridge and he threw it out,
20 turned around and started driving around where the crime
21 took place and didn't hightail it back to Columbia or
22 North Charleston or whatever.

23 So, you know, take that for what it's worth,
24 or Parks had it on him -- and you know how he crawled
25 under the truck? He was on the drive shaft, or axle of

1 the truck? He kind of stuck it up in there so he
2 wouldn't be found with it, and it could have fallen off,
3 I guess. The driver said he didn't know whether he was
4 going over 526 or the Ravenel Bridge, but he thought the
5 Ravenel Bridge. It's a year later or seven days later.
6 It's hard to remember. No prints, no DNA. It was Parks.
7 It was Parks. It's his fault that we don't know whose
8 was on it.

9 Ask yourself this, and I think this is really
10 important too: What did they find on Mr. Hayes? What
11 was he carrying? What was he wearing, number one, and
12 what did they find on him that belonged to the two
13 victims? Zero. Nothing. As the judge has already
14 instructed, he's going to give you -- it's a first for
15 me, but I think it's a great idea. He's going to give
16 you his jury charges, and that is really -- I never heard
17 this, but I've been doing this for 25 years because these
18 judges will read you these jury charges which we spend a
19 year trying to learn in law school, okay? Criminal law,
20 procedural law, and it's really hard, at least it was for
21 me, and I think it was for most people, and they read it
22 to you and you're supposed to like just get it in 15 or
23 20 minutes.

24 Well, that's really hard, so he's actually
25 going to give you the charge. I think that's a great

1 idea. I'm amazed somebody didn't think of it earlier,
2 but okay. I want you to ask yourselves this: We have
3 been hearing testimony for three days, and up until the
4 time you heard about two minutes of two different
5 conversations from Mr. Hayes, do you think you were going
6 to find him guilty beyond a reasonable doubt? Just think
7 about that. I suggest to you, I submit that you should.
8 Maybe yes, maybe no; I don't know, and then you heard
9 these two minutes on each of these conversations.

10 When you go back there, if you want to listen
11 to it, they'll bring you back out and you can listen to
12 it, but he was talking from the jail where there is --
13 it's you and a thousand other people, and he was talking
14 that day, the day this happened, to his mother and his
15 grandmother, and he was being honest as only a son can be
16 with their mother and their grandmother, and I want you
17 to listen to everything he said there. Listen closely:
18 I shouldn't have been with those boys. It wasn't me. It
19 was them. I should have stopped them.

20 You'll decide what he's saying, but when
21 you're talking about that, I want you to look at the
22 judge's jury charges, because this is a hand of one, hand
23 of all case. You think, hey, this guy is in front of us
24 for armed robbery. He didn't do any of that. This clown
25 did all of that, okay?

1 They're saying he was there and he was
2 involved and he was part of it and his connection was so
3 close that he should be found guilty of the same charge,
4 although he had no gun and he didn't stick it in
5 anybody's face or stomach, but he was there and he was
6 part of it, and because of that, he's just as guilty as
7 the rest.

8 That's what this case is. It's a hand of
9 one, hand of all case, and the judge has already read you
10 the law, and he's going to give you the law. But when
11 you start reading about hand of one, hand of all, I want
12 you to keep this in mind: When you hear knowledge that
13 another person is going to commit a crime, even if the
14 defendant is present when the crime is committed, is not
15 sufficient to convict the defendant as principal.

16 Then there is mere presence: Mere presence
17 at the scene is not sufficient to prove someone guilty of
18 a crime. A defendant's presence where a crime is being
19 committed or a mere association with a person who commits
20 a crime does not make the defendant an accomplice or an
21 aider or abetter of a person committing the crime.

22 What exactly happened on Coleman Boulevard
23 early in the morning on May the 7th? What happened? Are
24 you satisfied beyond a reasonable doubt? Remember I told
25 you about the robe on Tuesday, about the cloak? Has that

1 case taken every thread of that robe off, that he was
2 actively involved, so much so that you can go to bed
3 tonight, say, Wow, I'm glad that is over? Let's get the
4 dishes done. I have a lawn to mow? or are you troubled
5 that you're going to have a hard time finding this person
6 guilty knowing what he is facing?

7 They are trying to take his liberty away from
8 him, his freedom, and men and women are dying today to
9 protect that for us, and I wanted to say this earlier: I
10 hope if you take nothing else away from this week you
11 have a sense of what our criminal justice system is like
12 and how fair it is, because I think it's the greatest
13 system in the world. I'm a lit biassed because I'm a
14 lawyer, but I really do, and there is men and women dying
15 to keep us protected, so we're different than anybody
16 else because the State has to prove guilt beyond any
17 reasonable doubt.

18 Are you convinced he's guilty of this crime
19 beyond any reasonable doubt? Have they proven that?
20 Ivey, the victims, Eckert, the escape artist, the
21 telephone that's in front of Channel Two? Is that all
22 satisfied to you? The telephone calls we heard, does
23 that slam the cell door shut? Is that enough for you?

24 I wonder if we would have had video. Then
25 you could have seen what was going on. No one has seen

1 it, and seemingly it existed at one time, and you don't
2 have it. What's the connection between him and this
3 crime? Is it enough to get him convicted of armed
4 robbery?

5 If you think they have taken every thread off
6 of him, find him guilty. If he's got a little piece of
7 thread, you must find him not guilty.

8 I could go on and on, but I just want to
9 thank you for being here. You were very attentive, very
10 good jury. Ed and I have been working on this case, as
11 has the prosecution. We take our jobs very seriously.
12 We don't put these cases together in 15 minutes, not the
13 State and not the defendant. They've done everything
14 they could do. Is it enough?

15 Thank you.

16 THE COURT: All right. Mr. Solicitor?

17 MR. ZIEGLER: Thank you. Court's indulgence,
18 please, Your Honor.

19 Ladies and gentlemen: Defense counsel in
20 this case would like you to focus on Randi Parks. He
21 lied. He lied more than once before he owned up to this
22 armed robbery. He admits that he lied. He admitted
23 that. He did it because he was protecting himself. He
24 greatly minimized his involvement in this robbery. He
25 portrayed himself at the beginning as more of a

1 bystander, but something changed between May of 2013 when
2 this incident occurred and November of 2013. Over that
3 time period, Randi Parks took responsibility for his
4 actions. He owned up to his role as the gunman in this
5 robbery, and he put it on the record.

6 He put it on the record in the solicitor's
7 office, and he put it on the record when he pled guilty
8 in open court to two counts of armed robbery. He will be
9 sentenced, and he said yesterday that he will take what
10 is coming to him. He pled guilty. That's not changing.

11 What else has never changed? What has never
12 changed from the moment this armed robbery occurred?
13 What has never changed are the two people that Randi
14 Parks has identified as the individuals who robbed the
15 victims with him. Ricky Lamont Hayes, the defendant, and
16 Darren Belt. You know Randi Parks has lied about this
17 case before, and you know he has a criminal record, but
18 the State did not choose Randi Parks. No, the defendant
19 chose Randi Parks. He chose Randi Parks when he chose to
20 associate with him in an armed robbery.

21 Well, despite the urging of defense counsel,
22 this case is not just about Randi Parks. Randi did not
23 commit this armed robbery alone. In fact, he did not
24 even orchestrate it. He woke up in an area unfamiliar
25 with him, was handed a gun, was encouraged to rob the

1 victims, and he had help doing it.

2 And Randi told you who handed him that gun,
3 who showed him who to rob and who helped him do it. He
4 told you, the jury, that that person was the defendant,
5 and Randi Parks's word alone is not the only piece of
6 evidence to show the defendant was an active participant
7 in this armed robbery, and I'm going to present to you a
8 few key words for you to focus on, as I take you through
9 some of the evidence in this case.

10 Three robbers: Officer Gillespie and the
11 victim Mr. McElhenney saw three robbers, they're sure of
12 it. Mr. Burnett said maybe he saw a fourth, but this
13 happened really quickly and he couldn't be sure. He
14 could only say that he saw three -- he could only
15 describe three robbers, and this happened in about ten
16 seconds and Mr. Burnett said that all the robbers were
17 moving about.

18 Participate: The victims testified that all
19 three of these robbers were moving in a coordinated
20 effort to contain the victims on the sidewalk. They were
21 shuffling around the victims to prevent them from running
22 away, and all three of the robbers at some point went to
23 the ground to pick up the property dropped by the
24 victims.

25 Mr. Burnett's cell phone, pocket knife, and

1 cigars were taken. Mr. McElhenney's wallet and cell
2 phone were taken. Many of those items were never
3 returned to them. They never were found.

4 Dark clothing: The victims and Officer
5 Gillespie testified the robbers were wearing dark
6 clothing. When the defendant was located, he was wearing
7 a black T-shirt. Now, again, Mr. Burnett testified this
8 robbery happened in about ten seconds. Did Officer
9 Gillespie or either of the victims have time in ten
10 seconds to catalog each item of the clothing, of all
11 three of those people who were robbing him? And they
12 were under a lot of stress.

13 What about a hoody? The victim said some of
14 the robbers might have been wearing hoodies. It was six
15 minutes after the defendant was found after the robbery,
16 and he was running through the area. Six
17 minutes is plenty of time to shed a hoody and leave it in
18 a dark yard, or in the woods. Victim Shane Burnett, who
19 is five foot nine, testified that the gunman was slightly
20 shorter than him. Another robber was stockier, around
21 the same height, and another robber who was behind him
22 most of the time was taller.

23 Detective Eckert testified that the defendant
24 is between five-ten and six feet tall, and Mr. Burnett is
25 five foot nine. Randi Parks, slightly shorter than

1 Mr. Burnett, so it fits. It fits that the defendant was
2 this slightly taller person who spent most of the time
3 behind Mr. Burnett.

4 Proximity: The defendant was found in very
5 close proximity to the robber, both in time and place.
6 Detective Ivey encountered the defendant six minutes
7 after the robbery and three-and-a-half blocks away from
8 where it happened. Up here is the incident location.
9 Here is where the defendant was found, Hayes, and very
10 close by is where Randi Parks was found.

11 That's three-and-a-half blocks. That's six
12 minutes. It makes sense.

13 The defendant was found about 200 feet from
14 the person who has told you he was the gunman in this
15 robbery and who possessed one of the victim's wallets.
16 That person was the gunman who had the victim's wallet,
17 happened to be the defendant's cousin, and defense
18 counsel said there was no photo introduced of where
19 Mr. Hayes was picked up, where he was found by the
20 police.

21 Well, that's not true. On the video from
22 Officer Ivey's patrol car, you can see when the defendant
23 was located on King Street. It's right there. It's on
24 video, and that's in the evidence that you can view, but
25 there is also a photo, and this photo is right here where

1 Mr. Hayes and Mr. Parks were found. Detective Ivey
2 testified -- or Officer Ivey, excuse me -- testified that
3 this is the intersection where he came upon the
4 defendant, and he testified that just down this street,
5 over by this fence, is where that dump truck was, and
6 that's where Randi Parks was hiding, out of breath.

7 Officer Gillespie and the victims testified
8 that when Officer Gillespie called out, all three robbers
9 sprinted away through the farmer's market in the
10 direction where the defendant was located. When the
11 defendant was located by Officer Ivey, he was breathing
12 heavily. You heard that in the video. He said, I ran.

13 And what about the defendant's story? What
14 did he tell Officer Ivey on the street? What did he tell
15 Detective Eckert back at the station? Well, let's begin
16 with the story to Detective Ivey.

17 On the street, the defendant told Officer
18 Ivey that he was coming from his cousin Doug's house,
19 coming from his cousin Doug's house, when two black males
20 pointed a pistol at him and ran at him. Then when he was
21 at the police station. The defendant said he saw three
22 people in the cut, and they were running through the cut,
23 and he was going to Doug's house. And at no time did the
24 defendant provide Doug's last name, yet he claimed Doug
25 was his cousin.

1 Backpack and letters: Officer Gillespie, the
2 same officer who foiled this robbery, made a traffic stop
3 on a vehicle leaving the That vehicle was
4 driven by an individual who matched the description given
5 by Randi Parks of the third robber, and Randi Parks gave
6 that description of that third person without knowing who
7 it was at that traffic stop, and the description matched
8 up. Randi Parks knew who did this robbery with him, and
9 he told the police.

10 Now, that vehicle was driven by an individual
11 that matched the description given by Randi Parks of the
12 robber. Discovered in the back seat was a backpack.
13 That backpack contained four letters addressed to the
14 defendant at a Mount Pleasant address, so there's a
15 further connection, a connection to the third person, the
16 third robber, that Randi Parks names.

17 : -- and I'm going
18 to have to piece together a few different pieces of
19 testimony and evidence that you heard in this. Randi
20 Parks said that before this robbery occurred, they were
21 at a white female's house, and at that house is where the
22 defendant was discussing with the white female who they
23 could rob, how they might do it.

24 And then after his second interview with
25 Detective Eckert, Randi Parks took Detective Eckert to

1 that house, and he showed him which house they were at.
2 Detective Eckert testified that house was on
3 , and then think about the call that the defendant
4 made from the jail. He said that before the -- and
5 you'll hear this again.

6 He said that before the robbery -- he was
7 talking to his mother. Before the robbery, he said they
8 were two doors down from his mother's house before they
9 got caught up, and you'll hear that.

10 Where is his mother's house? Well, there is
11 no evidence of exactly where his mother's house is, but
12 there is evidence of where Ricky Hayes had received mail,
13 in Mount Pleasant, and what about the
14 information found on Randi Parks's cell phone? It tells
15 us -- defendant himself says that Randi Parks was his
16 cousin. The information on Randi Parks's cell phone
17 includes a contact -- excuse me. The information on the
18 defendant's cell phone includes a contact for a Randi and
19 the phone number for Randi, and the defendant's cell
20 phone is , and on the stand, Randi Parks told
21 you what his phone number was at that time:

22 .
23 Further connections between the defendant and
24 Mr. Parks: A couple items, the DNA on the gun. Crime
25 scene analyst Angie Mitchell swabbed the gun for DNA,

1 sent the swabs to the South Carolina Law Enforcement
2 Division. The results of those were inconclusive. The
3 results of the test were inconclusive, so there was no
4 DNA anywhere identified on the swabs from that gun. Not
5 that of the defendant, and not that of Randi Parks.

6 The cell phone that was found on the
7 roadside, it was the victim's cell phone, Mr. McElhenney.
8 We can't be sure of how that phone got to that location.
9 It could have been placed somewhere on the truck by the
10 defendant when he ran away. Randi Parks testified while
11 he was under the truck he saw the defendant come out of
12 same woods that he had just come out of, and when the
13 defendant was located, he was walking away from the
14 direction of that truck, just 200 feet away. So it's
15 likely that he passed by that truck. He had an
16 opportunity to place the cell phone on it.

17 Maybe that cell phone was sitting on that
18 truck, and as it bumped down the road, it bounced off the
19 truck, hit the street, or hit the sidewalk, and fell
20 apart, into two pieces, or perhaps that phone was placed
21 on any vehicle in the of Mount Pleasant. Six
22 minutes is plenty of time to drop down a phone, just like
23 a hooded sweatshirt could have been dropped, and let's
24 say that vehicle that the phone was sitting on was driven
25 the next morning downtown, down Coleman Boulevard, right

1 past the place where the phone was found. Say that fell
2 off the vehicle. Again, we don't know exactly how it got
3 there, but we have provided some potential explanation.

4 I'll go into a brief matter of law with you.
5 Armed robbery, the charge of armed robbery: It requires
6 that personal property is taken from another person.
7 Well, we know the personal property that's been taken
8 from the victims such as cell phone, wallet, pocketknife.
9 That property must be carried away. The defendant -- the
10 victims testified that their property was taken away by
11 these robbers when they ran.

12 The taking must have been done by violence or
13 by putting the owner of the property in fear of violence.
14 We know how afraid the victims were. We know how afraid
15 Mr. McElhenney was, and pointing a gun itself was
16 violence. The State must prove that one of the robbers
17 was armed with a deadly weapon during the robbery, but we
18 have that deadly weapon. We have that pistol.

19 The hand of one is the hand of all. If a
20 crime is committed by two or more people who are acting
21 together in committing a crime, the act of one is the act
22 of all. A person who joins with another to commit an
23 unlawful act is criminally responsible for everything
24 done by the other person which happens as a probable and
25 natural consequence of the acts done in carrying out the

1 common plan and purpose. For example: Two people can be
2 guilty of killing another person when only one of the two
3 had a gun, there was only one bullet, and only one of the
4 two fired the shot that caused the death.

5 If two or more people are together, acting
6 together, assisting each other in committing the offense,
7 the act of one is the act of all. As it is sometimes
8 said, the hand of one is the hand of all.

9 So it is not necessary that the defendant
10 held the gun in this robbery. It is not necessary for a
11 conviction that the defendant himself carried the
12 property away. If he was acting together with the people
13 or the person who held the gun and the people or the
14 person who carried property away, then the hand of one is
15 the hand of all applies, and with that evidence, with all
16 that evidence that we've just mentioned, if there is
17 still any doubt, if there is a final thread on the
18 defendant's cloak of innocence, it is stripped away by
19 the defendant's own words.

20 Please bear with me, and I'll read to you the
21 contents of that call: Listen, Grandma, I'm going to
22 tell you straight up. We messed up. I shouldn't have
23 did that. You know what I mean? I shouldn't have let
24 them do that either. You know what I mean? I should
25 have told them boys, Don't do them. That's my fault, but

1 I can't. I was just trying to get this money up to pay
2 these people, man.

3 And I'll read that back to you: No.

4 Honestly, I didn't rob nobody, but I was with them boys.
5 I can't lie. I was with them.

6 The defendant's mother says: Who was you
7 with?

8 Defendant says: My cousin from Columbia. I
9 was about to come -- we was coming to your house. As a
10 matter of fact, we was two doors down from your house,
11 and then we had to go on back to the real
12 quick. Then we was coming back to Creek Shadows. It was
13 too late to come to your house, you see what I'm saying?
14 It was almost 12, 12 something. I didn't want to come
15 there, so we were going stay until the morning a couple
16 of doors down from you at that white girl house. We were
17 going to stay over there until about 5:30 in the morning,
18 6:00, knock on your door, come see you, then shoot back
19 to Columbia.

20 That was the whole plan. The plan got put
21 off when, you know, them boys see some white boys walking
22 drunk up on the street. Just so happened the police was
23 in Moultrie parking lot so they see the whole thing,
24 okay?

25 And the defendant's mother says: Somebody

1 walking down the street?

2 Defendant says: Two white dudes walking down
3 the street, drunk. Then boy roll on them. Police see
4 this. See what I'm saying? The police see the whole
5 thing but they didn't see me. Policeman didn't see me.
6 Matter of fact, I ran period because I know. I seen the
7 cops coming so I ran, so I ran.

8 And if you return to the first call that we
9 played with the grandmother, the last thing the defendant
10 says to his grandmother in that clip: I was just trying
11 to get the money up to pay these people. I was just
12 trying to get the money up to pay these people.

13 That's not mere presence. That is not mere
14 knowledge: I was trying to get the money up to pay these
15 people.

16 You've heard all the evidence in this case.
17 The evidence shows beyond a reasonable doubt that the
18 defendant was involved and fully participated in this
19 armed robbery. On May 6th, 2013, the defendant, Darren
20 Belt, and Randi Parks were together in Columbia when the
21 defendant had the idea of going to Charleston to do a
22 robbery.

23 So all three traveled to Mount Pleasant where
24 the defendant is from, where the defendant knows his way
25 around. Randi Parks does not know his way around Mount

1 Pleasant. The defendant directed the group to several
2 houses in Mount Pleasant where the defendant talked with
3 the female they knew about who they could rob, how they
4 could do it. After all, the defendant said, he needed
5 the money, and as midnight passed on quiet Coleman
6 Boulevard, the defendant saw, on the sidewalk, two men
7 happily walking home from a bar, and he saw that he could
8 get what he needed, not by punching a time clock, not by
9 doing a day's work, but by taking it, making money by
10 taking money.

11 Shane Burnett and Glenn McElhenney didn't
12 deserve what happened to them that night, and Ricky
13 Lamont Hayes doesn't deserve to get away with it. When
14 you return to the jury room, you must find the defendant
15 guilty of two counts of armed robbery.

16 Thank you.

17 THE COURT: Okay. Folks, that's all the
18 arguments, all the law. I'm going to send you back now
19 to the jury room, but I don't want you to begin your
20 deliberations just yet. I need to make sure that we have
21 all the evidence that was put in together, and then I'll
22 send the evidence back along with the indictments and the
23 jury charges, and the bailiffs will tell you when it's
24 okay for you to begin your deliberations. It will just
25 take a couple minutes.

1 Now, Mr. Foreman, this is where you earn all
2 that extra pay. On the back of the indictments, you'll
3 see these red stamps right here where it says true bill.
4 The only reason these are going back is right underneath
5 it says verdict, and you write the verdict, once the jury
6 has reached a unanimous verdict. Each of verdicts are
7 separate charges, so you must consider them separately
8 and reach a verdict on each separately. There are two
9 possible verdicts on each of the indictments, guilty or
10 not guilty.

11 When the jury makes a unanimous decision, you
12 write either guilty or not guilty right underneath where
13 it says verdict. Sign it above where it says foreperson,
14 date it, and let the bailiffs know when you have reached
15 a decision on both charges.

16 Now, I'm going to send the jury charges back
17 with you. Again, this is my instruction of the law that
18 I gave to you earlier. I want you to be sure that you
19 don't focus on one word or section or paragraph. You
20 keep in mind that these all go together. You know, don't
21 focus on one section to the exclusion of the other, and
22 if you run into any problem with it, feel free to just
23 let the bailiffs know you need to ask me a question or
24 have me explain something to you, if you need to.

25 I also want to tell you, you'll have all of

1 the evidence back there with you, except the audio
2 statements that you've heard. If you need to have any of
3 that audio played back, just let the bailiffs know.
4 You'll come back in here, and we'll play that for you in
5 the courtroom. If you need to have any testimony or
6 anything read back, I usually send the court reporter
7 back and she'll play it back for you back there, but if
8 you need to listen to those audio recordings, you come
9 back in here and we'll play it back for you there.

10 So go back with the bailiffs right now.
11 Again, don't begin the deliberations until we send the
12 indictments back.

13 (In open court, jury not present.)

14 THE COURT: Anything from the State?

15 MR. ZIEGLER: Nothing, Your Honor.

16 THE COURT: Anything from the defense?

17 MR. BUCHANAN: No, sir.

18 THE COURT: Okay. Let's just get this
19 together then, and we'll send it back and tell them they
20 can begin deliberations.

21 (Court's Exhibit No. 4 was marked for
22 identification.)

23 (Whereupon, at 3:38 p.m., the jury retires to
24 deliberate.)

25 (In open court, jury not present.)

1 THE COURT: They want to see the video of who
2 first saw him in the street. So you got that cued up?

3 MR. EVANS: Working on that, Your Honor.

4 THE COURT: All right.

5 (In open court, jury present.)

6 THE COURT: Okay, folks. You sent back two
7 notes: One that you want to see the video of Detective
8 Ivey's patrol car when Mr. Hayes was first seen, so we've
9 got that cued up. We'll play that for you in just a
10 second:

11 And then you also sent a note back, can you
12 have access to your notes? And, no, regretfully, I can't
13 do that, because they're not evidence, and you can only
14 take evidence back with you. That's the short answer.
15 Okay? Go ahead and start that.

16 (Court's Exhibit Nos. 2 and 3 were marked for
17 identification.)

18 (Recess taken.)

19 THE COURT: Here's another note: Can we
20 review the transcript of Mr. Hayes's phone call to
21 grandmother and mother. Presumably they just want a copy
22 of whatever you read. I'll just tell them there was no
23 transcript. We can replay the audio for you if you
24 desire. Okay?

25 (Court's Exhibit No. 5 was marked for

1 identification.)

2 (Recess taken.)

3 THE COURT: All right. I understand we have
4 the verdict. The defendant is in the courtroom.

5 Go ahead, bring the jury in.

6 (5:56 p.m., in open court, jury present.)

7 THE COURT: All right. Mr. Foreman, I
8 understand the jury has reached a verdict; is that
9 correct?

10 THE FOREPERSON: Yes, we have, Your Honor.

11 THE COURT: Is it unanimous as to both
12 indictments?

13 THE FOREPERSON: Yes, it is, Your Honor.

14 THE COURT: All right. Would you hand that
15 to the bailiff, please.

16 All right. The defendant will rise. As to
17 indictment 2013-GS-10-4528, armed robbery, the verdict is
18 guilty. As to indictment 2013-GS-10-4527, armed robbery,
19 the verdict is guilty.

20 If, in fact, this is your verdict, would you
21 please indicate that by raising your right hand. Let the
22 record reflect all the jurors have raised their right
23 hand.

24 Do you wish to have the jury polled?

25 MR. HAWKINS: Yes, Your Honor, please.

1 THE COURT: All right. Clerk, pole. Y'all
2 need to be seated.

3 THE CLERK: Ladies and gentlemen, whenever
4 your jury number is called, if you would first please
5 raise your hand to signify that is your juror number.

6 I'm going to ask you two questions. Please
7 respond to each question appropriately: Starting with
8 the foreperson, juror number 113, is this your verdict?

9 THE JUROR: Yes, it is.

10 THE CLERK: Is it still your verdict?

11 THE JUROR: Yes, it is.

12 THE CLERK: Juror 288, is this your verdict?

13 THE JUROR: Yes.

14 THE CLERK: Is still your verdict?

15 THE JUROR: Yes.

16 THE CLERK: Juror 156, is this your verdict?

17 The JUROR: Yes, sir.

18 THE CLERK: Is it still your verdict?

19 THE JUROR: Yes, sir.

20 THE CLERK: Juror 27, is this your verdict?

21 THE JUROR: Yes, sir.

22 THE CLERK: Is it still your verdict?

23 THE JUROR: Yes, sir.

24 THE CLERK: Juror 70, is this your verdict?

25 THE JUROR: Yes, sir.

1 THE CLERK: Is it still your verdict?

2 THE JUROR: Yes, sir.

3 THE CLERK: Juror 77, is this your verdict?

4 THE JUROR: Yes.

5 THE CLERK: Is it still your verdict?

6 THE JUROR: Yes.

7 THE CLERK: Thank you. Juror 258, is this
8 your verdict?

9 THE JUROR: Yes.

10 THE CLERK: Is it still your verdict?

11 THE JUROR: Yes.

12 THE CLERK: Thank you. Juror 31, is this
13 your verdict?

14 THE JUROR: Yes.

15 THE CLERK: Is it still your verdict?

16 THE JUROR: Yes.

17 THE CLERK: Thank you. Juror 188, is this
18 your verdict?

19 THE JUROR: Yes.

20 THE CLERK: Is it still your verdict?

21 THE JUROR: Yes.

22 THE CLERK: Juror 149, is this your verdict?

23 THE JUROR: Yes, sir.

24 THE CLERK: Is it still your verdict?

25 THE JUROR: Yes.

1 THE CLERK: Juror 168, is this your verdict?

2 THE JUROR: Yes.

3 THE CLERK: Is it still your verdict?

4 THE JUROR: Yes.

5 THE CLERK: Thank you. Juror 110, is this
6 your verdict?

7 THE JUROR: Yes.

8 THE CLERK: Is it still your verdict?

9 THE JUROR: Yes.

10 THE CLERK: Judge, the jury has been polled,
11 and the verdict stands.

12 THE COURT: All right. Well, I want to thank
13 you for your service on the jury panel this week and on
14 this jury. You know, we ask people to come in, take time
15 off from work or your regular life, whatever it is that
16 you're doing when you're not here, and do something that
17 we kind of take for granted because we do it every week,
18 week in and week out, but it's very special to be on a
19 jury.

20 You know, all over the world, there are
21 people that wish they had the right Mr. Hayes had, that
22 when the State accuses you of a crime, you aren't judged
23 by the government, you are judged by your fellow
24 citizens. People wish that they had that right. There
25 are only a few countries in the entire world that give

1 the defendants a right to a jury trial when they're
2 accused of a crime.

3 Because we do it every week, we tend to take
4 those things for granted, but it's a very special thing
5 that you do when you participate in a jury. People
6 think -- I'm sure it's a common thing when people get
7 their jury notice, they go, I wish I could do this some
8 other time. It's just not a good time, whatever.

9 There's a lot of reasons why you don't want
10 to be here. I understand that completely, but it's a
11 responsibility of citizenship. It's a duty of
12 citizenship; however, for the reasons that I just
13 indicated to you, it's a privilege to serve on a jury,
14 and I hope that you will think of that that way, because
15 you are participating in your government, you know?

16 When you stop and think about it, how many
17 different ways do you get to participate in your
18 government? Other than paying taxes or voting, not that
19 many, really, so this is your government in action. And
20 you have done a tremendous public service by serving on a
21 jury this week. You did exactly what we asked you, and
22 it is all we could ask you. You sat attentively through
23 the trial. You listened to the evidence. You went in,
24 you debated it, you obviously wanted to review it, and
25 you didn't just come to a rash and hasty decision.

1 You came to a deliberate decision, based on
2 all you folks coming together. Just stop and think about
3 how remarkable that is. I doubt that any of you knew
4 each other before the trial started, and yet there is a
5 wide, diverse group of people, and you all came to the
6 same case. That's a very, very difficult thing for
7 people to do, especially in this day and age, so it's a
8 very special thing to serve on a jury.

9 I hope you will think of it in favorable
10 terms. I know it can be stressful in a jury, especially
11 on a criminal case especially with the facts that you
12 heard, but, you know, we hope that you enjoyed the
13 experience because you're going to go back out into the
14 community and you're going to talk about the experience.
15 I've been talking to you all week long, and we hope
16 you'll speak about it favorably because we need people to
17 come and do what you did, show up when you got the
18 notice, answer the questions, participate, and we live
19 with the verdict that you came up with, and so we truly
20 hope that you enjoyed it, and if you can find anything
21 that we did that we need to improve on, please
22 communicate that back to us.

23 I'm going to release you now. You do not
24 have to come in tomorrow. We're finished for the week.
25 I want to give you our sincere thanks. Thanks. They'll

1 send you a very, very small check for your service this
2 week. It's not nearly what it is -- what you are due,
3 but, you know, that's a fight for another day, but I want
4 to thank you for your service on behalf of the citizens
5 of South Carolina and the State of South Carolina, and
6 you are free to go with our thanks.

7 (Jury dismissed.)

8 THE COURT: All right. We'll move to
9 sentencing. Is there anything the State would like to
10 tell me?

11 MR. ZIEGLER: Your Honor, would you like to
12 hear defendant's prior record?

13 THE COURT: Yes.

14 MR. ZIEGLER: It's 2000, discharging a
15 firearm into a dwelling times two and false information;
16 2003, resisting arrest and unlawful carrying of a weapon;
17 2004, distribution of crack, two counts, with a proximity
18 charge, pedestrian on a controlled access highway and
19 trespassing; 2009, possession with intent to distribute
20 marijuana or other controlled substance, possession of
21 crack, and a proximity charge as well; and 2011,
22 disorderly conduct.

23 Your Honor has heard all of the testimony
24 this week, and given the seriousness of the incident --

25 THE COURT: He had two prior proximity

1 charges?

2 MR. ZIEGLER: Both in 2004 and 2009.

3 THE COURT: Usually proximities are strikes.
4 I'm surprised. He would be eligible -- you didn't put
5 him on notice, you can't ask today, but this would
6 normally be a third strike.

7 THE DEFENDANT: They were different charges,
8 sir.

9 THE COURT: Pardon?

10 THE DEFENDANT: They were different type of
11 charges, sir. It was possession -- possession with
12 distribution of marijuana, but the one in 2004, that was
13 distribution of crack cocaine.

14 THE COURT: All right.

15 MR. ZIEGLER: This is a serious incident with
16 two strangers confronted on the street. He put the
17 victims both under stress, and the State would request a
18 substantial sentence for the defendant.

19 If Your Honor would like to hear from the
20 victims at all, Mr. McElhenney is here, if you would like
21 to speak.

22 MR. MOYER: He said he would rather not
23 speak. My name is Randy Moyer. I'm the victim advocate
24 for Shane. He did give me a letter. He was here Tuesday
25 and Wednesday and gave me a letter and asked me to read

1 it.

2 THE COURT: Go ahead.

3 MR. MOYER: I would like to thank this Court
4 and all who are here who have worked so hard to bring
5 this justice to a close. I have lost sleep at night,
6 lost my sense of peace and even my freedom from worry. I
7 find myself looking over my shoulder every time I go
8 outside. To me, that the biggest injustice of all.

9 The closure this brings into my life is
10 invaluable. Again, thank you for all your tireless
11 efforts. To Ricky Hayes, I would like to say that I pray
12 for you. I pray that you allow God to come into your
13 life and help you find a way to lead a peaceful,
14 productive, and positive life.

15 As I write this letter, I am sitting on the
16 sofa next to my beautiful wife in my warm yet humble
17 home, and you are in jail where you will remain for years
18 to come. It doesn't have to be this way forever, Ricky.
19 Your past does not have to equal your future. I sat in
20 court and watched several members of your family and
21 friends come to offer their support.

22 There are so many people in this world who
23 have turned their lives around who don't have to support
24 a system like that. In my mind, there is no reason for
25 you to live like this. Just remember, every day you are

1 alive is another day that you can turn it all around. In
2 years to come, you will look back on this trial. There
3 are parts you will remember and parts that you will
4 forget, but I hope these words plant a seed in your heart
5 that will grow into something that last forever.

6 For the record, I forgive you, Ricky. In
7 God's eyes, you are my brother.

8 THE DEFENDANT: I didn't do it.

9 MR. MOYER: May God bless you and your
10 family.

11 THE COURT: Anything else from the State?

12 MR. ZIEGLER: Nothing else from the State,
13 Your Honor.

14 THE COURT: Mr. Buchanan?

15 MR. BUCHANAN: Thank you, Your Honor. May it
16 please the Court: Ricky is 32 years of age. He was born
17 in Kansas City, Missouri. His mother and father were
18 both stationed at Fort Riley, Kansas when he was born.
19 Both his mother and father had honorable discharges from
20 the United States Army. His parents were separated when
21 he was three years old, while they were both at Fort
22 Jackson in Columbia.

23 Early in his life, he lived in Columbia, then
24 moved to the there in Mount Pleasant where
25 his grandparents live and he has generations of family

1 from the of Mount Pleasant.

2 Your Honor, he does have a long record, no
3 doubt about that, and a serious one. As I said from the
4 moment this case started, this is a serious case. There
5 is no doubt about that. He has been convicted of one of
6 the most serious crimes you can be convicted of. It has
7 affected the victims and their families, and very
8 possibly for years to come.

9 The sentencing is somewhat draconian at the
10 highest level, and I would ask Your Honor to consider not
11 sentencing him to consecutive years, into consecutive
12 sentences. We know that this is -- and Ricky knows that
13 this is an 85 percent rule, and we know that 30 years is
14 a long time, but I think Mr. Burnett possibly said it the
15 best in that every day will be a new day for Ricky, and
16 if you sentence him consecutively, I don't think he'll
17 have the opportunity to ever make a difference, but if
18 you would sentence him concurrently, possibly, he could
19 follow Mr. Burnett's recommendation and turn his life
20 around and come out years from now but yet be released
21 and hopefully turn his life around.

22 I ask you not to sentence him consecutively.
23 If you do, I don't think -- and I don't think it's proper
24 in this case that he spend the rest of his life
25 incarcerated.

1 Thank you.

2 THE COURT: Mr. Hayes, would you like to say
3 anything?

4 THE DEFENDANT: I have a lot to say. You
5 know, I blame myself right now. I know I was supposed to
6 take it. I know this last thing to come out of my mouth
7 right now because I got found guilty and you like to hear
8 ownership, but that would be a lie. That would be a
9 straight lie, and God will punish me for lying.

10 All I had to do was take that stand and I
11 would prove that they -- I would have said go on my
12 instinct. My instinct gut told me. I left it in my
13 lawyers' hands, and it didn't come out the way I wanted
14 it to come out. It didn't come out at all the way I
15 asked for it to come out, but it's my fault.

16 I won't blame them because I knew, deep down
17 in my heart, what I was supposed to do. All I'm saying
18 there, sir, hopefully I'll have a chance to come back and
19 testify and prove my innocence. Right now I'm sick. I
20 don't know what to say. I'm appalled because of the way
21 the case went down.

22 I have never been in a courtroom before like
23 this. I don't know how it last ended with that phone
24 call, only two minutes of a seven minute phone call, or
25 six minute phone call or a seven minute phone call only

1 got in. I would like to straighten this on the record
2 that I will challenge that again in appeal on a PCR. I
3 can prove my innocence, but until then, I'm asking you
4 for mercy.

5 Mr. Young, I've been coming here 15 years.
6 This is the truth. I've been coming since I was 17 years
7 old. I changed my life around, got out of prison in
8 2010. Stopped selling drugs, stopped doing everything.
9 I went to school. I did what my mama wanted me to do. I
10 stayed in the house. This boy get me out of bed.

11 I don't rob people. My whole record consists
12 of not even one stealing charge. I don't do that.
13 That's not me. I make money, not take money. I vowed I
14 would never go to prison. Right now I'm appalled. I
15 don't believe in the system right now, because the system
16 didn't do nothing for me.

17 This man help me out (indicating). I always
18 got out and helped myself. I don't even associate with
19 all these people now. I'm a changed person, morally,
20 Christianlly {sic}, religiously, basically, and I know
21 deep down inside, God will be with me. You know, I was
22 frustrated at first, but I know God will be with me and
23 God will get me out of this, and I will be who I want to
24 be.

25 I hope somehow I find a way to do all this,

1 to get back into court, because if I get back, y'all will
2 see me again, and I promise you I will beat y'all this
3 time. I promise you.

4 I want you -- Mr. McElhenney, I feel for you.
5 As God as my witness, I feel for you. I had one time, I
6 thought I would die too. I felt you the whole time. I
7 know you want justice. You just got the wrong person.
8 The person that you wanted, he got away. He's going back
9 on the street. Six years. He's going to be back out
10 there, jamming more guns in people.

11 Me, I might never see the street again. I
12 try my best with eyes to give you my condolences, you and
13 Mr. Shane. All I seek is justice, and I understand that.
14 It's not your fault. It's Randi's.

15 I apologize for y'all having to go through
16 that. It doesn't matter. I shouldn't have been in
17 Charleston. All I wanted was a ride. I was using Randi
18 for money, and Randi was turning my money for me out of
19 counterfeit. That's what counterfeit was. It never
20 really came out in court. He had already turned.

21 When he saw me in Columbia to come back down
22 here -- my mom's 50th anniversary was on May 1st -- May
23 6th, 7th, whatever day it was when I came down. I missed
24 her party. I wanted to come see my mama. That's all I
25 wanted to see. I love my mama to death. I just wanted

1 to come see her.

2 Now, I know I was a dummy, but I was so
3 desperate I didn't care what they were going to do, and
4 that is my fault for not caring about other people, but I
5 didn't deserve it. I been here two years, spend \$20,000
6 on lawyers. I thought that was enough, and I thought I
7 paid my debt for what I been doing for my counterfeit,
8 but obviously the system just don't work that way.

9 I hope you get over this because we live in
10 Mount Pleasant; yeah, we. I'm from over there too.
11 That's my home. I'm supposed to protect that, you know?
12 Even though you're not my skin color, you're not my type,
13 you could call me your colleague or somebody. All
14 because I let them do what they want to do, that was my
15 fault. I didn't think they were going to do something
16 stupid like that, but that was my fault. I should have
17 thought. I know I was around idiots. I know about the
18 stuff they do in Columbia. I knew, but I didn't know
19 they would do that to y'all.

20 One day, hopefully, I'll come home. Have a
21 nice life, sir. You only get one. I don't think -- to
22 be honest with you, I'm a dead man walking right now. I
23 don't care what he sentence me. In my mind, I'm a dead
24 man walking. I'm sorry, though.

25 MR. BUCHANAN: I appreciate it.

1 THE DEFENDANT: Your family, everybody.

2 THE COURT: All right. Well, Mr. Hayes, you
3 know, from the moment you got caught, you started running
4 this story about you were the one that got robbed and you
5 know, I didn't --

6 THE DEFENDANT: I didn't say I got robbed.

7 THE COURT: That's what you told the police
8 officer. You know, if you listen to me and be quiet --
9 at the moment, you know, I'm starting to reconsider my
10 decision not to give you consecutive time, but you seem
11 intent in talking me into it.

12 You know, from the moment the police caught
13 you and you started running with this story you just got
14 robbed and a man had a gun at you. It just seems like
15 you keep spinning these different stories. You know, to
16 believe you, we have to all stop believing our own ears,
17 and the bottom line is -- the last thing we heard on the
18 phone where you told your mother and/or your grandmother,
19 I'm not sure which it was or if it was both, that you
20 should have stopped those from happening.

21 I mean, it was clear were you there. It was
22 clear you were involved. Parks, he gives a story about
23 everybody sitting around, drinking and smoking and
24 planning on who you were going to rob that day. That is
25 exactly the kind of people that the rest of society

1 deserve protection from.

2 You deserve every day of 60 days. I'm going
3 to give you 30 years -- I'm sorry, every day of 60 years.
4 I'll give you 30 years, the maximum on this. You have to
5 serve 85 percent of it. You'll get credit for the time
6 served. Good luck to you.

7 MR. BUCHANAN: Thank you, Your Honor.

8 - - -

9 (Whereupon, the proceedings were concluded.)

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PAGE 1 OF 1

OCA# 2013-003429

MOUNT PLEASANT POLICE DEPARTMENT **ADVISEMENT OF RIGHTS**

NAME Ricky Lament Harris
 ADDRESS _____ CITY: _____ STATE: _____
 RACE Black SEX Male DOB: _____ PHONE # _____

CPL David P. Forest

_____ has advised me that he is a member of the Mount Pleasant Police Department and has further advised me ...

- CH 1 That I have the absolute right to remain silent and do not have to answer any question or give a statement and this fact cannot be used against me.
CH 2 That if I do answer questions or give a statement, anything I say can and will be used against me in a Court of law.
CH 3 That I have the right to consult with a lawyer of my choice before I answer questions or give a statement and also to have him present while I am being questioned.
CH 4 That if I wish to talk to a lawyer or have him present, but am unable to afford to hire a lawyer, one will be appointed to represent me free of charge.
CH 5 That if I decide to answer questions or give a statement without having a lawyer present representing me, I have the absolute right during this interview to stop answering questions and to remain silent.

I FULLY UNDERSTAND EACH OF THESE RIGHTS WHICH HAVE BEEN EXPLAINED TO ME.

WITNESSES: _____

DATE 5/1/13 0120

WAIVER OF RIGHTS

I fully understand each of these rights which have been explained to me, and having these in mind, I wish to waive these rights. No threats, force or promises of any kind have been made to me by anyone to induce or cause me to waive these rights and answer questions.

WITNESSES: _____

DATE 06/19

WHITE - EVIDENCE

PENDING	COURT'S
	EXHIBIT NO. <u>1</u>
	IDENTIFICATION EVIDENCE
	DATE: <u>11/2/13</u>

ATTACH TO REPORT

PINK - SUSPECT

PAGE 1 OF 1OCA# 2018-0003429

**MOUNT PLEASANT POLICE DEPARTMENT
ADVISEMENT OF RIGHTS**

NAME: Ricky Lamont Hayes

ADDRESS: _____

CITY: _____

STATE: _____

RACE: BlackSEX: Male

DOB: _____

PHONE #: _____

CPL Daniel P. Forest

_____ has advised me that he is a member of the
Mount Pleasant Police Department and has further advised me ...

- CH 1. That I have the absolute right to remain silent and do not have to answer any question or give a statement and this fact cannot be used against me.
- CH 2. That if I do answer questions or give a statement, anything I say can and will be used against me in a Court of Law.
- CH 3. That I have the right to consult with a lawyer of my choice before I answer questions or give a statement and also to have him present while I am being questioned.
- CH 4. That if I wish to talk to a lawyer or have him present, but am unable to afford to hire a lawyer, one will be appointed to represent me free of charge.
- CH 5. That if I decide to answer questions or give a statement without having a lawyer present representing me, I have the absolute right during this interview to stop answering questions and to remain silent.

I FULLY UNDERSTAND EACH OF THESE RIGHTS WHICH HAVE BEEN EXPLAINED TO ME.

WITNESSES: _____

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WAIVER OF RIGHTS

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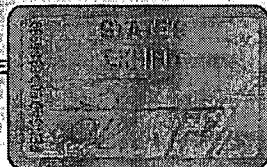
WITNESSES: _____

DATE 05/06/13

WHITE - EVIDENCE

LOW - ATTACH TO REPORT

PINK - SUSPECT



438

FGN20130503414

DOCKET NO. 2013GS1004527

WITNESSES

Mt. Pleasant Police Department

The State of South Carolina

County of Charleston

AGENCY CASE NUMBER

2013P0003429

COURT OF GENERAL SESSIONS

September Term 2013

ARREST WARRANT NUMBER

2013A1010202458

DATE OF ARREST

May 7, 2013

ACTION OF GRAND JURY

THE STATE

VS.

RICKY LAMONT HAYES

DOB:

12/1/11

TRUE BILL

ACTING FOREPERSON

Foreperson of Grand Jury

Date:

VERDICT

Guilty

Indictment for

Armed Robbery

Foreperson of Petit Jury

Date:

INDICT

ATTEST: A TRUE COPY
JULIE J. ARMSTRONG (SEAL)
CLERK, C.P. & S.A.F.C.
BY *Huckstein Han*
DEPUTY CLERK

STATE OF SOUTH CAROLINA)
)
 COUNTY OF CHARLESTON)

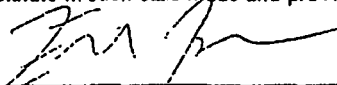
INDICTMENT

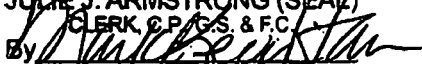
At a Court of General Sessions, convened on September 9, 2013 the Grand Jurors of Charleston County present upon their oath:

Armed Robbery

That on or about May 7, 2013, in Charleston County, South Carolina, the Defendant, Ricky Lamont Hayes, by use of force, threats or intimidation and while armed with a deadly weapon, or while alleging, either by action or words, he was armed while using a representation of a deadly weapon or any object which a person present during the commission of the robbery reasonably believed to be a deadly weapon, did take and carry away goods and/or monies from the person or immediate presence of Robert McElhency with the intent to permanently deprive the victim of possession thereof, in violation of §16-11-330(A) of the South Carolina Code of Laws (1976) as amended.

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


 EMMANUEL FERGUSON
 ASSISTANT SOLICITOR

ATTEST: A TRUE COPY
 JULIE J. ARMSTRONG (SEAL)
 CLERK, C.P., C.S. & F.C.
 By 
 DEPUTY CLERK

440

STATE OF SOUTH CAROLINA

COUNTY OF Charleston
STATE VS.Ricky Lamont Hayes

AKA:

Race: BLACK Sex: M Age: 30DOB: SS#:

Address:

City/State/Zip:

DL#: SID#:*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO: Armed Robbery

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2013GS1004527A/W#: 2013A1010202458Date of Offense: 5/7/2013S.C. Code §: 16-11-0330(A)CDR Code #: 0139

RECEIVED

JAN 23 2015

SC Court of Appeals

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADSin violation of § 16-11-0330(A) of the S.C. Code of Laws, bearing CDR Code # 0139☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC) ☐ §17-25-45
w/minor 1st or Lewd Act)The charge is: ☒ As Indicted. ☐ Lesser Included Offense. ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation. ☐ Negotiated Sentence, ☐ Recommendation by the State.ATTEST: Alex J. Ziegler 101014

Ziegler, Alexander J.

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 30 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years

and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment

of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services' standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☐ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:	\$
§ 14-1-206 (Assessments 107.5 %)	\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100
§ 14-1-211(A)(2) (DUI Surcharge)	\$100
§ 56-5-2995 (DUI Assessment)	\$12
§ 56-1-286 (DUI Breath Test)	\$25
Proviso 47.9 (Public Def/Prob)	\$500
§ 14-1-212 (Law Enforce. Funding)	\$25
§ 14-1-213 (Drug Court Surcharge)	\$150
§ 50-21-114(B)(1) (Breath Test Fee)	\$50
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea
Proviso 90.5 (SCCA Surcharge)	\$5
3% to County (if paid in installments)	\$ 3.90
TOTAL	\$ 133.40

PTUP

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel, § 47.12 requires \$500 be paid to Clerk during probation.

Clerk of Court/ Deputy Clerk

Court Reporter: Aminda Henderson

SCCA/217 (03/2011)

Presiding Judge

Judge Code: 2179Sentence Date: 1/15/15

ATTEST: A TRUE COPY
Julie J. Armstrong (SEAL)
 CLERK, C.P., S.S. & J.C.
 By Michael J. Han
 DEPUTY CLERK

FGN20130503414

DOCKET NO. 2013GS1004528

WITNESSES

The State of South Carolina

Mt. Pleasant Police Department

County of Charleston

AGENCY CASE NUMBER

COURT OF GENERAL SESSIONS

2013P0003429

September Term 2013

ARREST WARRANT NUMBER

2013A1010202459

THE STATE

DATE OF ARREST

VS.

May 7, 2013

RICKY LAMONT HAVES

ACTION OF GRAND JURY

DOB:

B/M

TRUE BILL

ACTING FOREPERSON

[Signature]
Foreperson of Grand Jury
Date:

Indictment for

Armed Robbery

VERDICT

Guilty

[Signature]
Foreperson of Petit Jury

1.15.15
Date:

INDICT V

ATTEST: A TRUE COPY
JULIE A ARMSTRONG (SEAL)
CLERK, C.P. & G.S. & EC
By *[Signature]*
DEPUTY CLERK

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

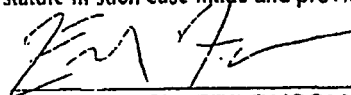
INDICTMENT

At a Court of General Sessions, convened on September 9, 2013 the Grand Jurors of Charleston County present upon their oath:

Armed Robbery

That on or about May 7, 2013, in Charleston County, South Carolina, the Defendant, Ricky Lamont Hayes, by use of force, threats or intimidation and while armed with a deadly weapon, or while alleging, either by action or words, he was armed while using a representation of a deadly weapon or any object which a person present during the commission of the robbery reasonably believed to be a deadly weapon, did take and carry away goods and/or monies from the person or immediate presence of Shane Burnett with the intent to permanently deprive the victim of possession thereof, in violation of §16-11-330(A) of the South Carolina Code of Laws (1976) as amended.

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


EMMANUEL FERGUSON
ASSISTANT SOLICITOR

ATTEST: A TRUE COPY
JULIE J. ARMSTRONG (SEAL)
CLERK, C.P., C.S. & F.C.
By 
DEPUTY CLERK

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Charleston
STATE VS.Ricky Lamont Hayes

AKA:

Race: BLACKSex: M

Age: _____

DOB: _____

SS: _____

Address: _____

City, State, Zip: _____

DL#: _____

SID#: _____

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was
TO: Armed RobberyINDICTMENT/CASE#: 2013GS1004528A/W#: 2013A1010202459Date of Offense: 5/7/2013S.C. Code §: 16-11-0330(A)CDR Code #: 0139

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADSin violation of § 16-11-0330(A) of the S.C. Code of Laws, bearing CDR Code # 0139☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45
w/minor 1st or Lewd Act)The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Alex J. Ziegler
Ziegler, Alexander J.101014
SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 15 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
of \$ _____; plus costs and assessments as applicable*: the balance is suspended with probation for _____months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal
Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

PTUP

Total: \$ _____ plus 20% fee: \$ _____

_____ days/hours Public Service Employment

Payment Terms: _____

☐ Set by SCDPPPSObtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

Recipient: _____

*Fine:

§ 14-1-206 (Assessments 107.5 %)	\$	
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ <u>100.00</u>
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2993 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ <u>25.00</u>
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114 (BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCA Surcharge)	\$5	\$ <u>5.00</u>
3% to County (if paid in installments)		\$ <u>3.40</u>
TOTAL		\$ <u>133.90</u>

☐ Appointed PD or appointed other counsel.
§ 47.12 requires \$500 be paid to Clerk
during probation.

Clerk of Court/ Deputy Clerk

Court Reporter: Amelia H. Hadden

SCCA/217 (03/2011)

ATTEST: A TRUE COPY

JULIE ARMSTRONG (SEAL)

CLERK OF COURT

By [Signature]

DEPUTY CLERK

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

March 14, 2016

Susan B. Shackelford for

Lara M. Caudy
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S. C. 29211-1589
(803) 734-1330

ATTORNEY FOR APPELLANT

RECEIVED
MAR 14 2016
SC Court of Appeals

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Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

March 14, 2016


Lara M. Caudy
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S. C. 29211-1589
(803) 734-1330

ATTORNEY FOR APPELLANT

RECEIVED

MAR 14 2016

SC Court of Appeals

STATE OF SOUTH CAROLINA

 ORIGINAL

IN THE COURT OF APPEALS

Appeal from Charleston County

Roger M. Young, Circuit Court Judge

RECEIVED

MAR 14 2016

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

RICKY L. HAYES,

APPELLANT

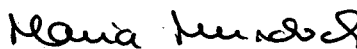
APPELLATE CASE NO. 2015-000149

CERTIFICATE OF SERVICE

I certify that a true copy of the Record on Appeal in the above referenced case has been served upon Megan Harrigan Jameson, Esquire, at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, this 14th day of March, 2016.


Cruise Mitchell
Administrative Specialist

SUBSCRIBED AND SWORN TO before me
this 14th day of March 2016.

 (L.S.)
Notary Public for South Carolina
My Commission Expires: July 3, 2023.