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Volume I of IV

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM RICHLAND COUNTY

Robert E. Hood, Circuit Court Judge

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SC Court of Appeals

THE STATE,

RESPONDENT,

V.

LORENZO BERNARD YOUNG,

APPELLANT

APPELLATE CASE NO. 2014-002548

RECORD ON APPEAL

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**THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:
STATE'S EXHIBIT #323 (VIDEO) AND STATE'S EXHIBIT #325 (VIDEO)**

STATE OF SOUTH CAROLINA))
) COURT OF GENERAL SESSIONS
County of Richland)) 2014-GS-40-0745
) 2014-GS-40-0746
) 2014-GS-40-0747
) 2014-GS-40-0749
)
) 2014-GS-40-0752
) 2014-GS-40-0754
) 2014-GS-40-0755
) 2014-GS-40-0756
The State) 2014-GS-40-0757
)
)
) PRETRIAL
vs.) TRANSCRIPT OF RECORD
)
Lorenzo Young)
and)
Trenton Barnes,)
)
Defendants)

October 30, 2014
Columbia, South Carolina

BEFORE:

The Honorable Robert Hood, Judge

APPEARANCES:

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Official Court Reporter

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STATE'S EXHIBITS

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3	Photo	58	
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No.	Description	ID	EV
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CERTIFICATE OF REPORTER

130

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

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

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

9 THE DEFENDANT: Doing good, sir.

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

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

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

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

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

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

1 the defendants against each other.

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

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

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

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

10 THE COURT: Thank you. Ms. McDuffie?

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

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

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

1 THE COURT: Okay. Very good.

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

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

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

23 THE COURT: Page?

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

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

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

17 THE COURT: All right.

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

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

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

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

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

25 THE COURT: You agree with me that everything you

1 just said pure speculation, right?

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

12 THE COURT: All right.

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

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

24 THE COURT: Mr. Schnee.

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

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

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

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

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

3 THE COURT: All right. Thank you.
4 Next.

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

6 THE COURT: Next motion.

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

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

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

1 the issuance of a search warrant.

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

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

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

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

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

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

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

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

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

15 THE COURT: Sure.

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

1 informant was. The affidavit says informant. We do
2 not have any record from the city court that says what
3 Mr. McCoy relayed to the signing judge, so the only
4 information we have to go on is the affidavit that
5 we've been provided. If the investigator would like
6 to testify about what he told the municipal judge
7 prior to signing, I don't even know if that would
8 remedy the situation, Judge, because in oral
9 supplement, oral testimony supplementing what was told
10 to the magistrate, in certain cases that's not enough.
11 The affidavit is required to have some sort of
12 reliability statement in it.

13 All we know is that information was obtained from
14 Mr. Moore. After that information was obtained, they
15 moved on to a photo array and then we're getting a
16 warrant. There was no probable cause, there was no
17 support for probable cause. The records that we have
18 provided to us to review in this matter, I do not
19 believe the warrant should have been signed by the
20 judge, so again lacking any indication from the
21 investigators in the affidavit, in the warrant
22 affidavit, I think makes it flawed on its face and I
23 think it should be suppressed.

24 THE COURT: Where is the search warrant?

25 MS. PINNOCK: It's in the folder. If I may

1 approach, Judge.

2 THE COURT: Thank you.

3 MS. PINNOCK: And the supporting case law is also
4 there.

5 THE COURT: Okay. Thank you.

6 MS. McDUFFIE: Your Honor, if I may. At the time
7 Investigator McCoy went to the municipal recorder, he
8 applied, at the exact same time, he applied for a
9 search warrant and also for

10 He went over the probable cause for both
11 of those cases at the same time, swore to the
12 affidavits and I'd ask that you review all of those
13 that were presented to the magistrate at the time.

14 MS. PINNOCK: Judge, we're not making a motion on
15 the search warrant executed at Mr. Barnes residence,
16 just Mr. Young's residence.

17 MS. McDUFFIE: Your Honor, I think the proper
18 standard is a totality of the circumstances what the
19 magistrate knew and further written affidavits are
20 allowed to be orally supplemented. There's a long
21 string of case law I'm happy to provide Your Honor.

22 They have discussed the warrants as a whole with
23 the magistrate, and then swore individually to each of
24 them and they were issued. I'll hand them up.

25 THE COURT: I think we'll need some testimony as

1 to that issue.

2 MS. McDUFFIE: If it please the Court, the State
3 calls Investigator McCoy.

4 MATTHEW MCCOY,
5 after being duly sworn, testified as follows:

6 THE CLERK: Please have a seat there, sir. State
7 your full name for the record.

8 THE BAILIFF: Watch your step.

9 (WHEREUPON, State's Exhibit Numbers 1 and 2 were
10 marked for identification only.)

11 THE WITNESS: Investigator Matthew D. McCoy.

12 THE COURT: Just so we have this right, your
13 issue is in the part of the ---

14 MS. PINNOCK: State's ---

15 THE COURT: --- affidavit that deals with the
16 reason for the affiant's belief that the property
17 sought is on the subject's premises, correct?

18 MS. PINNOCK: Yes.

19 THE COURT: Okay. So you don't have an issue
20 with description of the property or the description of
21 the premises. It's more what he told or didn't tell
22 or what he included in the affidavit or didn't include
23 in the affidavit as to why he believes he was entitled
24 to a search warrant?

25 MS. PINNOCK: Yes, Your Honor.

1 THE COURT: Is that correct?

2 MS. PINNOCK: Yes, sir.

3 THE COURT: Okay. Okay.

4 MS. McDUFFIE: Your Honor, it's a search warrant
5 that's been labeled as Exhibit 2.

6 THE COURT: Okay.

7 DIRECT EXAMINATION:

8 BY MS. McDUFFIE:

9 Q Investigator McCoy, where are you employed?

10 A The Columbia Police Department.

11 Q And were you investigating a homicide that
12 occurred in July of 2013 on Tommy Circle?

13 A Yes, I was.

14 Q And in --- in following up on that investigation,
15 on July 3rd, did you go to the municipal recorder to
16 swear out two search warrants?

17 A I did.

18 Q And please tell the Court the circumstances when
19 you arrived at the municipal court as to what you did.

20 A I brought the affidavit in, the search warrant,
21 into the courthouse to the Warrant Division. We had
22 spoken with Donald Moore and gotten the audio recorded
23 statement from him regarding his --- what he knew
24 regarding this incident.

25 When I went down to the courthouse to swear out

1 the warrant, I gave her the affidavit, Angela Ladson.
2 She was the municipal recorder at the time.

3 I also advised her that Mr. Moore, Donald Moore,
4 and I gave his name, that he came in and gave us this
5 information and also told her what he had told us
6 regarding this incident; that it coincided with what
7 was on the surveillance video that was not released to
8 the media.

9 Q Let me stop you right there. At the time that
10 you applied for the search warrant, which is in
11 State's Exhibit 2 from Bronx Road, were you also
12 applying for one for Lucille Drive?

13 A Yes, I was; 2849, I believe. Yes, it's 2849
14 Lucille Drive.

15 Q And those search warrants were applied for or
16 requested at the same time?

17 A At the exact same time. They were actually
18 handed to her at the same time. I gave her the
19 overall circumstances there.

20 Q And you said that Donald Moore specifically had
21 information that --- that y'all deemed credible?

22 A That's correct.

23 Q And that was that he knew information about what
24 occurred that was not released in the media or in the
25 video --- the video footage released to the media of

1 that --- of the crime?

2 A Correct. When the video was released to the
3 media, it didn't show the actual shooting. There were
4 some other instances that occurred during that
5 incident that were not released.

6 When he came in to advise us what he knew of this
7 information, he relayed that to us, the information
8 that was not released to the media. It matched
9 exactly what the surveillance video showed which was
10 all relayed to Angela Ladson.

11 THE COURT: Say that last part again.

12 THE WITNESS: Which that information was relayed
13 to the --- Angela Ladson.

14 THE COURT: The magisterial recorder?

15 THE WITNESS: Yes, that's correct. We feared for
16 Donald Moore's safety at the time, which is why his
17 name was not on the affidavit.

18 BY MS. McDUFFIE:

19 Q Okay. So instead of saying a witness or a person
20 who gave a statement, you used the term "informant"?

21 A Correct. I used the term informant because he
22 gave us information regarding it. Normally, we would
23 put his name in there, but you know, we thought his
24 safety was in jeopardy, and the nature of the crime,
25 as well as we weren't sure how much you could get from

1 the search warrant and how long his name would be out
2 on there on the street, if you will. We thought it
3 best to keep his name out of the report and orally
4 supplement with the judge.

5 Q And you further put in the application for the
6 search warrant that Mr. Moore knew details that were
7 not released to the media and were not public
8 knowledge?

9 A I believe that's what it says, yes.

10 Q And you orally supplemented the municipal
11 recorder with what that specific information was?

12 A That's correct. It was primarily --- what it
13 was, it was that when he received the information from
14 one of the codefendants about occurred, it was about a
15 --- that she had struck one of them with a knife.

16 It turned out to be a spoon later, but that she
17 had actually fought back, which was not in any of the
18 video, fought back when the --- when the handguns were
19 pointed at her while she was being robbed. That was
20 information that was, again, not released to the media
21 which gave him a lot of credibility for us.

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

23 (Pause.)

24 BY MS. McDUFFIE:

25 Q And, again, you applied for both of these search

1 warrants at the same time?

2 A That's correct, the exact same time. We walked
3 them both down there at the same time.

4 Q And you briefed her on the circumstances
5 surrounding both cases?

6 A Yes.

7 Q And then the municipal recorder issued search
8 warrants for both residences?

9 A That's correct.

10 MS. McDUFFIE: No further questions, Your Honor.

11 THE COURT: Cross?

12 MS. PINNOCK: May it please the Court.

13 CROSS-EXAMINATION:

14 BY MS. PINNOCK:

15 Q Investigator McCoy, when did you meet Donald
16 Moore, approximate timeline?

17 A If you'll give me a moment, I'll look back at my
18 notes here.

19 (Pause.)

20 It was the day he was brought up to headquarters
21 and interviewed. I believe it was on the 2nd or 3rd.

22 Give me a moment.

23 (Pause.)

24 On the 2nd of July.

25 Q Had you ever talked to him before that date?

1 A No. That was the first time I ever met him.

2 Q You had never seen him before?

3 A No.

4 Q Had Investigator Reese ever seen him before?

5 A Not to my knowledge.

6 Q You actually got a phone call from another law
7 enforcement agency, right?

8 A It was our law enforcement agency. It was a
9 sergeant that was on the street that night, and he had
10 --- Mr. Moore had walked up to one of his officers on
11 the street and actually flagged him down. They had a
12 rapport and knew each other.

13 Q Okay. But they didn't give you a history of how
14 they knew him?

15 A No. I don't know what the history was. It was
16 something to do with where he worked with taking a
17 report or something, a crime that he had committed.

18 Q Against Mr. Moore, correct?

19 A I believe it was Mr. Moore, but I'm not sure.

20 Q Okay, and you said that you did not put Mr.
21 Moore's name into the affidavit because you feared for
22 his safety?

23 A That's correct.

24 Q You considered him a witness?

25 A That's correct.

1 Q How many times did you talk to Mr. Moore during
2 your investigation in this case?

3 A He was interviewed first on the 2nd, and he was
4 again --- I think he was brought up the next day.
5 Yeah, the next day on the 3rd. He was also talked to
6 --- which is when the warrants were signed out that
7 same day.

8 I don't believe I had any conversation after
9 those two interviews. I believe Sergeant Reese spoke
10 to him one more time or two more times on the phone.

11 Q Okay. So there were prior phone calls --- I
12 mean, subsequent phone calls?

13 A That's correct. We talked to him multiple times
14 during the investigation, myself --- he was actually
15 interviewed and recorded those two dates that he was
16 talked to.

17 Q Okay. And you took the information that you
18 learned from Donald Moore and you told that to the
19 magistrate --- to the --- to the judge?

20 A That's correct, went down there, and she was
21 somewhat familiar with what they were investigating.
22 She saw the paper. I went over the case with her,
23 showed her my affidavit, and then I advised her that
24 in there where it says informant, Donald Moore, he
25 gave us a witness --- I'm sorry, an oral statement

1 that was audio recorded. Twice we talked to him, also
2 he picked some of them out of a lineup just to see if
3 he knew them so he could tell us who he was talking
4 about.

5 I advised her of that, and I also advised her of
6 the information regarding what he had told that
7 matched up with the video that was not released to the
8 media.

9 Q Okay. He didn't ---

10 A That the public wouldn't have known.

11 Q He didn't --- according --- as far as you know,
12 he didn't say he saw anything personally?

13 A As far as I know, he said he didn't see anything
14 personally.

15 Q He said his relationship with Troy Stevenson,
16 which is who he said he got his information from
17 right, correct?

18 A That's correct.

19 Q He didn't even know him. He met him at the
20 probation office once.

21 A He --- he advised us that --- he indicated that
22 he knew of him, but I believe that was --- what you're
23 saying there is what he had advised us.

24 Q Okay.

25 A He knew of him from the streets.

1 Q But he didn't --- he didn't consider himself a
2 friend?

3 A He --- he didn't consider himself a friend. He
4 said they had done some crimes together. They were a
5 person who --- they had done some things together,
6 some illegal activities, but he never used that term
7 friend.

8 Q So they had committed crimes together? Are you
9 sure?

10 A That's what --- that's what he had advised us.

11 Q Okay.

12 A He talked about the robberies that they had done
13 and ---

14 Q But again, he didn't witness anything, right?

15 A He --- right. He indicated he was not an
16 eyewitness to anything.

17 Q And you had never met him before that day?

18 A Not before that day, no.

19 Q You didn't have any background information on him
20 before you sat down and talked to him?

21 A Nothing. The only thing I had was --- we had the
22 DMV records. I had pulled the name Donald Moore just
23 so I'd know who I was talking to.

24 MS. PINNOCK: Okay.

25 Beg the Court's indulgence.

1 (Pause.)

2 Thank you. I have no further questions.

3 THE COURT: Redirect?

4 MS. McDUFFIE: No, Your Honor.

5 THE COURT: All right. Thank you, sir. You can
6 step down.

7 THE COURT: All right. Now, you can come back to
8 where you were before, Ms. McDuffie.

9 MS. McDUFFIE: Your Honor, I believe that he has
10 shown, that he has demonstrated that there has not
11 been a confidential informant in this case, there
12 hadn't been, reliability is not necessary to be shown.
13 While it is not necessary, he went a step further than
14 he even had to by telling the municipal recorder the
15 information that they believed to be reliable, the
16 facts that he specifically stated for Your Honor.
17 Your Honor, to further rely on the most recent case is
18 State v. Pope, which is decided August 20th of 2014,
19 so I apologize, there's no citation assigned to it as
20 of yet.

21 THE COURT: Did you say Pope?

22 MS. McDUFFIE: Pope, P-O-P-E. It's Court of
23 Appeals decided August 20, 2014. It says additionally
24 a non-confidential informant should be given a higher
25 level of credibility because he exposes himself to

1 public view and the possible civil or criminal
2 liability should the information he provided be false.
3 Further, Your Honor, they had no reason to believe
4 that his information was untrue. The officers acted
5 and did everything appropriately in terms of procuring
6 the search warrant.

7 Your Honor, the search warrant clearly states
8 probable cause. However, should Your Honor find that
9 there isn't probable cause, we would rely on State v.
10 Herring, the officers acted in good faith on a warrant
11 they reasonably believed to have probable cause and
12 there were no false statements or misstatements made
13 in the curing of the warrant and therefore the
14 exclusionary rule should not apply.

15 THE COURT: Ms. Pinnock.

16 MS. PINNOCK: Yes, Your Honor, just briefly, I
17 would just point out State v. Johnson 302 S.C. 243.
18 That is a 1990 case, Your Honor, but that deals with
19 an individual who had personally seen a quantity of
20 drugs in somebody's house. They accompanied the
21 affiant to the magistrate's office and provided a
22 statement and the court in that case held that that
23 wasn't enough. Without some indication of reliability
24 on the information being provided to them by the
25 affiant in --- written in the affidavit for the search

1 warrant. That still did not satisfy the requirements.

2 So, Judge, we can call Mr. Moore whatever we want
3 to. Either way he is still an informant. He showed
4 up with no history, no background. They did no
5 investigating as to whether or not this person could
6 be trusted. He is coming in providing second hand
7 knowledge, not even anything that he witnessed
8 personally, to law enforcement. There was no
9 corroboration --- no corroborating evidence found by
10 law enforcement. After that fact, the only thing that
11 law enforcement corroborated they spoke to Mr. Moore
12 was that Mr. Young lived at the address that they
13 pulled up on the DMV.

14 That's the only acts that were taken with law
15 enforcement after speaking with Donald Moore, getting
16 that information, and again, there is no reliability,
17 there is no support shown by law enforcement when the
18 investigators swore out the warrant. Again, I would
19 say the warrant fails on its face. It's lacking
20 probable cause and again we would be moving to
21 suppress the search warrant, all items taken out of
22 Mr. Young's house, and all the subsequent evidence
23 that was obtained thereof.

24 THE COURT: Anything further, Ms. McDuffie?

25 MS. McDUFFIE: No, Your Honor.

1 THE COURT: Okay. All right. Next motion.

2 MR. KRZYSTON: Judge, we'll just take care of
3 some preliminary motions and settle the record. I
4 believe we have already done this, but we're just,
5 again, based on the voluminous e-mails we received
6 since the continuance on Monday, we are going to renew
7 Rule 5, as well as Brady v. Maryland, and Riddle.
8 Judge, we're also moving to sequester all witnesses,
9 as well, as to settle the record of any and all
10 potential witnesses.

11 THE COURT: Okay.

12 MR. KRZYSTON: And, Judge, I ---

13 THE COURT: Hold on. I'm taking notes.

14 MR. KRZYSTON: Sorry.

15 THE COURT: So you're renewing your Rule 5, Brady
16 and Riddle motions; is that correct?

17 MR. KRZYSTON: It is, Your Honor. With regard to
18 the Riddle motion, we're specifically --- we'd like to
19 highlight that we're specifically renewing it
20 vis-a-vis Donald Moore's testimony and statements
21 today, and Troy Stevenson, Mr. Barnes, Lorenzo Young,
22 anybody involved in the case whatsoever.

23 THE COURT: Okay. Does the State want to respond
24 to that?

25 MS. GARFIELD: Yes, sir, we just want to put on

1 the record, after the case was continued Monday, I
2 said I would get with CPD to make sure that we had
3 everything. I did do that. I met with Investigator
4 McCoy Monday afternoon and physically went through his
5 case jacket page by page. I got things that were not
6 in my notebook. That doesn't mean my co-counsel
7 didn't have it. I personally didn't have it. I
8 shared that with defense counsel as well as all CDs
9 that we had. We had copies made and distributed them
10 to all parties. Everyone has gotten copies with the
11 exception of Ms. Zmroczek, who has been out with strep
12 throat since Monday. I do have a copy for her. She
13 is aware of that.

14 Also, I have instructed Investigator McCoy go
15 personally to his hard drive at the Columbia Police
16 Department to make copies of any and all records that
17 may pertain to this case, which he did provide me
18 approximately four more CDs from that. I gave me those
19 yesterday. Those copies have been turned over to all
20 parties in question. Plus I went through everything
21 we had, such as things in my office, like jail
22 records. I know that we had turned it over to at
23 least Mr. Young's attorneys. I made sure we scanned
24 all that and sent it over. If anything else comes
25 into our possession, I'll send it over as soon as I

1 possess it.

2 At this point I believe we have everything that
3 we intend use in the course of these proceedings. As
4 far as any Riddle information is concerned, certainly
5 we always consult the lawyers representing these
6 individuals that are testifying. We will turn over
7 anything that comes to our knowledge that could be
8 exculpatory or contradictory in the testimony they
9 previously gave to the testimony they planned to give
10 on the stand.

11 THE COURT: All right. Very good.

12 All right. Sequestering witnesses, I assume
13 there is no objection to that as long as it's
14 reciprocal?

15 MS. CAMPBELL: Your Honor, I don't know --- do
16 they want all witnesses or just lay witnesses? A lot
17 of times they don't include all the law enforcement,
18 since they're ---

19 MR. KRZYSTON: All witnesses, Judge.

20 THE COURT: Except for the lead investigator?

21 MR. KRZYSTON: Yes, sir.

22 MS. CAMPBELL: Your Honor, with the Court's
23 permission, there are two lead investigators in this
24 case. Is that going to be a problem?

25 MR. KRZYSTON: No, Your Honor.

1 MS. CAMPBELL: And I believe you already said you
2 made it reciprocal.

3 THE COURT: Yes, it will be reciprocal. Are
4 there victim family members that are potentially
5 testifying that you know of?

6 MS. CAMPBELL: No.

7 THE COURT: Okay.

8 MS. CAMPBELL: I mean, we'll double check that,
9 but I don't know of any victim's family members that
10 would be actual lay witnesses or any type of witnesses
11 in this case.

12 THE COURT: Okay. I just want you to double
13 check that. That happens sometimes.

14 MR. SCHNEE: Judge, may I inquire briefly as to
15 the status of my client's mother whether she is one of
16 the witnesses.

17 MS. CAMPBELL: She is on our witness list so she
18 would be sequestered.

19 MR. SCHNEE: I'd ask that my client's mother be
20 allowed to stay.

21 THE COURT: We'll come back around to that.

22 MS. CAMPBELL: Okay.

23 THE COURT: Okay. So are you good on
24 sequestering witnesses, Mr. Krzyston?

25 MR. KRZYSTON: I'm sorry, Judge?

1 THE COURT: Are you good on sequestering
2 witnesses?

3 MR. KRZYSTON: Yes, Your Honor.

4 THE COURT: Okay. And I say this before every
5 trial. I know you all are probably tired of hearing
6 me say it, but I don't know who all these people are,
7 so I don't know who they all are, but yet I have the
8 best opportunity to see them, so it's kind of weird,
9 but I need y'all through each other and through your
10 staff, you know, somebody holler if somebody walks in
11 the room, so we can stop things and get that taken
12 care of.

13 MS. CAMPBELL: Just for clarification purposes of
14 this motions hearing, I do have an investigator in the
15 courtroom. Is that a problem? There's not any
16 testimony.

17 THE COURT: Okay.

18 MS. CAMPBELL: Well, we just put up testimony,
19 but I mean ...

20 THE COURT: Right.

21 MS. CAMPBELL: I don't want to violate your
22 order.

23 THE COURT: I don't know what --- I mean, I have
24 a list of the motions.

25 MS. CAMPBELL: These are the witnesses that

1 defense counsel requested we have here today.

2 THE COURT: Do you want them sequestered, Mr.
3 Krzyston?

4 MR. KRZYSTON: No, Your Honor, we only asked for
5 one witness.

6 MS. CAMPBELL: Mr. Schnee asked for six.

7 THE COURT: Do you want them sequestered,
8 Mr. Schnee?

9 MR. SCHNEE: I do, Your Honor.

10 THE COURT: All right. All the other witnesses
11 need to leave the courtroom.

12 MR. KRZYSTON: And, Judge, in the interest of
13 facilitating your order, we would ask the State
14 disclose its witness list. We will absolutely do the
15 same, but in order to facilitate that.

16 THE COURT: Hold on. Let me get my calendar up.
17 Do you think you can get them a witness list by
18 next Thursday?

19 MS. CAMPBELL: Yes, sir, if they can give us one
20 as well.

21 MR. KRZYSTON: Certainly, Your Honor.

22 THE COURT: Okay.

23 MS. CAMPBELL: Thank you.

24 MR. KRZYSTON: Next Wednesday, Your Honor?

25 THE COURT: Next Thursday.

1 MR. KRZYSTON: Next Thursday.

2 THE COURT: If you want to do it before that, you
3 can but you need to do it by then.

4 MS. CAMPBELL: Your Honor, it's just been brought
5 to my attention. I believe the defendant's mother is
6 in the courtroom, Mr. Barnes' mother.

7 THE COURT: I have no clue.

8 MS. CAMPBELL: So at this point the sequestration
9 is ---

10 THE COURT: Yeah, at this point she needs step
11 out. We'll step back to that.

12 MS. CAMPBELL: Just step outside. Thank you.

13 THE COURT: And then did you say motion to settle
14 the records.

15 MR. KRZYSTON: Yes, Your Honor.

16 THE COURT: Okay.

17 MR. KRZYSTON: I suppose we can probably do that
18 with the exchange of the witness list.

19 MS. PINNOCK: Judge, I spoke with Ms. Campbell
20 this morning. She informed me that they are running
21 rap sheets on everybody.

22 THE COURT: Okay.

23 MS. SIMPSON: We started that this morning,
24 Judge. There are two witnesses that we don't have
25 them for, but we're going to get those, but the rest

1 of them...

2 We'll turn those over.

3 THE COURT: Okay. Good.

4 MS. SIMPSON: We can do that right now, Judge.

5 THE COURT: Okay.

6 MS. CAMPBELL: Just give me a minute to sort
7 through them.

8 THE COURT: All right. What's next?

9 MS. BAMBACH: Your Honor, number four, five and
10 eight all go together. Motion to exclude any
11 reference to gang activity or involvement, prior bad
12 acts and any of Mr. Young's behavioral issues that we
13 received several pages of disciplinary records from
14 jail for Mr. Young. Obviously, based on 404(b) we
15 would be moving to exclude those. I described all
16 those circumstances in my written motion.
17 Specifically with ---

18 THE COURT: Let's start with gang activity or
19 involvement.

20 MS. BAMBACH: Okay.

21 THE COURT: It will be easier to do them one at a
22 time instead of lumping them together, so gang
23 activity or involvement.

24 MS. BAMBACH: Gang activity or involvement, I
25 have a 2013 Court of Appeals case State v. ---

1 THE COURT: Tell me what you think it potential
2 is before we get to the law.

3 MS. BAMBACH: There is --- this case is actually
4 is very riddled with gang allegations. Donald Moore
5 the lead witness, I don't want to say too much,
6 everything is in my written motion. I don't know if
7 there is any media in here or ---

8 THE COURT: Where is your written motion?

9 MS. BAMBACH: On that folder right on the top.
10 Several witnesses Donald Moore, Michael Schaefer speak
11 to Mr. Young's alleged gang involvement. I just gave
12 it to --- okay. Well, Donald Moore specifically
13 mentions, I would say at least ten allegations of
14 Lorenzo Young having gang involvement, has
15 conversations where he actually says that he is a
16 higher ranking Bloods member. He talks about gang
17 banging and gang repercussions on the street, talks
18 about guns, talks about this Ale House lick not being
19 sanctioned by the Bloods. Alfred Wright, one of the
20 State's witnesses, had a conversation allegedly with
21 Lorenzo Young at the jail, states about being with the
22 Bloods.

23 Michael Schaefer also is a State's witness who
24 talks about this lick not being sanctioned by the
25 gang. Rolanda Coleman, a state witness, references

1 gangs and all interrogations with all witnesses or
2 with all defendants, Investigator McCoy, Investigator
3 Eunice, Investigator Reese, they all discuss gang
4 references in every single interview that is present
5 that we have. There is photos and pictures, videos
6 that the State may introduce with gang signs in them
7 of Lorenzo Young.

8 I would argue that this is --- firstly, we never
9 got any specific information with any gang ---

10 THE COURT: Let's see what they want to introduce
11 first and then we'll come back around.

12 Okay.

13 MS. CAMPBELL: Your Honor, do we agree with the
14 defense case as far as the defendants involved, is
15 riddled with gang information because all three were
16 members of the gang. However it's our understanding
17 of the elements of --- that this thing that not a gang
18 initiated thing. Therefore we do not feel like any
19 reference to the gangs should be included unless, of
20 course, they open the door in our case. Specifically
21 the two witnesses they talk about --- Mr. Shafer talks
22 about how Lorenzo Young tells him he is a gang member.
23 I believe he said is a Blood and Mr. Donald Moore, who
24 you've heard about, also references the defendants
25 being members of gangs. That's one reason for his

1 fear, which was expressed and you just heard about as
2 far as any retaliation in this case. As far as any
3 possible photos, Your Honor, and there are some videos
4 and stuff that you can get into later after you've
5 heard the defense motions as far as what we're trying
6 to introduce as far as --- well, I can get to that
7 later. We do not intend and we would caution --- we
8 would ask for a little latitude in leading our
9 witnesses through these areas to make sure they don't
10 mention the fact they are in gangs.

11 Remember however, they are going to go into the
12 fact that they were forthcoming or that they were
13 scared or other reasons that may open the door into
14 the reasons, the underlying reasons, why these people
15 were scared, but other than that, we do not intend to
16 offer any gang associations in our case in chief and
17 any photographs and things we intend to offer we would
18 argue before you before we would show them to the
19 jury.

20 MS. BAMBACH: Again, I --- for 404(b) and 403
21 this would be extremely improper character witness.
22 The two witnesses, Michael Schaefer and Donald Moore,
23 both say this was not sanctioned by the gang.

24 THE COURT: Well, I'm not going to let them
25 testify that.

1 MS. BAMBACH: This incident doesn't have anything
2 to with the gang and I don't know why ---

3 THE COURT: She just said ---

4 MS. BAMBACH: --- it's coming ---

5 THE COURT: She just said she is not introducing
6 any of that.

7 MS. BAMBACH: But being in fear for ---

8 THE COURT: Here is what I heard her say. If
9 this is not what you said, just tell me.

10 MS. CAMPBELL: Yes, sir.

11 THE COURT: What I heard Ms. Campbell just say is
12 that they're not going into anything about gangs.

13 MS. CAMPBELL: No, sir.

14 THE COURT: They have no intention of introducing
15 testimony about Mr. Young or Mr. Barnes being in a
16 gang and so therefore they're going to stay away from
17 that. Now, one thing that she asked for was a little
18 bit of latitude about leading with these witnesses
19 around this. They're not police officers, they're lay
20 witnesses. And the other thing --- and everybody has
21 got to be careful about this, but if the defense opens
22 the door to these issues, then you're going to be in a
23 different situation, so I'm not going to allow
24 anything in reference to gang activity in the State's
25 case in chief unless the door is opened by the defense

1 as to those issues.

2 MS. CAMPBELL: The only other thing I would
3 address or note, and I just got --- in scanning the
4 second page, she talks about how Donald Moore does
5 witness in the days leading up to this, a conversation
6 where the defendants are talking doing a lick. We
7 don't think the term "lick" is gang oriented. Simply
8 that means a robbery, on the street. We do not think
9 that we should be precluded from going into
10 Mr. Young's discussions of how they were going to do a
11 lick at the Ale House, which the business next door to
12 where this is and under the State's theory they went
13 to do the lick in the Ale House that night. It was
14 closed so they went to the bakery and that would be
15 under State v. Beck.

16 MS. BAMBACH: And in response the term "lick", I
17 don't have a problem with that being gang related.
18 However, I would argue that the planning of the lick
19 of the Ale House, they were obviously never charged
20 with this. There is no evidence of any attempt to do
21 this robbery of the Ale House on the surveillance
22 video that we have.

23 THE COURT: Wait, wait. We're on gang activity.

24 MS. BAMBACH: Oh, well, she was just saying about
25 the lick of the Ale House.

1 THE COURT: She said lick as a gang term.

2 MS. BAMBACH: I don't have a problem with lick as
3 the gang term.

4 THE COURT: So we're over the gang issue?

5 MS. BAMBACH: Yes.

6 THE COURT: Okay.

7 MS. BAMBACH: I was just using lick in the motion
8 because that's how everybody indicates --- references
9 the Ale House, the witnesses also on the Ale House.

10 THE COURT: Okay.

11 MS. CAMPBELL: I just wanted to be clear.

12 THE COURT: All right. Now, let's move on to
13 prior bad acts, pending burglary charges or any
14 uncharged alleged criminal act. Go ahead with that.

15 MS. BAMBACH: Your Honor, there are shall several
16 bad act allegations from several witnesses in this
17 case that would be pertaining to Mr. Young and
18 obviously I believe they would be extremely
19 prejudicial not probative and only going to improper
20 character evidence. They're all listed in my written
21 motion.

22 Again, there's allegations from Donald Moore
23 about guns, about are prior robberies, talking about
24 Lorenzo holding a gun. These are all prior. These
25 are not connected to this incident in any way.

1 Lorenzo does not have a criminal record, however
2 he have does have pending charges. I would ask that
3 none of those be allowed to get into.

4 None of these acts go to --- none of these are
5 connected at all whatsoever to the charges now. They
6 don't go to any exceptions. There would be no --- I
7 don't see them going to the motive. None of his prior
8 arrests would go to his motive. They're not
9 substantially similar in any way. They would just
10 obviously go to show improper character evidence in
11 this case.

12 There's some videos and pictures from Mr. Young's
13 phone that we believe the State will try to introduce
14 and again there's going to be an issue with a picture
15 of a gun, and again there is never a gun introduced
16 into evidence so I would ask to keep all references to
17 Mr. Young having a gun, at a prior time, being in
18 possession of a gun, anything and everything Donald
19 Moore is going to talk about pretty much it would be
20 about Lorenzo Young's alleged prior bad acts and I
21 don't believe that any of them go to motive, intent,
22 absence of mistake, common scheme or plan or identity.

23 THE COURT: Yes, ma'am.

24 MS. CAMPBELL: We aren't intending to go into any
25 of his pending charges that are unrelated to this,

1 Your Honor. He does have, I believe, three or four
2 sets of home invasions, a burglary first charge, and
3 other charges, robberies. We do not intend go into
4 any of those. However, Your Honor, as far as the
5 context of what led up to in the days prior and what
6 happened on this night, we are going into his
7 involvement, including his having a gun not only
8 through what Mr. Moore and we can proffer or give you
9 a statement about basically what Mr. Moore's
10 parameters of what he can testify to and in addition
11 to that, what's extremely important is when they got
12 Mr. Young's phone, they were able to do a dump
13 pursuant to a search warrant.

14 At that time, there are several videos, Your
15 Honor, of these defendants having guns. We would only
16 be intending to offer evidence from those videos and
17 we've done some still shots, Your Honor, because it
18 would be problematic with the videos, which we would
19 provide you at the proper time, that show him actually
20 holding the type of gun that was used in this crime.
21 It talks about, I think in one video he is talking
22 about how he has this Glock, things of that nature.
23 We do understand that we would want to somehow
24 sanitize those down. We have elicited some still
25 shots, Your Honor, that might also aid the Court in

1 that --- but purposes of showing whether or not he has
2 a gun, I think it's extremely important.

3 In addition to that, Mr. Young's girlfriend
4 Rolanda Coleman, gives a statement, Your Honor. She
5 also talks about how he has the gun before and after,
6 just immediately after this crime, and how it
7 disappears, so as far as that evidence goes, we are
8 not going into any of his other armed robberies, any
9 of his other burglaries, any of his other kidnapping
10 or any of those charges or assaults, but we are going
11 to go into his having a gun at and around the time, as
12 long as we can link it up, to this crime just in the
13 same way we'll go into what clothing he was wearing.
14 It's the same type of evidence that we will be going
15 into.

16 THE COURT: All right.

17 MS. BAMBACH: In response to the videos and the
18 pictures with the guns, these are days before the
19 shooting. This is not the day of. Donald Moore
20 states of seeing Lorenzo with a 40 and the gun that
21 Lorenzo Young is alleged to have used in this is a 45
22 Glock. Also, regarding Ms. Coleman, she states in her
23 statement, her interview that she doesn't know what
24 type of gun it is, just based on anything, she --- I
25 don't know how she would be able to link that gun to

1 this crime, regarding the gun.

2 Regarding videos and the pictures, they are ---
3 with the guns are days before this. They're not from
4 the day of. Donald Moore states that it's a 40, and
5 he is a self-proclaimed higher ranking gang member so
6 he knows his guns and I would just argue that I don't
7 believe any of that is proper at all. There is no gun
8 in evidence. There was no gun ever found. There is
9 no gun even to be compared to.

10 There are several manufactures that make the same
11 type of gun, the 45 Glock, the same type of bullets
12 and I just don't believe that any of the prior videos
13 or pictures from his phone should be able to connect
14 him to this crime.

15 MS. CAMPBELL: And, Your Honor, we would ask for
16 the Court's permission, perhaps we can submit the
17 videos, as well as the stills for your review prior to
18 finalizing this argument because I think we also have
19 had the video reviewed by a firearms expert at SLED as
20 far as the type of guns that were used in this. We
21 also have identifying people --- people able to
22 identify the people on the videos, including mostly
23 Mr. Lorenzo Young and it is his phone that these are.

24 Now in the videos, Your Honor, and we've narrowed
25 it down. There are other videos with other guns, but

1 we've narrowed it down to two or three that we think
2 are relevant as far as the type of gun that was used
3 in this case. We are aware, Your Honor, just so you
4 will be prepared, during the course of these videos
5 Mr. Young is on there pointing the gun at people
6 talking about who he is going to kill, not mentioning
7 the lady that got killed in this case, but other
8 people. We concede that we don't think that would be
9 admissible. That's why we have tried to find a way to
10 submit this information without bringing out the gang
11 affiliation, number one, and number two the fact that
12 he is talking killing multiple people and who he is
13 going to shoot. He's got a 30 --- he puts in like a
14 30 clip and they talk --- he and the codefendants on
15 the video, talk about these things.

16 THE COURT: All right. Let me see all that stuff
17 so I can look at it when I analyze this part of the
18 motion.

19 And I need some kind of summary of what Mr. Moore
20 and what Ms. Coleman would potentially testify to.

21 MS. CAMPBELL: I can get that to you tomorrow or
22 today.

23 THE COURT: Monday is fine.

24 MS. BAMBACH: Your Honor, I haven't seen any
25 videos where Mr. Young is threatening to kill anyone.

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

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

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

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

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

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

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

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

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

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

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

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

20 THE COURT: Okay.

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

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

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

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

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

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

1 and improper character evidence and not be admissible.

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

4 THE COURT: All right. Next.

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

12 . As, Your Honor, previously heard ---

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

16 MR. KRZYSTON: Certainly.

17 THE COURT: We have the crime scene.

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

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

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

23 THE COURT: And then you have Bronx Road.

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

1 MR. KRZYSTON:

2 THE COURT: And there's photos from where the
3 search warrant was executed?

4 MR. KRZYSTON: Correct, Your Honor.

5 THE COURT: What's next?

6 MS. CAMPBELL: There's Lucille Drive, which is
7 Defendant Barnes' and Stevenson's residence.

8 THE COURT: And the search warrant was executed
9 there, correct?

10 MS. CAMPBELL: Yes, sir.

11 THE COURT: Okay.

12 MS. CAMPBELL: And then finally the autopsy, as
13 well as --- I'm not including the phone dump photos.

14 THE COURT: Okay.

15 MS. CAMPBELL: Those are the videos and photos
16 are separate.

17 THE COURT: I just want to make sure I knew which
18 group you were talking about.

19 MR. KRZYSTON: Certainly, Your Honor.

20 THE COURT: I didn't mean to interrupt you.

21 MR. KRZYSTON: No, no.

22 THE COURT: Go ahead.

23 MR. KRZYSTON: I think the immediate grouping of
24 photographs that we can deal are the photographs from
25

1 THE COURT: Okay.

2 MR. KRZYSTON: We object to the entry of these
3 photographs insofar as we objected to the search
4 warrant. We believe the search warrant is void on its
5 face. Based on that we would move to exclude those
6 photographs.

7 THE COURT: Well, if the search warrant is out,
8 the photos are out.

9 MR. KRZYSTON: Correct.

10 THE COURT: Okay.

11 THE COURT: I agree with that principle of law.

12 MR. KRZYSTON: Thank you, Judge. The next
13 grouping of photographs, I believe that we should take
14 up --- I don't believe we have any objection to the
15 Lucille Drive photographs. I don't think we have a
16 constitutional standing to object to that warrant.

17 With regard to the autopsy photos, we would
18 object to any entry of autopsy photos. State v.
19 Collins provides that autopsy photos should only be
20 entered where it's necessary for an expert to explain
21 a material element of a crime. In Collins it --- the
22 case concerns death by dog mauling. The decedent in
23 that case ---

24 THE COURT: Are you talking about the new case on
25 that or the old one?

1 MR. KRZYSTON: I believe the new one that was
2 just decided by the ---

3 THE COURT: The new one that said all photos are
4 admissible?

5 MS. CAMPBELL: Yes.

6 MR. KRZYSTON: I believe it's still
7 discretionary, Judge. I believe that the reason
8 Collins --- the court in Collins allowed those
9 photographs, was because they went towards proving a
10 material element of the crime and they survived
11 obviously the 403 analysis. In Collins the defendant
12 responded, I believe --- the respondent objected to
13 those photographs because he felt they were overly
14 prejudicial, and I believe the court originally sent
15 those photographs --- said those photographs should
16 not be admitted. The Supreme Court then reversed the
17 decision based on the fact that in Collins the
18 introduction of the photographs was designed to aid an
19 expert in helping the State establish a material
20 element of the crime. In Collins, again, the decedent
21 perished from a dog attack. The autopsy photos were
22 offered by the state in an effort to help the expert
23 on the stand, the medical examiner, explain to the
24 jury a material element in actually the keeping of a
25 dangerous animal, on statute of ---

1 THE COURT: I'm very familiar with the case.

2 MR. KRZYSTON: Here in the ---

3 THE COURT: Let's do this. I think the only
4 way --- this is how I would prefer to deal with the
5 autopsy photos, and I'm going to let you make your
6 argument, but I think it will make more sense to me if
7 we do it this way.

8 Number one, the State figures out what autopsy
9 photos they intend on introducing so we're not talking
10 about photos they don't want to introduce, but number
11 two, I think, you know, if they're going to make the
12 argument that the doctor needs it, then I'm going to
13 need to hear from her why she needs it. Then I'll let
14 you come back and ---

15 MR. KRZYSTON: Sure.

16 THE COURT: --- And flesh all that out based on
17 what she says or doesn't say based upon that. Does
18 that make sense?

19 MR. KRZYSTON: Certainly, Judge.

20 THE COURT: So do you have the autopsy photos?

21 MS. McDUFFIE: Yes, Your Honor, and we've
22 actually --- there are a number of autopsy photos that
23 were originally taken. Dr. Durso, we've spoken with
24 her and she has reviewed all of those photographs and
25 chosen one, two, three, four, five of the photographs

1 that would be necessary to her testimony and
2 definitely assist her.

3 THE COURT: Have you seen which five those are?

4 MS. McDUFFIE: I have shown them.

5 THE COURT: Let's go ahead and get those five
6 marked.

7 MR. SCHNEE: I have not seen these.

8 THE COURT: Give them to Mr. Schnee.

9 MR. SCHNEE: I haven't seen any of the photos. I
10 mean, I've seen the photos, I just don't know what
11 they planned on using.

12 THE COURT: Okay.

13 MS. McDUFFIE: Your Honor, it's my understanding
14 that the defense for Mr. Young only has objections, I
15 believe, to four of the photos, not all five.

16 MR. KRZYSTON: Of the autopsy?

17 MS. McDUFFIE: One of them ---

18 MR. KRZYSTON: Okay, yeah.

19 MS. McDUFFIE: Yeah, and if we want to go ahead
20 we can mark those we can or if not at later time.

21 THE COURT: All right. Let's go ahead and mark
22 those.

23 (WHEREUPON, State's Exhibit Numbers 3 - 7
24 were marked for identification only.)

25 MS. McDUFFIE: Your Honor, I'll hand you what's

1 been premarked as State's 3, 4, 5, 6, and 7. And I
2 believe, as I said, that defense counsel does not have
3 an objection to State's exhibit 7, and I'm not sure
4 about ---

5 MR. SCHNEE: What was 7?

6 MS. MCDUFFIE: The projectile.

7 MR. SCHNEE: Okay. I have no objection to that
8 one.

9 MS. MCDUFFIE: What about the other four?

10 MR. SCHNEE: There is one that shows I believe a
11 bullet entrance wound. Which one is that?

12 MS. MCDUFFIE: This one?

13 MR. SCHNEE: No, that's the one. Not --- yeah,
14 that's --- it's the other three. I don't understand
15 what the purpose is.

16 MS. MCDUFFIE: I believe they are reconsidering
17 their objection so I'll let defense counsel address
18 that.

19 THE COURT: Which one do you object to?

20 MR. SCHNEE: Number 6 is a bullet entrance wound.
21 I do not object to that as long as it's just limited
22 to that photo and not multiple types of photos like
23 that. Number 7 is a projectile that looks like it's
24 on a piece of carpet. No objection there. The other
25 three ---

1 THE COURT: Hold on. Hold on.

2 MR. SCHNEE: I'm sorry, I'm talking too quickly.

3 THE COURT: The other three you do object to?

4 MR. SCHNEE: I do, and ---

5 THE COURT: You don't need to come back to the
6 reason. I just need to know so I can review them and
7 then determine whether or not we need Durso's
8 testimony to talk through them.

9 MR. SCHNEE: Okay.

10 THE COURT: I just need to know what I need to
11 focus on.

12 MR. SCHNEE: Sure, but I would just like to be
13 very brief about it. I don't know why the State wants
14 to use them. I guess that's part of the problem.

15 THE COURT: Okay. Where are you on number 6?

16 MR. KRZYSTON: Judge, we're prepared to withdraw
17 the objection on number 6.

18 THE COURT: Okay. So no objection by either
19 defendant pursuant to the proper foundation, of
20 course, as to State's Exhibit Number 6 or State's
21 Exhibit Number 7. Both defense counsels are objecting
22 to State's Exhibits 3, 4, and 5. I'm going to review
23 these when I get a chance and then I'll report back to
24 everybody whether --- or if we need to schedule a time
25 to get Dr. Durso up here or we just do it during the

1 trial due to her schedule to make certain --- you all
2 aren't cut off from making any legal arguments. I'll
3 let you make whatever arguments you need to on those
4 at that time.

5 Okay. So as to crime scene photos.

6 MR. KRZYSTON: As to crime scene photos, Judge,
7 we're arguing that they will not survive the 403
8 analysis. Obviously that they are unduly prejudicial
9 and substantially --- they do not substantially
10 outweigh the danger of unfair prejudice, Judge.
11 Additionally, I would add that I suspect, and again
12 this is speculation, but I do suspect that these will
13 become cumulative evidence. I know that there is a
14 video recording of the incident in question that
15 actually gave rise to the allegations. I would expect
16 the State to play that video.

17 In the event they do play that video, I believe
18 that first off the photographs would be cumulative.
19 Second, if they are cumulative and even if they
20 aren't, but especially if they are cumulative, they
21 only serve to prejudice the jury. Certainly they will
22 see the actions that gave rise to the allegation in
23 first person. They will see the natural state in
24 which the decedent fell. I don't believe there is any
25 probative value to additional pictures which show the

1 decedent on the ground in a pool of blood.

2 I think those photographs are specifically
3 calculated to arouse the sympathy and prejudice of the
4 jury members.

5 THE COURT: Okay. So, let's start with this
6 question: Does the State intend on introducing the
7 video?

8 MS. CAMPBELL: Yes, sir.

9 THE COURT: Okay. And have you narrowed down
10 what crime scene photos?

11 MS. CAMPBELL: Yes, sir, I've been able to show
12 those to Mr. Young's counsel. I don't think
13 Mr. Schnee had an opportunity to see these yet.

14 MR. SCHNEE: No, I have not.

15 THE COURT: Okay. So let's do this. Make sure
16 Mr. Krzyston and Mr. Schnee see which crime scene
17 photos the State intends on introducing and then get
18 Karen to mark those and then get me the photos and get
19 me the video.

20 MS. CAMPBELL: Yes, sir.

21 THE COURT: I want to be able to look at both so
22 I can understand your cumulative argument.

23 MR. KRZYSTON: Certainly.

24 THE COURT: I have not seen the video at all, so
25 I don't want to be making that decision in a vacuum.

1 I want to be able to look at the video, see what's on
2 the video and look at the photos to compare and
3 contrast, so as not only to understand the 403
4 argument, but also to look at the cumulative part of
5 that 403 analysis.

6 MR. KRZYSTON: Judge, I have an additional, I
7 guess you would say, an additional grouping of
8 photographs, if you will.

9 THE COURT: Okay.

10 MR. KRZYSTON: When they obtained the video from
11 93 Tommy Circle, I believe they had it doctored by the
12 Lexington County Sheriff's Department to kind of clean
13 up the video. You know how these things have a little
14 static every now and then. In the process of doing
15 that the Lexington County Sheriff's Department
16 actually developed still images from the video itself,
17 so in discovery there are a volume of images that are
18 generated from the actual doctored video itself. We
19 would obviously object to pictures and stills of the
20 decedent insofar as it's consistent with our objection
21 to, you know, related to the crime scene photos, as
22 well, as the autopsy. Again, my arguments are going
23 to be based on 403.

24 THE COURT: Let's figure out exactly what you
25 want to introduce. Get them marked as State's

1 Exhibits and then make sure the defense knows which
2 ones they are, and then give me the video that you
3 intend on introducing and the images.

4 MR. KRZYSTON: Essentially the same issue. I
5 just wanted to ---

6 THE COURT: Right. I understand.

7 MS. CAMPBELL: And, Your Honor, I want to
8 clarify, too. They told us --- my understanding was
9 they were objecting to the ones that display the
10 victim's body, because that can narrow it down.

11 MR. KRZYSTON: Right. And I don't mean to
12 broaden my objection. It's completely in line with
13 what we're ---

14 THE COURT: Okay. Your issue is one that shows
15 the victim ---

16 MS. CAMPBELL: There at the scene.

17 THE COURT: Correct.

18 MR. KRZYSTON: Correct.

19 THE COURT: Deceased.

20 MS. CAMPBELL: Correct. I assume Mr. Schnee ---
21 and I don't mean to put words in your mouth.

22 MR. SCHNEE: Judge, actually, I would like to
23 inquire as to which version of the video. We have the
24 original raw footage from four separate cameras. We
25 have a compilation that he was done, I believe, by the

1 Columbia police department that only shows the
2 movement throughout the different cameras, and then
3 there was the private investigating firm that Troy
4 Stevenson actually hired and all four images are time
5 synched and put onto one master image. I'd ask which
6 one they're going to use.

7 THE COURT: I have no idea.

8 MS. CAMPBELL: We'll be glad to provide you with
9 all of them, so as not to spend a lengthy amount of
10 time on it.

11 THE COURT: Okay.

12 MS. CAMPBELL: It takes place quickly so we'll
13 get you all of it so you can determine whichever one
14 you want to.

15 THE COURT: Great.

16 MS. CAMPBELL: Not that we would be introducing
17 all three, but that would perhaps help narrow down.

18 MR. KRZYSTON: And the risk of sounding
19 complicit, I'm obviously going to have an objection to
20 the same material as --- the third party video that
21 was doctored or cleaned up by sheriff investigators,
22 as well.

23 THE COURT: All right. Anything else on
24 Mr. Young?

25 MR. KRZYSTON: I believe that's all for us as far

1 as pretrial is concerned, Your Honor.

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

3 Mr. Barnes.

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

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

11 THE COURT: Yes.

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

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

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

1 an interview that we have never heard.

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

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

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

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

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

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

8 MS. GARFIELD: Yes, sir.

9 MR. SCHNEE: Okay. I maybe misunderstood.

10 THE COURT: Okay.

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

13 THE COURT: What is this for?

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

17 THE COURT: All right.

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

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

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

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

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

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

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

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

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

25 MS. GARFIELD: No, sir.

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

3 MR. SCHNEE: Yes, Your Honor.

4 THE COURT: Okay.

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

17 THE COURT: 307 what?

18 MS. McDUFFIE: South Carolina 458.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5 THE COURT: My question.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17 THE COURT: Has that interview been turned over?

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

20 THE COURT: Okay.

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

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

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

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

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

5 THE COURT: Okay.

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

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

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

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

15 MR. SCHNEE: All right.

16 (WHEREUPON, a short break was taken.)

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

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

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

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

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

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

1 with that.

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

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

23 THE COURT: Okay.

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

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

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

8 MR. SCHNEE: But the problem ---

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

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

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

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

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

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

24 MS. GARFIELD: Yes, sir.

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

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

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

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

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

10 THE COURT: So what's not true?

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

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

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

19 THE COURT: Okay.

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

1 all new to us Monday morning, which is why we had
2 frantically had people listening to it to tell us what
3 was on it. As far as Investigator Streater having
4 known about it, if he had known about it and we had
5 all known about it, I don't know why we would have
6 turned over all this new information about Donald
7 Moore having the guns when Mr. Schnee says it was in
8 that interview. It would have been new. Ms. Simpson
9 has the CD that Mr. Streater used when he met with
10 Mr. Stevenson last week. That interview is not on it
11 because we did not have it.

12 THE COURT: So the State's premise is that
13 Ms. Zmroczek's affidavit is a misrepresentation to the
14 court?

15 MS. GARFIELD: We've never seen it.

16 THE COURT: Give it to them.

17 MR. SCHNEE: It's not signed.

18 MS. GARFIELD: It's not signed, Judge.

19 MR. SCHNEE: It's an email that confirms her
20 statement. You can talk to her, you can bring her in
21 when she is actually healthy enough and not
22 contagious.

23 MS. GARFIELD: So did she personally appear
24 before you?

25 MR. SCHNEE: I personally spoke her over the

1 phone and by email as to the content of --- that all
2 statements in here are ---

3 THE COURT: You've got to be kidding me,
4 Mr. Schnee.

5 MR. SCHNEE: Like I said, she is out sick. I'm
6 happy to have her --- she is available and willing to
7 come testify any time when she is not ---

8 THE COURT: Don't ever say to the word affidavit
9 to this court, ever, ever unless it is a real
10 affidavit in compliance with the South Carolina rules
11 of court. Do you understand me?

12 MR. SCHNEE: I understand that.

13 THE COURT: Okay. That's not an affidavit.

14 MR. SCHNEE: This is a statement that Amy
15 Zmroczek says is her statement.

16 THE COURT: Okay. That's fine.

17 MR. SCHNEE: Okay.

18 THE COURT: But it is not an affidavit.

19 MR. SCHNEE: Okay. I would like to present, Your
20 Honor ---

21 THE COURT: Because if it is an affidavit and it
22 contains a material misrepresentation, we have a major
23 problem. Do you understand the difference?

24 MR. SCHNEE: I do understand that. I also do
25 have an actual affidavit that is signed and notarized

1 by Anna Good, and I would like to be present that as
2 well.

3 THE COURT: All right. Let the solicitor's
4 office see it.

5 MR. SCHNEE: Anna Good, as I said, is the
6 attorney for Donald Moore. Her statement in her
7 affidavit specifically says that Cambo Streater was
8 told by Donald Moore that he lied about something in
9 his prior interview with the Columbia Police
10 Department. That was never disclosed to us. It's
11 also my understanding that Investigator Streater never
12 bothered to ask what the lie was, so we don't actually
13 know what the lie is, but we know that Donald Moore
14 lied about something involving his prior interview.
15 Again, that was not disclosed as of last Thursday.
16 The statement says that Donald Moore is the exact same
17 as his prior testimony.

18 MS. GARFIELD: Which we have maintained all along
19 is the contents, and all of his statements are
20 consistent.

21 MR. SCHNEE: Except apparently he says he has
22 lied to the Columbia Police Department about something
23 in his last recorded conversation.

24 MS. GARFIELD: I'm sorry. I'm referring to Troy
25 Stevenson. Troy Stevenson. As far as Ms. Good is

1 concerned, the first I heard of this is when Ms. Good
2 contacted me yesterday to give me a heads-up, saying
3 that she was going to Mark Schnee's law office to sign
4 such affidavit. I met with Ms. Good on Monday morning
5 prior to jury selection. We discussed scheduling, and
6 she had some issues with picking up her children on
7 Tuesday. She was going to reschedule that so that she
8 would be available because we anticipated calling her
9 at that time. At no time did she disclose any
10 information concerning a lie to us, and I believe ---
11 obviously we always consult and expect attorneys who
12 are representing anyone that is testifying to provide
13 us information that we believe should be disclosed.

14 THE COURT: Well, that may be true, Ms. Garfield.
15 However if an investigator to the solicitor's office
16 is told by a witness in the trial that he lied to
17 somebody that also has an obligation to be turned
18 over.

19 MS. GARFIELD: At this point I'm going to turn it
20 over to Joanna because she --- I felt like --- I
21 didn't want to be a witness. She did, she went and
22 she spoke to Investigator Streater concerning these
23 allegations.

24 MS. McDUFFIE: Your Honor, Investigator Streater
25 is here. He is available to testify about the

1 substance to the court. What he informed me is that
2 he went in to interview Ms. Good's client, Mr. Moore.
3 They went to one of the offices on the fourth floor.
4 He had some trouble playing the audio for Mr. Moore,
5 so he got another investigator in the office, Nicole
6 Bryan to assist in that. She sat in for the remainder
7 of the interview with Ms. Good.

8 Mr. Streater and Mr. Moore --- basically Mr.
9 Moore did not feel like talking. They played most of
10 the lengthy interview. At some point Anna said, you
11 know, I think he has heard enough and stopped it and
12 said he didn't need to hear anymore. Mr. Streater
13 then asked Mr. Moore, you know, when you're called to
14 testify, is your testimony going to be consistent with
15 that statement and Mr. Moore gestured yes to him with
16 his head and his mouth and made a emotion yes.

17 Mr. Streater then asked him do you have any
18 questions you want to ask of us and he said no and
19 then Ms. Good indicated they needed a minute and
20 Mr. Streater and Ms. Bryan left the office and allowed
21 the two of them to talk privately and then Ms. Good
22 and her client left. They also told me that several
23 times during --- while he was listening to the audio,
24 while Mr. Moore was listening to the audio, Ms. Good
25 asked them to leave so she could talk to her client.

1 privately, which they did. At no point did Cambo ever
2 hear him say that he lied about something.

3 Your Honor, if he had heard him say he lied about
4 something, the next question would have been what and
5 there's no --- I mean, it just doesn't make sense.

6 Your Honor, also I talked to Ms. Nicole Bryan.
7 She's not here. She is in Texas. Her daughter is
8 graduating from basic training but should Your Honor
9 want to hear Mr. Streater's testimony, he is
10 available.

11 THE COURT: All right. All right. Let's move on
12 to your next motion. I'm coming back to that one.

13 MR. SCHNEE: Yes, Your Honor. Judge, I think
14 I'll skip any other Brady and Rule 5 issues at this
15 point.

16 My next motion I'm going to move yet again for a
17 continuance based on the length of time it has taken
18 me to go through the Troy Stevenson interview. I
19 haven't even begun to listen to Lorenzo Young's
20 extended interview. I still haven't gone through all
21 of Isaiah Burns' interview either because I'm now
22 having to go back and relisten to every witness's
23 prior statement and compare it. It's not simply a
24 matter of did I not write anything down or not pay
25 attention the first time, months ago.

1 The problem I have now is because of how much
2 Troy Stevenson has added, now lots of things I'm
3 finding in other witness's statements are
4 contradictory. I don't believe I can fully
5 investigate all of these audio recordings, dealing
6 with all the differences in the next week and a half,
7 and I don't think it's appropriate particularly since
8 all of disclosures are their responsibility, so I'm
9 asking for a continuance past the 10th.

10 THE COURT: Okay. Next motion?

11 MR. SCHNEE: I would at this time move to reveal
12 the deal, if there is any deal, with Troy Stevenson or
13 any other witness with their testimony.

14 MS. GARFIELD: There's been no offers.

15 MR. SCHNEE: Or attempted offers or anything like
16 that.

17 MS. GARFIELD: There's been no offers.

18 THE COURT: To any witness?

19 MS. GARFIELD: No, sir.

20 THE COURT: Okay.

21 MS. GARFIELD: The only offer that's been
22 extended in this case was to Mr. Young, which he
23 rejected.

24 THE COURT: All right.

25 MR. SCHNEE: Okay, Judge, I believe it was some

1 time last week, maybe the week before. I obviously
2 don't recall, the State turned over a final jail phone
3 call from my client. I'm really not sure when it was
4 turned over. It's a standard eight or nine or so
5 minute jail phone call. It's between my client and
6 his mother. They are talking about a lot of different
7 things. The only thing I can assume that the State
8 wants to use it for is because my client says
9 something about the letter that was written that Your
10 Honor is aware of. All the rest of the content is
11 where they're talking about a lot of crimes, a lot of
12 other people committing crimes. I don't know if they
13 even intend on using it, but if they do, I would ask
14 that everything be redacted other than the point of,
15 yes, this letter that I sent you. I think that was
16 something along the lines of the State.

17 THE COURT: What about that?

18 MS. SIMPSON: Your Honor, with respect to that
19 call, that was the primary reason there was also a
20 handwriting exemplar taken in this case and subsequent
21 to that hearing, this jail call was made. That would
22 be our primary purpose for offering it. Should we
23 actually play the recording, we will redact anything
24 and go over the redactions, go over those with the
25 defense prior to introducing it.

1 THE COURT: Okay. Next.

2 MR. SCHNEE: Judge, if there are other jail calls
3 they plan on using, I would ask obviously the same, if
4 they play whatever portion.

5 THE COURT: Are there other jail calls as to
6 Mr. Barnes?

7 MS. GARFIELD: None that have been made as of
8 today.

9 THE COURT: Okay..

10 MR. SCHNEE: I only ask because we did receive a
11 lot of jail calls originally in discovery, so I'm just
12 making sure. If they're not using them that's fine.

13 My next motion is dismiss indictment number
14 2014-GS-40-757. That charge is a common law
15 conspiracy case. Judge, the basis of my motion is
16 section 69-19-1210. That would be the transfer of
17 jurisdiction from the family court to General
18 Sessions. My client at the time was 16 years of age.
19 That would be under subsection 4, I think. I'm sorry.

20 Well, it's in that statute. I'm looking for the
21 right section in there. Anyway, my client was 16
22 years of age. This is not a felony. It does not ---
23 it's not an A, B, or C felony. It does not carry 15
24 years or more. This court has no jurisdiction to hear
25 anything on these charges. It has to go through the

1 family court first. There was never a waiver hearing,
2 and I ask that Your Honor dismiss the indictment
3 itself with prejudice pursuant to the lack of
4 jurisdiction.

5 THE COURT: What was the statute number you said?

6 MR. SCHNEE: 63-19-1210.

7 MS. GARFIELD: Your Honor, I agree with his
8 analysis this court does not have jurisdiction. It
9 will be remanded to the court of family court. We
10 instructed Mr. Schnee Monday morning that we would not
11 be proceeding on this charge.

12 MR. SCHNEE: And, she did say they were not
13 proceeding on it, but I would like it officially
14 dismissed on the record.

15 MS. GARFIELD: I have believe the statute
16 requires us to remand it.

17 MR. SCHNEE: Remanding it is fine.

18 THE COURT: Okay. Next.

19 MR. SCHNEE: Judge, I do have a written motion
20 that I handed up dealing with the photograph issues,
21 but I think Your Honor has essentially ruled on that.

22 THE COURT: I haven't ruled on that. We'll
23 circle back around to the photos.

24 MR. SCHNEE: Settle the record of all witnesses
25 and the defendants. We think we've also --- we now

1 have those rap sheets, so we can discuss it with the
2 State and see if there are any points of contention on
3 that.

4 MS. McDUFFIE: We just need to get a copy of
5 those motions.

6 MR. SCHNEE: Certainly, I gave you ---

7 MS. McDUFFIE: I know earlier today you said you
8 had some additional motions.

9 MR. SCHNEE: I had all the copies, so I handed
10 them to someone.

11 MS. McDUFFIE: We can...

12 MR. SCHNEE: Well. That's fine.

13 Judge, especially if Your Honor is still
14 considering the severance, I would of course, make the
15 same motion regarding gang activity and any testimony
16 regarding that. I think that's already been dealt
17 with by consent by the State. I just want to put it
18 on the record there is a written motion as well as a
19 memorandum with it.

20 My next motions would be a motion to prevent
21 visible shackling of my client in front of the jury.
22 Deck v. Missouri is clear and on point on this. It's
23 a U.S. Supreme Court case that says absent any
24 specific acts that my client has committed, either in
25 the courtroom involved in this case in the past or any

1 specific --- anything that can be shown that my client
2 would be a trouble to have in the courtroom, there is
3 no absolutely no way the jury can see my client in
4 shackles.

5 And I think that we all know this --- and I have
6 two issues that I want to raise, first is when the
7 jury is being brought in for selection. As their
8 coming down through those doors and my client is
9 sitting down with his back to them, the jurors can see
10 underneath the table and see his shackles. I know
11 that because I was on a jury pool a year or two ago
12 and I could see the under the table and I could see
13 the shackles.

14 THE COURT: Did they put you on a jury?

15 MR. SCHNEE: No, they did not. They struck me.

16 THE COURT: Okay.

17 MR. SCHNEE: I did want to mention that --- for
18 during jury selection.

19 THE COURT: Which table are you referring to?

20 MR. SCHNEE: That would be this table over here.

21 THE COURT: The one with all the wood underneath
22 it?

23 MR. SCHNEE: The wood underneath it is --- the
24 problem is when they're walking in and there's nothing
25 blocking the back view.

1 THE COURT: Okay.

2 MR. SCHNEE: I'm just saying I personally saw the
3 shackles so I'm asking that they not be on during jury
4 selection.

5 THE COURT: Okay.

6 MR. SCHNEE: Likewise, if my client testifies,
7 I'd ask he be treated like any other witness, walk up
8 to the witness stand, testify and then walk back to
9 his seat.

10 THE COURT: What else? What are you standing up
11 for?

12 MR. KRYZYSTON: I would join in that motion, Your
13 Honor, and ask to have Mr. Young unshackled during
14 selection, as well.

15 THE COURT: Okay. Keep going.

16 MR. SCHNEE: I think the only other motion that
17 we can address at this point is dealing with the
18 Belcher case in terms of implied malice from the use
19 of a firearm. Obviously that's something that the
20 State is going to try to prove, but obviously has not
21 even remotely proven yet. I would ask you're your
22 Honor prohibit them from arguing anything about that
23 in opening and depending on what happens during the
24 trial, but also potentially closing. Certainly in
25 opening statements I would ask that they exclude it

1 since they haven't proven any of that yet.

2 THE COURT: What's your intentions in regards to
3 that?

4 MS. GARFIELD: That will not be mentioned in
5 opening, Judge.

6 THE COURT: Okay. Do you have shock belts?

7 THE DEPUTY: I think we have one.

8 THE COURT: You have one.

9 THE DEPUTY: We have not used it in years because
10 of prior ruling from Judge Cooper.

11 THE COURT: Can I pick the deputy to test it out?
12 At least everybody's going to stay awake.

13 All right. I'll think about that. All right.
14 Now is this table the one that's open, the one closer
15 closest to the bench?

16 MR. SCHNEE: Yes, sir.

17 THE COURT: What did we do about that the in that
18 last trial. I can't remember.

19 MS. PINNOCK: You ordered that they switch it.

20 THE COURT: They moved the clerk's table over
21 there?

22 MS. PINNOCK: Yes.

23 THE COURT: All right. What else, Mr. Schnee?

24 MR. SCHNEE: Judge, I think that's it at this
25 time other than the any other remaining Brady issues.

1 THE COURT: Okay. Do you want to go through the
2 rest of these Brady issues that you've listed?

3 MR. SCHNEE: Well, Judge I'm still interested in
4 questioning witnesses as to what was turned over and
5 what was said.

6 THE COURT: Why don't you keep going through your
7 Brady issues and then we'll come back to who you get
8 to question.

9 MR. SCHNEE: Well, Judge, do you want me to
10 address what I believe are the Brady problems or what
11 I ---

12 THE COURT: The motion to compel complete Crime
13 Stoppers information.

14 MR. SCHNEE: Okay. Judge, there's a --- in terms
15 of the Crime Stoppers, I know that Young's lawyers had
16 filed a motion. Your Honor had reviewed some Crime
17 Stoppers information. We had been provided a summary
18 of some Crime Stoppers tips. In the recorded
19 interview since then, I have relisted to one by a Mary
20 Brown. She was just a general witness that had a
21 phone recorded conversation with the police and she
22 indicated she was one of the people that called Crime
23 Stoppers and what she told them. Based on what she
24 told them I looked at the actually tips that we
25 received and it doesn't appear that that tip was given

1 to us, so I'm asking to get a more complete copy of
2 all the Crime Stoppers tips they do have, including
3 any of the people they actually talked to. I would
4 like to know their names, their contact information,
5 many of these people were actually interviewed. Some
6 of them have been shown lineups. The very first one
7 even indicates in Crime Stoppers and in the summary
8 that one of the police investigators went and talked
9 to this person and showed them lineups. I can only
10 assume that would be Donald Moore, but I don't know.
11 I would ask for all Crime Stoppers to be given
12 pursuant to the statute and Rule 5.

13 THE COURT: Do you have any Crime Stoppers
14 reports other than the ones that I have looked at?

15 MS. SIMPSON: No, Your Honor, those were the only
16 tips that were provided and that law enforcement has.

17 MR. KRZYSTON: Judge, I apologize, but I forget
18 to raise this during our portion of the hearing. I
19 don't believe Your Honor actually ever ruled on the
20 record as to my motion to compel which was held about
21 a month ago between Ms. Simpson and myself. I would
22 just ask that Your Honor make his ruling official for
23 our purposes.

24 THE COURT: All right. So I reviewed the actual
25 Crime Stoppers tips that were provided to me by the

1 solicitor's office, and I feel reviewed the summary of
2 the tips that the solicitor's office has provided to
3 defense and this counsel and pursuant to the law in
4 regarding to Crime Stoppers tips, the summaries are
5 completely and totally appropriate and that's all that
6 has to be turned over. Now, if there are any
7 additional Crime Stoppers tips that are known to law
8 enforcement or the solicitor's office about this case,
9 then they need to provide those to me and their
10 potential use in the summary.

11 MR. KRZYSTON: Thank you, Judge.

12 MR. SCHNEE: Judge, I would just ask that if
13 anyone from law enforcement interviewed any of those
14 people, that I'm not aware of, then they should turn
15 over that information from the interviews.

16 THE COURT: I reviewed the Crime Stoppers tips.
17 There was some information in the Crime Stoppers tips
18 that was not originally turned over, and I am sure in
19 the summary that was turned over that that additional
20 information was in there. There is nothing else in
21 the Crime Stoppers that is relevant to the case or
22 exculpatory to the case in any way, shape, or form.
23 I've looked at them with my own eyes myself.

24 MR. SCHNEE: Okay. Thank you, Your Honor.

25 MR. KRZYSTON: Thank you, Your Honor.

1 MR. SCHNEE: My next motion is to compel the
2 Federal 302's. We were given Federal investigations
3 that have since been redacted by the State of South
4 Carolina. We were given it for two witnesses and only
5 two witnesses. When I met with Ms. Simpson a couple
6 weeks ago, she indicated that there were quite a few
7 different witnesses that they were going to be
8 providing.

9 They have since provided --- they have not
10 provided those documents though. What I have is
11 something from Walters, which I know the State has
12 said they're not using as a witness and then I have a
13 separate interview with Darryl Alston. However, based
14 on the recordings that we were given on Sunday,
15 Michael Schaefer was also interviewed --- I'm sorry.
16 He was also interviewed by the federal government. He
17 mentions that. I would inquire if there is a federal
18 interview on Michael Schaefer.

19 Additionally, we have handwritten letters from
20 Thomas O'Brien Williams, who I know has given federal
21 proffers because I have represented him on the state
22 charges. I don't know if the State is going to be
23 using him as be witness, but I would ask that they
24 turn over the federal proffer for that, as they
25 indicated he had talked to them, the federal

1 government, about this case and I don't know what
2 else.

3 Finally, I know that there was another witness
4 that Ms. Simpson had mentioned by the name of William
5 Gibson, who I used to represent on State and Federal
6 charges, who apparently gave information regarding
7 this case. That has not been turned over and that is
8 why Ms. Simpson and I met in your chambers a number of
9 weeks ago. Eventually Your Honor told me to file a
10 motion and I did. That ended up in front of Judge
11 Goldsmith and he said that Your Honor had to deal with
12 it and then I went out-of-town for vacation, came
13 back, and now we're here. It never came up again.

14 I would, once again, ask that all the federal
15 302's be turned over in their unredacted form that the
16 State received. The State received slight redactions
17 from the federal government. Anything that would have
18 been confidential, the federal government or redacted
19 --- I'm asking for all of 302's from all of the
20 witnesses at this time.

21 MS. SIMPSON: Your Honor, if I may. I provided
22 Your Honor a packet with the complete 302's for all
23 the witnesses as they related to Mr. William Gibson's
24 case, his codefendant in that case is Taddrick Gibson.
25 This is another --- while, there are State murder

1 charges, the proffers in that case are regarding Blood
2 gang members and a number of people who were arrested.
3 What I've done, Your Honor, is they actually --- of
4 course, in their proffers, gave information regarding
5 numerous incidents, different bad acts on unrelated
6 individuals to this case so with respect to what was
7 turned over to Mr. Schnee and Mr. Krzyston, that is
8 the only reference in those 302's to this case in the
9 bakery, or the Hunnewell murder, Walters and I believe
10 Darryl Alston.

11 I'm not aware of whether Michael Schaefer was
12 ever interviewed by the feds or for what purpose. I
13 can tell Your Honor I do not have those federal
14 proffers with respect to the investigation into
15 Taddrick and William Gibson as it relates to that.

16 And, Your Honor, I brought this to defense
17 counsel's intention because he did in fact represent
18 William Gibson, so there are a number of people
19 related to that case and after speaking with
20 co-counsel we determined Mr. Walters, which would have
21 been a potential key witness or had information, that
22 we would not be calling that witness and at that time
23 that was Mr. Schnee's primary concern with respect to
24 the State's case. So I provided Your Honor complete
25 form 302's, and we do not feel they are relevant to

1 this case or that defense counsel is entitled to it
2 under any theory or principle of law.

3 MR. KRZYSTON: Judge, I would join in Mr. Barnes'
4 motion with respect to this matter and would also move
5 that the court make a Court's Exhibit out of all the
6 original source information, all the original 302's as
7 well as all the original information which Your Honor
8 reviewed in determining the sufficiency of
9 Ms. Simpson's proposal for the Crime Stoppers
10 information that was turned over.

11 So to clarify --- that was a little bit messy,
12 all the original information provided by Crime
13 Stoppers to the government, as well as all the
14 original 302's in their unredacted form as provided by
15 the federal government to the state government.

16 THE COURT: All right. Okay. So go through the
17 witnesses again. Who is the first one?

18 MR. SCHNEE: Michael Schaefer. That was an
19 interview that was conducted by McCoy in April of this
20 year, and in the recording itself Michael Schaefer
21 says, "I already talked to the Feds," and that was one
22 of the recordings that we didn't get until Sunday, so
23 at this point I would ask the State to actually
24 inquire of the federal government if he has a 302.

25 MS. SIMPSON: And, Your Honor if I may address

1 Mr. Shafer, I believe he gave information on several
2 different cases and whether he talked to the federal
3 government regarding another case or unrelated to this
4 incident, I don't believe we need to go inquire about
5 that. With respect to this incident, we have this
6 statement that was given and it has been provided and
7 that's all I have with respect to ---

8 THE COURT: Has somebody asked him whether or not
9 he talked to the Feds about this case?

10 MS. CAMPBELL: We will. We haven't.

11 THE COURT: Okay. If he says --- does he we a
12 lawyer?

13 MS. GARFIELD: Mr. Hodge.

14 MS. SIMPSON: Mr. Hodge.

15 THE COURT: Who?

16 MS. SIMPSON: William Hodge.

17 THE COURT: All right. Somebody needs ask him if
18 he has talked to the Feds about this case.

19 MS. GARFIELD: Yes, sir.

20 THE COURT: If he has, then your needed to get
21 that information and turn it over. Is he a witness in
22 this case?

23 MS. GARFIELD: Yes, sir.

24 MS. CAMPBELL: Potentially.

25 THE COURT: Okay. All right. Next.

1 MR. KRZYSTON: Judge, could I just have a
2 clarification on the motion to have those documents be
3 admitted as a Court's exhibit?

4 THE COURT: If somebody has them to give to me,
5 I'll have them marked as a Court's exhibit.

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

8 MR. KRZYSTON: The government would be the only
9 people in possession of that information, Judge. We
10 would ask that you compel them to turn that over to
11 you.

12 THE COURT: Ms. Simpson.

13 MS. SIMPSON: First of all, just so I'm clear, is
14 he referring to the Crime Stoppers tips or the 302? I
15 provided Your Honor with ---

16 THE COURT: I have the 302's. He is referring to
17 the Crime Stoppers tips.

18 MS. SIMPSON: I can redo the complete packet that
19 was provided for Your Honor and give it to you as a
20 Court's exhibit.

21 MR. KRZYSTON: Just to be clear, that's the
22 original information provided by Crime Stoppers to His
23 Honor?

24 MS. SIMPSON: Your Honor, we would just ask that
25 information be sealed.

1 MR. KRZYSTON: Certainly, Your Honor.

2 THE COURT: Okay. Next witness.

3 MR. SCHNEE: Thomas O'Brien Williams.

4 THE COURT: Okay. Is he a witness in this trial?

5 MS. SIMPSON: No, Your Honor.

6 MR. SCHNEE: He has provided written statements
7 and it was turned over, so he's obviously a potential
8 witness. Whether the state wants to use him or not,
9 he is a potential witness, and I know he has done a
10 federal proffer.

11 THE COURT: Okay.

12 MS. GARFIELD: I know he has given one on another
13 murder I have. I'm not familiar with anything on this
14 case.

15 MR. SCHNEE: I have no idea if he said anything
16 about this case, but he certainly has a letter that
17 involves this case and I know he has done a federal
18 proffer, so I'm inquiring if there is ---

19 THE COURT: He has what?

20 MR. SCHNEE: Mr. Williams provided letters, sent
21 letters to law enforcement, written statements and I
22 know completely unrelated he has done federal proffer
23 process.

24 THE COURT: Okay.

25 MR. SCHNEE: I have no idea if that federal

1 proffer obviously includes anything on this case, but
2 the written statements that he provides do, so I would
3 ask if there is, in fact, a Federal 302 regarding
4 Mr. Williams about this case.

5 THE COURT: Do you have the written statements?

6 MR. SCHNEE: Yes, that was turned over to us.

7 THE COURT: Okay. Why don't you ask Mr. Williams
8 if he has done it?

9 MR. SCHNEE: He is not here, Judge. He is in
10 federal prison somewhere else.

11 THE COURT: Why don't you drive and go see him?

12 MR. SCHNEE: I might have to now, but I would ---
13 yet again, that's a good reason for a continuance.
14 These documents weren't turned over until very
15 recently.

16 THE COURT: You don't even know that the document
17 exists.

18 MR. SCHNEE: I don't know if he has discussed it
19 with the federal government. I don't. That's why I'm
20 inquiring if he did.

21 THE COURT: Okay. He is not a witness in the
22 trial. Do you understand that?

23 MR. SCHNEE: Judge, his statements were turned
24 over to me as part of the discovery in this trial very
25 recently, so he is a potential witness in this trial.

1 THE COURT: Maybe a defense witness, right?

2 MS. GARFIELD: I don't know what he's talking
3 about.

4 MS. CAMPBELL: Can you show what you say you're
5 talking about?

6 MR. SCHNEE: You gave us documents from Thomas
7 O'Brien Williams. They were handwritten letters.

8 MS. GARFIELD: I'm not familiar with them.

9 MS. SIMPSON: Oh, actually, Your Honor, Your
10 Honor, I think we do know he is referring to. When
11 Mr. Young was taken into custody, he is actually
12 fugitive at that point in time. They learned that he
13 is --- will be located at his cousin's house in
14 Latimer Manor. Law enforcement goes to the location.
15 While at that home, they, of course, find Mr. Lorenzo
16 hiding in a closet in the bedroom, along with the
17 phone. Several letters were photographed. Those were
18 letters from Thomas O'Brien to some individual, I
19 guess, in the home. They just happened to be located
20 --- this is not where Mr. Young stayed and we don't
21 really have any information to my knowledge of any
22 relevance with respect to this case.

23 MR. SCHNEE: Judge, if that's what they're saying
24 these letters came from, then I'll move on to another
25 witness.

1 THE COURT: Number three.

2 MR. SCHNEE: William Gibson. Ms. Simpson
3 specifically told me there was information contained
4 in his 302 that I should be aware of. That's one of
5 the reasons why she brought it to my attention,
6 because she knew I had represented him, and we were
7 talking about this case so I can only assume he has
8 provided some information about this case.

9 THE COURT: That's one of the ones I have.

10 MS. SIMPSON: And, Your Honor, with respect to
11 Mr. William Gibson's name, I believe that defense
12 counsel --- what I was referring to and the reason I
13 brought it to his attention is because he did in fact
14 represent William Gibson, who I have a codefendant,
15 Taddrick Gibson, both with pending murder charges. In
16 that case, all these federal proffers have come to my
17 office. That is why I went to him. I did not
18 indicate that Mr. Gibson had specifically given
19 information about the Hunnewell murder. Based on the
20 form 302's that I have, all the stuff that I turned
21 over to Your Honor he has not given any information
22 with respect to this case. I only turned over
23 information and brought it to Mr. Schnee's attention
24 because he represented a possible person involved with
25 people who did have information, such as Mr. Walters

1 and Darryl Alston.

2 THE COURT: So to your knowledge, Mr. Gibson did
3 not give a statement?

4 MS. MCDUFFIE: No.

5 THE COURT: In this case?

6 MS. SIMPSON: He only gives a statement about
7 other incidents and specifically to the murder that he
8 is involved in with his brother.

9 THE COURT: Okay.

10 MR. SCHNEE: All right. Judge, I would ask just
11 as a precaution, that if any of these witnesses
12 mention anything about crimes related to any witness
13 that is involved in this case or has any information
14 in this case that is potentially impeachment evidence
15 or if there is anything that remotely resembles that,
16 I would ask that that be turned over.

17 THE COURT: That is not an accurate statement of
18 the law. If somebody says, "Yeah, I heard Lorenzo
19 pull this lick," in a Federal 302, I mean, how is that
20 exculpatory or impeachment?

21 MR. SCHNEE: I'm not so much concerned about
22 Lorenzo. I'm talking about the completely unrelated
23 crimes that the State is saying they're redacting and
24 they have redacted from what they gave us and now
25 they're saying they are not using these witnesses

1 maybe. If they have information about say, Rolanda
2 Coleman, who is a witness, or Michael Schaefer --- if
3 there is at 302 not by Michael Schaefer, but by a
4 different witness that talks about how they know
5 Michael Schaefer constantly lies or whatever it is ---
6 The problem is, I don't have the benefit of these, so
7 I just want to ---

8 THE COURT: I've seen them and nobody says
9 anything like that in any way, shape, or form.

10 MR. SCHNEE: Okay.

11 THE COURT: All right. Next.

12 MR. SCHNEE: Judge, at this time I'd move to
13 compel all ---

14 THE COURT: No, do you have any more witnesses?
15 I'm on witnesses.

16 MR. SCHNEE: Judge, I'm sorry. Those are the
17 only witnesses that I'm aware of.

18 THE COURT: Okay. Next.

19 MR. SCHNEE: Next, Your Honor, I move to compel
20 all police and investigative reports, handwritten
21 notes, notepads, scratches, everything, including
22 Cambo Streater's. That would be mainly Investigator
23 McCoy, Investigator Reese, Investigator Moorner, Cambo
24 Streater from the solicitor's office, and I think that
25 would actually cover all of the important ones.

1 THE COURT: All right. Where does the State
2 stand on that?

3 MS. GARFIELD: Your Honor, I believe I've turned
4 over everything and I invite Mr. Schnee to come and go
5 through my notebook at his convenience, as well as Mr.
6 Young's defense.

7 MR. SCHNEE: Judge ---

8 MS. GARFIELD: I am not aware of any notes for
9 the investigators that he named, but even if they did,
10 I think they would be considered work product.

11 THE COURT: That's a different ---

12 MS. GARFIELD: Or, of course, turned over for
13 impeachment purposes, which we thought we had been
14 compliant with.

15 THE COURT: All right. Investigator Reese, stand
16 up. Is there anything you know of that you are in
17 possession of this relates to this case?

18 INVESTIGATOR: I'm not in possession of anything.

19 THE COURT: That you haven't already turned over.

20 INVESTIGATOR: That's correct.

21 THE COURT: Investigator McCoy, same question to
22 you.

23 INVESTIGATOR: Your Honor, I've turned over
24 everything to the solicitor's office.

25 THE COURT: Okay. I don't want you to make a

1 judgment call in your mind that it matters, it doesn't
2 matter, it's similar, it's different. I understand
3 why you do that and I'm not faulting you for doing
4 that. In the eyes of --- you have to look at the case
5 from every single different perspective and what looks
6 similar to you could look different to somebody else.
7 So anything at all that you know about that you have
8 not turned over to the solicitor's office in regards
9 to Mr. Barnes, Mr. Young, Mr. Stevenson or any other
10 witness or potential witness in the case.

11 INVESTIGATOR: Your Honor, everything I have been
12 in possession of, I have turned over.

13 THE COURT: Very good.

14 MS. GARFIELD: Obviously both of these witnesses
15 are available if there are any follow-up questions.

16 MR. SCHNEE: I actually do have one, if I may.

17 THE COURT: Sure. Ms. Garfield just told you she
18 was fine with it.

19 MR. SCHNEE: Okay. Well, in the March 24th
20 interview with Troy Stevenson, Investigator McCoy says
21 he is writing things down, tells Troy Stevenson
22 multiple times --- I have no handwritten notes, no
23 record, I have nothing.

24 THE COURT: Okay.

25 MR. SCHNEE: I have absolutely no handwritten

1 reports from Investigate Reese.

2 THE COURT: All right. Investigator McCoy, what
3 do you know about that?

4 INVESTIGATOR: Your Honor, anything that I had, I
5 have turned over. Any notes that I made on any sheet
6 of paper were put in the case file and turned over to
7 the solicitor's office. I'm not aware of any other
8 notes that I made in regards to this case.

9 THE COURT: Okay. Thank you. All right. What
10 else?

11 MR. SCHNEE: Well, Judge, I'd ask for the notes
12 from the March 24th interview. There are at least
13 three or four times where he stops Troy Stevenson, and
14 I'm happy to play it for Your Honor, where he says,
15 "Slow down, I need to write this down." You can
16 audibly hear the pen on paper. I have no notes on
17 that.

18 THE COURT: What do you know about that,
19 Investigator McCoy?

20 INVESTIGATOR: Your Honor, during the interview
21 with Troy Stevenson, I had his original notes that I
22 made in his original interview. This would be the
23 third time I interviewed him. Typically when I'm
24 recording it, I talk to a defendant or a witness
25 multiple times. I don't typically write handwritten

1 notes at that point. I did have a notepad there I was
2 playing with. I do tend to doodle when I talk at
3 times. I don't know if that's what he's hearing on
4 the mic, but I have no handwritten notes from this
5 incident --- excuse me, from this interview on the
6 24th. If anything was written down, it was written on
7 the original notes that I had in front of me and I was
8 reading through. That's why I had to tell him to stop
9 several times to read through to make sure I was on
10 par with the original testimony or original interview
11 he had given me.

12 THE COURT: All right.

13 MR. SCHNEE: Judge, I would inquire as to what
14 changes he is claiming were made on the original
15 handwritten notes. I can't see anything that was
16 obviously changed eight or nine months after the
17 original interviews. The statement isn't just, "I'm
18 doodling." It's very clear that he is taking notes
19 what about Troy is saying. It is 100 percent certain
20 on audio that he is writing down notes, and I don't
21 have anything that indicates that those exist, but
22 clearly they must. It's on audio that he did it. I
23 don't have them. I don't know where they are. I need
24 some assistance perhaps trying figure out he is
25 talking about, whether it's a modified version of the

1 notes that I don't have or if there are other
2 notepads. I don't know.

3 INVESTIGATOR: Again, Your Honor, I don't have
4 any additional written notes from any interview that
5 we haven't turned over.

6 THE COURT: Did you have notes from an interview
7 with Mr. Barnes --- or Mr. Stevenson?

8 INVESTIGATOR: Stevenson, yes, I had the notes I
9 had originally obtained when I interviewed him
10 initially.

11 THE COURT: And have you turned those over?

12 INVESTIGATOR: That's correct. I have turned all
13 of those over. That's correct. That's the ones ---
14 typically that's what I do to keep my mind occupied
15 and while someone is talking and it also it keeps me
16 focused as I'm listening to the witness. That's just
17 something I do. I didn't write any additional
18 information down that I can recall. If I had, it
19 would have been in the case file and it would have
20 been turned over. I don't have anything that I'm
21 aware of. I don't remember writing anything. It's
22 been several months since this occurred.

23 THE COURT: All right. What else, Mr. Schnee?

24 MR. KRZYSTON: Judge, out of an abundance of
25 caution, I think we covered that situation that you

1 just heard numerous times in our renewals of Rule 5
2 and Brady, to the extent we haven't covered that, we
3 would join in Mr. Schnee's motion that he was just
4 previously heard.

5 MR. SCHNEE: Well, Judge, if the State is
6 claiming that none of these notes exist or ever
7 existed, then I would ---

8 THE COURT: That's not what they claimed.

9 MR. SCHNEE: Well, they're saying that there are
10 handwritten notes that may or may not have been taken.
11 I hear on audio the investigator's voice saying, "Hold
12 on, I am writing this down," but none of the
13 information is contained in the notes. I don't know
14 what to ask Your Honor to do.

15 THE COURT: I don't know what you want me to do.

16 MR. SCHNEE: That's why I'm asking Your Honor ---
17 that's why, among other things, I'm asking Your Honor
18 to dismiss the charges. I'm asking for a continuance.
19 I'm asking for sanctions against CPD and the
20 solicitor's office for delaying all the disclosures
21 and now apparently claiming these things don't exist
22 that on audio obviously do.

23 THE COURT: Okay.

24 MR. SCHNEE: Other than that, I have no further
25 motions at this time.

1 THE COURT: All right. Anything from the State
2 that we need to take up pretrial?

3 MS. CAMPBELL: The only thing we have are the
4 videos, which you already addressed.

5 THE COURT: All right. Let's make a list on what
6 the plan is from here so everybody is on the same
7 sheet of music. Okay. So number one, the State is
8 going to get with Ms. Ambroziak --- can you do it
9 tomorrow morning to get the pictures marked? Okay,
10 and get with Ms. Ambroziak tomorrow morning to mark
11 the pictures. The defense are welcome to be there.
12 They don't have to be there just as long as they know
13 which ones you're turning over to get those marked for
14 me to review and determine whether or not I need
15 Dr. Durso to testify as to that or not. Okay, so
16 that's one issue that needs to be resolved and then
17 let know --- hold on, let me go through my notes.

18 So the motion to severe is under advisement. The
19 motion to suppress the search warrant is under
20 advisement. The State has consented to exclude any
21 reference to gang activity unless the door is opened.
22 They also have consented to any prior bad acts unless
23 the door is opened. The only issue that's outstanding
24 with that is the issue of a gun a few days before.
25 I'm not sure can I make that decision until --- I'm

1 not sure I'm going to have to ask for some kind of
2 testimony, or ask for a summary of what those people
3 would potentially testify to.

4 So that's what I'm going to do. I would ask for
5 summaries of what Mr. Moore and Ms. Coleman would
6 potentially testify to as to the gun in Mr. Young's
7 possession a few days before and the photos that were
8 taken off the phone that coincide with that that the
9 State intends on introducing.

10 MS. CAMPBELL: Yes, sir.

11 THE COURT: The photos we're going to take up
12 once I see them all. I'm not stopping the legal
13 arguments. I'll still let everybody go on the record
14 and talk about that. I wouldn't even call that under
15 advisement. We're just in the middle of dealing with
16 that. We're not bringing up anything about Mr.
17 Young's behavior at the jail unless the door is
18 potentially opened. At this point in time, witnesses
19 are sequestered except for the two lead investigators.

20 And what's your position on Ms. --- I don't know
21 Mr. Barnes' mother's name, but what's your position on
22 her being in the courtroom, from the State?

23 MS. CAMPBELL: Your Honor, she can be sequestered
24 just until she testifies.

25 THE COURT: Okay.

1 MS. CAMPBELL: She should be in our first --- I
2 think it be would be before what happens in our case.

3 THE COURT: Okay. And what's your position on
4 Mr. Barnes' mother being in the courtroom, Mr.
5 Krzyston?

6 MR. KRZYSTON: Judge, I'll leave that in your
7 discretion. If she is going to be called early in the
8 case, I don't think that's going to be a huge issue.

9 THE COURT: Mr. Schnee?

10 MR. SCHNEE: Judge, I simply request she be
11 allowed in the courtroom.

12 THE COURT: Do you have some theory of law that
13 supports that?

14 MR. SCHNEE: I'm not sure that there is a theory
15 of law that supports sequestering her. Just because
16 she happens to be a potential witness, she has given
17 --- she has a recorded interview over the phone. She
18 has already met with the solicitor's offices multiple
19 times. If she changes anything, it's my client's
20 mother. As a juvenile, I think he would be entitled
21 to have that.

22 THE COURT: So the answer is no as to theory of
23 law that supports that?

24 MR. SCHNEE: Well, I don't think there is a
25 theory of law that requires her to be sequestered. I

1 think that's their burden to say that she should be
2 sequestered.

3 THE COURT: Okay. Ms. Barnes --- is that her
4 name? I don't even know...

5 MR. SCHNEE: Latoya, yes.

6 THE COURT: Okay. Mr. Barnes, I don't mean any
7 disrespect to your mother. I don't know her name. I
8 apologize. Mr. Barnes' mother is going to be
9 sequestered until she testifies and is cross-examined.

10 Okay. And you turned over the criminal history
11 of the witnesses that you know about so far?

12 MS. GARFIELD: Yes, sir. One witness has a
13 juvenile record. I'm not sure how to handle that. I
14 just wanted to ---

15 THE COURT: Yeah. It's got to be turned over
16 under 609.

17 MS. GARFIELD: It does.

18 THE COURT: I do not think it will count if it
19 falls within the rules of 609, so I do need you to
20 turn that over, however I don't want that disseminated
21 or distributed out. Do you understand, Mr. Krzyston?

22 MR. KRZYSTON: Certainly, Your Honor.

23 THE COURT: Do you understand, Mr. Schnee?

24 MR. SCHNEE: Yes, Your Honor.

25 THE COURT: Under 609 juvenile convictions can

1 count. I don't know what that is, but I mean, if it's
2 something that could potentially fall, then it needs
3 to be turned over.

4 MS. GARFIELD: And just to clarify, that's for
5 witnesses, not just codefendants.

6 THE COURT: Right.

7 MS. GARFIELD: Is that right?

8 THE COURT: Yes, ma'am. I learned that on my
9 judicial exam, but don't tell anybody.

10 Okay. At this point in time, the motion to
11 reveal --- no offers have been made except to
12 Mr. Young, to any potential witnesses or codefendants...
13 The jail calls from the mom is going to be limited to
14 the issues relevant to the letter.

15 The conspiracy charge is being remanded to
16 federal court. The photographs we're taking up later.
17 Their criminal history have been or are going to be
18 provided, turned over prior to the witness testifying.
19 Gang activity is out unless the door is opened
20 potentially. I'm going to consider your motion to ---
21 both of your motions to prevent shackling and on the
22 Belcher motion, the State has agreed not mention that
23 malice can be implied from the use of a deadly weapon
24 in the opening statement.

25 Okay, so tell me what the State's theory is on

1 how to deal with this Investigator Streater versus
2 Anna Good situation? Here is what I have. For the
3 record, I have an affidavit from an attorney who
4 enjoys a good reputation amongst this bar, who says
5 that her client, who is a witness in the trial,
6 admitted to an investigator in the solicitor's office
7 that he lied.

8 Now, the affidavit expressly says, "He told one
9 lie," okay, after he had been asked if everything in
10 his prior interview was true. According to this
11 affidavit, no follow-up questions were asked regarding
12 the information and the interview ended.

13 The attorney, of course, refuses to disclose what
14 the lie was based upon the attorney/client privilege,
15 and that's it.

16 Now, I mean, I don't know what to do besides take
17 Ms. Good's testimony and Investigator Streater's
18 testimony in regards to the issue.

19 MS. GARFIELD: We agree, Judge.

20 THE COURT: Okay. When do you all want to do
21 that?

22 MR. SCHNEE: I think we should get in touch with
23 Ms. Good and find out when she is available and not in
24 another courtroom. I don't know what her schedule is.
25 I haven't consulted her.

1 THE COURT: Okay. Why don't you consult with her
2 via email as far as her availability. Now let's talk
3 about my availability just so we understand that.

4 Okay. So tomorrow morning --- all right. So
5 tomorrow morning ---

6 (WHEREUPON, there was an off-the-record
7 discussion.)

8 So we could do --- if Ms. Good is available and
9 you all are available tomorrow morning at 10:30, we
10 can do it anytime up until the lunch hour certainly
11 one o'clock tomorrow. It Doesn't matter to me.

12 Monday I start a castle hearing, and I have a DSS
13 hearing. What is that? Oh, that's records, right,
14 and I also have a Blair hearing, but that won't take
15 that long and then we start the castle. We could do
16 it Monday morning before the castle hearing if she is
17 available or we can squeeze her in. Since we won't be
18 in a jury trial, and we'll be in a bench trial, we can
19 squeeze her in Monday, Tuesday or Wednesday. Whatever
20 works. Just don't make it real late in the day on the
21 Tuesday. Okay. Everybody got that? Somebody reach
22 out to her and check what her availability is and let
23 everybody else know.

24 MR. SCHNEE: Yes, Your Honor.

25 THE COURT: Okay. What else? Whoever is talking

1 over there?

2 MS. CAMPBELL: We don't have anything.

3 MS. MCDUFFIE: Nothing from the state.

4 MR. KRZYSTON: Judge, we just ask that the
5 summaries that you asked the State to provide to you
6 on photos and gun testimony from various witnesses be
7 made a Court's Exhibit.

8 THE COURT: What?

9 MR. KRZYSTON: You asked that they turn over
10 summaries on photographs and guns and gang testimony.
11 Just make that a Court's exhibit, Your Honor.

12 THE COURT: That's fine.

13 MR. KRZYSTON: Thank you, Your Honor.

14 THE COURT: Mr. Schnee, anything else?

15 MR. SCHNEE: I don't believe so, Your Honor.

16 THE COURT: Okay. All right. I think --- I know
17 it was a long afternoon. I think we got through a lot
18 of different issues that could get this thing sped up.
19 I appreciate everybody's hard work in getting ready
20 for today.

21 (WHEREUPON, the proceedings were concluded.)

22

23

24

25

CERTIFICATE OF REPORTER:

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

I, Vicki Everhart, Transcriptionist for Karen Ambroziak, Official Court Reporter for the 5th Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the pretrial hearing of the captioned case, relative to appeal, in the Court of General Sessions for Richland County, South Carolina, on the 30th day of October, 2014.

January 9, 2015

/s/ Vicki Everhart

Vicki Everhart,
Transcriptionist for

Karen Ambroziak,
Circuit Court Reporter

STATE OF SOUTH CAROLINA)	
County of Richland)	COURT OF GENERAL SESSIONS
)	2014-GS-40-0745
)	2014-GS-40-0746
)	2014-GS-40-0747
)	2014-GS-40-0749
)	
)	2014-GS-40-0752
)	2014-GS-40-0754
)	2014-GS-40-0755
)	2014-GS-40-0756
The State)	
)	
vs.)	TRANSCRIPT OF RECORD
)	
Lorenzo Young)	
and)	
Trenton Barnes,)	
)	
Defendants)	

November 10 - 19, 2014
Columbia, South Carolina

BEFORE:

The Honorable Robert Hood, Judge

APPEARANCES:

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

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

KAREN AMBROZIAK
Official Court Reporter

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EXHIBITS:STATE'S EXHIBITS:

No.	Description	ID	EV
1	Search Warrant (withdrawn)	Marked at pretrial	
2	Search Warrant (withdrawn)	Marked at pretrial	
3	Photo	Marked at pretrial	
4	Photo	Marked at pretrial	
5	Photo (withdrawn)	Marked at pretrial	
6	Photo	Marked at pretrial	
7	Photo	Marked at pretrial	
8	Photo	39	336
9	Photo	39	338
10	Photo	39	338
11	Photo	39	338
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15	Photo	39	338
16	Photo	39	338
17	Photo	39	338
18	Photo	39	338

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No.	Description	ID	EV
19	Photo	39	338
20	Photo	39	338
21	Photo (withdrawn)	39	
22	Photo (withdrawn)	39	
23	Photo (withdrawn)	39	
24	Photo	39	338
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30	Photo	39	338
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32	Photo	39	338
33	Photo	39	338
34	Photo	39	338
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<u>No.</u>	<u>Description</u>	<u>ID</u>	<u>EV</u>
36	Photo	39	338
37	Photo	39	338
38	Photo	39	338
39	Photo	39	338
40	Photo	39	338
41	Photo	39	338
42	Photo	39	338
43	Photo	39	338
44	Photo	39	338
45	Photo	39	338
46	Photo	39	338
47	Photo	39	338
48	Photo	39	338
49	Photo (withdrawn)	39	
50	Photo	39	338
51	Photo	39	338
52	Photo	39	338

EXHIBITS:STATE'S EXHIBITS: (continued)

<u>No.</u>	<u>Description</u>	<u>ID</u>	<u>EV</u>
53	Photo	39	338
54	Photo	39	338
55	Photo	39	338
56	Photo	39	338
57	Photo	39	338
58	Photo	39	338
59	Photo	39	338
60	Photo	39	338
61	Photo	39	338
62	Photo	39	338
63	Photo	39	338
64	Photo	39	338
65	Photo	39	338
66	Photo	39	338
67	Photo	39	338
68	Photo	39	338
69	Photo	39	338

EXHIBITS:STATE'S EXHIBITS: (continued)

<u>No.</u>	<u>Description</u>	<u>ID</u>	<u>EV</u>
70	Photo	39	338
71	Photo	39	338
72	Photo	39	338
73	Photo	39	338
74	Photo	39	338
75	Photo	39	338
76	Photo	39	338
77	Photo	39	338
78	Photo	39	338
79	Photo	39	338
80	Photo	39	338
81	Photo	39	338
82	Photo	39	338
83	Photo	39	338
84	Photo	39	338
85	Photo	39	338
86	Photo	39	338
87	Photo	39	338

EXHIBITS:STATE'S EXHIBITS: (continued)

<u>No.</u>	<u>Description</u>	<u>ID</u>	<u>EV</u>
88	Photo	39	338
89	Photo	39	338
90	Photo	39	338
91	Photo	39	338
92	Photo	39	338
93	Photo	39	338
94	Photo	39	338
95	Photo	39	338
96	Photo	39	338
97	Photo	39	338
98	Photo	39	338
99	Photo	39	338
100	Photo	39	338
101	Photo	39	338
102	Photo	39	338
103	Photo	39	338
104	Photo	39	338
105	Photo	39	338

EXHIBITS:STATE'S EXHIBITS: (continued)

No.	Description	ID	EV
106	Photo	39	338
107	Photo	39	338
108	Photo	39	338
109	Photo	39	338
110	Photo	39	338
111	Photo	39	338
112	Photo	39	338
113	Photo	39	338
114	Photo	39	338
115	Photo	39	338
116	Photo	39	338
117	Photo	39	338
118	Photo	39	338
119	Photo	39	338
120	Photo	39	338
121	Photo	39	338
122	Photo (withdrawn)	39	
123	Photo	39	338

EXHIBITS:STATE'S EXHIBITS: (continued)

<u>No.</u>	<u>Description</u>	<u>ID</u>	<u>EV</u>
124	Photo (withdrawn)	39	
125	Photo	39	338
126	Photo	39	338
127	Photo	39	338
128	Photo	39	338
129	Photo	39	338
130	Photo	39	338
131	Photo	39	338
132	Photo	39	338
133	Photo	39	338
134	Photo	39	338
135	Photo	39	338
136	Photo	39	338
137	Photo	39	338
138	Photo	39	338
139	Photo	39	338
140	Photo	39	338
141	Photo	39	768

EXHIBITS:STATE'S EXHIBITS: (continued)

<u>No.</u>	<u>Description</u>	<u>ID</u>	<u>EV</u>
142	Photo	39	768
143	Photo	39	768
144	Photo	39	768
145	Photo	39	768
146	Photo	39	768
147	Photo	39	768
148	Photo	39	768
149	Photo	39	768
150	Photo	39	768
151	Photo	39	768
152	Photo	39	768
153	Photo	39	768
154	Photo	39	768
155	Photo	39	768
156	Photo	39	768
157	Photo	39	768
158	Photo	39	768
159	Photo	39	768

EXHIBITS:STATE'S EXHIBITS: (continued)

<u>No.</u>	<u>Description</u>	<u>ID</u>	<u>EV</u>
160	Photo	39	768
161	Photo	39	768
162	Photo	39	768
163	Photo	39	770
164	Photo	39	770
165	Photo	39	770
166	Photo	39	770
167	Photo	39	770
168	Photo	39	770
169	Photo	39	770
170	Photo	39	770
171	Photo	39	770
172	Photo	39	769
173	Photo	39	769
174	Photo	39	771
175	Photo	39	771
176	Photo	39	771
177	Photo	39	771

EXHIBITS:STATE'S EXHIBITS: (continued)

<u>No.</u>	<u>Description</u>	<u>ID</u>	<u>EV</u>
178	Photo	39	771
179	Photo	39	771
180	Photo	39	771
181	Photo	39	771
182	Photo	39	771
183	Photo	39	771
184	Photo	39	771
185	Photo	39	771
186	Photo	39	772
187	Photo	39	772
188	Photo	39	772
189	Photo	39	772
190	Photo	39	772
191	Photo	39	772
192	Photo	39	772
193	Photo	39	772
194	Photo	39	772
195	Photo	39	772

EXHIBITS:STATE'S EXHIBITS: (continued)

<u>No.</u>	<u>Description</u>	<u>ID</u>	<u>EV</u>
196	Photo	39	772
197	Photo	39	772
198	Photo	39	772
199	Photo	39	772
200	Photo	39	772
201	Photo (withdrawn)	39	
202	Photo (withdrawn)	39	
203	Photo (withdrawn)	39	
204	Photo	39	773
205	Photo	39	773
206	Photo (withdrawn)	39	
207	Photo (withdrawn)	39	
208	Photo	39	774
209	Photo	39	774
210	Photo	39	774
211	Photo	39	774
212	Photo	39	774
213	Photo (withdrawn)	39	

EXHIBITS:STATE'S EXHIBITS: (continued)

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

EXHIBITS:STATE'S EXHIBITS: (continued)

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

EXHIBITS:STATE'S EXHIBITS: (continued)

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

EXHIBITS:STATE'S EXHIBITS: (continued)

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

EXHIBITS:STATE'S EXHIBITS: (continued)

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

EXHIBITS:STATE'S EXHIBITS: (continued)

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

EXHIBITS:STATE'S EXHIBITS: (continued)

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

EXHIBITS:STATE'S EXHIBITS: (continued)

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

EXHIBITS:STATE'S EXHIBITS: (continued)

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

EXHIBITS:STATE'S EXHIBITS: (continued)

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

EXHIBITS:STATE'S EXHIBITS: (continued)

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

EXHIBITS:STATE'S EXHIBITS: (continued)

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

EXHIBITS:STATE'S EXHIBITS: (continued)

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

EXHIBITS:STATE'S EXHIBITS: (continued)

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

DEFENDANT'S EXHIBITS:

(There were no Defendant's Exhibits introduced.)

EXHIBITS:COURT'S EXHIBITS: (continued)

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

EXHIBITS:COURT'S EXHIBITS: (continued)

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

STATEMENTS:

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

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

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

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

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

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

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

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

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

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

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

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

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

6 MS. PINNOCK: Yes, sir.

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

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

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

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

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

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

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

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

10 MS. GARFIELD: Yes, sir.

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

14 MS. GARFIELD: Yes, sir.

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

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

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

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

1 THE COURT: All right.

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

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

7 (complies.)

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

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

12 THE DEPUTY: (Indicating in the negative.)

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

14 THE DEPUTY: No, sir.

15 THE COURT: So his hands are free?

16 THE DEPUTY: That's correct.

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

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

1 that, Mr. Schnee?

2 MR. SCHNEE: Yes, Your Honor.

3 THE COURT: Mr. Krzyston?

4 MR. KRZYSTON: Yes, sir.

5 THE COURT: Ms. Garfield?

6 MS. GARFIELD: Yes, sir.

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

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

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

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

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

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

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

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

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

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

17 situation, if possible. Does everybody understand

18 that?

19 MR. KRZYSTON: Yes, Your Honor.

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

21 understand that?

22 MS. GARFIELD: Yes, sir.

23 THE COURT: Okay. And Mr. Schnee?

24 MR. SCHNEE: Yes, Your Honor.

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

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

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

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

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

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

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

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

16 MR. KRZYSTON: Yes, Your Honor.

17 THE COURT: Mr. Schnee?

18 MR. SCHNEE: Yes, Your Honor.

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

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

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

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

6 MR. KRZYSYON: No, Your Honor.

7 THE COURT: And Mr. Schnee?

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

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

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

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

20 THE COURT: Okay.

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

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

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

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

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

7 THE COURT: All right.

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

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

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

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

1 knowledge is.

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

10 MS. PINNOCK: Yes, sir.

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

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

15 THE COURT: Ms. Pinnock.

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

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

20 THE COURT: Okay.

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

23 THE COURT: Yes, ma'am.

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

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

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

5 MS. PINNOCK: Yes, sir.

6 THE COURT: Did you pick up on that?

7 MS. CAMPBELL: That was my understanding.

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

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

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

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

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

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

9 MS. CAMPBELL: To number two?

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

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

16 THE COURT: Ms. Pinnock.

17 MS. PINNOCK: Sir?

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

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

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

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

3 MS. PINNOCK: They didn't.

4 THE COURT: That's not a question.

5 MS. PINNOCK: I do apologize, Judge.

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

10 MS. CAMPBELL: Thank you, Judge.

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

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

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

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

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

1 doesn't mean they have a bias.

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

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

5 MR. SCHNEE: Yes, sir.

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

7 MS. CAMPBELL: Already in.

8 THE COURT: Number five.

9 MS. CAMPBELL: Already addressed.

10 THE COURT: We're dealing with that.

11 MS. CAMPBELL: Number six addressed.

12 THE COURT: Six we're asking.

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

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

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

25 THE COURT: Yes. Sure.

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

3 THE COURT: All right. So the way it will work
4 from a procedural standpoint is we'll just go ---
5 let's just go in alphabetical order. Okay.

6 Mr. Barnes, the first one that comes up, Barnes will
7 go first, then Young. Then we'll alternate back and
8 forth. All right. Jackie, you have that?

9 THE CLERK: Yes, Your Honor.

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

14 MR. SCHNEE: Yes, sir.

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

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

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

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

1 THE COURT: Mr. Schnee?

2 MR. SCHNEE: Yes, Your Honor.

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

6 THE CLERK: Yes, Your Honor.

7 THE COURT: Do you have that?

8 THE CLERK: Yes, Your Honor.

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

12 MR. KRZYSTON: No, Your Honor.

13 MR. SCHNEE: No, Your Honor.

14 MS. GARFIELD: No, sir.

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

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

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

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

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

1 separate trials as a matter of right.

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

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

17 THE COURT: In a criminal capacity?

18 MR. SCHNEE: Yes.

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

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

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

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

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

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

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

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

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

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

1 THE COURT: Okay.

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

10 THE COURT: Is there audio in this?

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

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

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

20 MR. KRZYSTON: We can wait.

21 MS. BAMBACH: We can wait.

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

24 THE BAILIFF: Yes, sir.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10 THE COURT: Okay.

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

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

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

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

4 MR. SCHNEE: I understand, Your Honor.

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

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

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

21 THE COURT: Okay.

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

1 THE COURT: Okay.

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

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

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

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

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

12 THE COURT: Okay. Has anybody?

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

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

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

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

24 MR. SCHNEE: Yes, sir.

25 MR. KRZYSTON: Judge, with respect to our

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

3 THE COURT: Okay. Anything else?

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

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

7 THE COURT: Mr. Schnee?

8 MS. BAMBACH: Nothing else, Your Honor.

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

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

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

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

17 Okay. Thank you very much.

18 All right. Bring them in.

19 THE BAILIFF: Thank you, Your Honor.

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

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

23 THE COURT: Sure.

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

1 jury.)

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

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

4 All right. Good morning, ladies and gentlemen.

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

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

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

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

11 THE JURORS: (in unison) I do.

12 THE CLERK: You may be seated.

13 PRETRIAL CHARGE:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 All right. Let me go through my notes. Okay.

1 At this point in time, we will move onto opening
2 statements. The State will be allowed to go first and
3 Ms. Garfield, the floor is yours.

4 MS. GARFIELD: Thank you, Your Honor. May it
5 please the Court.

6 THE COURT: Yes, ma'am.

7 OPENING STATEMENT:

8 MS. GARFIELD: No. No. No. Pleas of mercy
9 followed by screams of terror. Those were the last
10 words and sounds made by 33-year-old Kelly Lynn
11 Hunnewell. They were heard by Theresa Baskin who
12 lived next door to the bakery where Ms. Hunnewell
13 worked, where she was at 3:00 A.M. on July 1, 2013,
14 when the defendants Lorenzo Young and Trenton Barnes
15 shot her, took her life away and fled leaving her to
16 die.

17 Kelly Hunnewell was 33 years of age. She was the
18 mother of four small children. Three daughters and a
19 son. She worked at Carolina Cafe. It's a local
20 popular eatery located right behind the state house on
21 the corner of Pendleton and Sumter Street. Her job
22 was to report every morning at an offsite bakery, a
23 catering kitchen, located on Tommy Circle, which is
24 right off Beltline. She would arrive every morning at
25 3:00 A.M. to make bagels. It's a very popular place,

1 famous for its bagels and its bagel sandwiches. She
2 would arrive every morning to make the bagels and then
3 transport them to the Carolina Cafe behind the State
4 house to serve to the morning customers.

5 She worked until about 11:00 A.M. She purposely
6 chose that shift so that she could then go home and
7 care for her four children. Not only was Kelly a
8 mother, she was a sister. She was a daughter. She
9 was a cousin, she was friend, and she was a coworker.

10 In the early morning hours of July 1, 2013,
11 Lorenzo Young and Trenton Barnes chose to make her a
12 victim of murder. When Kelly went to work that
13 morning, what she didn't know is that Trenton Barnes
14 and Lorenzo Young were planning a robbery. They
15 planned to rob the Original Ale House, which is a
16 restaurant located in the vicinity of the bakery where
17 Kelly was working. Their plan was to arrive and rob
18 the late night customers that were leaving and the
19 employees that were leaving.

20 When they got there, I submit to you they were
21 greatly disappointed because the establishment was
22 already closed. This was a very early Monday morning.
23 It was raining very hard. Lorenzo Young and Trenton
24 Barnes chose to find other prey.

25 Next door, the bakery was there with the lights

1 on, and the door was propped open. Both armed with
2 firearms, they went into the bakery and approached
3 Kelly Hunnewell, who was cooking. Guns were drawn,
4 placed to her head area and a brief struggle ensues.
5 Kelly cannot get away. They begin to fire at her
6 multiple times, and one bullet enters her chest area
7 and lodges in her back. Lorenzo Young and Trenton
8 Barnes flee the bakery leaving Kelly Hunnewell
9 collapsed on the floor drowning in her own blood.

10 Theresa Baskin, the neighbor that lived by the
11 bakery, had gotten up in the middle of the night to go
12 to the bathroom and after she used the bathroom, she
13 went to the kitchen to fix herself some water.
14 Outside her kitchen window she could see the bakery,
15 and she could see the light on. She went back to her
16 room and as she was preparing to get back into her
17 bed, she heard the screams of terror and the pleas for
18 mercy that she will never forget.

19 She immediately called law enforcement and within
20 minutes, police officers from the City of Columbia
21 police department arrived. Investigators arrived.
22 Columbia Fire Department arrives, EMS personnel
23 arrived. They find Ms. Hunnewell dead on the floor.
24 An investigation immediately begins. They collect
25 evidence. They collect projectiles --- shell casings

1 from the floor. They photograph the scene.

2 Investigator McCoy with the Columbia Police
3 Department learns that there is a video. He takes the
4 video to the Columbia Police Department where they are
5 able to see the crime that had just happened hours
6 before.

7 On that video, they see Ms. Hunnewell working,
8 and they see an individual in a red hoodie come in
9 with a gun, followed by a second individual in a gray
10 hoodie come in. They see them put the guns to her.
11 They see them shoot her. They see a third individual
12 in dark clothing come to the door as the shooting
13 begins, and then they see them flee.

14 This video is released to the media, and as a
15 result, law enforcement begins to collect information.
16 The names Lorenzo Young, Trenton Barnes, and Troy
17 Stevenson begin to surface.

18 Law enforcement learned that Trenton Barnes and
19 Troy Stevenson are brothers and they live on Lucille
20 Drive, which is just within walking distance of the
21 bakery.

22 They also learned that Lorenzo Young lives on
23 Bronx Avenue, which is very close near by the bakery,
24 as well. As a result, witnesses start to come in.
25 They hear from Rolanda Coleman, who is the girlfriend

1 of Lorenzo Young.

2 Ms. Coleman gives information that Lorenzo Young
3 came home early that morning with a firearm, he
4 wrapped it in clothing, and he hid it in a crib where
5 his daughter sleeps.

6 Mary Brown comes forward. She gives information
7 that the evening before this happened she saw a person
8 she knows as Lorenzo and he was wearing a red hoodie
9 and he was with another fella, a younger guy, who was
10 wearing a gray hoodie.

11 Also, other people come in, such as Donald Moore,
12 who gives information about the role of Lorenzo Young
13 in this case.

14 A search warrant is executed at the home of
15 Lorenzo Young. During that search, they find
16 ammunition, 45 GAP ammunition. This ammunition would
17 be the same type caliber of shell casings that are
18 left on the floor where Kelly Hunnewell died.

19 There is also a box of gloves found in Lorenzo
20 Young's home that were sent to our state crime
21 laboratory known as SLED. There they test positive
22 for gunshot residue. Rolanda Coleman is also able to
23 view that video with law enforcement. She tells law
24 enforcement that the individual in the gray hoodie,
25 that's Trenton Barnes.

1 Trenton Barnes' mother Latoya Barnes comes
2 forward to law enforcement, and she tells law
3 enforcement that her son Trenton Barnes, he always
4 wears a gray hoodie, wears it all the time.

5 She has seen that video, and she knows her
6 children from their fingers to their toes. She knows
7 the person in the gray hoodie is her son Trenton
8 Barnes.

9 She also tells law enforcement that Trenton
10 Barnes and Lorenzo Young had been together at their
11 home earlier that evening and they had left. She was
12 concerned about them, and she sent her son Troy
13 Stevenson to go get them. She says the person in the
14 dark clothing that approaches the door is her other
15 son, Troy Stevenson.

16 Lastly, once Trenton Barnes is in jail, he sends
17 a letter to his mom where he tells her he did it.
18 Lastly, the spoon that Kelly Hunnewell was holding
19 when she was killed is sent to our state laboratory,
20 as well, and it's tested for DNA. DNA is found on
21 that spoon, and Lorenzo Young and Trenton Barnes
22 cannot be ruled out as having their DNA on that spoon.

23 Trenton Barnes and Lorenzo Young are both charged
24 with murder, attempted armed robbery, burglary in the
25 second degree violent and kidnapping.

1 Ladies and gentlemen, again, I am Dolly Garfield,
2 and I am a prosecutor for the State of South Carolina.
3 Seated at the table to my left is Luck Campbell,
4 senior assistant solicitor and to my right Nicole
5 Simpson, another assistant solicitor. It will be our
6 job in the next few days to prove to you that Lorenzo
7 Young and Trenton Barnes are guilty of these brutal
8 acts of violence.

9 The burden is on the State to prove this case to
10 you, and today in this courtroom in this courthouse,
11 the State of South Carolina, we welcome that burden.

12 We will deliver to you.

13 Now, I just mentioned several crimes that they
14 are charged with. Let me go through each of those
15 crimes and let me explain what those crimes mean in
16 the State of South Carolina.

17 First, I'll start with burglary second violent.
18 It is unlawful in the State of South Carolina to enter
19 a business or a building during the hours of darkness
20 with the intent to commit a crime, like hurting
21 someone, or while armed with a firearm or while
22 displaying a dangerous weapon or while you hurt
23 someone that is not a participant of a crime.

24 The State will submit to you that Lorenzo Young
25 and Trenton Barnes did all of these.

1 They are also charged with attempted armed
2 robbery and that simply means the unlawful taking of
3 something while you're armed with a weapon. In this
4 case it's an attempt. You don't have to successfully
5 take something just as long as you try.

6 They're also charged with kidnapping. Kidnapping
7 is not in the sense where you would think where you
8 see in books where someone has got to be roped up and
9 put it in a trunk or involving a child. Kidnapping
10 just simply means confining someone, keeping them
11 against their will from being able to get away. There
12 is no doubt Kelly Hunnewell cannot get away.

13 Lastly, they are charged with murder. Murder is
14 the intentional killing of another person with malice
15 aforethought either expressed or implied.

16 Now, ladies and gentlemen, how would we prove
17 this case to you? You're going to hear from several
18 witnesses from this witness stand.

19 You're going to hear from police officers.
20 You're going to hear from emergency medical personnel.
21 You're going to hear from investigators, from the fire
22 department. You're going to hear from a DNA expert.
23 You're going to hear from a pathologist. All the
24 evidence will come from this witness stand, and ladies
25 and gentlemen, let me stop here and just express to

1 you, and I know Judge Hood went through this a little
2 bit yesterday, our country as a whole is enthralled
3 with crime dramas. I'm guilty of it myself. Ladies
4 and gentlemen, I want you to keep in mind that the
5 crime dramas you see on television are not real. This
6 is a real courtroom with a real victim, real
7 witnesses, real facts.

8 Crime dramas consist of scripts with paid actors
9 with endings that keep the viewers wanting to watch
10 the next week. It's all by design. This is a real
11 courtroom, and you will hear how real criminal cases
12 unfold.

13 But like all crime dramas, there are directors
14 involved. I submit to you that on July 1, 2013, the
15 directors of the crime that you will learn about were
16 the defendants, Lorenzo Young and Trenton Barnes.
17 They cast the witnesses in this case.

18 I bring that to your attention because there may
19 be some witnesses that you will question their
20 day-to-day life. They might not be the kind of people
21 that you hang out with on a routine basis. Just keep
22 in mind, these witnesses were not chosen by the State.
23 They were chosen by the defendants.

24 You will even hear from some inmates who
25 befriended Lorenzo Young and they will share with you

1 what he told them about his role in this crime.

2 Ladies and gentlemen, everybody in this
3 courtroom, as Judge Hood just went through, has a job
4 to do. We've learned about the bailiffs, the court
5 reporter, our clerk of court. It's our job to present
6 the case to you. Judge Hood's job is to sort of
7 referee the lawyers and make sure that we follow the
8 Rules of Evidence and the law of our state in this
9 court.

10 The defense attorneys have a job to do and that is
11 to represent their client to the best of their
12 ability, but ladies and gentlemen, you have a job. It
13 is your job to listen to these witnesses carefully,
14 and I know you will because this is a very important
15 case about a brutal crime that occurred in your
16 community in your county.

17 Now, right now Lorenzo Young and Trenton Barnes
18 sit before you presumed innocent, and that's the way
19 it should be. That's what makes our judicial system
20 the best system in the world.

21 They are wrapped, I like to think, with a cloak
22 of innocence like a coat or a jacket. As every
23 witness takes the stand and as they leave, I submit to
24 you that a piece of that cloak will be torn from them.

25 Some witnesses may tear a small piece, and some

1 witnesses may tear a large piece, but at the
2 conclusion of the case, the defendants Lorenzo Young
3 and Trenton Barnes will be exposed for the burglars
4 that they are, for the robbers that they are, for the
5 kidnappers that they are, for the murderers that they
6 are.

7 Now, in South Carolina, we have a law called the
8 hand of one is the hand of all. That is the law that
9 will prevail in this case. What that means is when
10 two or more people are acting together in committing a
11 crime, they are responsible for the acts of each
12 other, so it doesn't matter if you're the trigger man.
13 It doesn't matter if you're the getaway driver. It
14 doesn't matter how much you or how little you got in the crime.
15 Everybody is guilty of the same thing. That's what
16 applies in this case. Trenton Barnes and Lorenzo
17 Young are responsible for each other's actions.
18 That's why at the conclusion of this case, your job
19 will be simple, and you'll be able to make a decision
20 to find them guilty.

21 Theresa Baskin heard those pleas of mercy and
22 cries from Kelly Hunnewell. So did Lorenzo Young, so
23 did Trenton Barnes.

24 At the conclusion of this case, the State will
25 come back to you and ask you for verdicts of guilty

1 and sending a crime for justice to Lorenzo Young and
2 Trenton Barnes.

3 THE COURT: Thank you, ma'am.

4 Mr. Schnee.

5 MR. SCHNEE: Up the, Your Honor. May it please
6 the Court.

7 THE COURT: Yes, sir.

8 OPENING STATEMENT:

9 MR. SCHNEE: Good morning. I don't think you can
10 be fair. I say that because studies have shown that
11 one-third of you have already made up your minds,
12 which means out of the 15 of you sitting there, one-
13 third of you have already made up your minds based on
14 Dolly Garfield's opening statement and everything
15 you've heard already. You know what, that's
16 understandable. I really do understand that, and it's
17 okay. I don't blame you for that. I'm not going to
18 blame you for having an emotional response to this
19 case.

20 Very often I get up in front of juries and tell
21 them you have to ignore your emotions. Your job is to
22 look at the facts. I know that's not possible. You
23 have a lot of pressure on you. You have pressure on
24 you from the State. You have an audience full of
25 people. You have the victim's family members, and

1 yes, Ms. Hunnewell is absolutely the victim. You have
2 the judge giving you instructions. You have bailiffs
3 taking away your phones, and multiple cameras up there
4 recording every single thing that's being said.
5 You're under pressure. You're under pressure from
6 each other. At the end of this case when you're
7 deliberating, you're going to want to reach some
8 consensus. That's another point of pressure. It's a
9 pressure that you're going to have to be very very
10 conscious of and pay attention to because one of your
11 jobs is to ignore that pressure wherever it is.

12 One of the first things that the solicitor talked
13 to about, she said, "pleas for mercy and screams of
14 terror."

15 That has nothing do with the facts of what
16 happened. Nothing at all.. That is purely to make
17 sure that the third of you that have made up your
18 minds are firmly convinced that's what you're going to
19 do at the end. That's what that's for. That's not
20 factual. What's factual? Ms. Garfield talked about
21 DNA. There's a metal spoon. You're going to see that
22 metal spoon on the video now that spoon has DNA on it
23 from a --- and they tested a lot of people. You're
24 going to about that when their DNA expert gets up
25 there. Now, Ms. Garfield told you that Trenton Barnes

1 and Lorenzo Young could not be excluded.

2 Well, I'll tell you who else could not be
3 excluded. One third of the entire population of this
4 planet. That's the odds that they were able to get
5 based on the quantity of DNA obtained, which means if
6 you go to Williams Brice stadium for USC's next
7 football game, there are going to be more than 30,000
8 people inside of the stadium that are just as likely
9 to have killed Ms. Hunnewell according to the DNA.
10 That's what they consider evidence.

11 You're not to hear anything about fingerprints
12 being found, so what are you left with? You're left
13 with witnesses that are going to get on the stand and
14 testify. You're left with the lead investigator,
15 Matthew McCoy, who is sitting right here. You were
16 introduced to him before. You're going to hear a lot
17 of things that he has done and things he didn't do.
18 You're going to hear how he is hiding evidence, you're
19 going to hear he is lying about witnesses and the
20 existence of witnesses. You're going to hear how he
21 even threatened to kill a suspect to try to get a
22 confession. That's who the State is going to be
23 putting up as their star lead investigator.

24 They're going to call Rolanda Coleman, the
25 girlfriend, the mother of Lorenzo Young's child.

1 MS. GARFIELD: Judge, objection. We have a
2 matter of law.

3 THE COURT: All right. Ladies and gentlemen, if
4 you'll retire to your jury room. Do not discuss the
5 case. Keep an open mind. We'll be back with you in
6 just a few moments.

7 (WHEREUPON, the jury left the courtroom at 10:08
8 A.M.)

9 THE COURT: Yes, ma'am.

10 MS. GARFIELD: Thank you, Your Honor. I
11 apologize. I don't like to object during openings,
12 but I just thought that that opening was going too
13 far. We don't know what he is talking about as far as
14 Investigator McCoy threatening to kill someone, and
15 hiding evidence is completely improper. It was done
16 solely to make the jury immediately just think badly
17 of him. We don't know where he was going.

18 THE COURT: I want your good faith basis for
19 hiding evidence, lying about the existence of
20 witnesses and threatening to kill a suspect.

21 MR. SCHNEE: I'll start with the last one, Your
22 Honor. In the interview with Lorenzo Young,
23 Investigator Moorer threatens Lorenzo Young multiple
24 times and ---

25 THE COURT: Investigator who?

1 MR. SCHNEE: I'm sorry. Investigator McCoy
2 threatens Lorenzo Young with the death penalty, with a
3 needle in his arm and things like that to try to force
4 him to confess. That's a threat of death.

5 THE COURT: All right.

6 MR. SCHNEE: As to hiding evidence and the
7 existence of witnesses, during his interviews of
8 Donald Moore and actually probably a couple of others
9 that he has talked about things, specifically in one
10 of the Donald Moore interviews, he talks to Donald
11 Moore about a completely unrelated rape case that
12 Donald Moore may or may not be able to find out the
13 name. He tells Donald Moore, I think it's on a phone
14 call that if he can find out the name, he will claim
15 that Donald Moore is an informant and not release it
16 because as long as the victim can identify him, they
17 never have to turn that over. That's hiding evidence
18 and concealing the identity of a witness. That's
19 McCoy's own words.

20 THE COURT: I don't understand why you think
21 that's proper in an opening statement even if you
22 think you do have a good faith basis.

23 MR. SCHNEE: It goes to his credibility and
24 veracity.

25 THE COURT: You're not allowed to make arguments.

1 in opening statements.

2 MR. SCHNEE: Judge, I'm explaining to the jury
3 what evidence they will hear. I'm not arguing what
4 they should do with it. I'm telling them that what
5 they will hear in the cross-examination. I had
6 actually already moved on to Rolanda Coleman. I was
7 done with Investigator McCoy, so I wasn't going to go
8 back and say anything else about that.

9 THE COURT: None of your opening statement allows
10 anything that's argumentative.

11 MS. GARFIELD: Our position is how is anything he
12 just referenced admissible?

13 THE COURT: I don't even know that it is.

14 MS. GARFIELD: I don't know how we cure that when
15 it's not even anything we can address. It was
16 deliberately done to inflame the passions of the jury.

17 THE COURT: What are you asking for,
18 Ms. Garfield?

19 MS. GARFIELD: Judge, I think we have to ask for
20 a mistrial at this point.

21 THE COURT: Do you want to jump in? What's
22 your --- you're talking about as to Mr. Barnes only or
23 both?

24 MS. GARFIELD: I think it has to apply to both
25 because they're both on trial. He is specifically now

1 referencing Mr. Barnes.

2 THE COURT: What's your position on that,
3 Mr. Schnee?

4 MR. SCHNEE: Judge, what I discussed in my
5 opening statement is my plan of impeaching
6 Investigator McCoy and the effectiveness and the
7 methods of his investigation. That is the cornerstone
8 of cross-examination, so I don't understand how I
9 wouldn't be able to ask that or how it would not be
10 admissible because the jury has to weigh the
11 investigator's credibility and his motives and how he
12 acts. That's the jury's function.

13 Even if I end up not playing the audio, which is
14 not my intent at this point, I'm certainly going to
15 ask him if he threatens Lorenzo Young with the death
16 penalty. I'm certainly going to ask him that.

17 I can't see any way that I would not be allowed
18 to ask that question. I certainly don't understand
19 how this would rise to the level of a mistrial or
20 inflame the passions of the jury when that is pretty
21 much the entire thing the State did in their opening
22 statement talking about screams of terror.

23 MS. GARFIELD: That's what Ms. Baskin would
24 testify to.

25 THE COURT: I understand that. I mean, how is he

1 not going to be able to ask McCoy, did you threaten
2 somebody with the death penalty?

3 MS. GARFIELD: We just don't understand how that
4 can be admissible under any theory. That's
5 something --- it was brought out in the context of a
6 self-serving statement of Lorenzo Young. Lorenzo
7 Young denied all involvement, so I don't understand
8 how that can come in when it's self-serving.

9 MR. SCHNEE: Judge, I'm not seeking to introduce
10 Lorenzo Young's statement. It's McCoy's statement.

11 MS. GARFIELD: Judge, if you want them to hear
12 that, the jury is going to be aware that this could
13 have potentially been a death penalty case, and I
14 don't think that's proper for the jury to consider.

15 THE COURT: Do you want to say anything?

16 MS. PINNOCK: Yes, Your Honor, I would. As far
17 as Mr. Young goes, jeopardy has attached to
18 Mr. Young's case. We have done nothing that would
19 cause a mistrial. My understanding is the State is
20 asking for a mistrial based on Mr. Young and
21 Mr. Barnes. If Your Honor is only inclined to grant a
22 mistrial on Mr. Barnes per their request, they have
23 already submitted information to the jury about
24 statements that Mr. Barnes made, statements of
25 witnesses that they are under --- that they are aware

1 of pleading the Fifth and not testifying, so we have
2 done nothing to cause this request by the State for a
3 mistrial against Mr. Young, so all I'll say is that
4 jeopardy has attached. They have made statements in
5 their opening based on the theory that we were going
6 forward on both codefendants in this case.

7 So they requested the mistrial, Your Honor, and I
8 would let the record reflect we have done nothing
9 cause that on behalf of Mr. Young. They have
10 requested the mistrial for both cases.

11 THE COURT: All right. All the lawyers in the
12 back.

13 (WHEREUPON, a short break was taken.)

14 (WHEREUPON, State's Exhibits Numbers 326 through
15 394 were marked for identification only.)

16 THE COURT: All right. So when we took a break
17 this morning during opening statements, and the State
18 made a motion for mistrial based upon parts of
19 Mr. Schnee's opening statements, the main part being
20 dealing with his statement about Investigator McCoy,
21 who is one of the lead investigators on the case. At
22 this point in time, does the State wish to go forward
23 with that motion?

24 MS. GARFIELD: Your Honor, based on our
25 discussions in chambers, we would be willing to

1 withdraw the motion at this time and go forward on
2 both defendants.

3 THE COURT: All right. Anything from you,
4 Mr. Krzyston?

5 MS. GARFIELD: With obviously a curative
6 instruction to the jury.

7 THE COURT: Right. And anything from you,
8 Mr. Krzyston?

9 MR. KRZYSTON: Not as it stands.

10 THE COURT: Thank you. Mr. Schnee, anything from
11 you?

12 MR. SCHNEE: Yes, Your Honor, very briefly back
13 in chambers during one of our many meetings, Your
14 Honor had informed me that you believed my actions
15 have been entirely improper and outside the rules of
16 evidence and appropriateness and have threatened me
17 with contempt. My client has a Sixth Amendment right
18 to conflict free counsel and the right to present a
19 full and complete defense. At this point, based on
20 Your Honor's assertion that I would be in contempt and
21 quote in a cell with my client, at this point I'm
22 requesting that Your Honor recuse yourself. I'm
23 requesting a mistrial, and I have some cases that I'd
24 like to --- I don't have copies of them. I've just
25 been handed some of these.

1 I'd like to point out to Your Honor State v.
2 Wright, which is 271 S.C. 534. That was dealing
3 specifically with comments outside the presence of the
4 jury made to defense counsel about not having a valid
5 defense, things of that nature.

6 The court ultimately found in that case that
7 while it did not --- they decided not to --- I think
8 they decided not to grant a new trial on that one, in
9 the ultimately findings were they recognize a new
10 trial should be ordered when counsel is so inhibited
11 by the Court's review that counsel feared conduct and
12 therefore affected the defense.

13 At this point, Your Honor --- there are also
14 cases from the US Supreme Court Holt v. Commonwealth
15 of Virginia, which is 85 Supreme Court 1375. Another
16 South Carolina case is Mallet v. Mallet, which is 323
17 S.C. 141. All of those cases deal with the issue of a
18 trial judge recusal based on actions towards the
19 lawyers themselves.

20 I don't believe I can effectively represent my
21 client in this particular situation at this point and
22 provide him with a full and complete defense.

23 Additionally, based on Your Honor's --- I guess
24 for lack of a better term, rulings, regarding what I
25 can and cannot go into based on the fact that Lorenzo

1 Young is on trial at the same time specifically
2 dealing with the bias of Rolanda Coleman, which is one
3 of the State's main witnesses, I am at this time
4 renewing my motion to sever the cases.

5 THE COURT: All right. Your motion for a
6 mistrial is denied. Your motion to recuse myself is
7 denied. The factual scenario that you gave about what
8 transpired in chambers was pretty close to completely
9 inaccurate. I informed you that the information you
10 provided as to your good faith basis for making the
11 statements about Investigator McCoy didn't even rise
12 to the level of the statements that you made, and even
13 if it did, more than likely that would be inadmissible
14 in the trial and was inappropriate.

15 We had moved on from that issue, and the State
16 had informed the judge that they intended on removing
17 their mistrial motion, at which point in time, you
18 informed us all that there would be another mistrial
19 motion within five minutes of going back on the record
20 because you intended in going into Mr. Young's --- and
21 Mr. Young is the co-defendant --- Mr. Young's current
22 pending charges in the opening statements, at which
23 point in time I informed that you that that was not
24 appropriate. It was not admissible under the Rules of
25 Evidence, and you alluded to essentially doing it

1 anyway.

2 At which point in time, I informed you of the
3 contempt power of this court, which is --- and the
4 court does have the ability and the authority to put
5 anyone who violates a direct order of the court in the
6 presence of the court in the county jail.

7 So, your motion for a mistrial is denied. Your
8 motion for me to recuse myself is denied. I have
9 studied during this time Rule (3)(e) of the South
10 Carolina rules, appellate court rules, involving
11 judicial candidates and I have no prejudice or no bias
12 towards you or your client and therefore your motion
13 is denied. The trial will continue. Bring in the
14 jury. You may continue with your opening statement,
15 Mr. Schnee.

16 MR. SCHNEE: If I may continue briefly before the
17 jury comes back in go on the record?

18 THE COURT: Yes.

19 MR. SCHNEE: Judge, I specifically did not say
20 that I would be talking about Lorenzo Young's pending
21 charges.

22 THE COURT: What you said was, "I'm going to go
23 into the credibility of Rolanda" --- is that her name?

24 MS. GARFIELD: Yes, sir.

1 THE COURT: --- "Rolanda Coleman, who has pending
2 charges."

3 THE COURT: I informed you that you can talk
4 about her pending charges as much as you want to. You
5 said, "Her pending charges that she has with
6 Mr. Young." That means that Mr. Young has pending
7 charges, and I would not allow you to go into the
8 information concerning the fact in front of the jury
9 that Mr. Young has pending charges. He hadn't been
10 convicted of any of these charges. They're merely
11 pending charges, and I would deem that to be
12 inadmissible. You said, "I don't understand that
13 ruling." I said, "You don't have to understand it.
14 That's the ruling of the court and you need to follow
15 it."

16 MR. SCHNEE: Judge, if I may for the record, what
17 I indicated in chambers was that my intention was to
18 attack the credibility, motive, and bias of Rolanda
19 Coleman. The fact that she has pending charges is
20 relevant. The fact that she is a witness for the
21 State and originally presented an alibi for Lorenzo
22 Young is relevant. The fact of the pending charges
23 also involve Mr. Young with relation to Ms. Coleman's
24 credibility and her motive to lie are relevant issues.
25 I specifically asked Your Honor if it was a separate

1 trial if that would be admissible. Your Honor
2 indicated that it probably would, which is why I moved
3 for a severance based on that.

4 I did not indicate that I would be trying to
5 impugn the credibility or character of Mr. Young, but
6 in order for me to fully go into the credibility of
7 Rolanda Coleman, it's impossible to do that without
8 indicating that the charges involve her child's
9 father, as well. That's all I have for the record,
10 Judge.

11 THE COURT: Thank you very much. Bring them in.

12 THE BAILIFF: Yes, Your Honor.

13 (WHEREUPON, the jury entered the courtroom at
14 2:09 P.M.)

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

16 THE COURT: All right. Thank you very much,
17 Mr. Dye. Thank you, ladies and gentlemen, I apologize
18 for the extended delay. I just wanted to let you know
19 that I take full responsibility for the extended
20 delay. No type of anything by you against any of the
21 parties should be in any way, shape, or form
22 considered. I control the mode of this trial and the
23 timing of this trial. I accept full responsibility
24 for it. You should not lay any blame or anything else
25 upon any of the parties, any of the lawyers or anybody

1 else. I accept full responsibility for that.

2 Now, I do need to remind you of something that I
3 told you earlier this morning. I know I told you that
4 this --- what I told you this morning, and I'm going
5 to tell you again. A lot of things I say to juries I
6 say multiple times in trial to make sure that you
7 understand and to make sure everybody is listening,
8 but there were some statements made in the opening
9 statement about something that the lead investigator
10 had done or not done throughout the course of this
11 trial.

12 That information needs to be disregarded by you.
13 Now, I told you in the very beginning, and I will tell
14 you at the very end that nothing these attorneys say
15 in opening statements is evidence. You haven't heard
16 any evidence.

17 Even though you started the trial this morning,
18 you haven't heard one piece of evidence yet in this
19 courtroom. Evidence comes from where? It comes from
20 the witness stand. Anything the attorneys say in
21 their opening statements or closing argument is not
22 evidence. It is not proof of anything. It's merely
23 their position on something. Therefore it's not to be
24 considered by you as evidence of anything.

25 I told you this morning what was evidence and

1 what was not evidence. One of the things I was very
2 clear is that the opening statements and the closing
3 arguments and the questions of the attorneys are not
4 evidence. The evidence is when someone takes that
5 witness stand, swears to tell the truth and testifies
6 to you, their testimony or the exhibits received
7 through them or any stipulations of all the parties,
8 that's the evidence in the case, so keep that in mind
9 as you proceed today.

10 Again, I apologize for the delay. I accept full
11 responsibility.

12 Mr. Schnee, you may continue.

13 MR. SCHNEE: May it please the Court, Your Honor.

14 THE COURT: Yes, sir.

15 OPENING STATEMENT:

16 (continued)

17 MR. SCHNEE: Good afternoon.

18 THE JURORS: Good afternoon.

19 MR. SCHNEE: Witness credibility is going to be
20 one of the most important issues that you're going to
21 have to decide in this trial.

22 You're going to be hearing from witnesses who are
23 --- some of them are incarcerated. Some of them have
24 pending charges that are unrelated to this. Some of
25 them have family relationships with people involved in

1 this case regardless of which side they are.

2 All of them have their own motives to say what
3 they're going to say, to say what they've said in the
4 past, or to change their story. You're going to hear
5 that a lot of people have changed stories. You're
6 going to hear that from various witnesses. It's not
7 that their memories have changed over time, it's that
8 they're trying to decide what the truth is. You're
9 going to figure that out when you're listening to
10 these witnesses. Rolanda Coleman, as I was saying
11 hours ago, she has pending criminal charges. She is
12 the girlfriend and mother of Lorenzo Young's child.

13 She is going to get up and say various things.
14 She has said various things to law enforcement in the
15 past. I have no idea what she is actually going to
16 get up there and say because I haven't heard her say
17 it yet. All I have is what she said in the past. If
18 she sticks to what she said in the past and that is
19 what is presented, you're going to hear things that
20 don't make any sense. The reason why she is going to
21 be testifying in that way if that's what she actually
22 says is because she is Lorenzo Young's girlfriend,
23 commonlaw wife and mother of his child. She has a
24 motive to protect him and to lie.

25 She also has a motive to incriminate other people.

1 as a means of helping that out. You're going to see
2 that throughout the course of this trial. She is
3 certainly not the only witness, but she is one of the
4 main witnesses for the State.

5 There's a lot of pressures that are put on life
6 in people. Trenton Barnes, you heard what he was
7 charged with. In July of last year, he was 16 years
8 old. A lot of pressure put on him by his family, by
9 his brother, by education, by a lot of different
10 circumstances. You're going to hear quite a bit about
11 interactions with him and other people in the events
12 surrounding all of this.

13 Your job is going to be able to determine at the
14 end certain things, certain elements of crimes. One
15 of the most important elements you're going to have to
16 analyze for the murder charge is the element of
17 malice. You're going to have to determine was malice
18 present on any of this situation for anybody at any
19 time.

20 That's going to be especially challenging for you
21 when dealing with a 16-year-old child.

22 Now, the State mentioned a letter that you're
23 going to be hearing about that Trenton Barnes wrote to
24 his mother.

25 Now, when that statement is put before you, I

1 want you to think about a few things. I want you to
2 think about his family relationship. I want you to
3 think about how he treats his brother and what he
4 wants for his brother because his brother, Troy
5 Stevenson, is also charged with this. He is not on
6 trial today, but he is charged with all of this. You
7 also need to think of motives of why people would say
8 things that are not beneficial to themselves.

9 The letter from Trenton Barnes is the best
10 example. Why would he put what's in that letter,
11 which he will be able to --- which you will hear
12 during the trial --- why would he say the things that
13 he says? He is trying to protect his bigger brother.
14 That's as simple as this. He is not making rational
15 decisions. He is not thinking about his future. He
16 certainly didn't think about it when he wrote that
17 letter. What he is thinking about is how to protect
18 an older brother and that's completely understandable.
19 It's also completely --- for the same reason, it's
20 understandable as to why all of you have emotional
21 responses to the fact there's a 32-year-old woman who
22 left four children behind. I understand that
23 completely. I'm not asking you to ignore that. I'm
24 not asking you to pretend it doesn't exist.

25 The only thing I'm asking you to do is analyze

1 the actual evidence and really think about why people
2 have said things they have said or why they didn't say
3 things they said they did, why people have certain
4 actions or why people fail to take certain actions.

5 That's going to be your job for the next week of
6 the trial, and it's going to be a tough one. It's
7 going to be a tough one because there is no forensic
8 evidence that ties anyone to this at all. The State
9 wants to tell you this is not a TV show because they
10 think you've watched shows like CSI or Law and Order
11 where they have 50 DNA swabs and they all come back to
12 the same person. Yep, that's the guy. He did it.
13 They don't have any of that here. They have no
14 forensics. They have a blurry video, which I'm sorry
15 to say you will have to see.

16 There are a lot of things that you're going to
17 have to see that you're not going to want to see. I
18 wish that wasn't the case. You're going to hear a lot
19 of things that you don't want to hear. It's
20 unfortunate that you're put in that position. I'm
21 really sorry for the victim's family because they have
22 heard it and seen it and they have to relive all of
23 this the rest of this week even though they have
24 virtually no part in this trial at all.

25 There is nothing I can do about that to prevent

1 that. There is certainly nothing I can do to prevent
2 what you have to hear as jurors and what you have to
3 see. The only thing I am going to can ask you to do
4 is keep an open mind, pay attention to the witnesses,
5 but concentrate on motivations for liars. There are
6 going to be quite a few getting up there. They all
7 have reasons to lie or to withhold information. Keep
8 that in your mind at the forefront. Thank you.

9 THE COURT: Thank you, Mr. Schnee.

10 Ms. Bambach.

11 MS. BAMBACH: Thank you, Your Honor.

12 OPENING STATEMENT:

13 MS. BAMBACH: On July 1st, 2013, at 3:45 A.M.
14 Kelly Hunnewell's life tragically came to an end. It
15 came to an end for no reason at all. This is about a
16 mother, a mother who left --- who should be with her
17 kids right now and she can't and that's heartbreaking.
18 That's why you're all here. You're here for
19 Ms. Hunnewell. You're here to make sure that justice
20 is served.

21 You're the finders of fact. You're the most
22 important people in this room. And you must do what
23 is right, what is fair, and what is just.

24 It's human nature to be affected by the emotional
25 nature of this case, but you took an oath that you

1 would render a true verdict according to law and
2 according to the evidence.

3 This case has been centered around emotion since
4 the very day that it happened. The video of the
5 shooting was released to the public that same morning.
6 You can all see the news, the newspaper, the public in
7 here now. You can all see that this case created
8 headlines and when head lines exist, it creates
9 pressure, pressure to close this case as quickly as
10 possible.

11 The public wanted this case closed. The chief of
12 police wanted this case closed. The solicitor wanted
13 this case closed. The mayor wanted this case closed.
14 Everyone here in our city wanted this case closed.

15 A rushed investigation that was based on emotions
16 led to the arrest of an innocent teenager, Lorenzo
17 Young. The State wants you to convict Lorenzo. They
18 want you to put this case to rest for once and for
19 all, but the evidence doesn't point to Lorenzo. The
20 evidence doesn't prove that Lorenzo was there.

21 They had to make the pieces fit, but this is a
22 puzzle that can't be put together. You won't see
23 anything definitively connecting Lorenzo Young to this
24 shooting. The normal things that you would see in a
25 murder case are just not there. The arrest of Lorenzo

1 Young was based on a statement of one witness, and
2 credibility is a major issue in this case and
3 credibility is an easy concept. Do you believe the
4 witness or not?

5 You must decide that. You must make that
6 decision. You must think about whether you believe
7 each witness, that what they are saying is true,
8 whether they have a reason to lie. Whether they have
9 something to gain, whether they have something to
10 lose, and again, that decision is up to you.

11 The State must prove beyond a reasonable doubt
12 that Lorenzo Young was at 93 Tommy Circle that night.
13 It is their job to prove to you that Lorenzo was
14 involved and that Lorenzo helped in killing this
15 innocent woman, and it is your responsibility to hold
16 the State to that burden.

17 If you have any doubt that Lorenzo was at the
18 bakery that night, you must find him not guilty.
19 Again, I cannot stress how important your job is here,
20 and remember your oath, to render a true verdict based
21 on the law and the evidence.

22 The evidence in this case does not add up, and
23 there are still to this day many questions left
24 unanswered and that, ladies and gentlemen, is
25 reasonable doubt.

1 If you have any question as to whether or not
2 Lorenzo Young was at the 93 Tommy Circle bakery on
3 July 1, 2013, you must find him not guilty.
4 Convicting Lorenzo Young is not the answer here. It
5 is not justice.

6 Thank you.

7 THE COURT: Thank you very much, Ms. Bambach.

8 The State may call their first witness.

9 MS. SIMPSON: The State calls Officer Jonathan
10 Brayboy.

11 JONATHAN BRAYBOY,
12 after being duly sworn, testified as follows:

13 THE CLERK: Please have a seat. State your full
14 name.

15 THE WITNESS: My name is Jonathan Brayboy.

16 DIRECT EXAMINATION:

17 BY MS. SIMPSON:

18 Q Officer Brayboy, where are you employed?

19 A Columbia Police Department.

20 Q And how long have you been with the Columbia
21 Police Department?

22 A I've been with the city for approximately eight
23 years.

24 Q Eight years and what is your position there?

25 A I am a patrolman with the Columbia Police

1 Department.

2 Q As a patrolman, tell the jury a little bit about
3 your duties in the area that you work.

4 A Basically, we respond to calls for service from
5 the citizens of Columbia.

6 Q Okay. Do you have a particular area that you
7 actually parole within the city?

8 A Yes. I'm assigned to the metro region.

9 Q And I want to turn your attention back to the
10 early morning hours of July 1, 2013. Did you become
11 involved in this case?

12 A Yes, I did.

13 Q Tell us how you received the call.

14 A On July 1, 2013, approximately at 3:44 A.M., I
15 received a call from dispatch about shots being fired
16 and a complaint about hearing a --- what sounded like
17 a female screaming from the Tommy Circle area.

18 Q And where did you actually respond to when this
19 call came out? Where did you go?

20 A The complainant called from Circle,
21 which is where I initially made contact.

22 Q And who was that person that was there?

23 A It was an elderly white female. I don't know her
24 name exactly.

25 Q And when you made contact with her, did you speak

1 with her about what she heard?

2 A Yes, I did.

3 Q And as a result of your conversation with her,
4 did you learn that was the actual incident location or
5 what did you do?

6 A That was not the actual incident location. She
7 stated she was.

8 MS. PINNOCK: Objection, Your Honor, that's
9 hearsay.

10 THE COURT: Sustained.

11 BY MS. SIMPSON:

12 Q Without telling me exactly what she said ---

13 A Okay.

14 Q --- as a result of your conversation, what did
15 you do and where did you proceed?

16 A I spoke to her about what she had heard and began
17 paroling the area. That's when I noticed that the
18 door at 93 Tommy Circle was open. I further
19 investigated why the door was open.

20 Q And were there actually vehicles parked outside
21 the location, as well?

22 A Yes, there was.

23 Q Okay. And upon observing the vehicles, what did
24 you do?

25 A I checked the vehicles to make sure no one was

1 outside, nobody was flagging me down. There was
2 nobody outside. Looked inside the vehicles, didn't
3 see anybody.

4 I noticed the door was open, like I said. I
5 entered the building and heard the radio playing.

6 Q Okay. And what did you do next?

7 A I proceeded further inside the building, looked
8 around, called out, you know, announced who I was,
9 with the Columbia Police Department, and that's when I
10 noticed a white female laying on the floor to my right
11 in a pool of blood.

12 Q And after observing her at this point --- and you
13 said this was a shots fired call, correct?

14 A Correct.

15 Q What did you do?

16 A I backed out of the building and called for
17 additional units to assist me and also to have EMS en
18 route.

19 Q Okay. And we're backing up just a little bit.
20 In relation to where you first responded at, I
21 believe, Circle?

22 A Yes, ma'am.

23 Q Where is that in relation to 93 Tommy Circle?

24 A It's directly diagonal cross the street.

25 Q And so just right across the street from the

1 complainant's home?

2 A Correct.

3 Q What type of location is this area?

4 A It's a residential area.

5 Q And the building at 93 Tommy Circle, what was
6 that building?

7 A It was a bakery.

8 Q A bakery. And did other units arrive fairly
9 quickly?

10 A Yes, they did.

11 Q What happened once they arrived?

12 A Once the other units arrived, we proceeded inside
13 the building to clear the building, make sure there
14 was no one else inside hurt or injured or possible
15 suspects inside. We entered and cleared the building,
16 then stepped back out and secured the location for EMS
17 to arrive on scene.

18 Q Okay. And in securing the location --- I guess
19 let me back up. The security sweep, that is one of
20 your primary goals to make sure there's no one else is
21 in the area?

22 A Yes, it is. It's to provide officers' safety and
23 EMS workers safety.

24 Q And was anybody else located in the building
25 other than the deceased --- the white female that you

1 observed on the floor?

2 A No, there was not.

3 Q Okay. In order to secure the scene, what did you
4 do?

5 A We began to place our crime scene tape around the
6 van and the other patrol cars that were there to kind
7 of cordon off an actual crime scene, because we didn't
8 know what we had at that point.

9 Q So that you would actually serve as the perimeter
10 of the crime scene?

11 A Correct.

12 Q Did EMS arrive fairly quickly?

13 A Yes, they did.

14 Q Were you responsible initially for kind of
15 maintaining the scene as well as the log?

16 A Yes, I was.

17 Q When EMS arrived, did you observe them go inside
18 the building?

19 A Yes, we did. We also informed them --- once we
20 conducted the security sweep and secured the scene, we
21 placed traffic cones next to the rounds so they would
22 not be disturbed or kicked around from their original
23 casing once EMS entered the crime scene.

24 Q So prior to EMS entering, you actually observed
25 --- you said rounds. What do you mean by rounds?

1 A Shell casings.

2 Q Shell casings?

3 A Yes.

4 Q And where were they primarily located?

5 A Right around the --- there was a table sitting in
6 the middle of the room. They were around the table,
7 the two tables in the middle of the room.

8 Q So you marked those so they would not be ---

9 A Disturbed.

10 Q Disturbed. And was investigations also notified?

11 A Yes, they were.

12 Q As well as crime scene investigators?

13 A Yes, ma'am.

14 Q Were you actually there when they did arrive?

15 A Yes, ma'am.

16 Q As a responding officer, is it actually your duty
17 to, I guess, interview witnesses and process the crime
18 scene itself?

19 A No.

20 Q That is actually for the investigators in the
21 crime scene?

22 A Correct. Our basic duties are to preserve the
23 scene as is until the investigators and any crime
24 scene personnel arrive on the scene.

25 Q I'm going to show you what's being marked as

1 State's 378. Do you recognize the area depicted in
2 State's 378?

3 A Yes, I do.

4 Q Okay. Does it fairly and accurately depict the
5 location?

6 A Yes, it does.

7 MS. SIMPSON: Your Honor, at this time I would
8 offer State's 378 into evidence.

9 MS. BAMBACH: No objection.

10 MR. SCHNEE: No objection.

11 THE COURT: Very well. State's Exhibit 378
12 without objection.

13 (WHEREUPON, State's Exhibit Number 378 was
14 admitted into evidence.)

15 MS. SIMPSON: Permission for the witness to step
16 down.

17 THE COURT: All right. Now, Officer Brayboy, I
18 need you to come to this side so the court reporter
19 can hear you, okay. Yes, that's right.

20 BY MS. SIMPSON:

21 Q And show us exactly we're looking in State's 378.
22 What is this area?

23 A This is obviously Tommy Circle, the roadway.
24 This is the parking lot adjacent to the bar, the Ale
25 House. This is the actual bakery that the crime scene

1 was at.

2 Q Okay. So located right next to the bakery you
3 stated that is a bar?

4 A Correct.

5 Q Known as the Ale House Lounge?

6 A Correct.

7 Q And you're pretty familiar with this area when
8 you patrol?

9 A Yes, ma'am.

10 Q Is this area located in Richland County?

11 A Yes, it is.

12 Q And with respect to Circle, we don't see
13 it on the map, but is it right across the street?

14 A Yes, Circle would be approximately right
15 in here. (indicating)

16 Q Thank you.

17 A You're welcome.

18 THE COURT: Ladies and gentlemen, as we go
19 throughout the trial and different exhibits will be
20 introduced, all attorneys do it differently, so some
21 of them may hand the exhibits to you and you can pass
22 them around. Some of them will show them to you for a
23 brief second. That's completely up to the attorney
24 and how they want to present it. What you need to
25 understand is at the conclusion of the trial when you

1 go back to deliberate, all of the exhibits that have
2 been admitted into evidence will be sent back to the
3 jury room so you'll be able to spend as much time as
4 you need looking at anything. So no one is trying to
5 keep anything from you. The attorneys can do it in
6 their own style as to how they let you see it. You
7 will have any admitted exhibits with you in the back
8 when you begin deliberations.

9 Go ahead, Ms. Simpson.

10 MS. SIMPSON: Thank you, Your Honor.

11 BY MS. SIMPSON:

12 Q Just briefly, too, with respect to other roads in
13 the area near Tommy Circle, are you familiar with
14 Lucille Drive?

15 A Yes, I am.

16 Q And is that in fairly close proximity to the
17 incident location?

18 A Yes, it is.

19 Q And what about Bronx Road?

20 A Yes, it is.

21 Q Now, at some point did your shift end?

22 A Yes, it did.

23 Q At that point what did you do?

24 A The crime scene log was turned over to an Officer
25 Bunton at that time, and I was properly relieved.

1 Q And would that be the extent of your involvement
2 with respect to this case?

3 A Yes, it is.

4 MS. SIMPSON: Thank you.

5 THE COURT: All right. Cross examination?

6 MS. PINNOCK: I have no questions, Judge.

7 THE COURT: Okay.

8 MR. SCHNEE: No questions, Your Honor.

9 THE COURT: All right. Thank you very much,
10 Officer Brayboy. You may be excused.

11 THE WITNESS: Thank you.

12 THE COURT: All right. I'm going to assume
13 witnesses are excused from their subpoenas. If
14 somebody doesn't want somebody excused, just jump up
15 and let me know. I'll tell them they are not excused
16 from their subpoena, okay.

17 MR. KRZYSTON: Thank you, Judge.

18 THE COURT: Do you understand, Mr. Schnee?

19 MR. SCHNEE: Yes, sir.

20 THE COURT: Do you understand?

21 MS. GARFIELD: Yes, sir.

22 THE COURT: Very good. Call your next witness.

23 MS. GARFIELD: Thank you, Your Honor. The State
24 calls Theresa Baskin.

25 THERESA BASKIN,

1 after being duly sworn, testified as follows:

2 THE CLERK: Please have a seat and state your
3 full name for the record.

4 THE BAILIFF: Watch your step, ma'am.

5 THE WITNESS: Theresa Greer Baskin.

6 MS. BAMBACH: Your Honor, may we approach?

7 THE COURT: Sure.

8 All right. Ladies and gentlemen, stand up and
9 stretch your legs. Talk amongst yourselves.

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

13 THE COURT: See, that was quick. You have the
14 idea. Whenever we do that, you don't need me to tell
15 you. Sometimes I will remind you. You're free to do
16 that, stretch your legs a little bit.

17 Ms. Garfield.

18 MS. GARFIELD: Thank you, Your Honor.

19 DIRECT EXAMINATION:

20 BY MS. GARFIELD:

21 Q Good afternoon, Ms. Baskin. Ms. Baskin, would you
22 please share with the jury where you live?

23 A Circle.

24 Q Ms. Baskin, are you nervous today?

25 A Yes.

1 Q Have you ever testified before?

2 A No.

3 Q Ms. Baskin, are you familiar with a bakery that
4 is located near your home?

5 A Yes.

6 Q Were you also familiar with the Original Ale
7 House?

8 A Yes.

9 Q And just explain to the jury in proximity from in
10 your home, where they're located.

11 A The bar is approximately 150 feet from my front
12 door. The bakery is about 125.

13 Q And back in July of last year, were you familiar
14 with any of the employees at the bakery?

15 A No.

16 Q Did you have the occasion to wake up in the
17 middle of the night on July 1, 2013?

18 A Yes.

19 Q And just explain to the jury what woke you up?

20 A I got up to use the restroom, went in the kitchen
21 to get water, was just getting ready to sit down and
22 things happened.

23 Q All right. When you were getting water, did you
24 have a chance to look out your window?

25 A I did.

1 Q Please share with the jury what you observed when
2 you were looking out your window.

3 A When I looked out the window, the bar light was
4 off. There were no cars there. I could see the light
5 from the bakery door open, but I couldn't see the door
6 itself. I could just see the light from the door.

7 Q And after that, did you go back to your bedroom?

8 A I did.

9 Q And when you got to the bedroom, did you hear
10 anything that caught your attention?

11 A As soon as I sat on the edge of the bed, I heard
12 a woman scream.

13 Q What did you hear? Share with the jury exactly
14 what you remember?

15 A I just heard a woman screaming, "No, no, no," and
16 then heard bam, bam, bam, bam. I jumped up, screamed
17 to myself that those were gunshots.

18 Q And were the screams --- did they seem scary?

19 A It was terrifying. I mean, I can't describe the
20 terror that was in the voice.

21 Q And you recall that today just as you did back
22 then?

23 A Yes.

24 Q And based on hearing the gunshots and the
25 screams, Ms. Baskin, tell the jury what you did next?

1 A I jumped up, I grabbed my phone. I have dispatch
2 programmed into my cell phone. I went to call it and
3 accidentally disconnected and had to call again.

4 Q And what did you tell law enforcement when they
5 answered?

6 A That I had heard a woman screaming. I heard
7 gunshots. They asked me if I had seen anything. I
8 told them no.

9 Q And did law enforcement arrive?

10 A Within about two to three minutes.

11 Q And did they come to your home?

12 A Yes.

13 Q And did you tell law enforcement what you had
14 heard?

15 A I did.

16 Q And you told them about the light on in the
17 bakery?

18 A Well, not right at first. I told them that I
19 really could not tell where the sound came from
20 because it echoes in that area. I said it could have
21 been in front of my house. It could have been beside
22 my house, across the street, behind me, that I just
23 didn't know.

24 Q But it caused you such concern that you felt the
25 need to call police?

1 A Yes.

2 Q Is this home and the bakery, is that in Richland
3 County?

4 A Yes.

5 MS. GARFIELD: Beg the Court's indulgence.

6 (Pause.)

7 BY MS. GARFIELD:

8 Q Ms. Baskin, just to clarify, what was your
9 address?

10 A At the time it was Circle. The city has
11 changed the numbering on my house. It's now
12 Circle.

13 Q And that's something that's been done since this
14 incident?

15 A Yes.

16 Q Thank you. Please answer any questions defense
17 counsel may have

18 MS. BAMBACH: I have no questions.

19 MR. SCHNEE: May it please the Court, Your Honor.

20 THE COURT: Yes, sir.

21 CROSS-EXAMINATION:

22 BY MR. SCHNEE:

23 Q I just have a few questions for you, ma'am.

24 A Uh-huh.

25 Q How long have you lived at that place?

1 A Almost ten years.

2 Q Okay. Have you had occasions on any other time
3 to be up at three, four in the morning and look out
4 that same window?

5 A Pretty much every night.

6 Q Okay. Is it normal for you to see the light in
7 the bakery on?

8 A Most of the time it was.

9 Q Okay. So that didn't cause you any concern or
10 any worry?

11 A No.

12 Q And you didn't see anybody walking around
13 anywhere at any time?

14 A No.

15 Q Didn't hear anybody walking around your house or
16 anything like that?

17 A No.

18 Q So you heard a woman screaming and then the
19 gunshots and then you called the police?

20 A Correct.

21 Q Right did you look back out the window after
22 that?

23 A I did.

24 Q Did you see anyone?

25 A No.

1 Q Okay. If you look out your window, is it a
2 direct view of the bakery?

3 A It's at a --- about a two o'clock angle.

4 Q Okay. Did you look over toward the bakery or did
5 you just look out the window --- if you remember.

6 A It's just automatic for me to look that way
7 because that's probably the most lit area.

8 Q So how long after the shots would you say you
9 looked out the window?

10 A One, maybe two minutes.

11 Q And you didn't see anybody walking around or
12 anything like that?

13 A No.

14 Q Thank you, ma'am.

15 THE COURT: Redirect?

16 MS. GARFIELD: No, sir.

17 THE COURT: Ms. Baskin, have a nice day. Thank
18 you very much.

19 Call your next witness.

20 MS. SIMPSON: The State calls Mary Ellen Swain.

21 MARY ELLEN SWAIN,

22 after being duly sworn, testified as follows:

23 THE CLERK: Please have a seat. State your full
24 name for the record.

25 THE BAILIFF: Watch your step.

1 THE WITNESS: Mary Ellen Swain.

2 DIRECT EXAMINATION:

3 BY MS. SIMPSON:

4 Q Ms. Swain, where are you employed?

5 A Richland County EMS.

6 Q And how long have you been with Richland County
7 EMS?

8 A Almost 11 years.

9 Q And what is your position there?

10 A A senior paramedic.

11 Q And as a senior paramedic, describe for the jury
12 what you do?

13 A Basically I respond to emergency calls, provide
14 patient care based on the type of call, transport to
15 the hospital. I also oversee other crews and other
16 units on the street as a first line direct supervisor
17 on the street.

18 Q And back on July --- the early morning hours of
19 July 1, 2013, did you receive a call to respond to 93
20 Tommy Circle?

21 A I did.

22 Q Can you tell the jury about that?

23 A We received a call to respond out, and our
24 original call out was for a gunshot wound.

25 Q And when you arrived were officers already on the

1 scene?

2 A Yes.

3 Q And once you arrived did they give you some
4 additional information about where the victim may be?

5 A All we were told when we arrived on the scene ---
6 there were several officers on the scene. They had
7 actually already roped off the outside of the
8 building, and the law enforcement officer that I came
9 in contact with said that there was a victim inside
10 the building, just one.

11 Q And did you then proceed inside?

12 A I did.

13 Q What did you observe and what actions did you
14 take?

15 A I walked inside. I had my cardiac monitor. I
16 found a female victim laying under a table, a large
17 pool of blood up underneath her head. There was no
18 response. There was no pulse, she was not breathing.
19 I placed her on the cardiac monitor and confirmed that
20 she was in fact deceased.

21 Q And with respect to, I guess, your movement of
22 the body, when you approached it, did you remove
23 clothing or did you turn the body over? What did you
24 do?

25 A No. When I observed the body and being that it

1 was a potential crime scene, we do not touch anything
2 or disturb anything that would be considered potential
3 evidence. We basically just take a clear path, and
4 anything that was on the floor --- there were several
5 kitchen utensils, mixing bowls on the floor. We left
6 them as is. The only placement or touching of the
7 body that I did was place my leads for my cardiac
8 monitor on there. I did not turn the body, move the
9 body, anything. We do not do that.

10 Q And once you determined that the deceased female
11 was unresponsive, who did you notify what you did?

12 A I called my dispatch over the radio and notified
13 them that I did have one patient that is deceased and
14 they are responsible for notifying the coroner. Once
15 I did that, I gathered my equipment that I had, took
16 the direct path that I had inside and left the scene,
17 left the building.

18 Q So the victim's body was actually left there,
19 there was no transport?

20 A No transport. We do not transport..

21 Q So she was essentially deemed dead on arrival?

22 A Yes.

23 Q I know it's been awhile. Do you recall what time
24 you were dispatched to the location?

25 A I know that it was early in the morning. I don't

1 remember exactly what time it was. I know it was
2 after --- it was after two, two o'clock in the morning
3 or so. I'm not sure exactly what time.

4 Q And you've responded to a number of calls since
5 that time?

6 A Oh, yes.

7 Q Would it assist you if I showed you a copy of
8 your report?

9 A Yes, that would be great. Thank you.

10 Q What is the date and time dispatched on that?

11 A The date was July 1, 2013, and we were dispatched
12 at 03:55 A.M.

13 Q And who was the victim listed on there?

14 A Kelly Hunnewell.

15 MS. SIMPSON: Thank you, Ms. Swain.

16 THE WITNESS: Thank you.

17 THE COURT: Is that it?

18 MS. SIMPSON: Yes, Your Honor.

19 THE COURT: I'm sorry. I didn't hear you.

20 Cross?

21 MR. KRZYSTON: I have no questions for this
22 witness, Your Honor.

23 THE COURT: Thank you, sir.

24 Mr. Schnee.

25 MR. SCHNEE: No questions.

1 THE COURT: Great. Thank you very much. Have a
2 nice day.

3 THE WITNESS: Thank you.

4 THE COURT: Call your next witness.

5 MS. SIMPSON: The State calls Adam Lostettler.

6 THE COURT: Adam who?

7 MS. SIMPSON: Lostettler. I apologize for my
8 pronunciation.

9 ADAM LOSTETTLER,
10 after being duly sworn, testified as follows:

11 THE CLERK: Have a seat and state your full name
12 for the record.

13 DIRECT EXAMINATION:

14 BY MS. SIMPSON:

15 Q Can you state your full name for the record?

16 A Adam Lostettler.

17 Q Mr. Lostettler, where do you work?

18 A Columbia Fire Department.

19 Q What do you do there?

20 A I'm a captain on engine 11.

21 Q As a captain on engine 11, what are your duties?

22 A I'm over my truck. I have three other people I'm
23 direct supervisor over.

24 Q And you respond to emergency calls from law
25 enforcement people, individuals, things of that

1 nature?

2 A Correct.

3 Q I want to turn your attention back to --- first,
4 how long have you been with the Columbia Fire
5 Department?

6 A Approximately 13 years.

7 Q Thirteen years. Turning your attention back to
8 July 1st of 2013, did you receive a call to respond to
9 93 Tommy Circle?

10 A We did.

11 Q Tell the jury about that call and what you did.

12 A I got turned out --- that's how they alert us for
13 a call for a gas leak, and we had a response for a gas
14 leak. We arrived on the scene, talked to the police
15 officers that were on the scene. They told us they
16 just needed the stove and I think it was another
17 appliance cut off, the gas. We went inside, cut the
18 gas off to those appliances, came back outside, and I
19 advised my chief that it wasn't an actual gas leak.
20 It was just the police department needed the gas cut
21 off to the appliances and we cleared the scene.

22 Q So the establishment when you arrived --- what
23 was the temperature like inside, if you recall?

24 A I don't recall.

25 Q When you said there was no gas leak, did you go

1 to the direct appliances and turn them off?

2 A Right, each appliance had the cut off behind it.
3 Instead of just using the knobs, we cut it off at the
4 actual cut off behind the appliance.

5 Q With respect to the scene, when you go to the
6 appliances, are you cautious and aware of where you go
7 so as not to contaminate the scene in any way?

8 A Correct. We go straight to the appliance. We're
9 careful not to mess with anything other than the
10 appliances.

11 Q Once you turned off the appliances, was that the
12 extend of your involvement? Did you then leave?

13 A It was.

14 Q Thank you.

15 THE COURT: Cross?

16 MR. KRZYSTON: No questions, Your Honor.

17 THE COURT: All right.

18 MR. SCHNEE: No questions.

19 THE COURT: Thank you very much, captain.

20 Have a nice day.

21 THE WITNESS: Thank you.

22 THE COURT: Call your next witness.

23 MS. GARFIELD: Judge, there are some scheduling
24 issues, so we're going to call a witness out of order.

25 At this time, the State would call Adam Blauch,

1 B-L-A-U-C-H.

2 (WHEREUPON, State's Exhibit Number 395 was marked
3 for identification only.)

4 MR. KRZYSTON: Judge, can we approach?

5 THE COURT: Sure.

6 (WHEREUPON, a bench conference was held in the
7 presence, but not within the hearing of the
8 jury.)

9 ADAM BLAUCH,

10 after being duly sworn, testified as follows:

11 THE CLERK: Please have a seat. State your full
12 name.

13 THE COURT: All right. Go ahead, Ms. Garfield.

14 MS. GARFIELD: Thank you, Your Honor. May it
15 please the Court.

16 DIRECT EXAMINATION:

17 Q Mr. Blauch, where are you employed?

18 A I am employed with AT&T.

19 Q What is your duties with AT&T?

20 A I am employed as a custodian of records to appear
21 in court on behalf of AT&T.

22 Q Is that pursuant to receiving search warrants and
23 subpoenas for phone records?

24 A We receive search warrants and subpoenas to
25 produce phone records and then we receive subpoenas to

1 appear in court as well.

2 Q And that's why you're here today?

3 A Yes.

4 Q And did you receive a search warrant for a phone
5 number of

6 A Yes, we did.

7 Q Can you tell the jury what that phone number ---
8 or who it's registered to or an address it's
9 registered to?

10 A The phone is actually registered to a reselling
11 company called Budget Phone Incorporated, but the
12 service address for that phone number is
13 , Columbia, South Carolina 29204.

14 Q Is that cell line or a land line?

15 A A land line.

16 MR. KRZYSTON: Judge, there's a matter of law we
17 need to discuss.

18 THE COURT: All right. Ladies and gentlemen.
19 Take off to your jury room. Do not discuss the case.
20 Keep an open mind. We'll be back with you in just a
21 few moments.

22 (WHEREUPON, the jury left the courtroom at 2:55
23 P.M.)

24 THE COURT: All right.

25 MR. KRZYSTON: May it please the Court, Your

1 Honor. I've been handed what is listed as a State's
2 Exhibit 395. It is a binder with --- on the front
3 there is a label --- it's labeled as AT&T land line
4 and lists the phone number. Similar thing on the
5 side. My objection to this exhibit is the very first
6 page is a fax from the Columbia Police Department. I
7 would argue that is inadmissible hearsay.

8 The second --- the next few pages that follow are
9 a copy of the search warrant itself. Specifically it
10 deals with similarly, all the affidavits I think you
11 reviewed for search warrants for homes. It lists part
12 of the investigation, statements by Troy Stevenson
13 who --- various statements dealing with the probable
14 cause for the search warrant itself. I'd ask that all
15 those documents be removed from this as it's not a
16 proper exhibit. I have no objection to the phone
17 records themselves, but the cover sheet from the
18 police department, we do object to.

19 THE COURT: Let me see it.

20 MS. GARFIELD: Judge, we agree. I inadvertently
21 put it in there. I realized it when Mr. Krzyston
22 looked it. These aren't being published to the jury
23 at this time. I was going to remove it after. I just
24 didn't want the jury to see me remove something from
25 it.

1 THE COURT: So the search warrant and the fax
2 cover sheet are coming out. I assume there is no
3 objection to that.

4 MR. KRZYSTON: No, Your Honor.

5 THE COURT: So you're okay as long as the search
6 warrant and the fax cover sheet come out?

7 MS. GARFIELD: They're out.

8 MS. CAMPBELL: Judge, while jury is out, can I
9 check the pictures for the next witness as far as
10 what's coming in versus ...

11 THE COURT: Yes.

12 (Pause.)

13 MS. CAMPBELL: Thank you, Judge.

14 THE COURT: Okay. Mr. Dye.

15 (WHEREUPON, the jury entered the courtroom at
16 2:58 P.M.)

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

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

19 Welcome back, ladies and gentlemen. Ms. Garfield, you
20 may continue.

21 MS. GARFIELD: Thank you, Your Honor.

22 BY MS. GARFIELD:

23 Q Mr. Blauch, I'm going to show you what's being
24 marked as State's Exhibit 395. Are those the phone
25 records pertaining to that Lucille Drive phone number?

1 A Yes.

2 Q What are the dates of those phone records?

3 A AT&T pulled the dates of June 26, 2013, until
4 July 6, 2013.

5 Q And those are accurate in their true form?

6 A Correct.

7 MS. GARFIELD: Your Honor, at this time I'd like
8 to introduce State's Exhibit Number 395 into evidence.

9 MS. PINNOCK: No objection.

10 MR. SCHNEE: No objection.

11 THE COURT: All right. Thank you very much.
12 Without objection.

13 (WHEREUPON, State's Exhibit Number 395 was
14 admitted into evidence.)

15 MS. GARFIELD: No further questions.

16 THE COURT: Cross-examination?

17 MS. PINNOCK: No questions, Judge.

18 MR. SCHNEE: Very briefly.

19 THE COURT: Yes, sir.

20 CROSS-EXAMINATION:

21 BY MR. SCHNEE:

22 Q Do you remember when you received the request for
23 those phone records?

24 A My office received it. I did not receive it
25 personally.

1 Q Okay. Would you know when your office received
2 that request?

3 A I was not given that information for this.

4 Q Okay. If I show you the first page, can you tell
5 me when this report was actually generated?

6 A It was generated on February 1st, 2014.

7 Q Okay. Do you believe that your office or anyone
8 else would have waited six months on that request or
9 is that something that is normally done very quickly?

10 A It depends on the backlog. We could be several
11 weeks behind. Several meaning two to ten weeks
12 behind.

13 Q So the request wasn't made say July 8th.
14 Obviously it was made later than that?

15 A I couldn't say when. I really don't know exactly
16 when it was made.

17 Q But it was printed out on actually --- you said
18 February?

19 A February 1st of 2014.

20 Q Thank you.

21 THE COURT: Redirect?

22 MS. GARFIELD: No, sir.

23 THE COURT: Have a nice day.

24 THE WITNESS: Thank you.

25 THE COURT: Call your next witness.

1 MS. CAMPBELL: The State would call Investigator
2 George Wise.

3 INVESTIGATOR GEORGE WISE,
4 after being duly sworn, testified as follows:

5 THE CLERK: Please have a seat. State your full
6 name for the record.

7 THE WITNESS: My name is George Wise. Wise,
8 W-I-S-E.

9 DIRECT EXAMINATION:

10 BY MS. CAMPBELL:

11 Q Investigator Wise, where are you employed?

12 A City of Columbia Police Department.

13 Q What do you do there, sir?

14 A I'm a crime scene investigator.

15 Q As a crime scene investigator, what do your
16 duties include?

17 A Some of my duties are to respond to a crime scene
18 and once the scene is secure, my job is to go in and
19 take a videotape or photograph the crime scene and
20 collecting evidence and placing that evidence into the
21 evidence room.

22 Q And do you have any training or education in the
23 area of crime scene investigation?

24 A Most of my crime scene training has been on-the-
25 job training. I do have training in fingerprint

1 comparison, palm print comparison, and a two-day class
2 in crime scene photographing.

3 Q Have you ever been qualified before as an expert
4 as far as processing crime scenes?

5 A Yes.

6 Q Approximately how many times have you been
7 qualified, do you know?

8 A I believe one time.

9 MS. CAMPBELL: Your Honor, at this time we'd
10 offer him as an expert in crime scene investigation.

11 THE COURT: Voir dire?

12 MS. CAMPBELL: As far as evidence collection.

13 THE COURT: Voir dire?

14 MS. BAMBACH: Your Honor, can we approach?

15 THE COURT: Sure.

16 (WHEREUPON, a bench conference was held in the
17 presence, but not within the hearing of the
18 jury.)

19 THE COURT: Voir dire?

20 MS. PINNOCK: Briefly, Judge.

21 THE COURT: Sure.

22 MS. PINNOCK: Investigator Wise, how many scenes
23 have you processed?

24 THE WITNESS: I've been with crime scene now four
25 years. I would say, just to give an estimate,

1 probably over 100 ---

2 MS. PINNOCK: Okay.

3 THE WITNESS: --- crime scenes, but that's
4 including burglary, auto breaking. Is that what
5 you're including, ma'am?

6 MS. PINNOCK: Yes.

7 THE WITNESS: Okay.

8 MS. PINNOCK: And with this case when you
9 responded on July 1st, you said you did arrive and the
10 purpose of your arriving was to document?

11 THE WITNESS: Yes, to document the scene.

12 MS. PINNOCK: Either video, photograph,
13 collecting certain evidence.

14 THE WITNESS: Yes, ma'am.

15 MS. PINNOCK: And after you performed those
16 duties, you submitted it for evidence, right?

17 THE WITNESS: Yes, ma'am.

18 MS. PINNOCK: Anything you collect that point,
19 you submitted to evidence?

20 THE WITNESS: Yes, ma'am. Normally, I believe at
21 that point in time for this case, we actually put it
22 in our crime lab for security purposes and we're able
23 to place it into the evidence room.

24 MS. PINNOCK: And when you processed the scene,
25 you dusted for prints, correct?

1 THE WITNESS: At that point in time, I did not
2 dust for prints for this scene.

3 MS. PINNOCK: Okay. You took photographs?

4 THE WITNESS: Yes.

5 MS. PINNOCK: Did you collect the shell casings
6 or did somebody else collect the shell casings?

7 THE WITNESS: I was there. I had assistance from
8 another crime scene officer who was actually in
9 training at the time. He assisted me when I was
10 there, but he collected the shell casings.

11 MS. PINNOCK: Okay.

12 THE WITNESS: And we were both there at the same
13 time.

14 MS. PINNOCK: As far as training, you said you've
15 been qualified as an expert once before.

16 THE WITNESS: I believe I may have testified in
17 federal court in a murder case back then. I believe
18 it was this year. If I recall, I think the lawyers
19 worked out where I was to testify as an expert
20 witness.

21 MS. PINNOCK: Okay. But you were not prepared to
22 testify as an expert when you first got there? They
23 had worked something out.

24 THE WITNESS: I assume so, ma'am, but I cannot
25 recall.

1 MS. PINNOCK: And what were you actually
2 qualified in?

3 THE WITNESS: This crime scene.

4 MS. PINNOCK: Nothing specific.

5 THE WITNESS: No, ma'am, nothing specific.

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

7 (Pause.)

8 MS. PINNOCK: I have nothing further at this
9 point, Your Honor.

10 THE COURT: Mr. Schnee?

11 MR. SCHNEE: Judge, I have ---

12 THE COURT: As to clarification?

13 MR. SCHNEE: Judge, I have no objection to him
14 being qualified as an expert in evidence collection.
15 However, if he is going to render any opinions as to
16 anything subsequent to that based on whatever was
17 found, I would object to that and would require
18 additional foundation.

19 MS. CAMPBELL: He is going to talk about evidence
20 collection and his observations at the scene.

21 THE COURT: All right. Ladies and gentlemen,
22 this witness is going to be qualified as an expert in
23 the area of evidence collection and what he did from a
24 crime scene standpoint. Normally a person cannot give
25 opinion testimony.

1 Normally when a person testifies, they have to
2 testify as to what they saw, heard, did smelled,
3 something like that. However, there is an exception
4 when someone is qualified because of their education
5 or experience, they are permitted to give opinion
6 testimony in certain areas if they get qualified in
7 that way, so this witness will be qualified as an
8 expert in the area of crime scene collection. He will
9 be allowed to give opinion testimony in that area.
10 That doesn't mean you would have to accept his
11 opinion, but it is evidence for you to use in any way
12 you see fit and give it the weight and credibility
13 that you believe it deserves, as you are required to
14 do with each and every witness that appears before
15 you. Thank you.

16 Ms. Campbell.

17 MS. CAMPBELL: Thank you, Your Honor.

18 BY MS. CAMPBELL:

19 Q Investigator Wise, back on July 1st, 2013, were
20 you working that morning or evening, I guess I should
21 say?

22 A No, ma'am, I was actually called out to the
23 scene. I was called out.

24 Q So you were actually on call?

25 A Yes, ma'am.

1 Q Did you get a call that morning to respond to an
2 address on Tommy Circle?

3 A Yes.

4 Q And what was the address you were responding to
5 that morning?

6 A It should be 93 Tommy Circle.

7 Q And what kind of call were your responding to?

8 A I was responding to a shooting. If I recall the
9 information I received early that morning, there was a
10 shooting. I was not aware that it was actually a
11 homicide.

12 Q At this point?

13 A At that point.

14 Q Once your got to the scene what did you observe?

15 A Once I got on the scene, I came in contact with
16 an on-the-scene supervision, Sergeant Smalls. He
17 provided me with information that there had been a
18 shooting and that a person had been shot and had died
19 from her injuries. As I arrived on the scene, I found
20 it to be inside of a building, like I guess you would
21 say, a kitchen area. The door was open.

22 As I proceeded in, I see several areas where the
23 on-the-scene officers had placed traffic cones out to
24 mark --- sometimes officers will assist in finding
25 shell casings, projectiles, things that we could

1 locate and they do what they can to assist and keep it
2 located.

3 Q Let me stop you right there. You said there are
4 cones, right, to help keep you located. Is that also
5 to make sure that nobody moves any of the evidence
6 there at the crime scene?

7 A Yes, ma'am, we put that there so no one else
8 would interfere with that.

9 Q And that's not unusual in a scene such as a
10 shooting?

11 MR. SCHNEE: Objection, leading.

12 THE COURT: Overruled.

13 MS. CAMPBELL: Thank you.

14 BY MS. CAMPBELL:

15 Q Is that unusual?

16 A No.

17 Q Once --- you mentioned also that there were other
18 police officers there, is that correct?

19 A Yes.

20 Q And who did you actually make contact with to get
21 some information?

22 A It was an on-scene supervision, Sergeant Smalls.

23 Q And what's the purpose of you trying to get that
24 information before you enter a crime scene?

25 A Basically to see what situation I have or what

1 course of action I need to do. I need some
2 information before I walk into the scene to see what I
3 have.

4 Q Once you went inside the scene, I believe that's
5 what you were testifying about and seeing the cones
6 marking certain pieces of evidence. What type of
7 evidence were the cones kind of pointing out to
8 people?

9 A Empty shell casing, empty shell casing, and some
10 projectile, and a projectile is a bullet.

11 Q You talk about the word projectile and empty
12 shell casings that you observed on your initial
13 assessment of the scene. What does that mean to
14 someone like me, a lay witness that doesn't have a gun
15 necessarily themselves?

16 A A shell casing basically is a --- something that
17 has been ejected from a weapon. It has been fired and
18 then you have an empty shell casing that lands on the
19 ground as a fired bullet. It's an empty shell casing
20 like it's been fired from a weapon.

21 Q And what part of the weapon would a shell casing
22 come from when ejected versus the projectile?

23 A I'm sorry?

24 Q What part of the weapon would the shell casing
25 come from versus where the projectile would come? Can

1 you explain that?

2 A The shell would come out the exiting point of a
3 weapon. Once the weapon is fired, it exits out of the
4 exit point.

5 Q Okay. You used the term projectile. What part
6 of the weapon does that come out of?

7 A That comes out the barrel.

8 Q So that's what I would call the bullet that comes
9 out at the end of the barrel?

10 A Yes.

11 Q And then the shell casing is that part that's
12 shed off that bullet as it goes through the gun?

13 A Yes.

14 Q You noted that there were several of those
15 around. Did you also observe anybody there at the
16 scene?

17 A The victim.

18 Q And where was the victim located when you got
19 there?

20 A The victim was actually laying under a same area.
21 As you walked through the door, you would look to the
22 right area. There is a sink area alongside the wall
23 where the victim was actually laying at, up under the
24 sink.

25 Q Did you note any areas that indicated there may

1 have been some type of struggle involved in that area
2 that night?

3 A From what I observed, there were several pots
4 that had been knocked off a table onto the floor, and
5 a shelf had been pushed, knocked off several items
6 onto the floor, and it looked like basically a
7 struggle.

8 Q Once you did your walk through, what did you do
9 next?

10 A At that point in time I went ahead and removed
11 the cones and began marking the yellow markers, as
12 numbered markers, and began marking the shell casing
13 projectile and once they were marked, I began to
14 photograph them.

15 Q Did you notice if there is any kind of recording
16 system there at the scene that night?

17 A Later on, as we continued looking through the
18 area of the crime scene, that's when we went through a
19 storage area. I noticed a DVR, and I also noticed
20 there was a light on showing that it was operational,
21 basically that it was on. But there was not a monitor
22 to see if it was actually recording.

23 Q Is that something you typically look for that may
24 give you some information as to what happened that
25 night?

1 A Yes.

2 Q And what, if anything, did you do when you saw
3 the recording DVD that night?

4 A Once we saw the DVR --- once I saw that the
5 operation light was on and all, I went ahead and
6 collected the DVR.

7 Q And I show you what's been marked --- hold on.

8 (Pause.)

9 You mentioned that the first thing you do is go
10 through and photograph things; is that correct?

11 A Yes.

12 Q Is that prior to you collecting any actual
13 evidence in the case?

14 A Yes, we photograph it first so we can mark the
15 location of each piece of evidence and where it's
16 located at.

17 Q And I want to show you first --- did you
18 memorialize just the exterior of the building that you
19 were --- in State's Exhibit 8, that you were looking
20 at that night?

21 A Yes. This is the photograph here.

22 THE COURT: Whoa, whoa, whoa. Don't show it to
23 the jury yet.

24 THE WITNESS: I'm sorry.

25 BY MS. CAMPBELL:

1 Q Is that fair and accurate?

2 A Yes.

3 Q Is that the photograph that you actually took?

4 A Yes.

5 MS. CAMPBELL: Your Honor, at this time we'd
6 offer State's Exhibit 8 into evidence.

7 MS. PINNOCK: No objection.

8 MR. SCHNEE: No objection.

9 (WHEREUPON, State's Exhibit Number 8 was admitted
10 into evidence.)

11 MS. CAMPBELL: Your Honor, in order to expedite,
12 I believe, on the next --- State's Exhibit 9 through
13 State's Exhibit 140, we would offer all of those
14 subject to your previous rulings excluding number 21,
15 22, 23, 49, 124 and 122, am I correct?

16 MS. PINNOCK: I'm sorry. Say the numbers
17 excluded again.

18 MS. CAMPBELL: Number 21, 22, 23, 49, 122 and
19 124.

20 THE COURT: 124? Is that the last one?

21 MS. CAMPBELL: Yes, sir. Is that what your
22 records reflect?

23 MS. PINNOCK: Yes, Your Honor.

24 MR. SCHNEE: I certainly agree those were agreed
25 to not be, but I haven't seen what the rest of those

1 are so...

2 THE COURT: Okay. Show them to Mr. Schnee.

3 MS. CAMPBELL: He's had the opportunity to view
4 them on multiple occasions.

5 MR. SCHNEE: I object to that, Judge. That's
6 ridiculous.

7 THE COURT: Calm down. Show them to Mr. Schnee.

8 (Pause.)

9 MR. SCHNEE: Judge, may we approach?

10 THE COURT: Yes.

11 Stand up, stretch your legs, talk amongst
12 yourselves while he looks at the photos. It's okay.

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

16 THE COURT: Ms. Campbell, you may continue.

17 BY MS. CAMPBELL:

18 Q There were a number of photographs taken,
19 starting with State's Exhibits 8 through 140 that
20 night. You've had an opportunity to review these on a
21 prior occasion, correct?

22 A Yes.

23 Q Do these photographs that were taken that night
24 fairly and accurately depict the scene as you found it
25 that night?

1 A Yes.

2 Q Some of them have multiples and some don't; is
3 that correct?

4 A That's correct.

5 MS. CAMPBELL: Your Honor, at this time we would
6 offer State's Exhibits --- 8 is already in. We would
7 offer State's Exhibits 9 through 140.

8 THE COURT: All right. So 21, 22, 23.

9 MS. CAMPBELL: Forty-nine.

10 THE COURT: 122, 124 are out per order of the
11 court.

12 MS. CAMPBELL: With those exceptions.

13 THE COURT: Mr. Barnes objects to 57, 59, 98, 99,
14 100, 101, 102, 112 and 134 and those will be admitted
15 over defense objection.

16 MS. CAMPBELL: Thank you, Your Honor.

17 MS. PINNOCK: Your Honor, I would just like to
18 renew my previous objections for 125 and 123.

19 THE COURT: 125 and 123?

20 THE COURT: Have I seen those already?

21 MS. CAMPBELL: Yes, sir.

22 THE COURT: All right. Those are admitted over
23 defense objection.

24 MS. CAMPBELL: Thank you, Your Honor.

25 (WHEREUPON, State's Exhibit Numbers 9-20, 24-48,

1 50-121, 123, and 125-140 were admitted into
2 evidence.)

3 MR. SCHNEE: Judge, I'm also renewing my
4 objections of those for the record.

5 MS. CAMPBELL: Your Honor, may the witness step
6 down?

7 THE COURT: Investigator Wise, keep your voice up
8 so that jurors in the back corner can hear you and the
9 court reporter can hear you. Okay?

10 THE WITNESS: Yes, sir.

11 BY MS. CAMPBELL:

12 Q You can come over on this side. Face this way.

13 I'm going to show you some general overviews,
14 State's Exhibits 9 and 10, what area of the bakery do
15 those show, sir?

16 A This would be where you would walk through. The
17 main entrance would be to the far right side.

18 Q To the far right side?

19 A Yes, ma'am.

20 Q Then in State's Exhibits 11 and 12, what area
21 does this show?

22 A This area right here as you walk through the main
23 door, which is right here, you take a few steps. This
24 is actually to the left side of the room.

25 Q To the left side as you walk in the front door?

1 A Yes, but you have to take a few steps. It's like
2 an L shape.

3 Q And moving on around to State's Exhibits 13 and
4 14, what areas do those show?

5 A These areas actually show toward the sink area.

6 Q The sink area?

7 A The sink area where the victim would be located
8 at.

9 Q Where was the sink located as you walked through
10 the front door, which area which you look to?

11 A It would actually be to your right side.

12 Q Back towards the corner?

13 A Yes.

14 Q And another area, which is State's Exhibit
15 Number 16, what does that show, sir?

16 A That should be to the far right corner.

17 Q And State's Exhibit Numbers 17 and 18 show what
18 area?

19 A Then again, this is as you walk through the main
20 entrance, you have to take a few steps and this would
21 be to your far left.

22 Q And this item right here that's standing alone,
23 what is that?

24 A That would be the freezer area.

25 Q And finally looking at State's Exhibit Number 20,

1 this is looking into what specific area?

2 A If I recall, I think that's part of that, maybe a
3 storage area.

4 MS. CAMPBELL: Your Honor, permission to publish.

5 THE COURT: Yes, ma'am.

6 MS. CAMPBELL: Thank you.

7 BY MS. CAMPBELL:

8 Q And you mentioned a sink area is where the victim
9 was. That's where that was located; is that correct?

10 A Yes.

11 Q I want to show you what's been marked as State's
12 Exhibits 24 and 25, is a closer up photo. Is there
13 anything of significance that you noticed in State's
14 24 and 25 above that sink?

15 A Yes, there's actually two areas. You could see
16 in this location here what appears to be possibly
17 where a bullet had struck the sink area. Also to the
18 upper right side you can see where a bullet possibly
19 struck the wall.

20 Q The wall area?

21 A Yes.

22 Q I show you State's Exhibit Number 26, which is
23 over toward the left of the --- is there anything of
24 significance there?

25 A Yes. The possibility of where a bullet may have

1 struck the wall area.

2 Q Right next to that silver ---

3 A Yes, like an indentation on the wall.

4 Q Involving impact points, the sink area where the
5 victim was located, this is cropped off, but the
6 victim's body had been located below this?

7 A Yes.

8 Q In State's Exhibit Number 27, however, does it
9 show again, an impact area?

10 A Yes, actually two impact areas on this.

11 Q And one is here?

12 A Yes.

13 Q And where is the second one?

14 A The second one would be a possibility of right
15 here where a bullet may have struck the sink area.

16 Q And again, when you're making these observations,
17 this is how it appears to you and that's why your
18 documenting this?

19 MR. SCHNEE: Objection leading.

20 THE COURT: Sustained.

21 BY MS. CAMPBELL:

22 Q Why are you documenting this?

23 A Just to document the areas of damage that the
24 bullets may have caused.

25 Q Finally, State's Exhibit Number 28, what does

1 that show, sir?

2 A Again, another area where a bullet may have
3 struck the sink area.

4 Q And State's Exhibits 29 and 30, where --- is that
5 a close up of that?

6 A Yes. And again, that's where possibly a bullet
7 may have struck the wall, which is right above the
8 sink.

9 Q And finally State's Exhibit 31?

10 A Yes, another location.

11 Q And in State's Exhibits 32 and 33, this series of
12 photographs, how are they different from the ones we
13 just saw? Like a close up here and 34 ---

14 A Yes.

15 Q --- was present?

16 A That's just a, you know, close up of the
17 projectile struck. That's just a measurement that
18 would show the size of the hole.

19 Q That's to scale?

20 A Yes, to scale.

21 Q And that's actually present here. Who would have
22 put that scale there? That wasn't there when you got
23 there, was it?

24 MR. SCHNEE: Objection. Leading again.

25 THE COURT: Overruled.

1 THE WITNESS: I put the scale there.

2 BY MS. CAMPBELL:

3 Q And again, on 35 and 37?

4 A Again, this is a --- basically a far picture and
5 a close up picture.

6 Q Next to the sink area, what was over next to the
7 sink area, do you recall?

8 A It's kind of like an area, I guess, they call it
9 a hood over your oven, there was a hood over the main
10 stove area.

11 Q I show you State's Exhibit 38. Is that what
12 you're talking about?

13 A Yes.

14 Q And this would have been where in connection with
15 the sink area?

16 A It would actually be, as you're looking to the
17 sink, the left side of the sink.

18 Q And, again, did you notice some possible points
19 of impact here in 38 and 40?

20 A Yes.

21 Q And, again, State's Exhibits 41 and 42?

22 A Again, we're showing the hood that's over the
23 oven area where possible points of impact from a
24 bullet strike.

25 Q Is there something next to the points of impact

1 there?

2 A Yes, at this location here is where I scaled it,
3 where the hole actually breached.

4 Q I believe that's going to be State's Exhibits 43
5 and 44, are close ups of the scale?

6 A Yes.

7 Q Okay. I want to show you State's Exhibit 45 and
8 a closer up of 46. What does that show?

9 A That is area to the right side of the sink.

10 Q And was there anything of significance back
11 behind this area as shown in State's Exhibit 47?

12 A Yes, there is --- there's like a piece of a
13 projectile that was located between --- right beside
14 the wall area.

15 Q And I believe State's Exhibit 48 is a close up of
16 that?

17 A Yes.

18 Q And was that later collected?

19 A Yes.

20 Q And this doesn't have any referencing points.

21 It's State's Exhibit Number 50. What is that, sir?

22 A I took a photograph of that just to document the
23 location of it before I was to move it, but once I
24 looked at it, it is what appears to be a lead part of
25 the bullet.

1 Q Moving on to other areas, what part of the
2 kitchen was this located in?

3 A That should be back in the storage area or break
4 area that we moved into and examined.

5 Q And in the break area, did you collect certain
6 items?

7 A Yes. If I recall, there was a time card and a
8 set of keys and then in one location a DVR.

9 Q I show you State's Exhibit Number 54. Is that
10 what you're talking about?

11 A Yes.

12 Q And you indicated earlier in your testimony that
13 it had a light on it that indicated it might be
14 working?

15 A Yes. It had like a little power light on it,
16 because like I said, there was no monitor, nothing
17 hooked to it.

18 Q I show you State's Exhibit Numbers 57, 58 and 59.
19 Do you recognize these?

20 A Yes.

21 Q And what area does this show?

22 A That is kind of like the main area, but that is
23 as you're walking into the door is what you see.

24 Q As you're walking in the door in State's Exhibit
25 Number 57, can you actually see something there in the

1 background? What is this area?

2 A The sink area.

3 Q That's the sink area?

4 A Yes.

5 Q And then located beneath the sink is what?

6 A The victim.

7 Q And this photograph, again, was taken from which
8 vantage point?

9 A The main entrance, the main entrance as you walk
10 through the front door.

11 Q Also, I show State's Exhibit Numbers 62 and 60.
12 What area does that show, sir?

13 A That should be the area to the right as you walk
14 through the door.

15 Q Again, when you're out and you're out on the
16 scene, do you know immediately what may or may not be
17 relevant as far as the investigation in the case?

18 A No.

19 Q What do you try to do to make sure you can go
20 back and look at things that may become necessary or
21 important later?

22 A Photos, videos, anything that we may --- like I
23 said, have investigations look at it, and see if we
24 missed anything or even that may need to go back.

25 Q I'm going to show you State's Exhibit Number 64.

1 Do you recognize that area?

2 A Yes, this is the far right corner.

3 Q Were you aware of whether or not the Columbia
4 Fire Department, as well as EMS, had they already been
5 there when you got there that day or did they come
6 after you? Do you recall?

7 A Before. Before I got there.

8 Q Specifically, is that State's Exhibit Number 66?

9 A Yes, that was an item we saw. I'm not sure what
10 it was, but it was photographed and collected.

11 Q And then State's Exhibit Number 67 just shows
12 what area?

13 A A fan right at the door entrance.

14 Q What was the temperature like that night when you
15 got there?

16 A It was pretty warm. Because if I recall in the
17 far right corner, the oven was actually on. She had
18 the stove on, and I think she was actually cooking
19 something there in a large pot, so it was very warm
20 inside.

21 Q Let me show you State's Exhibits 68 and 69. You
22 mentioned earlier some signs that there may have been
23 a struggle?

24 A Yes.

25 Q Is that what you're talking about in State's

1 Exhibits 68 and 69?

2 A Yes.

3 Q I'm going to show you State's Exhibits 72 and 73.

4 You can actually see it better. What is that item
5 that's located there on the shelf?

6 A That is a cell phone.

7 Q And were you able to later determine whose phone
8 that was?

9 A We recovered that. If I recall, I believe that
10 would have been the victim's cell phone.

11 Q Moving on to State's Exhibits 76, 77 and 68.
12 What area does this show?

13 A Those areas should be the storage area or break
14 room area.

15 Q These photographs just document how it appeared
16 that night?

17 A Yes.

18 Q Additionally, another angle, State's Exhibits 81
19 and 82?

20 A That would be the break room area there.

21 Q As well as looking into State's Exhibit 83?

22 A That's walking into another storage area.

23 Q Finally, State's Exhibits 84 and 85 just document
24 what area?

25 A Yes, ma'am. This just documents the bathroom.

1 Q Once you had done your general overview of
2 documenting things both with scale and without scale,
3 did you then go back and place the markers in certain
4 areas?

5 A No. The markers are immediately placed before I
6 take the photographs.

7 Q Okay. Before your take the photographs?

8 A Yes.

9 Q You mentioned there were a number of shell
10 casings and projectiles that you collected that night?

11 A Yes.

12 Q I show you what's been marked as State's Exhibit
13 Numbers 87 and 88. What area does that show?

14 A That is as you walk through the door, that's
15 basically the first thing you will see.

16 Q And with a different angle, State's Exhibit 89.
17 Can you actually see the door we're talking about
18 here?

19 A Yes, yes. As I walked in and I turned, I
20 photographed each one.

21 Q And again, in State's Exhibit Number 90, is that
22 another one?

23 A Yes.

24 Q By that same doorway?

25 A Yes.

1 Q In State's Exhibit Number 93, is that a close up
2 of 91?

3 A Yes.

4 Q And what does that show that are marked (1) and
5 (2) there?

6 A That would be --- (1) should be --- if I may.

7 Q You can get yours.

8 A Oh, Marker number (1) should be a 45 GAP shell
9 casing.

10 Q When you say it's a 45 GAP shell casing, how were
11 you able to determine that there on the scene that
12 night?

13 A There's a marking on the back of the shell casing
14 to tell you what caliber it is.

15 Q That was actually documented here at Marker
16 number (1); is that correct?

17 A Yes.

18 Q And Marker number (2), what is that?

19 A Marker number (2) would be a projectile or
20 bullet, a fired bullet.

21 Q And you said you were able to determine with the
22 shell casing what the make and model is. Were you
23 able to do that with the projectile?

24 A No.

25 Q And that's where they were located when you got

1 there that night?

2 A Yes.

3 Q And when you go through and mark these ---
4 because we go from one, two, three, four, and five, do
5 you put them in any order or do you have any idea
6 which one got where first?

7 A It's not really a set order. It's just when I
8 come upon them first, I just go ahead and start
9 marking them as one, two, three, four, five.

10 Q And State's Exhibit Number 95, that's Marker (1)?

11 A Yes. That is an empty shell casing.

12 Q And then Marker number (2) is a close up of
13 State's 97 shows ---

14 A That would be the fired bullet or projectile.

15 Q Moving on with some distance shots on State's
16 Exhibit Numbers 98 and 99, is that your --- what
17 number marker is that?

18 A That would be Marker number (3).

19 Q What item did you find at Marker number (3)?

20 A Marker (3) would be a 45 caliber shell casing,
21 empty shell casing.

22 Q And then State's Exhibit Number 104. Is that a
23 close up of that?

24 A Yes.

25 Q Do you also use Marker number (4)?

1 A Yes.

2 Q Okay. So is this --- you can't miss the number
3 here. State's Exhibit Number 106 is that what's
4 located?

5 A Yes.

6 Q You can see it better with State's Exhibit Number
7 107.

8 A Yes.

9 Q And what item did you mark at number (4) that's
10 shown in State's Exhibits 108, 109?

11 A Number (4) would be a 45 empty shell casing.

12 Q Continuing with the markers, what's the next
13 marker?

14 A It should be Marker number (5).

15 Q And in this, I think there are actually two
16 markers on State's Exhibit 110?

17 A Yes, (5) and (6).

18 Q Okay, (5) and (6). And what items did you find
19 at Markers (5) and (6)?

20 A (5) would be 45 empty shell casing. (6) would be
21 a 40 caliber empty shell casing.

22 Q You mentioned there was a 40 caliber shell
23 casing?

24 A Yes.

25 Q As well as a 45?

1 A Yes.

2 Q I show you State's Exhibit Number 111 and then a
3 close up of 113, and what is number (5)?

4 A Number (5), again, is a 45 empty shell casing.

5 Q Marker number (6), where was it located?

6 A In the kitchen by the freezer.

7 Q And I believe if you're looking --- from what
8 area of the kitchen would you be looking for to see
9 number (6)?

10 A You're actually looking from the --- kind of like
11 you walk through the door area to the far left.

12 Q A close up of that, State's Exhibit Number 117.
13 What item again was number (6)?

14 A Number (6) was a 40 caliber empty shell casing.

15 Q And that's shown in State's Exhibit Number 120?

16 A (Unintelligible.)

17 THE COURT: Please keep your voice up. Can you
18 respond again for us or ask the question again,
19 Ms. Campbell?

20 (WHEREUPON, State's Exhibit Number 397 was marked
21 for identification only.)

22 BY MS. CAMPBELL:

23 Q What was --- was it a 40 caliber?

24 A Yes.

25 THE COURT: Thank you very much.

1 BY MS. CAMPBELL:

2 Q Did you also use Marker number (7)?

3 A Yes.

4 Q And what area of the bakery was that?

5 A That actually should be near the victim in the
6 sink area.

7 Q Near the victim in the sink area?

8 A Yes.

9 Q What item did you find if I show you 127, 128?

10 A That would be a 40 caliber empty shell casing.

11 Q And this over here, what is that? Do you know?

12 A The victim.

13 Q So this would be actually part of the victim's
14 body here?

15 A Yes.

16 Q Did you use Marker number (8)?

17 A Yes.

18 Q And then 129 and 130, does that show a close up
19 there?

20 A Yes.

21 Q What is this item, sir?

22 A Number (8) would be a fired bullet or projectile.

23 Q And where was that located in the bakery that
24 night?

25 A That was located right beside the victim.

1 Q Did you also use a number (9) that night?

2 A Yes.

3 Q I show you State's Exhibit Number 132. Does that
4 show Marker number (9)?

5 A Yes.

6 Q What area of the bakery is this?

7 A That is to the right side of the sink area.

8 Q And what item did you recover there?

9 A Number (9) would be --- is a piece of a fired
10 bullet, almost like a piece of metal.

11 Q I show you 135 and 136. Is that what you
12 recovered?

13 A Yes.

14 Q This is the same picture, just one a little
15 closer up, correct?

16 A Yes.

17 Q State's Exhibit Number 134, I believe shows the
18 sink area again?

19 A Yes.

20 Q And that's where the number (9) is?

21 A Yes.

22 Q So that would be a few feet away from where she
23 was found?

24 A Yes.

25 Q Marker number (10), did you use Marker number

1 (10)?

2 A No.

3 Q Why not?

4 A I didn't use Marker number (10). Again, that was
5 an item that I saw and photographed it, documented
6 where it was at, but once I realized what it was ---
7 it appeared to be a piece of lead that was possibly a
8 part of the bullet, but it was photographed and
9 collected.

10 Q And that's a piece of lead that we referred to
11 earlier?

12 A Yes.

13 Q But there's a photograph already in? And then
14 finally, Marker number (11), State's Exhibit Numbers
15 137, 138, what does that show, sir?

16 A Marker number (11) is a fired bullet of a
17 projectile.

18 Q Where was this located?

19 A It was located in the sink.

20 Q Is this the same sink under which the victim's
21 body was found?

22 A Yes.

23 Q And State's Exhibit Number 140 is a close up of
24 that?

25 A Yes.

1 Q Before you sit down, did you make a diagram of
2 the bakery area?

3 A Yes, I did.

4 Q I want to show you what's been marked as State's
5 Exhibit Number --- could be a two or it could be a
6 seven.

7 This is marked as 397, is this a blow up of a
8 diagram you actually prepared?

9 A Yes.

10 Q It's not drawn to scale, but other than that, is
11 it just a representative area of where you found the
12 projectiles and shell casings in this case?

13 A Yes.

14 Q And you actually prepared this?

15 A Yes.

16 MS. CAMPBELL: Your Honor, at this time we offer
17 397 into evidence.

18 MR. SCHNEE: I'd like to look at it first, Judge.

19 THE COURT: Okay. All right.

20 MR. SCHNEE: Judge, there's a matter of law we
21 need take up.

22 THE COURT: Now, is a good time to take a break,
23 ladies and gentlemen. Retire to your jury room. Do
24 not discuss the case. Keep an open mind. We'll be
25 back with you in just a few minutes. Stay seated

1 while the jury exits the room.

2 (WHEREUPON, the jury left the courtroom at 3:58
3 P.M.)

4 THE COURT: Yes, sir.

5 MR. SCHNEE: Judge, I don't have a problem with
6 the diagram of the kitchen itself. The problem I have
7 is the legend. It is including his own opinions as to
8 what the items are. Those are hearsay statements and
9 they are --- just like his own report would not be
10 admissible, his own personal list of those items that
11 he has already testified to, that would not be
12 admissible. I don't believe the legend is either.
13 Additionally, what is written on the legend is not
14 actually what is written in his report, so I object to
15 the content of all of that.

16 MS. PINNOCK: And, Your Honor, we would be
17 joining in that objection.

18 MS. CAMPBELL: They want me to cut out the
19 legend? What is it you're alleging is different from
20 his own report?

21 MR. SCHNEE: From his own report, he lists 45
22 caliber empty shell casings. He doesn't even show
23 them as GAPS. He didn't even testify that they were
24 45 GAP rounds. To list them on the legend that all of
25 them are 45 GAP is inappropriate.

1 MS. CAMPBELL: Well, the evidence itself is
2 coming in.

3 MR. SCHNEE: That's fine. That's what the jury
4 can look at. They can compare numbers and do what
5 they need on their own, but to use that summary is to
6 use his own report, which is not admissible and never
7 would be, so ---

8 THE COURT: Did you make this?

9 THE WITNESS: Yes.

10 THE COURT: Did you make the legend?

11 THE WITNESS: Yes.

12 THE COURT: You drew it up based on your notes
13 and observations?

14 THE WITNESS: Yes.

15 THE COURT: You created that?

16 THE WITNESS: Yes, sir.

17 THE COURT: Okay. It's in. All right. Over
18 defense objections.

19 (WHEREUPON, State's Exhibit Number 397 was
20 admitted into evidence.)

21 (WHEREUPON, State's Exhibit Numbers 396, 398, 399
22 were marked for identification only.)

23 THE COURT: Ten minute break.

24 (WHEREUPON, a short break was taken.)

25 MS. CAMPBELL: Just for scheduling purposes, we

1 have this witness and I believe four or five.

2 THE COURT: Okay.

3 MS. CAMPBELL: Two that have to go that are short
4 and then just three or four more that are available.

5 THE COURT: Okay.

6 MS. CAMPBELL: Is that good?

7 THE COURT: Yes.

8 MS. CAMPBELL: Thank you, sir.

9 Is everybody else ready?

10 MR. SCHNEE: Yes, Your Honor.

11 MS. BAMBACH: Yes, Your Honor.

12 THE COURT: All right. Now, where is
13 Mr. LeBlanc? Okay. Keep your seat. He has
14 permission, Mr. Dye, because he is with the State
15 newspaper and they requested permission to have
16 things. He is okay. Anybody else --- if you're not
17 with the media, and my media people are from
18 Mr. LeBlanc over, I don't even want to see a cell
19 phone, okay. Don't get it out. Don't text on it.
20 Don't think you can take a picture in my courtroom
21 because you can't. If you're dressed inappropriately
22 and the bailiffs will decide that, you're not going to
23 be allowed in if you're dressed appropriately. Don't
24 even get out your phone, don't text, don't email,
25 whatever you may be doing. If somebody sees it, it's

1 gone. If I hear it, it's gone and there is more than
2 likely a monetary fine attached to it. Okay? But
3 Mr. LeBlanc and these news media people have given the
4 proper forms and orders to be allowed to be in here
5 with that equipment. They know I don't want to hear
6 it. They have done very well so far this week at
7 following the court's orders, so they're fine. Okay.

8 Okay, bring in the jury.

9 (WHEREUPON, the jury entered the courtroom at
10 4:17 P.M.)

11 THE BAILIFF: Thank you, Your Honor.

12 THE COURT: You may continue.

13 MS. CAMPBELL: May the witness step down one more
14 time?

15 THE COURT: Okay. Just keep your voice up,
16 Investigator.

17 BY MS. CAMPBELL:

18 Q I'm going to show you State's Exhibit 397, which
19 was admitted. If you come up on this side. Don't run
20 into Mr. Dye.

21 Basically, this shows the interior of the bakery;
22 is that correct?

23 A Yes.

24 Q And all this is approximate, is it not? It's not
25 to scale?

1 A Yes, that's correct.

2 Q And then over here this legend, what is that?

3 A This gives an idea of what we're looking at over
4 here, as far as numerics, number and what they
5 represent.

6 Q Like number (1) says what?

7 A Shell casing, 45 caliber GAP.

8 Q And that would correspond with what you have on
9 this diagram?

10 A Yes.

11 Q And then (2), again, will be the same number,
12 right?

13 A Yes.

14 Q With the projectile and things of that nature.
15 Where is the front door, generally, that you would
16 walk into that night?

17 A It would be in this location here.

18 Q And then the first two projectiles or shell
19 casings that you recovered were right here?

20 A Yes.

21 Q And then you went over and found (3)?

22 A Yes.

23 Q And (4)?

24 A Yes.

25 Q (5)?

1 A Yes.

2 Q (6)?

3 A Yes.

4 Q (7), (8), (9), (10) and (11)?

5 A Yes.

6 Q And this figure right here, what does that
7 represent?

8 A That is the location of the victim.

9 A As you walk in right here to the right, what is
10 this small area right here?

11 A That right there is a storage room.

12 Q And then right next to it when you walk in is
13 what?

14 A Bathroom.

15 Q And then as you keep coming in, there's these
16 tables in the middle; is that right?

17 A Yes.

18 Q And over here, what is that area?

19 A That's the sink area. That's the location that
20 the victim was located at.

21 Q What is this here in the corner?

22 A That right here in the far right corner, that
23 would be the large oven.

24 Q You indicated --- you mentioned earlier in your
25 testimony that you saw some dents or some possible

1 points of impact on a hood?

2 A Yes.

3 Q Where was that located?

4 A That should be right here between the sink and
5 the large oven and would be in this location right
6 here.

7 Q Right in here?

8 A Yes.

9 Q Again, as you walk through, is there another area
10 back in the back that has blood in it?

11 A The freezer --- or refrigerator.

12 Q Refrigerator? And what is this in the middle?

13 A A table.

14 Q And the refrigerator would have been somewhere
15 down in here?

16 A Yes, there's some on the wall at this location.

17 Q Just to orient me and everyone else, here is ---
18 what are these?

19 A These are walk-in freezers with the entrance
20 right here, which was a closed door.

21 Q You also testified earlier about some additional
22 storage areas; is that correct?

23 A Yes.

24 Q And that here --- is there an entrance to that
25 from the outside or is that ---

1 A Yes, that was actually a locked door.

2 Q A locked door, but you can't enter that --- in
3 this area right here, what is that?

4 A Yes, that's the break room and then the two
5 storage rooms.

6 Q And you also mentioned that y'all retrieved some
7 video --- and let me get back to that in a minute, but
8 that was all on the interior; is that correct, that
9 video that you retrieved that night?

10 A Yes.

11 Q Again, this is something prepared by you to kind
12 of orient you where the projectiles and shell casings
13 were found?

14 A Yes.

15 Q Thank you, sir. You can take the stand. Once
16 you had photographed the area, did you then go about
17 collecting certain evidence while you were there
18 initially at the scene?

19 A Yes.

20 Q And you mentioned some personal items belonging
21 to the victim that were collected; is that correct?

22 A Yes.

23 Q And I want to show you what's been marked as
24 State's Exhibit 327. First, don't show it to anybody
25 yet, but did you recognize that?

1 A Yes.

2 Q What is that, sir?

3 A That is victim's time card.

4 Q Where did you find that?

5 A That was located somewhere in the break room

6 area.

7 Q I want to show you 328. What is that?

8 A That is the victim's car keys.

9 Q And where were those located, sir?

10 A Also in the break room.

11 Q And State's Exhibit Number 330?

12 A It was two keys on a key ring.

13 Q And where was that located?

14 A Break room.

15 Q The break room, as well?

16 A Yes.

17 Q And finally 329?

18 A And this was the victim's cell phone.

19 Q And again was that shown in the photographs where

20 you found that?

21 A Yes, it was kind of like on a bakers rack.

22 Q Out in the general area?

23 A Yes.

24 Q Thank you, sir.

25 MS. CAMPBELL: Your Honor, at this time we would

1 offer these into evidence as State's Exhibit Numbers
2 329, 330, 328 and 327.

3 MS. PINNOCK: No objection, Your Honor.

4 MR. SCHNEE: Judge, can we approach?

5 THE COURT: Yes, sir.

6 (WHEREUPON, a bench conference was held in the
7 presence, but not within the hearing of the
8 jury.)

9 THE COURT: All right. 327, 328, 329 and 330
10 admitted over defense objection.

11 (WHEREUPON, State's Exhibit Numbers 327-330 were
12 admitted into evidence.

13 BY MS. CAMPBELL:

14 Q The shell casings that you photographed that
15 night, did you then collect them?

16 A Yes.

17 Q And when you're collecting items of evidence,
18 what precautions do you take to make sure that the
19 evidence is kept from being contaminated in any way?

20 A I wear gloves.

21 Q Okay. And that was done in this case?

22 A Yes.

23 Q And I want to show you State's Exhibits 331, 332,
24 333, 334, 335 and 336 and ask you if you recognize
25 those?

1 A Yes, these are items that I collected from the
2 scene.

3 Q Those are the actual shell casings you collected
4 from the scene?

5 A Yes.

6 Q They are shown in the photographs that have
7 already been published to the jury?

8 A Yes.

9 MS. CAMPBELL: Your Honor, at this time we would
10 offer State's Exhibits 331, 332, 333, 334, 335 and
11 336.

12 MS. PINNOCK: Your Honor, we have no objection.

13 THE COURT: Mr. Schnee?

14 MR. SCHNEE: No objection, Your Honor.

15 THE COURT: Okay. So 331, 332, 333, 334, 335,
16 336 are admitted without objection.

17 (WHEREUPON, State's Exhibit Numbers 331-336 were
18 admitted into evidence.)

19 BY MS. CAMPBELL:

20 Q And while we're on it, 337 through 342, I want
21 you to look through those.

22 A These were items that I collected from the scene.

23 MS. CAMPBELL: Your Honor, I'd offer 337 through
24 342.

25 THE COURT: Ms. Pinnock?

1 MS. PINNOCK: I'm sorry, no objection, Your
2 Honor.

3 MR. SCHNEE: No objection, Your Honor.

4 THE COURT: All right. 337, 338, 339, 340, 341,
5 and 342 are admitted without objection.

6 (WHEREUPON, State's Exhibit Numbers 337-342 were
7 admitted into evidence.)

8 BY MS. CAMPBELL:

9 Q I noticed just using two as examples, 333 and 331
10 those appear to be labeled one is a 40 caliber and one
11 is a 45?

12 A Yes.

13 Q And where is the headstamp you're talking about?
14 I don't want to take it out here. You're not a
15 ballistics expert, but where is the headstamp that you
16 are able to look at and see?

17 A It would be on the backside where normally your
18 hammer strikes the shell casing.

19 Q And it actually has the make and model, I
20 believe, of the type of ammunition listed?

21 A Yes.

22 Q And then with the projectiles, I noticed that
23 some of them appear different, say in State's Exhibit
24 Number 339, what is that, sir?

25 A That again is a piece of lead that is believed to

1 be a part of the bullet..

2 Q But then in State's Exhibit Number 337, what is
3 that?

4 A Again, this is a piece of the bullet.

5 Q And are you the one that actually does any type
6 of examination or testing on these or do you just
7 collect them?

8 A I collect them.

9 Q And some of these projectiles, say as in 338 and
10 340, they appear to be in different shapes and sizes.
11 Is that unusual?

12 A No.

13 Q Why is that, sir?

14 A Sometimes a bullet could actually --- once it
15 strikes an object or a hard surface it would actually
16 split. Sometimes you'll have pieces of what appear to
17 be the bullet.

18 Q And just for the record, on each of these I
19 noticed that there are some numbers, like one has a
20 number 13 and then a different number on the back.
21 Does SLED assign their own numbers to items, as well?

22 A Yes.

23 Q So they may be somewhat confusing because of
24 that?

25 A Yes.

1 Q Once you had gathered all those items into
2 evidence, did you then transport them back to Columbia
3 Police Department?

4 A Yes.

5 Q During the time that you had any of these items
6 of evidence that you had collected there at the scene,
7 did anyone alter them, tamper with them, or do
8 anything with them in any way?

9 A No.

10 Q When you submitted them into the evidence room or
11 to evidence people, were they packaged properly?

12 A Yes.

13 Q Did anyone have any access to them while they
14 were in your care?

15 A No.

16 Q Also at the scene, I believe you testified
17 earlier that you collected a camcorder and actually I
18 think that you returned to headquarters with that, as
19 well?

20 A Yes. A DVR.

21 Q A DVR: I'm not real good with those fancy terms.
22 Once you collected that, did you make contact with a
23 person in your criminal investigative unit that helped
24 you as far as retrieving some video?

25 A Yes, I made contact with my supervisor, Sergeant

1 Grooms.

2 Q And what was he able to retrieve from the DVR
3 once you had it in your possession?

4 A He was able to hook it up to a monitor, a video
5 monitor. We were able to then view the actual
6 shooting incident.

7 Q And did y'all view that that day?

8 A Yes.

9 Q And once you were actually able to --- the actual
10 shooting is on this video?

11 A Yes.

12 Q Once you were able to view that, did you then
13 return to the scene later that day to collect some
14 additional evidence?

15 A Yes.

16 Q How did you --- how did the video help you in
17 knowing where you might or might not be able to
18 collect evidence?

19 A Basically it just showed how the suspects
20 approached inside the building, what possibly they may
21 have touched or bumped into to give me an idea of what
22 areas I needed to process to get any fingerprints or
23 DNA and the video helped me to decide where these
24 suspects were standing at the time and how they left
25 the scene.

1 Q Prior to going back to the scene later that
2 afternoon, and I believe --- does this indicate about
3 what time this was that you got there that morning, on
4 the crime scene log?

5 A Yes. I arrived --- my arrival time should have
6 been around 4:55 hours that morning.

7 Q Okay. And you stayed there for a number of
8 hours; is that correct?

9 A Yes.

10 Q And then were you able to attend an autopsy
11 around 9:00 that morning, as well?

12 A Yes.

13 Q Where did the autopsy take place?

14 A Richland Memorial Hospital.

15 Q Are you the person that actually performs the
16 autopsy?

17 A No.

18 Q What is your purpose in going to the autopsy?

19 A Basically just to document by photographing the
20 procedure.

21 Q While there, did you also collect certain items
22 of evidence?

23 A Yes.

24 Q In your --- that are turned over to you by the
25 pathologist?

1 A Yes.

2 Q Does that include usually the victim's clothing?

3 A Yes.

4 Q And I want to show you what's been marked as
5 State's Exhibits 347 and 348. Are these items you
6 actually collected at the autopsy that morning?

7 A Yes.

8 Q What are these items in 347 and 348?

9 A The victim's clothing.

10 MS. CAMPBELL: Your Honor, at this time we'd
11 offer 347 and 348 into evidence.

12 MS. PINNOCK: We have no objection.

13 MR. SCHNEE: I have no objection, Your Honor.

14 THE COURT: Admitted without objection.

15 (WHEREUPON, State's Exhibit Numbers 347 and 348
16 were admitted into evidence.)

17 BY MS. CAMPBELL:

18 Q While there also, did you've collect any DNA
19 swabs from the victim's body?

20 A Yes.

21 Q And specifically what areas did you swab?

22 A I swabbed two areas. One should have been the
23 victim's left arm and the second swab should be the
24 victim's right arm.

25 Q I show you State's Exhibit 345 and ask first if

1 you recognize that?

2 A Yes. These are two swabs.

3 Q That you collected that day?

4 A Yes.

5 Q While you were there, you actually stayed the
6 entire time the autopsy was being performed?

7 A Yes.

8 Q In this case, was there a projectile recovered
9 from Ms. Hunnewell's body?

10 A Yes.

11 Q I'm going to show you State's Exhibit Number 346
12 and ask if you recognize that?

13 A Yes, this was the projectile that was there.

14 Q And you collected it during the autopsy that day?

15 A Yes.

16 MS. CAMPBELL: Your Honor, at this time we would
17 offer State's Exhibits 345 and 346.

18 MS. PINNOCK: Your Honor, we would not object to
19 346. We would object to 345 coming in.

20 THE COURT: I did not hear you.

21 MS. PINNOCK: We would not object to 346, but we
22 would object to 345 at this time for lack of
23 foundation.

24 THE COURT: All right. Mr. Schnee?

25 MR. SCHNEE: I have no objections.

1 THE COURT: Okay. Do you want to lay more
2 foundation on 345?

3 MS. CAMPBELL: On 345? All right.

4 BY MS. CAMPBELL:

5 Q On 345, these are what's called DNA swabs?

6 A Yes.

7 Q And can you tell the jury how you collected them
8 there at the autopsy that day from Ms. Hunnewell's
9 body?

10 A Basically we use a Q-tip swab with sterile water.
11 We would lubricate the Q-tip swab and rub the general
12 area, which I believe the suspect may have grabbed the
13 victim. We just rubbed the area, placed it into a box
14 and the box is secured in an envelope.

15 Q And so once you collected the two separate swabs,
16 did you keep them separate?

17 A They're actually in two separate boxes.

18 Q Okay.

19 A Inside the envelope.

20 Q Did you keep them in your custody once you
21 collected them at the autopsy?

22 A Yes.

23 Q Until you turned them in to the evidence room?

24 A Yes.

25 Q During the time period you had these in your

1 custody, did anyone alter them or tamper with them in
2 any way?

3 A No.

4 Q And these were collected by you?

5 A Yes.

6 MS. CAMPBELL: That's all we have, Your Honor.

7 THE COURT: Ms. Pinnock?

8 MS. PINNOCK: No objection.

9 THE COURT: Okay.

10 MS. CAMPBELL: Thank you.

11 THE COURT: That's 345 and 346 without objection.

12 (WHEREUPON, State's Exhibit Numbers 345 and 346
13 were admitted into evidence.)

14 MS. CAMPBELL: Thank you, Your Honor.

15 BY MS. CAMPBELL:

16 Q Here --- when you collected this projectile, was
17 it actually in this bottle?

18 A Yes, it was placed in the bottle.

19 Q And again, you wouldn't have been the one to do
20 any testing or comparisons on this?

21 A No.

22 Q But this is how it pretty much appeared when you
23 got it?

24 A Yes.

25 Q Once you had collected the clothing, the DNA

1 swabs, and the projectile at autopsy, did you then
2 after viewing the video proceed back to the scene?

3 A Yes.

4 Q And when you went there later that day, did you
5 collect some additional evidence?

6 A Yes.

7 Q And I'm going to show you State's Exhibit 326 and
8 ask you if you recognize that?

9 A Yes, this was a large spoon that was located
10 beside the victim that was collected.

11 Q And why did you collect that, sir?

12 A If I recall after reviewing the video, the victim
13 used the spoon to strike one of the suspects, and by
14 doing so, she basically touched the suspect, so I was
15 using whatever means I can to hopefully maybe identify
16 the suspect. So the spoon was collected for possible
17 DNA from the suspect.

18 Q And also collected that day is State's Exhibit
19 Number 343, I believe. Is that an item you went back
20 and collected?

21 A Let me see what I did.

22 (Pause.)

23 Yes.

24 Q And was that the purple top that was underneath
25 one of the pieces of equipment?

1 A Yes, it was actually under one of the cooking
2 pots.

3 Q And finally, in State's Exhibit Number 344, are
4 there a number of swabs that you collected there at
5 the scene when you went back?

6 A Yes.

7 Q What areas did you collect swabs when you went
8 back? Again, are these swabs you collected in the
9 same manner when you swabbed her body?

10 A Yes, a Q-tip, sterilized water to lubricate it so
11 it would absorb whatever items are on the swab for
12 DNA.

13 Q What areas did you swab when your went back to
14 the scene that day?

15 A After we reviewed the video, I swabbed a utility
16 cart. When the suspects left the scene, it looked
17 like they bumped into a utility cart, so I swabbed the
18 utility cart, the push handle and all four corners.

19 May I?

20 Q Yes, you may refer to your notes.

21 A Like I said, in viewing the video, all the
22 suspects ran into a utility cart, so I swabbed the
23 utility cart, push handle and all four corners. Also
24 I swabbed an area off a black leather chair that was
25 struck by the suspects as they left the area, a

1 strainer. There was pots and pans knocked off the
2 table area. There was a big strainer that I also
3 swabbed.

4 Q Uh-huh.

5 A Also I swabbed at the very entrance. There was a
6 fan by the doorway. Again, after viewing the video,
7 it looked like one of the suspects may have touched
8 that as he ran out the door. That also was swabbed
9 and also at the time of the shooting one of the
10 suspects backed into what appeared --- one of the big
11 standing boiler pots, so I swabbed that area also.

12 Q Is that the extent of the areas you swabbed?

13 A Yes.

14 Q Once you collected the swabs, did you package
15 them properly?

16 A Yes.

17 Q Were they packaged separately?

18 A They are all packaged in boxes.

19 Q In separate boxes?

20 A Yes.

21 Q And then were they submitted into evidence by
22 you?

23 A Yes.

24 Q During the time you had them did anyone alter
25 them or tamper with them in any way?

1 A No.

2 Q At this time, we would offer State's Exhibit 344,
3 343, 326?

4 MS. PINNOCK: No objection.

5 MR. SCHNEE: No objection, Judge.

6 THE COURT: So that's 343, 344 and 326.

7 MS. CAMPBELL: Yes, sir.

8 THE COURT: Those are admitted without objection.

9 (WHEREUPON, State's Exhibit Numbers 343, 344 and
10 326 were admitted into evidence.)

11 MS. CAMPBELL: Thank you, Your Honor..

12 BY MS. CAMPBELL:

13 Q Is that the actual spoon that you collected that
14 day?

15 A Yes.

16 Q And again, was it in her hand at the time of the
17 attack?

18 A From the video, yes.

19 Q Once you collected the swabs, the spoon, and the
20 other items, moving on to the next day, did you have
21 an occasion to make contact with certain people who
22 were associated with or worked at the Carolina Cafe
23 Bakery?

24 A Yes, if I recall, I came in contact with the
25 actual owners of the bakery.

1 Q I believe you made contact with a Mr. Siler?

2 A If I recall, yes.

3 Q Who were the four people you came in contact with
4 the next day?

5 A It was actually four employees that I came in
6 contact with that worked for the restaurant.

7 Q And what was the purpose of you getting in touch
8 with them the next day?

9 A Because of them working in that same kitchen
10 location where the victim worked at, we needed to use
11 their DNA to eliminate them from the items that I
12 swabbed inside the business, inside of the kitchen.

13 Q So you were trying to get what's known as a known
14 DNA sample from them?

15 A Yes. It's what you say is called an elimination
16 DNA, to eliminate them from each item that I swabbed.

17 Q When you get that from them, how do you go about
18 getting it?

19 A Basically it's the same process, a Q-tip and I
20 swab the lower gum with one of the Q-tips. I swab the
21 upper gum with a second Q-tip, and it's placed in a
22 box and secured.

23 Q Those were packaged separately?

24 A Yes.

25 Q Did you submit them into evidence?

1 A Yes.

2 Q During the time they were in your custody, did
3 you do anything to alter or tamper with them?

4 A No.

5 Q I'm going to show your State's Exhibits 349, 350,
6 351, and 352. Are those the items you collected from
7 the employees and owners of the bakery?

8 A Yes.

9 MS. CAMPBELL: Your Honor, at this time we'd
10 offer them into evidence.

11 MS. PINNOCK: No objection, Judge.

12 MR. SCHNEE: No objection.

13 THE COURT: All right. 349, 350, 351, 352
14 without objection.

15 (WHEREUPON, State's Exhibit Numbers 349-352 were
16 admitted into evidence.)

17 MS. CAMPBELL: Thank you, Your Honor.

18 BY MS. CAMPBELL:

19 Q Finally, at a later date, did you come in contact
20 with a Lorenzo Bernard Young?

21 A Yes.

22 Q And what was the purpose of you coming in contact
23 with Mr. Young?

24 A To do what we call a buccal, a swab of his DNA.

25 Q Same known standard that we're talking about?

1 A Yes.

2 Q And I'm showing you State's Exhibit Number 354.

3 A Yes.

4 Q And then finally on State's Exhibit 353, did you
5 also come in contact with a Troy Stevenson?

6 A Yes.

7 Q Did you also collect a buccal or a known standard
8 from him?

9 A Yes.

10 Q Once you collected the standards, and you
11 collected those separately, one from Mr. Stevenson and
12 one for Mr. Young separately; is that correct?

13 A Yes.

14 Q During --- once you had gotten those known
15 standards from those two individuals, did you package
16 them properly?

17 A Yes.

18 Q During the time that these were in your
19 possession, did anyone alter them or tamper with them
20 in any way?

21 A No.

22 Q Were they submitted properly packaged into
23 evidence?

24 A Yes.

25 MS. CAMPBELL: Your Honor, at this time we'd

1 offer these two.

2 A No objection.

3 MR. SCHNEE: No objection.

4 MS. CAMPBELL: 353 and 354.

5 THE COURT: Without objection.

6 (WHEREUPON, State's Exhibit Numbers 353 and 354
7 were admitted into evidence.)

8 BY MS. CAMPBELL:

9 Q At some point did you have an occasion to take
10 certain items of evidence that included some Nike
11 shoes and black gloves to SLED?

12 A Ma'am, if I recall, I didn't take anything to
13 SLED. The only thing I took was a jacket.

14 Q But once you had swabbed the two defendants in
15 this case, those were properly put into evidence?

16 A Yes.

17 Q And that would be the extent of your involvement
18 pretty much in this case?

19 A Yes, ma'am.

20 MS. CAMPBELL: Thank you, sir. I don't have
21 anything further.

22 THE COURT: All right. Ms. Pinnock.

23 MS. PINNOCK: May it please the Court, Your
24 Honor.

25 CROSS-EXAMINATION:

- 1 BY MS. PINNOCK:
- 2 Q Investigator Wise, you did collect item 348, the
- 3 black sweatshirt?
- 4 A Yes, ma'am.
- 5 Q During the autopsy?
- 6 A Yes, ma'am.
- 7 Q That was Ms. Hunnewell's sweatshirt?
- 8 A Yes, ma'am.
- 9 Q She was wearing that when you arrived on the
- 10 scene, right?
- 11 A Yes.
- 12 Q You didn't see her wearing it in the video?
- 13 A I'm sorry?
- 14 Q You didn't see her wearing it in the video that
- 15 you reviewed?
- 16 A I don't recall, but I believe so, ma'am.
- 17 Q Okay, but that is what you collected from the
- 18 hospital ---
- 19 A Yes.
- 20 Q --- on July 1st.
- 21 A Yes, ma'am.
- 22 Q Do you recall what the weather was?
- 23 A Yes, ma'am.
- 24 Q On July 1st.
- 25 A As I recall, it was raining that morning when I

1 came in.

2 Q And you said it was very warm inside?

3 A Yes.

4 Q When you arrived, was the door open or closed?

5 A When I arrived, it was open.

6 Q But you weren't the first one to arrive. There
7 were other officers on scene at that point?

8 A That's correct.

9 Q Beg the Court's indulgence. Just real quick.
10 You said it was raining outside. Do you remember ---
11 it was fairly cool for a July day. Do you remember
12 that?

13 A I don't recall that, ma'am. All I recall was
14 that it was raining. There was a lot of the officers
15 who were staying close to the door area to keep from
16 getting wet.

17 MS. PINNOCK: Thank you.

18 MR. SCHNEE: May it please the Court, Your Honor.

19 THE COURT: Yes, sir.

20 CROSS-EXAMINATION:

21 BY MR. SCHNEE:

22 Q Good afternoon. Just have a couple of questions
23 for you.

24 A Yes, sir.

25 Q Just kind of leading off where Ms. Pinnock ended.

1 It was warm in the bakery?

2 A Yes, sir.

3 Q Would you say it was warmer than the outside air?

4 A Yes.

5 Q Okay. You said you swabbed Ms. Hunnewell's left
6 and right arms?

7 A Yes.

8 Q Did you do that at the scene or did you do that
9 at the autopsy?

10 A I did that at the autopsy.

11 Q Did you take fingernail scrapings from her?

12 A If I recall, sir, I don't think so.

13 Q Is there any particular reason for that?

14 A I think after reviewing the video, I didn't see
15 too much of a struggle, and I just based that on the
16 video, sir.

17 Q Okay.

18 A And that's the reason why we didn't take any
19 fingernail scrapings.

20 Q Is it normal for you to take fingernail scrapings
21 for someone who has been in a struggle?

22 A Yes, if we have no --- like I said, a video or
23 don't know what actually occurred, yes, we are take
24 fingernail scrapings.

25 Q You just chose not to in this case?

1 A Yes, sir, based on the video and from I could see
2 of how the incident occurred --- so you could see that
3 she didn't actually grab anybody.

4 Q Did you take any swabs from the front door?

5 A None from the front door.

6 Q Okay. You took them, I believe, from a cart that
7 you said was ---

8 A Yes, sir, the utility cart that was right by the
9 door.

10 Q But you didn't take any from the front door?

11 A No, sir.

12 Q Okay. Did you take any fingerprints?

13 A No, sir.

14 Q Did you look for any fingerprints?

15 A No, sir.

16 Q Okay. Was it someone else's job to look for
17 fingerprints?

18 A No, sir.

19 Q So you just didn't look for fingerprints in the
20 bakery at all?

21 A Not at the time because again like I said, not
22 really sure what the incident took place. We had the
23 DVR. I was hoping to see what the video would show us
24 what took place, but no, sir, I did not.

25 Q Okay. So when you watched the video and went

1 back, did you decide to take any fingerprints?

2 A No, sir, because what we viewed on the video
3 basically the suspects looked like they didn't handle
4 anything. They actually came in. The incident
5 occurred and they just ran out. I didn't see them
6 where they actually picked up anything, touched
7 anything, and when we touch something --- I'm not
8 talking about pick something up or put they're hand on
9 something like that. I did not see that.

10 Q Okay. Well, you would agree with me there is at
11 least one time where someone is pushing the card with
12 their hand. That's why they're swabbing it for DNA,
13 right?

14 A I wouldn't say pushed; I would say bumped into
15 it, but as far as actually grabbing it, I did not see
16 that.

17 Q Okay. So you did not even try to get
18 fingerprints?

19 A No, sir.

20 Q Okay.

21 MR. SCHNEE: That's all I have, Your Honor.
22 Thank you.

23 THE WITNESS: Yes, sir.

24 THE COURT: Redirect?

25 MS. CAMPBELL: No, sir.

1 THE COURT: Have a nice day.

2 Call your next witness.

3 MS. SIMPSON: At this time the State calls
4 Jennifer Dalmida. Since the witnesses are
5 sequestered, I think she is right outside, but she may
6 have stepped away for a second.

7 THE COURT: Are you Ms. Dalmida?

8 THE WITNESS: Yes.

9 THE COURT: Come on in.

10 JENNIFER DALMIDA,
11 after being duly sworn, testified as follows:

12 THE CLERK: Please have a seat and state your
13 full name.

14 THE WITNESS: My name is Jennifer Dalmida. Last
15 name is D-A-L-M-I-D-A.

16 DIRECT EXAMINATION:

17 BY MS. SIMPSON:

18 Q Ms. Dalmida, where do you work?

19 A With Verizon Wireless.

20 Q What do you do for Verizon?

21 A I'm a record custodian for the company.

22 Q As a record custodian, what does your position,
23 your duties include?

24 A I handle appearances for records that we produce
25 in compliance with subpoenas or court orders that we

1 receive.

2 Q Do you also receive sometimes search warrants for
3 certain phone numbers and phone records, as well?

4 A Yes.

5 Q And as the custodian, you indicated that you
6 testify with respect to those records?

7 A Yes.

8 Q I'm going to show you what's been marked --- I
9 believe you have one set in front of you already as
10 State's 39. We've actually put it into a notebook.
11 Do you recognize those?

12 A Yes.

13 Q And do these fairly and accurately depict the
14 records that you reviewed?

15 A Yes.

16 MS. SIMPSON: That's 399, my apologies.

17 THE COURT: 399?

18 MS. SIMPSON: Yes.

19 BY MS. SIMPSON:

20 Q With respect to these records in State's 399,
21 does your business, your company, maintain these
22 records in the ordinary course of business?

23 A Yes.

24 MS. SIMPSON: Your Honor, at this time I would
25 offer state's 399 into evidence.

1 MS. PINNOCK: No objection.

2 MR. SCHNEE: No objection.

3 THE COURT: Without objection.

4 (WHEREUPON, State's Exhibit Number 399 was

5 admitted into evidence.)

6 BY MS. SIMPSON: And again, what is the phone number

7 that is associated with those records?

8 A The target number is (.

9 Q And when you say target number, what do you mean?

10 What are you referring to?

11 A That's our subscriber telephone number in which

12 the records were produced for.

13 Q Okay. Beg the Court's indulgence.

14 And are you familiar or aware of the dates for

15 those records?

16 A Yes. Would you like me to ---

17 Q Yes.

18 A Records are started on June 26th, 2013, and ended

19 on July 6, 2013.

20 Q All right. So June 26th through July 6th.

21 A Yes.

22 Q Thank you, Ms. Dalmida.

23 MS. PINNOCK: No questions, Judge.

24 MR. SCHNEE: No questions.

25 THE COURT: Have a nice day.

1 Call your next witness. You have two?

2 MS. SIMPSON: One or two more.

3 THE COURT: Go ahead.

4 MS. SIMPSON: State calls Kimberly Mears.

5 And, Your Honor, we are calling this witness out
6 of order due to some scheduling issues.

7 THE COURT: All right.

8 KIMBERLY MEARS,

9 after being duly sworn, testified as follows:

10 THE CLERK: Please have a seat, state your full
11 name for the record.

12 THE BAILIFF: State your full name.

13 THE WITNESS: My name is Kimberly Mears.

14 DIRECT EXAMINATION:

15 BY MS. SIMPSON:

16 Q Ms. Mears, where are you employed?

17 A South Carolina Law Enforcement Division, which is
18 commonly known has SLED.

19 Q And what is your position there?

20 A I'm a forensic scientist in the latent print
21 department.

22 Q How long have you actually worked with SLED?

23 A I've been with SLED for about seven years and
24 with the latent print department about four years.

25 Q So prior to coming to the latent print

1 department, what department did you work in?

2 A I was in the toxicology department.

3 Q So forensics as a whole includes a number of
4 different areas, such as latent prints, trace evidence
5 things of that nature?

6 A Yes, it does.

7 Q The can you tell the jury a little bit about your
8 educational background and training with respect to
9 latent prints?

10 A I have a Bachelor of Science degree in biology
11 from Winthrop University. Once I transferred to the
12 latent print department, I completed their completed
13 their in-house training program. Then I was accepted
14 into the latent print examiner training program
15 sponsored by the National Institute of Justice, which
16 is a ten week program that consists of courses in all
17 aspects of fingerprint work.

18 Q Have you actually testified as an expert in court
19 before?

20 A Yes, I have.

21 Q And in your lab --- tell the jury just a little
22 bit about your lab at SLED?

23 A It's the forensic services laboratory. We are
24 the State's forensics lab. We are an assisting
25 agency, so we have all different departments. As we

1 said earlier, we have latent prints, DNA, crime scene,
2 toxicology, all different departments within the
3 building itself that cover their own analyses within a
4 case.

5 Q So you actually handle cases from a number of
6 different jurisdictions or counties or cities,
7 whatever agency may need your assistance?

8 A Yes.

9 Q How many times would you say you've being
10 qualified as an expert before?

11 A Twice.

12 MS. SIMPSON: Your Honor, at this time I'd offer
13 Ms. Mears as an expert in latent print examination.

14 THE COURT: Voir dire?

15 MR. KRZYSTON: Briefly, Judge.

16 THE COURT: Okay.

17 MR. KRZYSTON: Prior to becoming qualified to
18 examine latent prints, you were a toxicology
19 specialist, if you will?

20 THE WITNESS: I was a technician in the
21 toxicology department.

22 MR. KRZYSTON: And you started undergoing
23 treatment --- not treatment, but education and
24 seminars in 2011 ---

25 THE WITNESS: Yes.

1 MR. KRZYSTON: --- for latent identification?

2 THE WITNESS: Yes.

3 MR. KRZYSTON: And since 2011, since you've had
4 the ability to opine on latent prints, you've
5 testified twice?

6 THE WITNESS: Yes, that's correct.

7 MR. KRZYSTON: No further questions, Judge. No
8 objection.

9 THE COURT: Mr. Schnee?

10 MR. SCHNEE: No questions. No objections.

11 THE COURT: Okay. Ladies and gentlemen, normally
12 as I told you before and you'll probably hear me say
13 this throughout this trial, a person cannot give
14 opinion testimony. When a person testifies, they have
15 to testify to what they saw, heard, did, smelled,
16 something of that nature, but certain people because
17 of their educational experience --- or their education
18 or experience, are permitted to give their opinion in
19 certain areas if I qualify them in that way. This
20 witness, Ms. Mears, will be qualified as an expert in
21 the area of latent prints; is that correct?

22 MS. SIMPSON: Yes, Your Honor.

23 THE COURT: Latent print examination, she will be
24 allowed to give opinion testimony in that area. That
25 doesn't mean that you have to take her opinion or

1 accept her opinion, but it is evidence for you to use
2 in any way that you see fit and give it the weight and
3 credibility you believe is appropriate as you are
4 required to do with each and every witness that
5 appears in front of you.

6 Ms. Simpson.

7 BY MS. SIMPSON:

8 Q Thank you, Your Honor. We just referred to your
9 testimony. Have you actually conducted a number of
10 different comparisons or attempted to process a number
11 of items with respect to prints?

12 A Yes, I have.

13 Q During what, seven years in latent prints?

14 A Four years.

15 Q Four years. Tell us a little bit about
16 fingerprints. Are they unique to an individual and
17 what exactly do they contain for purposes of your
18 comparison?

19 A They are unique to an individual and they are
20 unique to each finger on an individual. The
21 fingerprint itself, if you look at the palm side of
22 your hand, look at your skin closely, you have tiny
23 little raised lines on your skin. Those are what we
24 refer to as ridges and those are lines with sweat
25 pores.

1 So throughout the day, you sweat, touchy your
2 face, handle greasy foods, so sweat and oils are going
3 to accumulate on those ridges on your skin. When you
4 go to touch an object, those oils and that sweat is
5 going to transfer to that object corresponding to the
6 ridges on your skin. That is what we call a latent
7 fingerprint. The word latent, meaning hidden or
8 invisible needing some kind of processing or
9 development to make it able to be seen.

10 Q Okay. And with respect to latent prints and
11 ridge detail, in order --- just because I touch
12 something, am I necessarily going to leave a print?

13 A No, leaving a fingerprint is a chance event..

14 Q Can you tell the jury a little bit about the
15 different factors that may affect your ability to, I
16 guess, lift a print or process and find a print for
17 purposes of comparison?

18 A Leaving a print, leaving a suitable comparison
19 quality print, depends on the person themselves, the
20 environment that they're in, and the type of surface
21 that was touched, which would then also make it
22 difficult depending on the surface to lift the print
23 or develop the print if it's a rough or textured
24 surface itself.

25 Q So the surface area of an object and whether if

1 something, I guess, smudges or rubs against an object,
2 can that affect the print, as well?

3 A Yes, it can.

4 Q Tell us --- you said processes that are used,
5 what types of processes do you use to actually make
6 the fingerprint visible?

7 A That's going to depend on the evidence itself.
8 We have processes that can develop prints on adhesive
9 surfaces like duct tape or masking tape. We have
10 processes that is can develop prints on paper which
11 are paper, cardboard, those are what we call porous
12 items, and then we have nonporous items, which would
13 be this banister here, hard surfaces, so that the
14 evidence --- it just depends on the evidence as to
15 what type of chemical or processing technique we would
16 use.

17 Q I want to turn your attention to this case. Did
18 you actually receive an item of evidence to process
19 for latent prints?

20 A Yes, I did.

21 MR. KRZYSTON: Objection, previously stated
22 objection, Judge.

23 THE COURT: Okay. Overruled.

24 BY MS. SIMPSON:

25 Q I'm going to show you what's been marked as

1 State's 372?

2 THE COURT: Is that pursuant to the search?

3 MS. SIMPSON: Yes.

4 THE COURT: Okay.

5 MR. KRZYSTON: No objection, well ---

6 THE COURT: The previously stated objection; I
7 understand.

8 MR. SCHNEE: I have no objection. It doesn't
9 apply to me.

10 THE COURT: Okay. What's the number?

11 MS. SIMPSON: State's 372. I guess at this time
12 I'll go ahead offer it, without objection.

13 (WHEREUPON, State's Exhibit Number 372 was
14 admitted into evidence.)

15 BY MS. SIMPSON:

16 Q Do you recognize this?

17 A Yes, I do.

18 Q What is that?

19 A This is our lab case --- our lab case is item 38,
20 which is an empty Magtech ammunition box.

21 Q Okay. Was that the actual item that you
22 attempted to collect the fingerprints from?

23 A Yes, it is.

24 Q And it's an ammo box; can you tell what type of
25 ammo that is for?

1 A Magtech first defense.

2 Q And does it indicate a caliber, such as 45 GAP or
3 40 caliber, something of that nature?

4 A 45 GAP.

5 Q All right. Tell us what you did once you
6 received this item?

7 A I first of all did an inventory to make sure it
8 matched to what our computer system said I was
9 supposed to have, checked the assignment on the case
10 to see what analysis they requested, and did a visual
11 exam and processed it with what we call cyanoacrylate,
12 which is superglue fuming. It's a vapor that's going
13 to adhere to any moisture that I was talking about
14 earlier that's transferred to the surface, causing it
15 to harden like superglue does to let the print
16 withstand further testing. I then processed it with a
17 fluorescent dye stain we call M.B.D. that is going to
18 adhere to the cyanoacrylate and cause any print that
19 the cyanoacrylate to adhere to. It's going to cause
20 it to fluoresce under an alternate light source.

21 Q What may be the purpose --- I guess you said you
22 didn't --- I can't pronounce the word, so I'll just
23 say the superglue process, what would be the basis for
24 doing the second type of testing, were you able to
25 find anything from the initial process?

1 A Cyanoacrylate, once it adheres to a surface will
2 turn kind of a frosty silvery color, but there is ---
3 there are techniques that can be done after that to
4 make it further stand out, especially with this having
5 that grayish, silverfish color in it, it would be hard
6 to see the cyanoacrylate just on the surface itself,
7 so the M.B.D. afterwards, which is kind of an added
8 technique to see if anything else could be done to
9 enhance the ridge detail on the box.

10 Q So the purpose is to enhance so maybe, if there
11 is anything that would be suitable, you would be able
12 to see it?

13 A Yes.

14 Q I'm going to show you what's been marked as
15 State's Exhibit 381.

16 MR. KRZYSTON: Judge, we would object to that as
17 brought forth on our previous objections, Judge.

18 THE COURT: On the search?

19 MR. KRZYSTON: Yes.

20 THE COURT: Okay. Thank you.

21 MR. SCHNEE: No objections.

22 THE COURT: 381?

23 Ms. SIMPSON: Yes.

24 THE COURT: Admitted over the objection.

25 (WHEREUPON, State's Exhibit Number 381 was

1 admitted into evidence.)

2 BY MS. SIMPSON:

3 Q Tell us --- State's 381, what is contained in
4 those photographs?

5 A These are photographs of the ammunition box after
6 each step of the processing, after the superglue and
7 after the fluorescent dye stain.

8 Q So these photographs represent after each one.
9 What's the purpose of photographing after each
10 process?

11 A Well, there are multiple photos after each step.
12 Our photography can enhance the images using Photo
13 Shop, and that can enhance the contrast or brightness
14 that could make the ridge detail possibly better to
15 compare.

16 Q And in this case, you pretty much made every
17 attempt possible to lift a print?

18 A Yes.

19 Q Correct?

20 A Yes.

21 Q And tell the jury just a little bit about what
22 your results were from your comparison?

23 A The result was no value for identification, which
24 basically means there was ridge detail on the item,
25 but it was smeared or overlapping and the ridge detail

1 there wasn't of comparison quality to identify to a
2 potential known standard.

3 Q So if there had been something suitable, then a
4 known standard could have been used to compare?

5 A Yes.

6 Q But in this case there wasn't anything suitable
7 due to smudge marks?

8 A Smudging and overlapping prints and just not
9 comparison quality.

10 Q Okay. Well, let me back up just a little bit or
11 ask you just a general question. I asked you about
12 the factors that might affect the ability to leave a
13 fingerprint. If someone was wearing gloves, are they
14 going to leave a fingerprint?

15 A No, they are not.

16 Q And sweating and things of that nature and the
17 amount of time I touched something, does that affect
18 the ability?

19 A Yes, it does.

20 Q So if I briefly bump up against something doesn't
21 necessarily mean I'm going to leave a fingerprint for
22 comparison?

23 A Right. You could or you could not.

24 Q And was that the only item that was sent to you
25 for processing?

1 A Yes, it was.

2 Q And if multiple people had touched an item to ---
3 I guess with overlapping prints, does that affect your
4 ability, as well?

5 A If the prints are overlapping each other, then
6 yes.

7 Q All right. Thank you, Ms. Mears.

8 MR. KRZYSTON: Thank you, Your Honor. May it
9 please the Court.

10 THE COURT: Yes, sir.

11 CROSS-EXAMINATION:

12 BY MR. KRZYSTON:

13 Q Now, Ms. Mears, it's true that some surfaces are
14 better suited for lifting a print off or obtaining a
15 print, if you will?

16 A Yes.

17 Q So metal would be a good one?

18 A Yes.

19 Q Perhaps maybe one of the best?

20 A Maybe one of the best depending.

21 Q Hard nonporous surfaces, correct?

22 A Yes.

23 Q Plastic?

24 A Yes.

25 Q Metal?

1 A Yes.

2 Q Glass?

3 A Yes.

4 Q And when you touch something, it could be quick
5 or it could be long, but there's a chance that a print
6 is left, correct?

7 A Correct.

8 Q And you weren't given any evidence or any prints
9 from 93 Tommy Circle, were you?

10 A I'm not sure where this box came from.

11 Q Okay.

12 A But this was ---

13 Q That was the only thing that you were given to
14 analyze?

15 A Yes.

16 Q Okay. Thank you.

17 MR. KRZYSTON: No further questions, Judge.

18 MR. SCHNEE: No questions.

19 THE COURT: Okay. Have a nice day.

20 Oh, I'm sorry, any redirect?

21 MS. SIMPSON: No, Your Honor.

22 THE COURT: I'm sorry. I got ahead of myself.
23 Have a nice day.

24 THE WITNESS: Thank you.

25 THE COURT: Are we at a stopping point, Ms.

1 Garfield?

2 MS. GARFIELD: Just one more very short witness.

3 Your Honor.

4 THE COURT: Okay.

5 MS. GARFIELD: Your Honor, the State calls Lauren
6 Schleuter.

7 LAUREN SCHLEUTER,
8 after being duly sworn, testified as follows:

9 THE CLERK: Please have a seat. State your full
10 name.

11 THE BAILIFF: Watch your step.

12 THE WITNESS: My name is Lauren Schleuter.

13 DIRECT EXAMINATION:

14 BY MS. GARFIELD:

15 Q Ms. Schleuter, where do you work?

16 A Carolina Cafe.

17 Q Are you the owner of that establishment?

18 A I am.

19 Q Can you explain to the jury what kind of
20 establishment that is?

21 A We are a restaurant, breakfast and lunch, bakery
22 and kind of a deli.

23 Q And what primarily do you serve at that bakery?

24 A Primarily our main product is bagels and also
25 other pastries and sandwiches.

1 Q Where is your business located?

2 A We have two locations. We have one that's
3 downtown Columbia at the corner of Sumter and
4 Pendleton and we have a new location in West Columbia
5 on Sunset.

6 Q Did you have that location in West Columbia back
7 in July of 2013?

8 A No, ma'am.

9 Q And do you do all your baking on site?

10 A Yes, we do.

11 Q Do you do your baking --- back in July of 2013,
12 did you do all your baking on site?

13 A We did all our baking at a separate bakery
14 facility.

15 Q Where was the separate bakery facility?

16 A It was 93 Tommy Circle.

17 Q Are you familiar with the victim in this case,
18 Ms. Kelly Hunnewell?

19 A Very much, yes.

20 Q How do you know Ms. Hunnewell --- how did you
21 know Ms. Hunnewell?

22 A Kelly was an employee of ours, worked with us for
23 about two-and-a-half years.

24 Q What sort of shift did she work there, Ms.
25 Schleuter?

1 A Her shift was --- it varied. We were very
2 flexible with her because of her children, but
3 primarily she worked anywhere from three to five in
4 the morning until eleven, ten o'clock in the morning.

5 Q And when you say three, that would be 3:00 A.M.?

6 A 3:00 A.M.

7 Q So she came to work around 3:00 A.M.?

8 A She came to work around --- that was up to her.
9 Some days she did come that early, and then she would
10 go home, get her kids off to school and come back to
11 work.

12 Q How many children did Ms. Hunnewell have?

13 A Four.

14 Q Are you familiar with those children?

15 A Yes, she would bring them in on the weekends.
16 Yes, I did know the children.

17 Q What were their ages?

18 A Six, eight, ten and 13.

19 Q And that was back in 2013?

20 A Uh-huh.

21 Q And okay. You said she would come in at
22 3:00 A.M. Would she report to the Tommy Circle
23 bakery?

24 A Yes.

25 Q I'm going to hand you what's been marked as

1 State's Exhibit Number 327. Are you familiar with
2 this?

3 A Yes. It's one of her time cards.

4 Q When was that --- I'm sorry. My finger is
5 covering that up. When was that dated?

6 A July 1st through the 7th.

7 Q And for the July 1st, was that a Monday?

8 A I believe it was and it says 3:00 A.M.

9 Q And would this have been put in a time card punch
10 system?

11 A Yes, uh-huh.

12 Q So this would have indicated then ---

13 MS. PINNOCK: Objection, Your Honor. It's not in
14 evidence.

15 THE COURT: It's not.

16 MS. GARFIELD: It is.

17 THE COURT: It is? My bad.

18 MS. PINNOCK: I withdraw that objection.

19 BY MS. GARFIELD:

20 Q Would this indicate what time Ms. Hunnewell got
21 to work that day?

22 A Uh-huh.

23 Q And what would she be doing at the bakery?

24 A She would get the bagels ready to be baked. She
25 would turn on the kettle, turn on the oven, go into

1 the walk-in freezer, go in the cooler, pull out the
2 racks. She would sometimes make potatoes, boil
3 potatoes, things in between baking cookies. She kind
4 of multitasked while she was there. There were a lot
5 of little stations that she moved around and did.

6 Q And then what did she do with the completed food
7 product?

8 A Well, sometimes somebody would come. If it was
9 an unusually large bake, she would have --- there
10 would be another person there, but this day, Monday,
11 being a more slow day, she would put the bagels in the
12 van and drive them to the cafe on Sumter Street, and
13 drop those off.

14 Q There's been mention of Ms. Hunnewell wearing a
15 sweat shirt in this case. Was it common for your
16 employees to have a sweatshirt in the bakery?

17 A Yes.

18 Q Even in the month of July?

19 A Yes.

20 Q Can you explain to the jury why?

21 MS. PINNOCK: Objection, that calls for
22 speculation, Your Honor.

23 THE COURT: She can state what she knows
24 personally, but she can't speculate as to why somebody
25 would wear something.

1 BY MS. GARFIELD:

2 Q Do you have personal knowledge of why your
3 employees would wear a sweatshirt?

4 A Yes.

5 Q Can you share with the jury what that knowledge
6 is?

7 A Going into a walk-in freezer that is below zero,
8 you are in there pulling bagels out, putting bagels in
9 or you're racking cookies or muffins. When that
10 compressor shuts --- or turns on, it is blowing
11 freezing air, so it's always been like that. I've got
12 a sweat shirt at my location where we're baking now
13 and all our employees that do baking go in the freezer
14 have a sweatshirt.

15 Q Based on your personal knowledge with your
16 employees, would you expect your employees to be going
17 in the freezer when they first arrive?

18 A Yes, it's very possible that would happen.

19 MS. GARFIELD: Beg the Court's indulgence.

20 (Pause.)

21 MS. GARFIELD: Thank you, Ms. Schleuter. Please
22 answer any questions defense counsel may have.

23 THE WITNESS: Okay.

24 MS. PINNOCK: Your Honor, I have no questions.

25 MR. SCHNEE: No questions.

1 THE COURT: Okay. Thank you very much, ma'am.

2 THE WITNESS: Thank you.

3 THE COURT: Have a nice day.

4 THE WITNESS: You too.

5 THE BAILIFF: Watch your step, ma'am. Watch your
6 step.

7 THE COURT: Are you good on people that have to
8 go today?

9 MS. GARFIELD: Yes, sir.

10 THE COURT: Okay. Ladies and gentlemen, we are
11 going to stop for the evening. It's pushing the
12 5:30 hour. Now, for the rest of this week, just so
13 you know, I really don't like to go past 5:30.
14 Sometimes I will if we run into a situation where I
15 have a witness that has to get out of here. Sometimes
16 we may stop, like tonight, two or three minutes before
17 5:30. If they were at five and they said the next
18 witness is going to be long I may go ahead and break
19 then. It's not a set time every night, but I'll do my
20 best to get you out of here at a reasonable hour..

21 Here are your instruction. Number one, you're
22 not allowed to discuss the case with anybody in any
23 way, shape, or form. That includes your family
24 members, friends, coworkers, employers, employees,
25 any type of social media or anything like that.

1 Number two, you are not allowed to watch any news
2 accounts about this case in any way, shape, or form.
3 The news shouldn't even be on at your house tonight
4 period. That means internet, phone, TV, radio,
5 anything that you can imagine that would be a news
6 source, you need to stay away from it.

7 Now, you will recall previously that I told you
8 in great detail about how you must decide this case
9 based on what happens in this courtroom and the
10 evidence presented in this courtroom. Because we are
11 about to take a break for the evening, I'm now
12 reminding you of that warning. I want you to once
13 again fully commit, not only to yourselves but to each
14 other and the court and the parties in this case that
15 you're not going to use any cell phone, smart phone,
16 Blackberry, i-Phone, Droid, Facebook, text messaging,
17 Google or any kind of electronic communication, TV,
18 radio, phone, computer, anything that you can imagine
19 to discuss this case in any way, shape, or form, and
20 I'm going over that and I'm stressing that to you
21 because there is really no excuse for it and no excuse
22 for it will be tolerated. You owe that to yourselves,
23 to each other as people in our community who are
24 sitting here and hearing this case and you owe it to
25 the parties. Like I told you on day number one, if

1 you were involved in this case or you were a party in
2 this case regardless of the side, that's what you
3 would want and that's what you would expect. That's
4 the only fair thing to everybody involved in this
5 case. I ask that you keep that in mind.

6 Thank you for your service today. I sincerely
7 apologize for the delay. Again, I accept full
8 responsibility for it. We're going to start --- we're
9 going to bring you in about 9:15 tomorrow morning, so
10 be here a few minutes before that. We will see you
11 then. Everyone keep your seats while the jury is
12 dismissed. Thank you very much.

13 (WHEREUPON, the jury left the courtroom at 5:29
14 P.M.)

15 THE COURT: Okay, anything from the State before
16 we break for the evening.

17 MS. GARFIELD: No, sir.

18 THE COURT: Mr. Krzyston?

19 MS. SIMPSON: Well, briefly we can handle the
20 issue in the morning. It's my understanding the
21 television set up is prepared with the audio and video
22 on the phone videos, but I do not see the
23 investigator.

24 THE COURT: All right. We'll deal with that
25 first thing tomorrow.

1 Anything, Mr. Krzyston?

2 MR. KRZYSTON: No, Your Honor, I would just renew
3 all the objections we made, obviously, and I do have
4 one question that does not involve ---

5 THE COURT: Okay. Your objection during
6 Ms. Mears' testimony as to State's Exhibit 372 and
7 State's Exhibit 381 relate back to your objection to
8 the search warrant that was executed at the Bronx Road
9 location; is that correct?

10 MR. KRZYSTON: Yes, Your Honor. That's the basis
11 for them. You assert that the search warrant was
12 invalid, that anything obtained was invalid.

13 MR. KRZYSTON: Correct, Your Honor.

14 THE COURT: That's the argument you were making;
15 is that right?

16 MR. KRZYSTON: Yes, Your Honor.

17 THE COURT: I want to make sure that was clear on
18 the record. That was the angle you were making that
19 from.

20 MR. KRZYSTON: Thank you, Your Honor.

21 THE COURT: If that comes up again, because I
22 don't know what all was collected, just say "previous
23 search argument" and that way I'll know exactly what
24 you're referring to and that you're not adding a new
25 argument to it. Does that make sense?

1 MR. KRZYSTON: Yes, sir.

2 THE COURT: All right. Very good. Anything else
3 from you before we break for the evening, Mr.
4 Krzyston?

5 MR. KRZYSTON: No, Your Honor.

6 THE COURT: Mr. Schnee?

7 MR. SCHNEE: Just very briefly, Your Honor, the
8 photographs that you admitted over objection, numbers
9 57 through 59, 90 through 102, 112 and 134, I suppose
10 also 125, I'm told that's been dealt with a long time
11 ago. The basis of that objection is the same that we
12 dealt in terms of the victim lying on the floor and
13 the cumulative nature of having the photos at
14 essentially the same angle. I just want to put that
15 on the record.

16 THE COURT: Very good. I'm going to overrule
17 that objection. Those photos and that exhibits that
18 were just mentioned by defense counsel were
19 drastically different than the original photos that I
20 have excluded, so when we went through photos the
21 other day, I took out not all, but the majority of the
22 close up photos with the pooling of blood and because
23 of their prejudicial effect, those photos that were
24 objected to today, which are State's Exhibits 57, 59,
25 98, 99, 100, 101, 102, 112, 134, 123 and 125 were

1 overruled because it shows it from a completely
2 different angle. The victim is very far away from the
3 camera scene, and you have to actually look for what
4 you're looking for, so I do not find their prejudicial
5 effect outweighs the probative value. In each picture
6 they went through different things that were being
7 collected at the scene based on them.

8 So all right. Anything else? Okay. So let's
9 start at nine in the morning. Get whatever that TV
10 thing is ready to go so I can see that and view that
11 so everybody be in here ready to go at nine so we can
12 take the jury at 9:15 and keep going. All right.

13 MS. SIMPSON: Thank you, Your Honor, Your Honor.

14 MR. SCHNEE: Thank you, Your Honor.

15 MR. KRZYSTON: Your Honor, approach?

16 THE COURT: Yes.

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

18 November 13, 2014

19 THE COURT: All right. We have two notes last
20 night from the jurors. One asked to bring some
21 paperwork related to their work, not related to the
22 case. It's actually school work, not related to the
23 case, if that juror could work on that during the
24 breaks and one says, asks that we be done by sundown
25 on Friday, and then the third one that I just received

1 one second ago is --- just says can you give me an
2 answer as to being out by sundown on Friday.

3 So on the work one, the one who wants to bring
4 school work, I'm going to respond yes as soon as it's
5 unrelated to the case.

6 I don't know what time is --- I haven't been
7 hunting this week, so I don't know what time sundown
8 is.

9 MR. SCHNEE: Sometime around 5:00, 5:30.

10 THE COURT: Well, it's --- in your scheduling of
11 things I'll get the official time so we're out of here
12 in plenty of time, okay. We'll mark those as Court's
13 Exhibits.

14 MR. KRZYSTON: Judge, can we approach?

15 THE COURT: Let me finish this.

16 MR. KRZYSTON: Sorry.

17 THE COURT: All right. Approach.

18 (WHEREUPON, there was a bench conference.)

19 (WHEREUPON, Court's Exhibit Numbers 10-12 were
20 marked for identification only.)

21 MR. KRZYSTON: Judge, I just want to bring to the
22 Court's attention that a possible State's witness,
23 Michael Peterson, formerly represented by me in about
24 May of this year --- upon my first visit to
25 Mr. Peterson, he informed me that he would be

1 informing on Mr. Young and another one of my clients
2 at that time. I took a copy of his statement, brought
3 it back to my office, copied it, put it in the file
4 and then mailed him back an original copy of his
5 letter. I did not read the statement. I am not
6 handling the witness. The file has been closed in our
7 office, and we are no longer representing Mr.
8 Peterson. I would obviously just ask that the State
9 limit his testimony as we just discussed. I don't
10 foresee any other problems arising from it.

11 THE COURT: So you don't really know any
12 attorney/client information?

13 MR. KRZYSTON: No, Your Honor, I represented him
14 for a matter of hours, 24 to 48 hours. As soon as I
15 went to see him, I gave the file to conflict review.

16 THE COURT: Because you understood he would
17 potentially be testifying against your client?

18 MR. KRZYSTON: Yes.

19 THE COURT: You didn't ask anything else as far
20 as attorney/client information from Mr. Peterson; is
21 that correct?

22 MR. KRZYSTON: Yes, Your Honor.

23 THE COURT: So you didn't gain any information?

24 MR. KRZYSTON: No, as soon as I found out he was
25 interested in informing, I advised him that the Public

1 Defender's office would likely be reassigning his file
2 and therefore there would be no further point in us
3 conversing.

4 THE COURT: Who will be handling that?

5 MR. KRZYSTON: Ms. Bambach.

6 THE COURT: Who is --- Ms. Garfield, you
7 prosecuted that individual?

8 MS. GARFIELD: I prosecuted him, so Ms. Simpson
9 will be questioning him.

10 THE COURT: Okay. Let's not go into --- if he
11 has any complaints with Mr. Krzyston, this is not the
12 forum and it is not relevant to the case or the issues
13 and Mr. Krzyston's behavior in dealing with that
14 situation would be exactly what I would expect him to
15 do in handling the situation and learning about that
16 potential client cooperating against a current client.
17 I would expect him to cease the conversation and turn
18 it over to conflict review, which is what he did and
19 that was completely and totally appropriate. That's
20 just the nature of these things is you end up in these
21 cases in different things like that, so his behavior
22 was completely and totally appropriate.

23 MR. KRZYSTON: Thank you, Judge.

24 MS. SIMPSON: And Your Honor, he is represented
25 by Victor Li. I'll have a conversation with him so he

1 can explain it to his client.

2 THE COURT: If you can just communicate that to
3 Mr. Li so he can explain and you can explain it to him
4 in Mr. Li's presence also.

5 MS. SIMPSON: Okay. Thank you, Your Honor.

6 THE COURT: Thank you.

7 MS. SIMPSON: And the defense, this will be their
8 first time in reviewing the redacted version, as well.

9 THE COURT: Okay. Let's all look at it. You're
10 not going to attempt to introduce it this morning; is
11 that right?

12 MS. SIMPSON: Correct. That will come much later
13 in the case.

14 THE COURT: Okay. Let's all go ahead and look at
15 it and think about it.

16 MS. SIMPSON: Most of this will be with respect
17 to what Ms. Cromer testified to during one of the
18 pretrial hearings. This is the audio portion that we
19 start with.

20 (Pause.)

21 MS. SIMPSON: I'm not sure is got that. Was that
22 kind of static-y.

23 THE COURT: I got enough.

24 MS. SIMPSON: Okay. Of course, that's referring
25 to the Glock 45, which would be consistent with the

1 weapon in this case. "Let's go to the door, Shyne,"
2 and the purpose for this one is it actually shows
3 Mr. Young.

4 (Pause.)

5 It mentions his name Lorenzo, as well as his
6 nickname, Shyne, and this is from the same video where
7 he is holding the Glock 45 in the camera.

8 THE COURT: Okay.

9 MS. SIMPSON: Next one. This would be from the
10 second or third video --- second video, where they
11 mention the Glock.

12 (Pause.)

13 And that would be the extent of that one.

14 (Pause.)

15 Like I said, we can discuss further with respect
16 to relevance and things of that nature ---

17 THE COURT: Okay.

18 MS. SIMPSON: --- but that's what we would be
19 seeking to introduce.

20 THE COURT: Okay. Great. Thank you very much.

21 All right. Anything else before we bring in the
22 jury?

23 MS. SIMPSON: Nothing from the State.

24 MS. GARFIELD: Judge, the only thing I need to do
25 is renew our request for Mr. Schnee's witness

1 information as far as date of birth so we can run
2 appropriate background.

3 THE COURT: Okay.

4 MR. SCHNEE: Judge, I apologize. With everything
5 that happened yesterday, I just never got around to
6 doing it before our long breaks. I can have it for
7 her this morning. There is only one witness that's a
8 lay witness. I know he's in jail. I'm pretty sure he
9 is actually the only one with that name who is in
10 jail.

11 THE COURT: Okay.

12 MR. SCHNEE: I mean, I could probably do it from
13 my cell phone right now from the jail website.

14 THE COURT: Okay. Let's get that to them shortly
15 then.

16 MR. SCHNEE: Sure.

17 THE COURT: Mr. Krzyston.

18 MR. KRZYSTON: Other than the objections to ---

19 THE COURT: We're not dealing with the objections
20 now I just wanted everybody to see it so you can think
21 about it.

22 MR. KRZYSTON: Thank you, Judge.

23 THE COURT: Anything from you, Mr. Schnee, before
24 we start?

25 MR. SCHNEE: No, Your Honor.

1 THE COURT: Okay.

2 All right. If you're in here, make sure your
3 phones are off. I don't want to hear them. I don't
4 want to see them.

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

6 THE COURT: Welcome back. Thank you for being on
7 time. We will continue with the testimony of the
8 case. Call your next witness.

9 MS. GARFIELD: Thank you, Your Honor. May it
10 please the Court. For scheduling purposes we will be
11 taking our next witness out of the order. At this
12 time the State calls Amy Stephens.

13 THE COURT: All right.

14 AMY STEPHENS,
15 after being duly sworn, testified as follows:

16 THE CLERK: Please have a seat. State your full
17 name for the record.

18 THE WITNESS: Amy Alyssa Stephens,
19 S-T-E-P-H-E-N-S.

20 DIRECT EXAMINATION:

21 BY MS. GARFIELD:

22 Q Ms. Stephens, please share with the jury where
23 you're currently employed.

24 A I'm employed with the South Carolina Law
25 Enforcement Division also known as SLED.

1 Q What are your duties at SLED?

2 A I'm a forensics technician in the evidence
3 control department. Our daily responsibility are to
4 log in, package, and transfer evidence for the purpose
5 of analysis.

6 Q Is this for any specific law enforcement agency?

7 A All law enforcement agencies throughout the State
8 of South Carolina.

9 Q So you collect evidence all over the State?

10 A We receive collected evidence from law
11 enforcement agencies throughout the state, yes.

12 Q And you just mentioned packaging. Can you
13 explain to the jury what packaging is?

14 A We have several different packaging procedures
15 within our department. We will place some evidence in
16 a heat sealed pouch. Some things will go in a box and
17 some things will go in an envelope. We will seal
18 those items and then the submitting officer will
19 initial and date the seals.

20 Q Are you familiar with the case that we're in
21 court with today?

22 A Yes, I am.

23 Q As a forensic evidence custodian, did you receive
24 several items of evidence in this case?

25 A Yes, I did.

1 Q Did you receive these items from a period
2 beginning in July of 2013 through very recently?

3 A Yes, I did.

4 Q And did you receive items from several different
5 officers?

6 A Yes, I did.

7 Q With the Columbia Police Department?

8 A Yes, that's correct.

9 Q Did you receive items from Investigator George
10 Wise?

11 A Yes, I did.

12 Q And did you receive items from an Officer Brian
13 Carrol?

14 A Yes, I did.

15 Q And did you receive items from Sergeant Buddy
16 Rose?

17 A Yes, I did.

18 Q I believe Walter Rose is his real name?

19 A That's correct.

20 Q And also some from the coroner's office?

21 A That's correct.

22 Q When you received these items, please explain to
23 the jury how you go the about packaging them properly
24 and what your procedures are?

25 A Once we receive the evidence within our

1 department, we will package them according to our
2 procedures, we will then enter the case information
3 into our computer system. A unique lab number will be
4 generated, as well as an item for each piece of
5 evidence that is submitted. Once that unique lab
6 number is generated, we will attach the label to each
7 piece of evidence and then transfer the evidence
8 directly to a technician or a scientist or into our
9 evidence room for storage.

10 Q Do you inspect the items that are presented to
11 you by law enforcement?

12 A Yes, we do.

13 Q What if an item is not packaged properly?

14 A If it's not packaged properly, a note will be
15 made in the case narrative of that particular lab
16 number.

17 Q Was any of the evidence presented to you or to
18 SLED related to the case where Ms. Hunnewell was
19 killed, did you find any of that evidence to be
20 packaged improperly?

21 A No, I did not.

22 Q Once you take it into SLED, what happens to it
23 next?

24 A It can go into our evidence room for storage
25 purposes until an analyst or technician comes down to

1 retrieve it for analysis.

2 Q When you say analysts, are there several
3 different analysts that are employed at SLED?

4 A Yes, we have several different forensics services
5 within our building.

6 Q Can you just share with the jury what those
7 services are?

8 A We have a DNA department, a toxicology
9 department, a latent print and crime scene department,
10 a photography department, a document department, an
11 evidence processing department.

12 Q And several others; is that correct?

13 A Yes.

14 Q And all the items that you received from Columbia
15 Police Department or the Richland County coroner's
16 office were proper?

17 A They were.

18 MS. GARFIELD: Thank you, Ms. Stephens. Please
19 answer any questions defense counsel may have.

20 MS. BAMBACH: Thank you, Your Honor. May it
21 please the Court.

22 THE COURT: Yes, ma'am.

23 CROSS-EXAMINATION:

24 BY MS. BAMBACH:

25 Q Ms. Stephens, I just have one question. In the

1 SLED narrative notes, your comments on July 3rd, 2013,
2 a rush status had been placed on this case, correct?

3 A I would have to see those notes. I do not have
4 those with me.

5 MS. BAMBACH: May I approach?

6 THE COURT: Yes, ma'am.

7 BY MS. BAMBACH:

8 Q Would seeing these notes help refresh your
9 recollection?

10 A Yes, it would. Yes, I did write that.

11 Q And that was on July 3rd, 2013, correct?

12 A May I see the case? I'm sorry. Yes, July 3rd,
13 2013. That's correct.

14 Q Thank you.

15 MS. BAMBACH: I have no further questions.

16 MR. SCHNEE: No questions.

17 THE COURT: Redirect?

18 MS. GARFIELD: No, sir.

19 THE COURT: Have a nice day.

20 THE WITNESS: Thank you.

21 THE COURT: Call your next witness.

22 MS. GARFIELD: Thank you, Your Honor. The State
23 calls Sergeant Buddy Rose.

24 THE COURT: Is that Walter Rose?

25 MS. GARFIELD: Yes, sir. I'm sorry. His name is

1 Buddy.

2 SERGEANT WALTER (BUDDY) ROSE,
3 after being duly sworn, testified as follows:

4 THE CLERK: Please have a seat. State your full
5 name for the record.

6 THE WITNESS: My name is Walter Rose.

7 DIRECT EXAMINATION:

8 BY MS. GARFIELD:

9 Q Do you have a nickname?

10 A Yes, I do.

11 Q What is your nickname?

12 A Buddy.

13 Q Just to avoid confusion. Sergeant, where are you
14 employed?

15 A City of Columbia.

16 Q What to you do at the City of Columbia?

17 A I'm a crime scene supervisor.

18 Q And that's with the police department?

19 A Yes, ma'am.

20 Q As a crime scene supervisor, what do you do?

21 A I supervise a six man crime scene team.

22 Q And what does the crime scene team do?

23 A They document, collect, preserve, and analyze
24 evidence.

25 Q Specifically involving the case at hand, did you

1 have an opportunity to review any video involved in
2 this case?

3 A Yes, ma'am.

4 Q And please explain to the jury how that came
5 about?

6 A The investigators involved in the case brought me
7 a DVR. They needed the video that was on the DVR,
8 pulled off and put on a CD to preserve for trial.

9 Q And that DVR had been found at the bakery?

10 A Yes, ma'am.

11 Q On Tommy Circle?

12 A Yes, ma'am.

13 Q In Richland County?

14 A Uh-huh.

15 Q And you actually pulled the video off that
16 camera, if you will?

17 A Yes, ma'am.

18 Q I'm going to be hand you what's been marked as
19 State's Exhibit 323. Are you familiar with this video
20 or this DVD?

21 A I am.

22 Q What is contained on that DVD?

23 A It's a video from the DVR. There's several
24 different cameras, several files on here. It's the
25 video.

1 Q From the bakery?

2 A Yes, ma'am.

3 Q How many camera angles were there?

4 A I believe there's four.

5 Q And you've had an opportunity to review this
6 video, correct?

7 A Yes.

8 Q Has it been changed or altered in any way by you?

9 A It hasn't.

10 MS. GARFIELD: Your Honor, at this time, I'd like
11 to introduce State's Exhibit Number 323 into evidence.

12 MR. KRZYSTON: Without objection.

13 MR. SCHNEE: That's the original files? No
14 objection, Your Honor.

15 THE COURT: All right. State's 323 without
16 objection.

17 (WHEREUPON, State's Exhibit Number 323 was
18 admitted into evidence.)

19 BY MS. GARFIELD:

20 Q Sergeant Rose, do you also in your duties with
21 Columbia Police Department assist in transporting
22 evidence to our state law enforcement division?

23 A Yes, ma'am.

24 Q Did you particularly take any items of evidence
25 to SLED in this case?

1 A I did.

2 Q I'd like to direct your attention back to
3 July 5th, of last year. How did you come about taking
4 evidence to SLED?

5 A One of the crime scene officers was transporting
6 evidence to SLED and was involved in an accident on
7 I-26.

8 Q And who was that officer?

9 A Brian Carrol.

10 Q And where is SLED located?

11 A It's on Broad River Road.

12 Q Here in Richland County?

13 A Yes, ma'am.

14 Q And Mr. Carrol got in an accident on the way to
15 SLED.

16 A He did.

17 Q At that point, what did you do?

18 A I responded to the scene where he got into the
19 accident, took the evidence from him and transported
20 it to SLED. The supervisor that was working that area
21 took care of the accident so I could take that
22 evidence to SLED.

23 Q And that evidence contained shot shells?

24 A Yes, ma'am.

25 Q As well as an ammunition box?

1 A Yes, ma'am.

2 Q And then you took to it SLED?

3 A Yes, ma'am.

4 Q And you logged it in with Ms. Stephens?

5 A I did.

6 Q Thank you, Sergeant Rose. Please answer any
7 questions defense counsel has.

8 MR. KRZYSTON: Thank you, Judge. May it please
9 the Court.

10 THE COURT: Yes, sir.

11 CROSS-EXAMINATION:

12 Q Sergeant, did you watch the video, State's 323
13 that was just described, with Investigator Wise?

14 A With who?

15 Q With George wise?

16 A No, I don't believe --- well, there were several
17 of us. Possibly Wise. Our office --- it's pretty
18 big.

19 Q Right.

20 A So when we go to pull those videos, everybody
21 involved can be there, so I'm not sure exactly who was
22 with us, but yes, there were a lot of people.

23 Q And a lot of people were interested, so there
24 were a lot of people?

25 A There were a lot of people involved in this

1 investigation, so, yes, sir.

2 MR. KRZYSTON: Okay. Thank you. No further
3 questions, Judge.

4 MR. SCHNEE: Nothing from me, Judge.

5 THE COURT: Redirect?

6 MS. GARFIELD: No, sir.

7 THE COURT: Have a good day. Call your next
8 witness.

9 MS. GARFIELD: The State calls Christopher
10 Watkins.

11 CHRISTOPHER WATKINS,
12 after being duly sworn, testified as follows:

13 THE CLERK: Please have a seat. State your full
14 name.

15 THE WITNESS: (No response.)

16 DIRECT EXAMINATION:

17 BY MS. GARFIELD:

18 Q Please state your full name for the record, sir.

19 A Christopher James Watkins.

20 Q Mr. Watkins, where are you employed?

21 A I'm a private investigator at Stillinger
22 Investigations here in Columbia operating under SLED
23 license number 1586.

24 Q Please share with the jury what kind of
25 investigations you pursue?

1 A Well, in this matter or just generally?

2 Q In general.

3 A Well, all kinds of investigations. I am more
4 focused in criminal defense and digital forensics
5 investigations.

6 Q So you are not an investigator for the State?

7 A I am not.

8 Q Were you retained by any defense counsel in this
9 case?

10 A I was.

11 Q Do you know who that was?

12 A Yes, ma'am, it was Ms. Aimee Zmroczek.

13 Q Are you familiar with who she represented?

14 A Yes, my role in the assignment through
15 Ms. Zmroczek was to assist in an investigation into
16 the matter in which her client, Troy Stevenson, is
17 named the accused.

18 The primary objective to that assignment was to
19 analyze video that was taken from the bakery located
20 at 93 Tommy Circle and also the video that was taken
21 from the Ale House Lounge located at 12 Tommy Circle
22 which is next door.

23 The purpose of that was to determine the exact
24 point in time that Mr. Stevenson arrived at the scene
25 on camera.

1 Q We're not going to go into all of that. I just
2 want to specifically go into the video.

3 A Okay.

4 Q So Ms. Zmroczek provided you a video that had
5 been obtained through the discovery process from the
6 bakery?

7 A Correct.

8 Q And when you received that video from the bakery,
9 can you explain to the jury what kind of format it was
10 in?

11 A Well, there are two formats. The one I focused
12 on was the file type was an AVI, which is audio video
13 interleave, which is a common file format that can be
14 accessed on most computers. Do you want me to go into
15 detail about ---

16 Q Specifically how many angles, camera angles, were
17 there on that video?

18 A Okay. There were four camera angles at the
19 bakery, so I had four AVI files.

20 Q Were those angles being shown continuously?

21 A They were, yes.

22 Q So it wasn't any sort of delayed video?

23 A No.

24 Q Time sensor?

25 A No.

1 Q Motion sensor?

2 A No, it's straight forward, yes.

3 Q When you reviewed that video, is it --- you're
4 looking at all four angles at the same time or did you
5 have to look at them individually?

6 A Well, at first I had to look at them individually
7 because each file was a video.

8 Q Did you do any sort of editing to this video?

9 A As far as editing, not what somebody might think
10 as in cutting the video or manipulating the video in
11 any way. What I did was set up the video to play in a
12 quad view like you would see on most digital
13 recorders, where when you accessed them you would have
14 one in each corner. That's what I did.

15 Q Okay.

16 A I also overlaid a correct time and date stamp.

17 Q And that way you could see all four angles at the
18 same time?

19 A Correct, synchronously.

20 Q I want to hand you what's been marked as State's
21 Exhibit Number 324. Are you familiar with this DVD?

22 A I may be.

23 Q Have you reviewed video in this case concerning
24 what you did?

25 A I have. Will I get to see the video?

1 Q Have you not seen it previously?

2 A I have. I just want to make sure it's the same
3 one.

4 Q Okay.

5 MS. GARFIELD: How do I to that without showing
6 the jury?

7 THE WITNESS: Maybe on a laptop? Sorry.

8 THE COURT: Do you have a computer you could put
9 it on?

10 MS. GARFIELD: I don't have one in here.

11 THE COURT: Why don't you give it to me. I'll
12 see if I can play it on mine.

13 (Pause.)

14 BY MS. GARFIELD:

15 Q Mr. Watkins, while he is loading that, through
16 your editing, for lack of better word, did you alter
17 the video in any way as far as what you could see?

18 A Not the content. The only thing you could
19 consider altering that I did was that I added the
20 correct time and date.

21 Q And that way you could view it all at the same
22 time?

23 A Yes, ma'am.

24 Q But you didn't cut any of the video?

25 A Did not cut anything, did not manipulate

1 anything?

2 THE COURT: You all are waiting on the least
3 computer savvy person in the room. Thank God for law
4 clerks.

5 THE COURT: Do what you need to.

6 THE WITNESS: Yes.

7 (WHEREUPON, the witness watched the video out of
8 the view of the jury.)

9 THE WITNESS: Okay.

10 BY MS. GARFIELD:

11 Q Mr. Watkins, using the judge's computer, have you
12 had an opportunity to review that video?

13 A Yes, ma'am.

14 Q Does that reflect what you did?

15 A It does.

16 Q Has it been changed in any way?

17 A It has not.

18 MS. GARFIELD: Your Honor, at this time I'd like
19 to introduce that into evidence.

20 THE COURT: Mr. Krzyston.

21 MR. KRZYSTON: No objection, Your Honor.

22 THE COURT: Mr. Schnee.

23 MR. SCHNEE: No objection.

24 THE COURT REPORTER: That's 324 you said?

25 MS. GARFIELD: I just want to make sure.

1 (WHEREUPON, State's Exhibit Number 324 was
2 admitted into evidence.)

3 THE COURT: 324.

4 MR. SCHNEE: Actually, Judge, can we approach for
5 just one second?

6 THE COURT: Sure.

7 (WHEREUPON, a bench conference was held in the
8 presence, but not within the hearing of the
9 jury.)

10 MS. GARFIELD: Thank you, Mr. Watkins.
11 no further questions. Please answer anything the
12 defense may have for you.

13 THE WITNESS: Okay.

14 MR. KRZYSTON: Judge, we have no questions.

15 THE COURT: Okay.

16 MR. SCHNEE: Just very briefly.

17 THE COURT: Sure.

18 CROSS-EXAMINATION:

19 BY MR. SCHNEE:

20 Q Mr. Watkins, when you say you put a timestamp on
21 the video, did that come from the DVR system itself?

22 A When we received the video in discovery, the
23 first thing I did was watch the video. It did have a
24 time and date stamp overlaid on to the video. That
25 reflected the beginning time of 2:40 A.M. and, of

1 course, according to the Columbia Police Department
2 case summary written by Investigator McCoy, he
3 indicated that it was off by an hour.

4 So what I did was I looked at the metadata of the
5 files themselves and found that the creation date ---
6 metadata is a technical term that means data about
7 data. The creation date is a type of metadata. These
8 files, these four files in particular, had an
9 identical creation date of Monday, July 1, 2013, at
10 3:43 A.M. and 54 seconds. So that metadata is usually
11 created or the creation date is created when the file
12 is created.

13 Q Okay.

14 A So that would reflect the system time of the
15 digital video recorder. The time that we saw in the
16 2:40 A.M., that was overlaid in a subtitle, which is
17 common for an AVI file type, but in my experience,
18 that would be --- that would reflect a user setting on
19 the DVR system.

20 So what I did was I added the date and time based
21 on the metadata, which would be the true time.

22 Q Okay. That's based on the internal time of the
23 DVR system?

24 A Yes, sir.

25 Q So it could be off by five or ten minutes?

1 A If --- the only ---

2 Q You don't know if the internal clock was actually
3 set correctly?

4 A Well, you're, right. I can't say that.

5 Q But what you are saying is that you synched all
6 four of those files to make sure that you are seeing a
7 true representation of what happens as if was live?

8 A Yes, sir.

9 MR. SCHNEE: Okay. No further questions.

10 MS. GARFIELD: Nothing further, Judge.

11 THE COURT: Have a good day.

12 THE WITNESS: Thank you.

13 THE COURT: Call your next witness.

14 MS. GARFIELD: The State calls Tony Spain.

15 TONY SPAIN,

16 after being duly sworn, testified as follows:

17 THE CLERK: Please have a seat. State your full
18 name for the record.

19 THE WITNESS: My full name is Tony Jason Spain.

20 DIRECT EXAMINATION:

21 BY MS. GARFIELD:

22 Q Mr. Spain, good morning.

23 A Good morning.

24 Q Please share with the jury where you're employed.

25 A I'm a owner of the Ale House.

1 Q And where is the Ale House located?

2 A It's 12 Tommy Circle, off Beltline.

3 Q Are you nervous today?

4 A A little bit.

5 Q You said Tommy Circle. What type of
6 establishment is the Ale House?

7 A It's bar. It's a privately owned club.

8 Q And what are your hours of operation?

9 A We open at three in the afternoon and we don't
10 actually have a closing time because we're private.
11 If we have a crowd we will stay open later, but on
12 Saturdays we do close at 2:00 A.M.

13 Q What about Sunday night, morning, do you normally
14 have a late night crowd?

15 A Not normally, no.

16 Q Are you familiar with the case that we're in
17 court for today?

18 A Yes.

19 Q Are you familiar with the bakery where Ms. Kelly
20 Hunnewell was killed?

21 A Yes, I am.

22 Q Is that bakery in close proximity to your
23 establishment?

24 A Next door.

25 Q Very close by?

1 A Yes.

2 Q Were you the owner of the Ale House back in July
3 of last year?

4 A Yes, I was.

5 Q Are you familiar with law enforcement asking your
6 establishment for video concerning cameras at your
7 establishment?

8 A Yes, I am.

9 Q And was a video provided to law enforcement?

10 A Yes, it was.

11 Q Have you had an opportunity to review that video
12 from your establishment, the Ale House?

13 A Yes, I was.

14 Q And I'm going to hand you what's been marked as
15 State's Exhibit Number 325. Do you recognize this
16 DVD?

17 A Yes, I do.

18 Q Is that video from the Ale House that was given
19 to law enforcement?

20 A Yes, it is.

21 Q Have you had an opportunity to review it?

22 A Yes.

23 Q Has it been changed in any way?

24 A No.

25 Q Does it reflect your establishment, the outside

1 area?

2 A Yes, it does.

3 MS. GARFIELD: Your Honor, I'd like to introduce
4 State's Exhibit 325 into evidence.

5 MR. KRZYSTON: No objection.

6 MR. SCHNEE: No objection.

7 THE COURT: State's 325 without objection.

8 (WHEREUPON, State's Exhibit Number 325 was
9 admitted into evidence.)

10 MS. GARFIELD: Thank you, Judge. Thank you.
11 Please answer any questions defense counsel may have
12 for you.

13 MR. KRZYSTON: No questions, Your Honor.

14 MR. SCHNEE: No questions.

15 THE COURT: Have a nice day.

16 Call your next witness.

17 MS. SIMPSON: State calls Officer Kai Tull.

18 MS. PINNOCK: Your Honor, before this witness
19 testifies, I think we have a matter of law.

20 THE COURT: Okay. Ladies and gentlemen, if
21 you'll return to your jury room. Do not discuss the
22 case. Keep an open mind. We'll be back with you in
23 just a few minutes.

24 (WHEREUPON, the jury left the courtroom at 9:48
25 A.M.)

1 THE COURT: Are you Mr. Tull?

2 THE WITNESS: Yes, I am.

3 THE COURT: To you need him in or out?

4 MS. PINNOCK: It doesn't matter.

5 THE COURT: Okay. You can have a seat in that
6 chair right there.

7 Yes, ma'am.

8 MS. PINNOCK: Your Honor, I believe this witness
9 is the officer that was approached by a former
10 potential State witness, Donald Moore. It's our
11 understanding that Mr. Moore is pleading the Fifth.
12 I'm unaware of what this witness would testify that
13 would not be information obtained from Mr. Moore. We
14 don't have any notes or anything from this officer
15 dealing with this case, so I'd ask before he testifies
16 that we proffer his testimony to see if it actually is
17 admissible prior to letting the jury hear it.

18 MS. SIMPSON: And, Your Honor, if I may. This is
19 the officer that Donald Moore approached and was
20 familiar with Officer Tull from a prior incident where
21 he was involved, I believe, as a victim which we would
22 not be going into. It would simply be, "Do you know
23 Donald Moore?"

24 As far as the details and specifics of the
25 information given to him, I'm not going into that. It

1 will be very limited as far as Donald Moore
2 encouraging him, what he did with that information,
3 which is turn it over to his supervisor, which is
4 Sergeant Shuler, and then that information of course,
5 was turned over to the investigator in this case with
6 respect to the identity of Mr. Moore and that he
7 possibly had relevant information about the murder and
8 that this is not unusual for people to approach him.

9 Essentially he is, you know, he works paroling
10 the area. He is familiar with the area, but as far
11 as ---

12 THE COURT: So you're not going into what Donald
13 Moore said to him?

14 MS. SIMPSON: No. The question specifically
15 would be --- I can tell you now. Essentially,
16 "Without telling me exactly what he said to you, did
17 he make you aware that he may have possible
18 information regarding individuals or locations of the
19 individuals involved in the murder at Tommy Circle."

20 THE COURT: All right.

21 MS. PINNOCK: And, Judge, I think even implying
22 that he spoke to Donald Moore and obtained information
23 about the current case, we are not going to have the
24 opportunity to cross-examine Donald Moore. We can't
25 cross-examine this witness on what he said, so I

1 believe we're going to have Crawford issues dealing
2 with this witness testifying or even inferring that he
3 spoke to Donald Moore, who again has asserted his
4 right to remain silent, on the veracity of that
5 information. I don't think it's proper to have this
6 witness do that because we are not given the
7 opportunity for a cross.

8 THE COURT: All right.

9 MS. SIMPSON: Your Honor, with respect to Mr.
10 Moore and invoking his Fifth Amendment right, that is
11 a separate issue with respect to Mr. Kai Tull's
12 testimony. It's the State's position, and
13 Ms. Campbell, who is going to be questioning Mr.
14 Moore and can address that more specifically if Your
15 Honor wants to now. However, I think this witness has
16 personal knowledge of an individual that came to him.
17 He is entitled to talk about that individual coming to
18 him with the knowledge and to be quite frank, this is
19 what led to Donald Moore, who eventually became an
20 informant for law enforcement later that kind of got
21 the case rolling. We're not going into details, but
22 as far as his personal knowledge and contact, I see no
23 issue what Donald Moore wants to do with respect to
24 his testimony.

25 THE COURT: All right. Do you understand that

1 you can't say what Donald Moore said to you?

2 THE WITNESS: Yes, sir. Yes, sir.

3 THE COURT: Okay. All right. I'll allow it.

4 MS. SIMPSON: Thank you, Your Honor.

5 THE COURT: All right. Bring the jury back in.

6 (WHEREUPON, the jury entered the courtroom at
7 9:52 A.M.)

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

9 THE COURT: All right. Thank you very much.
10 Welcome back ladies and gentlemen.

11 Officer Tull, if you'll please be sworn. Then
12 you can take the witness stand.

13 KAI TULL,
14 after being duly sworn, testified as follows:

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

17 THE WITNESS: My name?

18 THE COURT: Please state your full name for the
19 record.

20 THE WITNESS: Kai Tull.

21 DIRECT EXAMINATION:

22 BY MS. SIMPSON:

23 Q And can you spell that for the Court Reporter?

24 A K-A-I, last name T-U-L-L.

25 Q Officer Tull, where are you employed?

1 A Columbia Police Department.

2 Q How long have you been with the Columbia Police
3 Department?

4 A About two-and-a-half years now.

5 Q Two-and-a-half years and what is your current
6 position there? What to you do?

7 A I'm a Five Points officer. I'm still a regular
8 patrol officer.

9 Q Regular patrol officer?

10 A Yes.

11 Q Do you have a particular area that you're
12 assigned to currently?

13 A Currently Five Points.

14 Q And back in, I guess, June and July of 2013, were
15 you assigned in that an area, as well?

16 A I was assigned the metro region on the Two Notch
17 side.

18 Q Okay. Metro region on the Two Notch side?

19 A Yeah.

20 Q So is that in the area of Lucille Drive?

21 A Yeah.

22 Q And Tommy Circle, as well?

23 A Yes, ma'am.

24 Q I want turn your attention to that time period.

25 Are you --- well, first of all, with respect to your

1 patrol, you were on the streets pretty much every day,
2 correct?

3 A Yes.

4 Q Are you familiar with a number of individuals in
5 the community?

6 A Yes, I am.

7 Q Do you actually know a Donald Moore?

8 A Yes, ma'am.

9 Q Without telling us ---

10 MS. PINNOCK: Your Honor, I'll renew my
11 objection.

12 THE COURT: All right. Overruled.

13 BY MS. SIMPSON:

14 Q On July 2nd, did Mr. Moore actually approach you?

15 A Yes, ma'am.

16 Q Tell us how that occurred.

17 A I was driving on Two Notch Road. Usually if I
18 see him, he usually flags me down until we stop. We
19 have some ---

20 Q You have a relationship with him?

21 A Yes, just some small talk. That day he flagged
22 me down, as well.

23 Q Okay. So he flagged you down and you spoke with
24 him, correct?

25 A Yes, ma'am.

1 Q Without telling me the details of your
2 conversation --- did you have a conversation with him?

3 A Yes, ma'am.

4 Q And in that conversation, again without telling
5 me the details, did he indicate to you that he had
6 some information regarding individuals and their
7 location who may be involved in a recent murder that
8 had occurred?

9 A Yes, ma'am.

10 Q And did he indicate what that murder was or where
11 it was?

12 A Yes.

13 Q And was that murder at Tommy Circle?

14 A Yes.

15 Q And after you were given this information, what
16 did you do with --- what did you do?

17 A I immediately turned it over to my sergeant at
18 the time, Sergeant Shuler.

19 Q Sergeant Shuler?

20 A Yes.

21 Q And is it unusual for people to approach you or
22 provide you with information regarding certain matters
23 that occur in the community?

24 A No.

25 Q And as protocol just you turn it over to

1 somebody, such as your supervisor?

2 A Yes.

3 Q Were you actually working or actively involved in
4 the investigation of the murder ---

5 A No.

6 Q --- at Tommy Circle?

7 A No.

8 Q And once you turned that information over to
9 Sergeant Shuler, are you aware of what he did with
10 that information?

11 A As soon as I turned it over, I was still at the
12 desk. He notified investigations. I cannot recall
13 which investigator he contacted with that.

14 Q So he would have notified possibly one of the
15 investigators involved in the murder case?

16 A Yes.

17 Q Outside of your conversation and contact with Mr.
18 Moore about him having information regarding the
19 murder, was that the extent of your involvement in
20 this case?

21 A Yes, ma'am.

22 Q Thank you, Officer Tull.

23 THE COURT: Ms. Pinnock?

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

25 (Pause.)

1 Your Honor, I have no questions. Thank you.

2 THE COURT: Mr. Schnee?

3 MR. SCHNEE: No questions. Thank you.

4 THE WITNESS: Thank you.

5 THE COURT: Have a good day.

6 THE WITNESS: Thank you.

7 THE COURT: Thank you.

8 Call your next witness.

9 MS. GARFIELD: The State calls Investigator
10 Valerie Moorner.

11 INVESTIGATOR VALERIE MOORER,

12 after being duly sworn, testified as follows:

13 THE CLERK: Please have a seat. State your full
14 name for the record.

15 THE WITNESS: Valerie Moorner.

16 DIRECT EXAMINATION:

17 BY MS. GARFIELD:

18 Q Investigator Moorner, please share with the jury
19 where you're employed.

20 A Columbia Police Department.

21 Q What do you do at the Columbia Police Department?

22 A I work as a violent crimes investigator.

23 Q How long have you been in law enforcement?

24 A Since --- well, roughly 15 years.

25 Q Is all of that with the City of Columbia?

1 A No, ma'am.

2 Q Please share with the jury your experience.

3 A I've worked for the department of justice for
4 roughly three, three-and-a-half years. I've been with
5 the City of Columbia since 2003.

6 THE COURT: Okay. You're going to need to scoot
7 closer to that microphone. I can barely hear you.

8 BY MS. GARFIELD:

9 Q And we all know that's not like you.

10 A No.

11 Q How long have you been in investigations?

12 A I've been in investigations probably about six
13 years. I've worked narcotics investigations, as well.

14 Q And specifically in July of 2013, were you in
15 investigations at that time?

16 A Yes, ma'am.

17 Q Are you assigned to any particular area of
18 investigations?

19 A Violent crimes, homicide unit.

20 Q So do you just investigate homicides?

21 A No, ma'am. I investigate any violent crimes,
22 assaults.

23 Q Specifically, did you get a call to report to any
24 investigation on July 1st of last year?

25 A Yes, ma'am.

1 Q Can you explain to the jury how you became
2 involved?

3 A Well, once an incident occurs, you have a lead
4 investigator and you have a few other investigators
5 that respond. I was called by another investigator to
6 assist in this case.

7 Q Who determines who was the lead investigator?

8 A The sergeant.

9 Q Is that on a rotating basis?

10 A Yes, ma'am, kind of sort of.

11 Q Be you were not the lead investigator?

12 A No, ma'am.

13 Q But you did assist?

14 A Yes.

15 Q Did you report to Tommy Circle where the bakery
16 was located?

17 A Yes, ma'am.

18 Q And share with the jury about what time you
19 believe you got there.

20 (Pause.)

21 Investigator Moorer, I see you're pulling out
22 papers. Are those notes you made?

23 A Yes.

24 Q And you made those at the time of your
25 investigation?

1 A Yes.

2 Q They were contemporaneous with what you were
3 doing?

4 A Yes.

5 Q Are you using them today to refresh your memory?

6 A Yes, ma'am.

7 Q Please share with the jury what time you
8 responded?

9 A I arrived at 93 Tommy Circle at 7:15 A.M.

10 Q And when you got there, what other law
11 enforcement was there?

12 A Sergeant Reese was there, Investigator McCoy was
13 there at the time and Investigator Hilton.

14 Q And Sergeant Reese and Investigator McCoy are
15 present in the courtroom?

16 A Yes.

17 Q Sitting at the prosecution table?

18 A Yes.

19 Q And when you got there, were you given any sort
20 of task from your sergeant and Investigator McCoy?

21 A Yes, that morning I was given the task to canvas
22 the area, to check to see what businesses in the area
23 may have had outside cameras.

24 Q And what all businesses did you go to look to see
25 if they had those cameras?

1 A I went to 3126 Beltline Boulevard, which is Foxy
2 Ladies Salon; 12 Tommy Circle, Ale House; 3117
3 Beltline Boulevard, Shell Gas station; 3000 Beltline
4 Boulevard, C&J Auto Sales; 3027 Beltline Boulevard.
5 That's the Beltline Village Apartments.

6 Q And out of those businesses that you went to see
7 if they had video, were your able to obtain any?

8 A Not at that particular time in the morning, no,
9 ma'am.

10 Q At that particular time in the morning, was the
11 Ale House open yet?

12 A No, ma'am.

13 Q And then did you have any contact with the
14 openers of the bakery?

15 A I did.

16 Q And what did you do with that?

17 A I stood by McCoy as he spoke with them.

18 Q Did you obtain their contact information for
19 further developments?

20 A I did.

21 Q Did you do anything as far as with the van that
22 belonged to Ms. Hunnewell?

23 A Yes, Sergeant Reese asked me to follow the tow
24 truck, as collision one as they transported the van
25 back to Columbia Police Department.

1 Q And what was the purpose of that?

2 A Wasn't sure how the van may have been involved,
3 and we knew it belonged to the victim due to the
4 license tag.

5 Q So as the cautionary measure, did you take the
6 van to the Columbia Police Department?

7 A Yes.

8 Q Did you later learn if the van had any relevant
9 value to this case?

10 A We learned that it didn't.

11 Q And then did you also attend the autopsy of
12 Ms. Hunnewell?

13 A Yes.

14 Q And that was done at the hospital?

15 A Yes, ma'am.

16 Q Which hospital?

17 A Richland Memorial.

18 Q And what was your capacity there at the autopsy?

19 A I stood by while CSI George Wise, took photos and
20 collected clothes and the projectile that was removed
21 from the victim's body.

22 Q And so you were there to assist Investigator
23 Wise?

24 A Yes, normally in an autopsy when there is a case,
25 an investigator just stands by and observes in case

1 they have questions.

2 Q And after the autopsy --- do you know about what
3 time the autopsy was held?

4 A I arrived there at nine o'clock. I'm not sure
5 exactly if they started at nine.

6 Q And after the autopsy --- and about how long
7 would an autopsy take place?

8 A Normally it would take an hour.

9 Q And after you --- the autopsy was completed, what
10 did you do next in the investigation of this case?

11 A Around 11:30 we --- I think we had a meeting
12 where we went back out to the location on Beltline,
13 and we canvassed some more because it was later in the
14 morning and the businesses should be open.

15 Q And you say canvassed, can you explain what you
16 mean by canvassing the area?

17 A Canvas means we were walking around knocking on
18 doors trying to get any help that's pertinent to the
19 case.

20 Q Were you able to find any residents in the area
21 that had any information?

22 A I was able to speak to some more of the
23 businesses that were open to see if they had video. A
24 couple of the businesses I wasn't able to get
25 anything.

1 I actually didn't collect anything at that time,
2 but I spoke to the Foxy Ladies Salon. Her cameras
3 only worked when she is ---

4 MR. SCHNEE: Objection, hearsay.

5 THE COURT: Overruled.

6 MS. GARFIELD: Thank you, Your Honor.

7 BY MS. GARFIELD:

8 Q Please continue.

9 A She said her cameras only work while she is
10 inside her business. I went back to the Ale House,
11 but Investigator Hilton had already made contact with
12 them to retrieve whatever video they had. At the
13 Shell station, spoke to the clerk there, but you
14 always have to wait until a manager comes to assist
15 with the video, which that wasn't successful.

16 Beltline Village Apartments, they don't have any
17 cameras. They don't even have an office on site. C&J
18 Autos, they said that the owner is --- wasn't
19 available to give me any type of video, and I haven't
20 heard from him after that.

21 We knocked on several doors. Actually, the
22 majority, all the doors at Beltline Village Apartments
23 to try to make contact with anyone that may have seen
24 anything at that time.

25 Q And did you eventually get asked to do anything

1 from Investigator Gilliam?

2 A From Investigator Gilliam?

3 Q Yes.

4 A Well, Investigator Gilliam and I were tasked with
5 getting photos of the residents of
6 and

7 Q And at that time, specifically at Lucille Avenue,
8 were you familiar at that time with who resided
9 there?

10 A Yes, ma'am.

11 Q And who was that?

12 A I think it was the brothers, Troy and Trenton.

13 Q So Trenton Barnes who is on trial today?

14 A Yes.

15 Q And his brother Troy Stevenson?

16 A Yes.

17 Q And what purposes of information --- why are you
18 getting information about that house?

19 A Well, Investigator McCoy received several tips.

20 MR. SCHNEE: Objection, Your Honor, hearsay.

21 THE COURT: Overruled.

22 BY MS. GARFIELD:

23 Q Go ahead.

24 A Investigator McCoy received several tips from
25 Crime Stoppers. At that time when we receive

1 information, we go out and investigate and gain intel.

2 Q And that information gathered would have
3 pertained to Lucille Drive --- I'm sorry, Lucille
4 Avenue?

5 A Yes.

6 Q And you did gather that information for
7 Investigator McCoy?

8 A Yes.

9 Q Okay. Did you then continue on and assist in
10 gathering any information concerning Bronx Road?

11 A I didn't gather information. I think the
12 information was already there. I did assist in the
13 search warrant at ---

14 MR. KRZYSTON: Objection, Your Honor.

15 THE COURT: Previous argument?

16 MR. KRZYSTON: Previous argument.

17 THE COURT: Overruled.

18 BY MS. GARFIELD:

19 Q Did you help in the execution of the search
20 warrants?

21 A Yes.

22 Q And that was at Lucille Drive?

23 A Yes.

24 Q As well as Bronx Road?

25 A Yes.

1 Q Did you know who was a resident at Bronx Road?

2 A Yes, ma'am.

3 Q And who was that?

4 A Lorenzo Young.

5 Q And he had been made --- there was specific
6 information given to y'all to look into Lorenzo Young?

7 A Yes, ma'am.

8 Q And did you eventually or did law enforcement
9 eventually obtain a video from the Ale House?

10 A Yes.

11 Q And was video obtained from the bakery?

12 A Yes.

13 Q And Investigate Moorer, did you have an
14 opportunity to review those videos?

15 A Yes.

16 Q Since then have you also reviewed a video that
17 was made by a Mr. Christopher Watkins that made it
18 where you could see all the videos at once?

19 A Yes.

20 MS. GARFIELD: Your Honor, at this time I'd like
21 to publish the video.

22 THE COURT: All right. Let's do this. Let's go
23 ahead and take our morning break. We've been going
24 for about an hour now. That will give everybody time
25 to get the video equipment set up, and so that's not a

1 distraction when you come back in. They can do that
2 during the break. Let's take a ten minute break.
3 Everyone remain seated while the jury is being
4 dismissed. Do not discuss the case. Keep an open
5 mind. We'll see you back in just a few minutes.

6 (WHEREUPON, the jury left the courtroom at 10:09
7 A.M.)

8 THE COURT: All right. Investigator Moorer, you
9 are not allowed to discuss your testimony with anybody
10 in any way, shape, or form during this break. You are
11 allowed to leave the courtroom to use whatever
12 facilities you may need to use. You are not allowed
13 to discuss your testimony at all. When court starts
14 back in ten minutes, you need to be seated right
15 there. Okay?

16 THE WITNESS: Yes, sir.

17 (WHEREUPON, a short break was taken.)

18 (WHEREUPON, State's Exhibit Number 400 was marked
19 for identification only.)

20 THE COURT: If we can get this video set up so I
21 can hit play and Mr. Krzyston and Mr. Schnee can see
22 how it comes out and maybe get it to the point where
23 we can just hit play and it will be in the right
24 position. All right. Did we get it to where it
25 works?

1 THE COURT: Mr. Schnee.

2 MR. SCHNEE: Yes, sir.

3 THE COURT: Did you see what they are about to
4 play?

5 MR. SCHNEE: Yes, sir, I did and also the file
6 names. There are absolutely no problems with those.

7 THE COURT: Okay.

8 MR. KRZYSTON: None from my perspective.

9 THE COURT: Okay.

10 MS. CAMPBELL: Your Honor, while we're on break,
11 I'm sorry to bring this up, but there are several
12 witnesses who are getting ready to come up and we need
13 to settle the record very quickly.

14 THE COURT: Okay.

15 MS. CAMPBELL: One of those is Donald Moore. My
16 understanding is he has a juvenile record including
17 within the last two years. Do you know what date it
18 is?

19 As an adult, Your Honor, he does have two
20 convictions for burglary in the second degree, which
21 we think would be impeachable from 2012 and in
22 addition to that, he has pending in our office a
23 criminal or strong arm robbery, which would carry zero
24 to 15.

25 We are checking on his juvenile record, which we

1 don't have access to because it's a Louisiana.
2 Ms. Good is checking with him because he mentions in
3 his --- with her that he has been charged with a prior
4 murder as a juvenile before moving up here, so I'm
5 getting that information as soon as possible and we
6 basically would have to go on what he tells us because
7 I don't have anything else. That would be in 2000
8 to 2001, so it would be outside of the ten year
9 period.

10 MR. KRZYSTON: Unless he was convicted and
11 confined.

12 MS. CAMPBELL: I'm sorry?

13 MR. KRZYSTON: I said unless he was convicted and
14 confined for an extended period of time, which could
15 have possibly reoffended during that period of time.

16 MR. SCHNEE: Or a crime of moral turpitude. I
17 think we should know what it is.

18 THE COURT: A crime of moral turpitude, the ten
19 years still applies, just the punishment doesn't
20 apply. You have to provide prior notice that ---

21 MS. CAMPBELL: Manslaughter and giving false
22 information about a bomb, but those were in 2000 and
23 2001.

24 MR. KRZYSTON: And also false information would
25 go directly to credibility.

1 THE COURT: When was the false information?

2 MS. CAMPBELL: 2000 to 2001.

3 THE COURT: Ms. Good, that's your client, right?

4 MS. GOOD: Yes, sir.

5 THE COURT: What has he told you about his
6 juvenile record?

7 MS. GOOD: The only information I've been given
8 is that when he was 11 years old ---

9 THE COURT: What is that noise? Is that you?

10 THE DEPUTY: Yes, sir.

11 THE COURT: You're trying to make it work?

12 THE DEPUTY: Yes, sir.

13 THE COURT: Okay. That's fine. Go ahead.

14 MS. GOOD: It was about 2000, 2001 when he was
15 about 11 years old, he said it was originally murder.
16 He got involuntary manslaughter. I'll try to get the
17 exact wording, but it was false communication
18 regarding a bomb, something like that.

19 THE COURT: And what was the sentence?

20 MS. GOOD: I do not know. I can ask.

21 THE COURT: Okay, ask that for me, please. What
22 I need to know is what was his sentence and when was
23 he essentially released from his sentence.

24 MS. CAMPBELL: And, Your Honor, I have some other
25 matters with that witness, as well, that we'll have to

1 take up outside of the presence of the jury, but I
2 don't think they're appropriate. As far as other
3 witnesses coming up, Ms. Rolanda Coleman is a
4 potential witness. I'm not seeing any, but she has
5 are a pending burglary in the first degree, which does
6 carry 15 to life.

7 Your Honor, we would caution the court that is a
8 charge that Mr. Lorenzo Young is also charged with.
9 We do not think under the rules it is permissible for
10 Mr. Schnee to be able to go into the facts and/or
11 circumstances surrounding that case, specifically that
12 Lorenzo Young is her codefendant or anything else
13 about it. That's my understanding of the law.

14 THE COURT: All right. So on Ms. Coleman, do you
15 know anything besides the pending burglary first, Mr.
16 Krzyston?

17 MR. KRZYSTON: I am unaware unless she has
18 juvenile convictions.

19 MS. CAMPBELL: That I don't know.

20 MR. KRZYSTON: Could we perhaps are run a check
21 while we're ---

22 THE COURT: How old is she?

23 MR. KRZYSTON: She is 20.

24 MS. CAMPBELL: We can double check that.

25 THE COURT: Okay.

1 MR. KRZYSTON: She was born in '96.

2 THE COURT: What did you find out, Ms. Good?

3 MS. GOOD: Your Honor, regarding the involuntary
4 manslaughter, he was released in 2003. Clarification
5 on the false information communication regarding the
6 bomb, that was in 2007 and he had two years and he was
7 released in 2009.

8 MR. KRZYSTON: Judge, I would point to the court
9 or note for the Court's attention that we need an
10 exact date of release for his confinement. The
11 incident in question took place on July 1st, 2013.

12 If it's after --- if the release from confinement
13 is after July 1st, 2003....

14 MS. CAMPBELL: Your Honor, the Rules are ten days
15 from the time he testifies.

16 THE COURT: Right. Not ten days from the
17 incident date.

18 MR. KRZYSTON: Sorry.

19 THE COURT: So the information concerning the
20 involuntary manslaughter is out, the information ---
21 the false information ---

22 MS. GOOD: The false information or communication
23 regarding a bomb.

24 THE COURT: Okay. And he says that's in the 2007
25 to 2009 range?

1 MS. GOOD: Yes, sir.

2 THE COURT: Okay. That will be admissible. It
3 falls within the ten years. It is a --- I don't even
4 know what the possible punishment is, but under an
5 issue involving deceit or false statement or
6 dishonesty, is in regardless of the punishment,
7 therefore a 403 analysis is necessary, so what else?

8 MR. KRZYSTON: Judge, I understand your ruling
9 with regard to all of this. I would, however, object
10 for the record based on the fact that we do not have
11 an official determination or printout for Mr. Moore's
12 adjudications. I think it would be more appropriate
13 to make the determination we just made based on
14 official documents from the State of Louisiana so that
15 to the extent that would affect your ruling, I object
16 to that.

17 THE COURT: Well, nobody has those?

18 MS. CAMPBELL: No, it's a juvenile record so we
19 wouldn't have access to it.

20 MR. SCHNEE: Judge, if I may inquire as to if he
21 was on type of supervised release or parole, that
22 would be a continuation of sentence, beyond the 2003
23 date. I just don't know if they did that.

24 MS. CAMPBELL: If that were the case, it would be
25 transferred to South Carolina and we would have a

1 record it.

2 THE COURT: And it says confinement. The rule
3 says confinement.

4 MS. CAMPBELL: Yes, sir.

5 THE COURT: Okay.

6 MS. CAMPBELL: Your Honor.

7 THE COURT: So we're clear on Mr. Moore, burglary
8 second two counts in 2012. He has a pending strong
9 arm robbery. There's some kind of false information
10 about a bomb and that's it. Okay.

11 MS. CAMPBELL: And, Your Honor the final witness
12 we could take up is Ms. Latoya Barnes. Her only prior
13 record is back in 1998 for an AB/HAN for which she got
14 three years probation, so that would not be admissible
15 under the rules.

16 THE COURT: Anything as to that, Mr. Krzyston?

17 MR. KRZYSTON: Ms. Pinnock is going to address
18 that, Your Honor.

19 THE COURT: Okay.

20 MS. PINNOCK: I'm sorry, Your Honor. Again, that
21 was a ---

22 MS. CAMPBELL: 1998 AB/HAN, Your Honor.

23 MS. PINNOCK: I have nothing.

24 THE COURT: Mr. Schnee, on Ms. Barnes?

25 MR. SCHNEE: Nothing regarding her record.

1 However, I have been informed by her attorney that she
2 is intending to plead the Fifth.

3 THE COURT: Okay.

4 MS. CAMPBELL: Your Honor, I have handed up case
5 law on that specific that I thought was going to apply
6 to Mr. Moore.

7 THE COURT: Who is Ms. Barnes' attorney?

8 MR. SCHNEE: Art Aiken.

9 THE COURT: Okay. Okay. Let's go through this
10 pleading the Fifth issue.

11 MS. CAMPBELL: Yes, Your Honor. I've handed up
12 case law, Your Honor. As far as Donald Moore goes,
13 Your Honor, you are familiar with him somewhat.
14 Basically, he is the person who came forward to police
15 and was able to give information to the police.
16 Specifically the bulk of the information he gave to
17 police was information he said he got from Troy
18 Stevenson, who is not on trial today. Of course, that
19 would all be hearsay and we would not be intending to
20 go into all of that because Mr. Stevenson is not on
21 trial today. I don't know how we could go into that.

22 However, in addition to that, he was able to give
23 additional information to law enforcement, and
24 specifically he talks about in his statement to law
25 enforcement when he was interviewed that he became

1 aware of a plan to rob the Ale House that Thursday the
2 week before where Troy Stevenson and the information
3 was from Lorenzo and he specifically said that when
4 asked if he had ever seen Lorenzo with a gun, that
5 Lorenzo showed him a gun the night before or the night
6 of this actual incident between 7:45 and 8:00 o'clock
7 or 7:30 and 8:00 o'clock depending on which part he is
8 talking about. He was also able to --- he indicates
9 he has seen the video and he is able to recognize
10 Lorenzo in the video, that he recognizes the hoodie
11 and the hat specifically as the ones that Lorenzo
12 always wears. He also describes the clothing Lorenzo
13 was wearing when he saw him that evening before
14 between 7:30 and 8:00 o'clock.

15 He is subsequently shown a lineup the next day
16 after giving this information, and we do need to have
17 a hearing on that, Your Honor, where he is shown six
18 photographs and ultimately identifies Lorenzo in the
19 lineup, and I can hand that up to the court. We have
20 not had a hearing on that yet, Your Honor. The
21 defense is requesting one.

22 In addition to that, Your Honor, as you are
23 aware, he was interviewed by our office on
24 October 20th. At that point according to him, he said
25 it was all correct. There was one lie. We then had

1 another hearing where he testified on November 3rd.
2 In that hearing, as I recall, he said he told two
3 lies. You then directed us to inquire further of him,
4 which we did on the next day with his lawyer present,
5 and he then said everything he said was a lie except
6 for two parts and the two parts that were true was
7 that he was in a gang, the Bloods, and the night
8 before he was with a girl in the neighborhood.

9 At that point, he then gives a reason for the
10 purpose of him coming forward and lying about everyone
11 involved. Your Honor, the other thing we need to take
12 up with him too, and I think we'll have to have a
13 hearing on this, if he were allowed to testify is ---
14 in this case we're trying to keep it out that everyone
15 is in a gang. They're all Bloods, including these two
16 defendants and Mr. Troy Stevenson. They're all
17 associated that way.

18 He makes reference to say that, and I would ask
19 the court just to direct him that he cannot refer to
20 being in a gang with him or them being in a gang or
21 anything of that nature. Pursuant to your earlier
22 rulings, I don't want to cause a mistrial at this
23 point or do anything to go outside the realm.

24 The extent of what we would be asking him and we
25 would be impeaching him on the information he came

1 forward with, nothing to do with what Troy Stevenson
2 told him, because that would be hearsay at this point.
3 We don't plan on getting into that. However, his
4 observations of Lorenzo the night before, seeing him
5 with a gun, where he took the gun which was in Troy
6 Stevenson's house, what he was wearing that night, how
7 he recognizes the hoodie that Lorenzo had on, and why
8 he came forward, we feel like are relevant at this
9 point. We got the email from his attorney last night
10 that he plans on asserting the Fifth and, Your Honor,
11 I have handed up case law specifically State vs.
12 McGuire and State vs. Hughes and State vs. Perry. I
13 understand asserting the Fifth if you are a defendant
14 or implicated in this crime, Your Honor, this one is a
15 little bit different because this is a witness.

16 I would imagine the defense is going to say that
17 since he is asserting the Fifth, we can't put him up
18 for that sole purpose to assert the Fifth in front of
19 the jury. We agree with that if he were a defendant.
20 However, here, Your Honor, I'm not quite sure why he
21 is asserting the Fifth. He has already testified as
22 far as giving false information. I guess that would
23 be perjury at this point. That testimony is already
24 done, and I guess I'm just asking the court for
25 guidance on how you want to handle this.

1 In reviewing McGuire, which is a 1979 case, which
2 is quoted in State vs. Hughes and also State vs.
3 Perry, it's well settled that a witness who is not a
4 defendant, who invoked the privilege only after
5 incriminating questions had been asked before them.

6 Your Honor, we do think we have a right to at
7 least impeach him on the information that he came
8 forward with to police.

9 THE COURT: All right. So why is he --- what is
10 he asserting his Fifth Amendment right for, Ms. Good?

11 MS. GOOD: Your Honor, after discussions with him
12 and you've had some history knowing which statements
13 he has given to law enforcement, as well as on the
14 stand previously and subsequently to the solicitor's
15 office, he is pleading the Fifth regarding
16 incriminating himself against giving false information
17 to law enforcement.

18 THE COURT: Well, he has already incriminated
19 himself on that, so he doesn't have a Fifth Amendment
20 right at that point.

21 MS. GOOD: At that time he did that, Your Honor,
22 on the stand, it was only under oath he said that he
23 had only given two lies at that point. Subsequently
24 we found out that he is saying it's more than that,
25 and he has not testified under oath to any of that at

1 this point. That's what he would be asserting,
2 essentially.

3 (Pause.)

4 THE COURT: This McGuire --- in this Hughes case
5 you gave me, it says that neither the State nor the
6 defense is allowed to call a witness if they know the
7 witness will invoke their Fifth Amendment rights.

8 MS. CAMPBELL: In Hughes, Your Honor. I think
9 the Fifth Amendment rights have to be related to the
10 actual --- what we're on trial for. If that's the
11 case, we would never be able to call any witnesses who
12 is slightly hostile towards us because they would all
13 assert the Fifth. The defense counsel, Ms. Good, said
14 specifically he is not asserting the Fifth as far as
15 what this crime is here today, only as to whether or
16 not he would be committing perjury, which has already
17 been done at a prior hearing where he was on the
18 stand.

19 MS. CAMPBELL: I believe the cases that are
20 quoted in here specifically talk about how when a
21 defendant tries to call a codefendant.

22 THE COURT: Well, a codefendant is clearly not
23 allowed.

24 MS. CAMPBELL: Yes, sir.

25 THE COURT: That's not allowed to happen, but

1 that's not what Hughes says. Hughes says calls a
2 witness. It doesn't say call a witness in the case or
3 call a codefendant or call a co-conspirator. It says
4 call a witness.

5 MS. CAMPBELL: And it talks about on the stand
6 solely to allow the jury to draw adverse inferences.
7 Your Honor, we can go so specifically as to limiting
8 our questioning of this witness as who he was, how he
9 knows the people, and did you come forward and give
10 information to the police. I think we should be able
11 to do that at the very least. I don't think that
12 would be incriminating at any point. If you're saying
13 that he has the right to assert because of either
14 perjury or false information to police.

15 Otherwise anybody with any information at any
16 time can just come forward and assert the Fifth.
17 Under that theory, we would always be on guard from
18 being able to impeach. The rules specifically allow
19 for us to impeach our own witness.

20 THE COURT: My issue with Mr. Moore is he has
21 already testified before this court under oath, and he
22 has already admitted to essentially lying to the
23 police, which for the record is a 30-day misdemeanor
24 if he was ever even charged with it, so I don't know
25 that he has any Fifth Amendment right to remain

1 silent.

2 MS. CAMPBELL: That would be our position.

3 THE COURT: I mean, they're not going to be able
4 to charge him for every single lie that he told, if it
5 all happened in one sitting, so I don't understand why
6 he even has a Fifth Amendment right as to the issue of
7 whether or not he lied to the police because he has
8 already testified. He has already subjected himself
9 to cross examination and placed himself before the
10 court and admitted to it. So I don't know what right
11 he is attempting to protect. Can you tell me of some
12 other right he is attempting to protect, Ms. Good?

13 MS. GOOD: Your Honor, I obviously don't know
14 regarding what cross-examination is going to take
15 place of my client. I can't predict what the defense
16 is going to do, or the State for that matter.
17 However, I am aware of phone records that were
18 presented into evidence, Your Honor, that does have
19 any client's number all over them before and after the
20 murder. If those questions came out, we would be
21 asserting the Fifth Amendment right to not to put
22 himself in the middle of this regarding any accessory
23 before or after the fact.

24 THE COURT: Ms. Pinnock.

25 MS. PINNOCK: May it please the Court. Your

1 Honor, I would agree with your interpretation of
2 Hughes. It's not solely narrowed to just
3 codefendants. It's any witness, and all the cases
4 quoted in Hughes say that neither side can call a
5 witness that they would just assert their right to
6 remain silent. All the cases address having an in
7 camera hearing and trying to proffer testimony to see
8 if the witness is going to testify or not. But on the
9 other side of that, Judge, at the end of that hearing
10 if you do decide that Mr. Moore does not have a right
11 as you see it to assert his rights, we would then
12 regardless of how the State decides to limit their
13 questions of him and the topics they want to talk
14 about, the defense has a right to fully and completely
15 cross-examine Mr. Moore.

16 I would ask Your Honor --- I apologize, I only
17 have one copy of this, Douglas v. Alabama. It's US
18 Supreme Court case. It's 380 U.S. 415. It's the
19 exact same situation. A witness was called to the
20 stand. He invoked his right to remain silent.
21 According to that case; they actually allowed the
22 State to treat him as hostile. The prosecutor in that
23 case went through his statement line by line. The
24 witness never acknowledged making it. Would not
25 answer any questions about it and once the prosecutor

1 had finished going through the prior statement of this
2 witness, there was an opportunity for the defense to
3 cross. The witness invoked his privilege. There was
4 no meaningful cross-examination and case was reversed
5 because it violated the defendant's right to confront
6 the witness.

7 So I don't even think declaring him hostile
8 without a hearing and him invoking his right, him
9 refusing to answer questions, then we are being denied
10 the right to confront this witness. It would not be a
11 meaningful cross, if Mr. Moore gets on the stand ---
12 it's our understanding from Ms. Good that he will not
13 be answering questions. He could potentially open
14 himself up to criminal charges, and I think that is
15 his concern.

16 THE COURT: He has already done that.

17 MS. PINNOCK: Yes, sir, but more. There is a
18 possibility of more in the future I would guess, but
19 without ---

20 THE COURT: Let's not guess.

21 MS. PINNOCK: Yes, Judge, but without a
22 meaningful opportunity to cross this witness, we are
23 being denied our right to ---

24 THE COURT: Mr. Schnee.

25 MR. SCHNEE: Yes, Your Honor. May it please the

1 Court. Just as a factual matter with regard to Donald
2 Moore, particularly since --- despite that Troy
3 Stevenson is not participating in this trial in any
4 way, there are many allegations from witnesses that
5 Donald Moore was both at the planning and participated
6 in the alleged planning days before. There are
7 allegations that Mr. Moore received and hid a gun or
8 multiple guns involved in this. There are potentials
9 for conspiracy charges for him, accessory before the
10 fact, accessory after the fact. Based additionally on
11 the fact that Troy Stevenson will have a separate
12 trial, that also opens Mr. Moore up potentially to
13 additional counts of perjury.

14 I would assert that he does have a Fifth
15 Amendment right. The State's contention that they
16 would never be able to call any witness that doesn't
17 want to cooperate --- the simple fact, as Your Honor
18 is aware, in most cases the witnesses don't assert
19 their Fifth Amendment right. They come in and
20 testify. Once someone has a right to assert and they
21 choose to do it, that's something they're allowed to
22 do. The Hughes case makes it very clear. It's on
23 page four on the copy that Ms. Campbell gave me. The
24 cite is S.C. at 152. It goes directly into the issue
25 of not being a proper cross-examination just by the

1 witness getting up there and asserting the Fifth in
2 front of the jury, the jury can draw inferences that
3 both Ms. Pinnock and I would be unable to
4 cross-examine. It specifically deals with Your
5 Honor's job in making sure that doesn't happen and it
6 indicates an in camera hearing is appropriate.

7 If he is going to assert his Fifth Amendment
8 right and has it for any charge, any potential federal
9 charge, based on allegations for guns, potential
10 allegations that he was in the videos taken from
11 Lorenzo's phone that have guns in them. Any of those
12 allegations can subject him to criminal charges, and I
13 would --- I would object to his testimony at all.
14 Considering the number of times he has lied, I would
15 actually request a competency hearing to see if he
16 actually knows what the difference between the truth
17 and a lie is.

18 THE COURT: All right. Let's proffer his
19 testimony.

20 Oh, we're going to finish this witness. We will
21 proffer his testimony during the lunch hour.

22 MS. CAMPBELL: Thank you.

23 THE COURT: All right. Bring them back in.

24 (WHEREUPON, the jury entered the courtroom at
25 10:51 A.M.)

1 MS. GARFIELD: Judge, can we approach while the
2 jury is coming in?

3 (WHEREUPON, a bench conference was held in the
4 presence, but not within the hearing of the
5 jury.)

6 THE BAILIFF: The jurors are seated, Your Honor.

7 THE COURT: Thank you very much. Yes, ma'am.

8 MS. GARFIELD: Thank you, Your Honor. May it
9 please the Court.

10 DIRECT EXAMINATION:

11 (continued)

12 BY MS. GARFIELD:

13 Q Investigator Moorer, you were able to review all
14 the videos that were collected in this case?

15 A Yes, ma'am.

16 Q As well as a video that was taken for editing
17 purposes to Mr. Watkins?

18 A Yes.

19 Q First I want to bring your attention to the video
20 that was obtained from the Ale House. With the
21 assistance of Ms. Brian here to my left because I
22 don't know how to work this, will you please publish
23 this to the jury?

24 THE COURT: What exhibit is this?

25 MS. GARFIELD: 325, Judge.

1 THE COURT: Does this one have audio?

2 MS. GARFIELD: It has audio. All you can hear is
3 rain.

4 THE COURT: Is there anybody that can't see the
5 screen?

6 THE JUROR: I need to get a little bit closer.

7 THE COURT: Okay. Do you want me to turn down the
8 lights. Does that help or hurt?

9 THE JUROR: Helps.

10 THE COURT: Okay. Can you see?

11 THE JUROR: No. Her head is in the way.

12 MS. GARFIELD: Am I in the way? I'll go over
13 here.

14 THE COURT: If anybody needs to move, you'll move
15 to where you can see it. I don't want to take the
16 time to go through playing something if you can't see
17 it.

18 THE JUROR: I'll stand. I'll stand. I'm fine.

19 MS. GARFIELD: Okay.

20 THE COURT: Okay. Go ahead.

21 (WHEREUPON, the video was played for the jury.)

22 BY MS. GARFIELD:

23 Q That door that individual is leaving through, is
24 that the Ale House?

25 A Yes.

1 MS. GARFIELD: Judge, can the witness step down?

2 THE COURT: Yes.

3 BY MS. GARFIELD:

4 Q Investigator Moorer, just to assist the jury, can
5 you point out where the bakery is located?

6 A (Indicating.)

7 MS. GARFIELD: Your Honor, may the record reflect
8 that Investigator Moorer has pointed to the bakery in
9 the video?

10 THE COURT: Yes, ma'am.

11 BY MS. GARFIELD:

12 Q And the cars that are outside that bakery, are
13 you familiar with those cars?

14 A This is the victim's van.

15 Q Can you speak up, please?

16 A Victim's van is right here by the bakery.

17 Q From this angle, Investigator Moorer, can you see
18 the door to the bakery, the entry?

19 A No, ma'am.

20 Q What do you see on the video at this time?

21 A Two males on the side of the bakery. You see a
22 second male that's joining the first one.

23 Q And is this video continuous?

24 A Yes.

25 Q Or does it stop and pick back up?

1 A It stops and picks back up.

2 Q Investigator Moorer, I see things that appear to
3 be dropping. What were the weather conditions that
4 morning?

5 A It was heavy rain.

6 Q Now, I see the individuals walking. Where are
7 they walking towards?

8 A The bakery.

9 Q Investigator Brian, I'm going to ask you to turn
10 your attention to the videos in State's Exhibit 323
11 and please ask you to show the first video that
12 encompasses the bathroom area.

13 I'll ask you to go to about two minutes --- this
14 is the inside of the bakery, Investigator Moorer?

15 A Yes.

16 Q And who is that person we see?

17 A Ms. Hunnewell.

18 Q What does she appear to be doing?

19 A She is working. She is over there by the stove
20 or that's the washer.

21 Q And did you see two individuals come in?

22 A Yes.

23 Q And the first individual that came in,
24 Investigator Moorer, what was he wearing?

25 A A red hoodie.

1 Q And the second individual that came in, what was
2 he wearing?

3 A A gray hoodie.

4 Q Thank you. Investigator Brian, if you'll
5 continue to the other angle and also go to about a
6 little before two minutes. Investigator Moorer,
7 you've seen this. Is this another angle?

8 A Yes.

9 Q And that's Ms. Hunnewell?

10 A Yes.

11 Q Thank you, Investigator. If you can please go to
12 the third video and before you start it, Investigator
13 Moorer, what does this angle portray?

14 A The front door.

15 Q Is that door is open?

16 A Yes.

17 Q I say all this for purposes of the record.
18 Investigator Brian, if you'll please fast forward to
19 right around two minutes or 1:48. Thank you.

20 Now, do you see a third individual walk up to the
21 door?

22 A Yes.

23 Q And what is he described as wearing?

24 A Dark in color hoodie.

25 Q Thank you, Investigator Brian.

1 Investigator Moorer, I believe there is a fourth
2 angle. Are you able to see anything significant in
3 that angle?

4 A I'm not sure what you're asking.

5 Q Okay. Investigator Brian, if you'll queue it up
6 to about two minutes, as well. And this is another
7 angle of the bakery, Investigator Moorer?

8 A Yes.

9 Q And over there in the far right corner, did you
10 see someone walk by?

11 A That was Ms. Hunnewell.

12 Q Okay. Thank you. Investigator Brian, I'm going
13 to ask you to please go to State's Exhibit 324 and
14 Investigator Moorer, this it is video Mr. Watkins
15 edited that, correct?

16 A Yes.

17 Q And Investigator Brian, if you'll display that
18 for the jury.

19 At that point, your see all four angles at the
20 same time; is that right, Investigator Moorer?

21 A Yes.

22 Q Investigator Brian, I'm going to ask you to pause
23 it for just a second. Just for the record,
24 Investigator Moorer, this shows four angles in the
25 bakery; is that correct?

1 A Yes.

2 Q The top left angle would be portraying the
3 kitchen and sink area; is that correct?

4 A Yes.

5 Q And the bottom left, that would be portraying the
6 door that is propped open?

7 A Yes.

8 Q And the bottom right view would be including the
9 bathroom area? I'm sorry. I meant the top right
10 area?

11 A Yes.

12 Q And the bottom right view would be showing where
13 the stove is located, correct?

14 A Yes.

15 Q Okay. Please continue, Investigator Brian.

16 Q Thank you, Ms. Brian. Investigator Moorer, you
17 can take the stand.

18 At any time in that video, did it appear that
19 Kelly Hunnewell could have gotten away?

20 MR. SCHNEE: Objection. Speculation.

21 THE COURT: I'm sorry. I didn't hear the
22 question.

23 MS. GARFIELD: Did it appear anywhere on the
24 video that Ms. Hunnewell could have gotten away?

25 THE COURT: I'll allow her to answer that

1 question. Overruled. Go ahead.

2 THE WITNESS: No, ma'am.

3 BY MS. GARFIELD:

4 Q Investigator Moorer, you observed these videos
5 shortly after you began this investigation?

6 A Yes.

7 Q Is there anything specific that you noticed about
8 the hoodies?

9 A I noticed the hoodies, the Holister hoodies.

10 Q How would you be familiar with that?

11 A I wear that brand of clothing.

12 Q Thank you, Investigator Moorer. Please answer
13 any questions defense counsel may have.

14 A Yes, ma'am.

15 THE COURT: All right. Cross-examination?

16 MR. KRZYSTON: Thank you, Your Honor, may it
17 please the Court?

18 THE COURT: Yes, sir.

19 CROSS-EXAMINATION:

20 BY MR. KRZYSTON:

21 Q How are you doing, Investigator Moorer?

22 A Pretty well.

23 Q I'm going to ask you a few questions, but I'm not
24 going to keep you up here too long. You look tired,
25 like you've been up all night, so we will keep it

1 pretty short.

2 A Okay.

3 Q Earlier you talked to Ms. Garfield about how you
4 came to be involved in this case, correct?

5 A Yes.

6 Q And you said at eleven o'clock on July 1st or
7 thereabouts, you had a meeting up at CPD headquarters,
8 correct?

9 A Yes.

10 Q Okay. And you said at that point CPD gave you or
11 your superiors gave you some tasks to do, correct?

12 A Yes.

13 Q But it wasn't just you in that room, was it?

14 A No, sir.

15 Q In fact, it was all the violent crimes unit
16 investigators?

17 A I believe so.

18 Q And that meeting took place at one o'clock?

19 A Well, we had several meetings.

20 Q But your case notes indicate it took place at
21 1:30, right?

22 A 11:30.

23 Q Do you have your case notes in front of you?

24 A I have my case notes. It says 11:30.

25 Q Would you please turn to the second page?

1 On the top right there it says 13:30. That's
2 military time. That's a 24 hour clock; is that
3 correct?

4 A That's correct.

5 Q And that is translated to 1:30, correct?

6 A Yes.

7 Q Can you read just can that one line?

8 A A briefing was conducted to assign tasks to all
9 investigators in the VCAP to assist in this incident.

10 Q And VCAP is the Violent Crimes Against Persons
11 unit, correct?

12 A Correct.

13 Q So, at 1:30 you and every single investigator in
14 the VCAP unit was tasked to do something on this case,
15 correct?

16 A Yes.

17 Q That doesn't happen every time there is a murder,
18 does it?

19 A Yes, it does.

20 Q Every single person on every murder?

21 A More likely ---

22 Q In the City of Columbia?

23 A Not every single investigator in the City of
24 Columbia, but violent crimes. It's only like seven of
25 us.

1 Q Right.

2 Q And when you were at that meeting, Investigator,
3 I believe, Gilliam?

4 A Gilliam.

5 Q Gilliam, he asked you to generate some
6 information regarding two locations, and those
7 locations were and ---

8 A Investigator Gilliam didn't ask me to that. We
9 were tasked to do that.

10 Q Right. By your superiors?

11 A Yes.

12 Q And that location --- the first of those two
13 locations was

14 A Yes.

15 Q And the second location, which is just around the
16 corner from Blondell Court is ?

17 A Yes.

18 Q And is the residence of one
19 Trenton Barnes, correct?

20 A Correct.

21 Q And you were told to take pictures of that
22 location?

23 A Yes.

24 Q And to perhaps take pictures of a burgundy
25 vehicle out there?

1 A I think the vehicle was out there.

2 Q Okay. And when you were done with that
3 assignment or task, if you will, you sent that on to
4 Investigator McCoy over here, correct?

5 A Correct.

6 Q Okay. Now, I want to turn your attention to the
7 video that was just shown to the jury and actually the
8 second two videos, okay.

9 A Okay.

10 Q So the actual videos of 93 Tommy Circle, the
11 inside of 93 Tommy Circle.

12 A All right.

13 Q The first set of videos that was viewed by the
14 jury, that was generated by Columbia Police
15 Department, correct?

16 A What do you mean generated?

17 Q Well, y'all gathered that?

18 A Yes.

19 Q Y'all took that from 93 Tommy Circle and brought
20 that back to headquarters?

21 A From the outside.

22 Q No, no, no, this would be the actual location of
23 the crime.

24 A Yes.

25 Q And the second set of videos, y'all didn't have

1 anything to do with creating that, did you?

2 A I'm not --- I'm not sure.

3 Q Well, did you work on --- did you make that
4 video?

5 A No.

6 Q Okay. Christopher Watkins made that video,
7 correct?

8 A I believe so.

9 Q And Mr. Watkins was retained by Troy Stevenson
10 and his lawyer to make that video?

11 A I'm not sure. I don't know.

12 Q Okay, but y'all didn't ever create this video
13 that Mr. Watkins created. That was all Mr. Watkins,
14 right?

15 A I never met Mr. Watkins. When the video came to
16 Columbia Police Department, we reviewed it. I watched
17 it.

18 Q Okay. Now, the last thing I'm going to ask you
19 about is some things what you did or more importantly
20 what you didn't do. Okay. Now, I know when you get
21 information from Investigator McCoy or whoever your
22 superior is on a given case, you go out and do that,
23 correct?

24 A Correct.

25 Q If you're not the lead investigator?

1 A Yes.

2 Q And you turn that in to whoever is the lead
3 investigator if it's not you?

4 A Yes.

5 Q And in this investigation the only thing that you
6 were asked to do was to generate information on
7 Blondell Court and Lucille Drive, and you did some
8 other interviews and stuff, but with regard to the
9 stuff we just talked about?

10 A Yes.

11 Q And in this investigation in reference to the
12 murder of Ms. Hunnewell --- excuse me, the killing of
13 Ms. Hunnewell, you never talked to an individual named
14 Azo?

15 A Azo?

16 Q Never heard that name before, right?

17 A No.

18 Q And you never talked to a Marcus Shorty Johnson
19 or Marcus Haley Johnson?

20 A No.

21 Q Never heard of him.

22 Q Never talk to an Ashley Carter or Piggy?

23 A No.

24 Q You never talked to a Marquis Johnson?

25 A No.

1 Q Or heard that name. You never talked is a Sequan
2 Williams?

3 A No.

4 Q Never heard that name. Never talked to Darryl
5 Samuels?

6 A No.

7 Q Anthony Nelson?

8 A No.

9 Q Joshua Green?

10 A No.

11 Q Tyreek Taylor?

12 A No.

13 Q Deandre Olds?

14 A No.

15 Q Or an individual Smiley?

16 A No.

17 Q Never heard of those individuals, right?

18 A No, sir.

19 Q Thank you. No further questions.

20 THE COURT: Mr. Schnee.

21 MR. SCHNEE: I have no questions for this
22 witness, Judge.

23 THE COURT: Redirect?

24 REDIRECT EXAMINATION:

25 BY MS. GARFIELD:

1 Q Investigator Moorer, in any investigation, do you
2 get several tips?

3 A Yes.

4 Q And do you pursue those tips?

5 A Yes.

6 MR. KRZYSTON: Objection leading.

7 THE COURT: Overruled.

8 BY MS. GARFIELD:

9 Q Are some of those tips --- do they turn out not
10 to have anything to do with the case oftentimes?

11 MR. KRZYSTON: Objection.

12 MR. SCHNEE: Leading, hearsay.

13 THE COURT: Overruled.

14 THE WITNESS: Yes.

15 BY MS. GARFIELD:

16 Q And you were asked about the videos that the jury
17 just saw where Ms. Hunnewell was murdered. The video
18 with the four angles, is that the same video that we
19 saw previously?

20 A Yes.

21 Q Just formatted differently, correct?

22 A Yes.

23 Q And CPD doesn't create videos, do they?

24 A No, ma'am.

25 MS. GARFIELD: Thank you.

1 THE COURT: Recross?

2 MR. KRZYSTON: Briefly.

3 RECROSS-EXAMINATION:

4 BY MR. KRZYSTON:

5 Q The first time you saw that video that was
6 created by Mr. Watkins was March of this year or even
7 later, actually in the two weeks before trial?

8 A Ask the question again.

9 Q The first time you saw the video that was
10 provided by Mr. Watkins was within the last two weeks?

11 A I just saw the formatting?

12 Q Yes.

13 A I just saw it.

14 Q So today was the first time you saw it?

15 A Yes.

16 Q Had nothing to do with your investigation,
17 correct?

18 A No.

19 Q Okay. Thank you.

20 MR. KRZYSTON: Nothing further, Judge.

21 THE COURT: All right. Have a good day.

22 THE WITNESS: Thank you.

23 THE COURT: All right. Call your next witness.

24 MS. GARFIELD: Thank you. The State calls Ray
25 McDonald.

1 MR. KRZYSTON: Judge, can we approach?

2 THE COURT: Yes.

3 (WHEREUPON, a bench conference was held in the
4 presence, but not within the hearing of the
5 jury.)

6 RAYMOND MCDONALD,

7 after being duly sworn, testified as follows:

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

10 THE WITNESS: My name is Raymond McDonald,
11 M-C-D-O-N-A-L-D.

12 DIRECT EXAMINATION:

13 BY MS. GARFIELD:

14 Q Mr. McDonald, please share with the jury where
15 you work?

16 A I work at T-Mobile wireless phone company.

17 Q What are your duties with T-Mobile?

18 A Our group is --- I'm a senior manager with a
19 group called the law enforcement relation group. We
20 are part of the legal department, and we are
21 responsible for all subpoena and court order
22 complaints that come into the company across the
23 country. We also do all the emergency work on behalf
24 of the company, 9-1-1 public safety answering points.
25 We'll get calls our office for emergency purposes

1 asking who a subscriber of a phone is for an address,
2 the location of the phone. We do all the wiretaps on
3 behalf of the company throughout the country.

4 We attend presentations --- attend conferences
5 and give presentations for law enforcement. We are
6 also the authorized custodian of records for the
7 company and testify in court on their behalf.

8 Q Is this a national level or are you assigned
9 regionally or how does that work?

10 A Our corporate headquarters is in Bellevue,
11 Washington. Our office is in Parsippany, New Jersey.
12 We handle the entire nation out of New Jersey for what
13 we do.

14 Q And Mr. McDonald, you said you maintain phone
15 records in the normal course of business?

16 A Yes, we do.

17 Q In relation to this case, did you receive a
18 search warrant from law enforcement or did T-Mobile
19 receive a search warrant from law enforcement for
20 phone records relating to phone number (?

21 A Yes.

22 MR. KRZYSTON: Objection, Judge, previous
23 argument.

24 THE COURT: Which one?

25 MR. KRZYSTON: Related to Mr. Young's character..

1 THE COURT: All right. Overruled.

2 MS. GARFIELD: Thank you, Your Honor.

3 BY MS. GARFIELD:

4 Q Investigator --- I'm sorry, Mr. McDonald, I'm
5 going to hand you what's been marked as State's
6 Exhibit Number 402. Madam Court Reporter, I don't
7 believe you have this one.

8 (WHEREUPON, State's Exhibit Number 402 was marked
9 for identification only.)

10 BY MS. GARFIELD:

11 Q Mr. McDonald, I will show you number 402. Can
12 you look inside that binder and explain what those
13 records are?

14 A Okay. On the first page is a fax cover sheet,
15 which is ---

16 MR. SCHNEE: Judge, I'm going to object. If
17 there's a fax cover sheet from the Columbia Police
18 Department in there.

19 MS. GARFIELD: I'm sorry. I should have shown it
20 to you.

21 THE COURT: Let's look at it first.

22 MS. GARFIELD: Yes.

23 (Pause.)

24 MR. SCHNEE: Judge, there is no objection.

25 MR. KRZYSTON: Nor here.

1 BY MS. GARFIELD:

2 Q Sorry, Mr. McDonald. Please continue with your
3 explanation.

4 A Okay. First page is the fax cover sheet, which
5 normally we send out when we send the records out.
6 The second page, page two of two is what we call a
7 subscriber page or subscriber sheet. That contains
8 information about the account, the account number, who
9 the subscriber of the phone is, an address; other
10 information, alternate contact numbers, what type of
11 account it is, whether, in this case, it's a postpaid
12 account. which is a monthly account which means the
13 person receives a bill every month at their house.

14 Q And who is the subscriber listed in your records?

15 A The subscriber on this is phone is Aretha
16 Coleman.

17 Q Thank you. After that subscriber information,
18 are there actual phone records pertaining to that
19 number?

20 A There are. There are several sheets that contain
21 what we refer to as the call detail records, which
22 have certain information about the activity of the
23 phone.

24 Q And what are the dates of those phone records?

25 A These start on 6/26/2013 and go through --- I

1 believe it was 7/5/2013.

2 Q Thank you, Mr. McDonald. Just to backtrack a
3 little bit, I believe you testified there was an
4 address also associated with these records?

5 A There is.

6 Q That would be an address for the subscriber?

7 A Yes.

8 Q What is that address?

9 A It's 1636 McCaw Road, Columbia, South Carolina.

10 Q And Mr. McDonald --- I withdraw that question.

11 MS. GARFIELD: Your Honor, at this time I'd like
12 to introduce State's Exhibit 402 into evidence.

13 MR. KRZYSTON: Prior objection.

14 MR. SCHNEE: No objection.

15 THE COURT: Okay. Admitted over Defendant
16 Young's objection and no objection from Mr. Barnes.

17 (WHEREUPON, State's Exhibit Number 402 was
18 admitted into evidence.)

19 BY MS. GARFIELD:

20 Q Thank you, Mr. McDonald, please answer any
21 questions defense counsel may have.

22 MR. KRZYSTON: No questions, Your Honor.

23 MR. SCHNEE: No questions.

24 THE COURT: Have a nice day.

25 THE WITNESS: Thank you.

1 THE COURT: You're welcome.

2 THE BAILIFF: Watch your step.

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

4 THE COURT: Yes.

5 (WHEREUPON, a bench conference was held in the
6 presence, but not within the hearing of the
7 jury.)

8 THE COURT: All right. Ladies and gentlemen, here
9 is what we're going to do. We're going to take a quick
10 break. Do not discuss the case. Keep an open mind.
11 What I'm going to try to do now --- I ask lawyers all
12 the time for timeframe, but I never hold them to it
13 because it's not fair. You never know what's going to
14 happen in a case. Let's take a quick break. My plan
15 is to get this witness done before lunch, and then
16 I'll allow do you go to lunch. We'll start back up
17 this afternoon. Take a quick break. Do not discuss
18 the case. Keep an open mind. Everyone remain seated
19 while my jury is dismissed.

20 (WHEREUPON, the jury left the courtroom at 11:27
21 A.M.)

22 THE COURT: Let's bring her in so I can advise
23 her.

24 Does she have a lawyer?

25 MS. SIMPSON: She does, Drelton Carson.

1 THE COURT: Is he here?

2 MS. SIMPSON: He is.

3 THE COURT: Okay. Does she have a juvenile
4 record, Ms. Campbell?

5 MS. GARFIELD: I don't think. I'm confirming one
6 thing, Judge.

7 THE COURT: Okay, Ms. Coleman, Mr. Carson. How
8 are you?

9 THE WITNESS: Good.

10 THE COURT: Ms. Coleman, just come around here in
11 front of me. Now, I just want to advise you. I just
12 want to make sure you understand something, okay. Can
13 you hear me? Okay, Mr. Carson. That's Drelton
14 Carson, your attorney?

15 THE WITNESS: Yes, sir.

16 THE COURT: And he is standing right next you
17 right now?

18 THE WITNESS: Yes, sir.

19 THE COURT: You are about to be called as a
20 witness in this case. I'm not allowing any
21 information in this case in about gangs or gang
22 activity. Do you understand that?

23 THE WITNESS: Yes, sir.

24 THE COURT: So you're not allowed to say that
25 anybody in the room, Mr. Barnes, Mr. Stevenson even

1 though he is not on trial, Mr. Young that's in a gang
2 or this is any type of gang activity. Do you
3 understand that?

4 THE WITNESS: Yes, sir.

5 THE COURT: Do you have any questions about that?

6 THE WITNESS: No, sir.

7 THE COURT: Do you have any concerns about your
8 ability to do that?

9 THE WITNESS: No, sir.

10 THE COURT: Do you understand what my expectation
11 of you is?

12 THE WITNESS: Yes, sir.

13 THE COURT: Mr. Carson, do you believe that she
14 is capable of understanding that rule and following
15 that rule.

16 MR. CARSON: I do, Your Honor.

17 THE COURT: I understand she may be nervous and a
18 lot of other emotions, but we've done our best. At
19 this point in the trial there is absolutely no
20 information out there about any gang activity in any
21 way, shape, or form, and I want to keep it that way,
22 so don't say anything about gangs or anybody being in
23 a gang or this had something to do with a gang. I'm
24 just making up stuff, but I want to make sure you
25 understand what I mean, Ms. Coleman. Do you

1 understand?

2 A Yes, sir.

3 THE COURT: Do you believe you can follow the
4 court's instructions?

5 THE WITNESS: Yes, sir.

6 THE COURT: Thank you very much.

7 Okay. All right. Let's bring them back in.

8 (WHEREUPON, the jury entered the courtroom at
9 11:32 A.M.)

10 THE BAILIFF: The jury is seated.

11 THE COURT: Thank you. Call your next witness.

12 MS. CAMPBELL: May it please the Court. The
13 State calls Rolanda Coleman.

14 THE COURT: Please come forward, ma'am.

15 (There was no response.)

16 THE COURT: Is she under subpoena?

17 MS. CAMPBELL: Yes.

18 THE COURT: Okay. Ms. Coleman. You need to come
19 forward. Come forward and be sworn. You're under
20 subpoena of this court, ma'am.

21 (There was no response.)

22 THE COURT: Okay. Ladies and gentlemen, if
23 you'll step back to your jury room, we'll be back with
24 you in just a few moments.

25 THE JUROR: Geez.

1 THE COURT: Do not discuss the case. Keep an
2 open mind.

3 (WHEREUPON, the jury left the courtroom at 11:34
4 A.M.)

5 (Pause.)

6 (conferring with her attorney.)

7 THE COURT: All right. Ms. Coleman, you need to
8 come on forward and have a seat in the jury box --- in
9 the witness stand. You're under subpoena power of
10 this court. The court has the authority to take you
11 into custody, put you in handcuffs and have the deputy
12 escort you to the witness stand.

13 (Complies.)

14 THE COURT: Now, she will be sworn in once the
15 jury comes back in. She has to be sworn in. Come on
16 up. You can go ahead and walk on up now.

17 Okay, now when the jury comes back in --- Ms.
18 Coleman, can you hear me?

19 (There was no response.)

20 THE COURT: Ms. Coleman, can you hear me? When
21 the jury comes back in, I'm going to ask you to stand
22 up and you'll need to be sworn in front of them.
23 Okay.

24 THE WITNESS: Yes, sir.

25 THE COURT: Okay. Very good.

1 THE BAILIFF: Make sure your phone is turned off.

2 MR. SCHNEE: Can we approach briefly, Judge?

3 THE COURT: Yes.

4 (WHEREUPON, there was a bench conference.)

5 (WHEREUPON, the jury entered the courtroom at
6 11:39 A.M.)

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

8 THE COURT: All right. Swear in the witness.

9 THE BAILIFF: You have to stand up.

10 (complies.)

11 THE BAILIFF: Place your left hand on the Bible.

12 Raise your right hand and face the clerk.

13 ROLANDA COLEMAN,

14 after being duly sworn, testified as follows:

15 THE WITNESS: Yeah.

16 THE CLERK: Please have a seat, State your full
17 name for the record.

18 THE WITNESS: Rolanda Coleman. Rolanda Coleman.

19 DIRECT EXAMINATION:

20 BY MS. CAMPBELL:

21 Q Ms. Coleman, if you can speak up. How old are
22 you?

23 A Eighteen.

24 Q Eighteen?

25 A No, I'm 20.

- 1 Q You're 20?
- 2 A Uh-huh.
- 3 Q Can you get closer to the microphone? It's hard
4 to hear in here because you're soft spoken. Okay. Do
5 you live here in the Columbia area?
- 6 A Yes.
- 7 Q How long have you lived in Columbia?
- 8 A Ten years.
- 9 Q Do you have any children?
- 10 A Yes.
- 11 Q How many children do you have?
- 12 A Two.
- 13 Q And how old are your children?
- 14 A One and eight months.
- 15 Q One and eight months?
- 16 A Uh-huh.
- 17 Q Do you know Lorenzo Young?
- 18 A Yes.
- 19 Q Do you know him by Lorenzo or by a nickname?
- 20 A Lorenzo.
- 21 Q And how do you know Lorenzo Young?
- 22 A He is the father of my kids.
- 23 Q He is the father of your kids?
- 24 A Uh-huh.
- 25 Q Both of them?

1 A Uh-huh.

2 THE COURT: Okay. Ma'am, you can't say uh-huh
3 because this young lady sitting next to you has to
4 take down the words. You're going to have to answer
5 out loud yes or no or whatever your answer may be.
6 Would you do that for me?

7 THE WITNESS: Yes.

8 THE COURT: Thank you very much.

9 BY MS. CAMPBELL:

10 Q Do you know Trenton Barnes?

11 A Yes.

12 Q How do you know Trenton Barnes?

13 A Seen him on the streets.

14 Q Seen him on the streets. Do you know Troy
15 Stevenson?

16 A Yep.

17 Q And what is Troy Stevenson's relationship to
18 Trenton Barnes?

19 A Brother.

20 Q They are brothers?

21 A Yeah.

22 Q Do you know Troy, as well?

23 A Yeah.

24 Q And what was Lorenzo Young's relationship with
25 Trenton Barnes and Troy Stevenson?

1 A Homeboys.

2 Q Homeboys?

3 A Uh-huh.

4 Q And when you say homeboy, what do you mean by

5 that? Are they friends, pals, or do they hang out

6 together?

7 A Yeah.

8 Q All that?

9 A Yeah.

10 Q Back in June and July of last year, where were

11 you living?

12 A With Lorenzo's mother.

13 Q With Lorenzo?

14 A Mother.

15 Q With his mother?

16 A Yes.

17 MR. SCHNEE: Judge, I'm sorry, I really can't

18 hear her.

19 THE COURT: I can barely hear her, too. I need

20 you to stay close to that microphone and speak up,

21 okay.

22 BY MS. CAMPBELL:

23 Q Let me get one thing --- are you here under

24 subpoena today?

25 A (There was no response.)

1 Q Are you under subpoena?

2 A Yes.

3 Q Do you want to be here?

4 A Nope.

5 THE COURT: Can you hear? (indicating).

6 Okay.

7 BY MS. CAMPBELL:

8 Q You were living with Lorenzo's mother back in
9 June and July of last year?

10 A Yes.

11 Q Who all was living in the house with you and
12 Lorenzo's mother?

13 A Me, his mother, his stepfather and my child.

14 Q Your child?

15 A Yes.

16 Q How old was your child back last summer?

17 A Three months.

18 Q Three or four months?

19 A Yes.

20 Q And that was your first child, right?

21 A Yes.

22 Q Where was the house located where y'all were
23 living?

24 A On Bronx Road.

25 Q On Bronx Road?

- 1 A Uh-huh.
- 2 Q Is that near Beltline Boulevard?
- 3 A Yes.
- 4 Q Kind of near the corner of Beltline and Covenant,
5 that area?
- 6 A I guess.
- 7 Q Do you know where the Ale House is?
- 8 A No.
- 9 Q How long had you been living with Lorenzo and his
10 mother and his stepfather and your child? How long
11 had y'all been living together in that house?
- 12 A I don't remember.
- 13 Q You don't remember?
- 14 A No.
- 15 Q Had you --- I want to turn your attention to the
16 end of June, the first of July. At that point, did
17 Lorenzo have a gun?
- 18 A No.
- 19 Q You're saying no?
- 20 A Uh-huh.
- 21 Q Are you saying you never saw Lorenzo with a gun?
- 22 A No.
- 23 Q Do you remember meeting with police and giving a
24 statement?
- 25 A Yes.

1 Q And that was on July 9th of 2014?

2 A Yeah. I mean, I don't remember.

3 Q You don't remember the exact day?

4 A No.

5 Q Do you remember when you went to headquarters?

6 A Yeah.

7 Q And at headquarters they recorded your statement?

8 A Yep.

9 Q And your lawyer was there that day, as well?

10 A Uh-huh.

11 Q And you talked to, I believe, was it Investigator
12 Reese and McCoy?

13 A Yeah.

14 Q And at that point you told them information,
15 right?

16 A Yep.

17 Q And do you remember telling them back on July 9th
18 that you had seen Lorenzo with a gun, just one of
19 them?

20 A Yep.

21 Q And that he had gotten it a month or two before
22 the incident?

23 A Yep.

24 Q Specifically I want to go into this --- the early
25 morning hours or the evening of June 30th into the

1 early morning hours of July 1st. That was a Sunday
2 night into a Monday morning. Do you remember that
3 night?

4 A Barely.

5 Q Barely. Do you remember where you were that
6 night?

7 A Asleep.

8 Q Asleep and where were you sleeping that night?

9 A At his mother's house.

10 Q At Lorenzo's mother's house?

11 A Yes.

12 Q And do you have a cell phone?

13 A Now?

14 Q No, back then. Did you have a cell phone?

15 A Yeah.

16 Q And who had your cell phone that night?

17 A Lorenzo.

18 Q And where was Lorenzo that night while you were
19 home sleeping?

20 MS. PINNOCK: Objection, calls for speculation.

21 THE COURT: She can answer if she knows, if she
22 has personal knowledge.

23 BY MS. CAMPBELL:

24 Q She does.

25 A From my knowledge, at Troy's house.

1 Q Troy's house?

2 A Yep.

3 Q Was Troy's house located near the Bronx Avenue
4 house where you were staying?

5 A Yeah.

6 Q How did you know he was staying at Troy's house?

7 A That's what I was told.

8 Q By whom?

9 A Him.

10 Q By Lorenzo?

11 A Uh-huh.

12 Q And that night, about what time was it when you
13 went to sleep. Do you remember?

14 A No.

15 Q When was the last time you talked to Lorenzo that
16 night? Do you remember that?

17 A No.

18 Q Were you sleeping through the night and what woke
19 you up the next morning?

20 A What what?

21 Q What woke you up?

22 A A phone call.

23 Q And who did you get a phone call from the next
24 morning?

25 A Lorenzo.

1 Q Lorenzo?

2 A Uh-huh.

3 Q And just to be sure, the Lorenzo we're talking
4 about, where is he sitting here in the courtroom?

5 A You know where he is in the courtroom.

6 Q I know, but for the record I have to have you
7 point him out.

8 THE COURT: Ma'am, you don't get to ask
9 questions. You need to answer questions.

10 BY MS. CAMPBELL:

11 Q Where ---

12 A Over there.

13 Q Is he at this table?

14 A Yep.

15 Q And what is he wearing?

16 A A white shirt.

17 Q Does he have on any kind of tie?

18 A A blue tie.

19 MS. CAMPBELL: May the record reflect that she
20 has identified the defendant, Lorenzo Young.

21 THE COURT: So reflected.

22 BY MS. CAMPBELL:

23 Q When you got the phone call from Lorenzo that
24 morning, what if anything did he say to you?

25 MR. SCHNEE: Judge, I'm going to object to

1 hearsay.

2 THE COURT: Overruled.

3 BY MS. CAMPBELL:

4 Q You can answer.

5 A He told me to tell his mama to come get him from
6 Troy's house.

7 Q From whose house?

8 A Troy.

9 Q Troy's house?

10 A Yep.

11 Q Who all lived there?

12 A I don't know. I didn't stay there.

13 Q Did Trenton live there, as well?

14 A I guess. I don't know.

15 Q Did you pass along that information to Lorenzo's
16 mother that morning?

17 A Yes.

18 Q About what time was that?

19 A Like five or six something.

20 Q Five or six in the morning?

21 A Yeah, I don't remember the time.

22 Q Did Lorenzo's mom leave the house, do you know?

23 A Yeah.

24 Q Did she come back with Lorenzo?

25 A Yeah.

1 Q When Lorenzo came back to the house, did you see
2 him?

3 A Huh?

4 Q Did you see Lorenzo when he came in the house?

5 A Yeah.

6 Q And where were you when you saw Lorenzo?

7 A In the bed.

8 Q You were in the bed?

9 A Yes.

10 Q Is that the room you shared with Lorenzo?

11 A Yes.

12 Q And when Lorenzo came in, how did he look? What
13 was he wearing?

14 A Some basketball shorts and a shirt.

15 Q And a shirt?

16 A Yes.

17 Q Do you remember what color the shirt was?

18 A Red and white.

19 Q Red and white?

20 A Yes.

21 Q Once he came in, did he have anything with him
22 when he came in the room?

23 A Yeah, he had a gun.

24 Q He had a gun, and how was he carrying the gun
25 when he came in the room around six that morning?

1 A He was just holding it his hand.

2 Q He was holding it in his hand?

3 A Yep.

4 Q Did he have anything over it at that point?

5 A No.

6 Q Was he fully dressed at that point?

7 A Uh-huh.

8 THE COURT: Yes or no.

9 THE WITNESS: Yes.

10 BY MS. CAMPBELL:

11 Q Okay. Once he came in the room, what did he do
12 with the gun?

13 A He took it --- well, he took his shirt off,
14 wrapped it up and put it in my baby's crib.

15 Q In your baby's crib?

16 A Yep.

17 Q Where was your baby's crib located?

18 A By the window.

19 Q Was it a crib or a bassinet?

20 A Bassinet.

21 Q Where in the basinet did he put the gun?

22 A He just set it in there.

23 Q He just set it in it?

24 A Uh-huh.

25 Q Where was your baby at that point?

1 A My baby was with my grandmother.

2 Q She was at your grandmother's house?

3 A Yeah.

4 Q That morning did he tell you what kind of gun it
5 was?

6 A No.

7 Q Do you remember talking to the police back on
8 July 9th, 2013?

9 A Yeah.

10 Q At that time, you told them he told you what type
11 of gun it was?

12 A No.

13 Q Do you remember telling the police that he told
14 you ---

15 A Yeah, I told them he told me it was a 45, but I
16 didn't tell them he had that --- that the specific gun
17 he had in his hand was a 45.

18 Q Okay. But you told the police that he said it
19 was a 45?

20 A Yeah.

21 Q What does that mean to you as a 45?

22 A I don't know. I don't know nothing about no
23 guns.

24 Q Okay. But that's what you said?

25 A Uh-huh.

1 Q Once he put the gun into the bassinet, did he
2 talk to you about anything?

3 A Uh-huh, yeah.

4 Q And did he talk to you about events that had
5 happened the night before? You can't say what he said
6 about what happened the night before?

7 A Yeah.

8 Q At some point did y'all leave the house together?

9 A Yes.

10 Q And where did you go?

11 A Work.

12 Q Where were your working?

13 A A meat processing plant.

14 Q I'm sorry. I can't hear you.

15 A A meat processing plant in West Columbia.

16 Q A meat processing plant in West Columbia?

17 A Uh-huh.

18 Q Did y'all stay at work all day?

19 A Yes.

20 Q And where was your cell phone at this point?

21 A He still had it.

22 Q He still had it?

23 A Uh-huh.

24 Q What time of day --- how long did you stay at
25 work that day?

1 A All day.

2 Q What time did you get off, do you remember?

3 A Like three, four.

4 Q About three or four?

5 A Yes.

6 Q Where did you go once you got off?

7 A Home.

8 Q You went home?

9 A Yes.

10 Q And once you got home, did y'all look for the

11 gun?

12 A Yeah.

13 Q Where was the gun?

14 A Nobody know.

15 Q Nobody knew?

16 A No.

17 Q Did Lorenzo look for the gun?

18 A Yeah.

19 Q Did you look for the gun?

20 A Yep.

21 Q And it was gone?

22 A Yep.

23 Q Did Lorenzo ever talk to his mother about what

24 had happened to the gun?

25 MR. SCHNEE: Objection hearsay, conversation

1 between Lorenzo and his mother?

2 THE COURT: Were you present for the
3 conversation?

4 THE WITNESS: Uh-huh. No. I overheard the
5 conversation.

6 THE COURT: So you were able to hear the
7 conversation?

8 THE WITNESS: Not every exact word, but ---

9 THE COURT: She can testify to what she heard.

10 BY MS. CAMPBELL:

11 Q You can talk about what you heard Lorenzo say.
12 What was Lorenzo asking his mother about?

13 A Asking where the gun was.

14 Q What did the gun look like?

15 A It was black.

16 Q It was black?

17 A Uh-huh.

18 Q Did Lorenzo ever keep ammunition in the house?

19 A Yep.

20 Q Where did he keep the ammunition?

21 A In the dresser drawers.

22 Q In which drawers?

23 A The dresser drawers.

24 Q The dresser drawers?

25 A Yes.

1 Q In your bedroom?

2 A Yep.

3 Q When did you find out what had happened to the
4 lady at the bakery?

5 A When the police came and picked me up.

6 Q Do you remember telling the police that you had
7 seen it on TV?

8 A Yeah, I seen it, but I ain't --- it was like bits
9 and pieces of it.

10 Q And once you saw it on TV, did Lorenzo's mother
11 also see it on TV?

12 A No, I don't think so.

13 Q But do you remember a time when Lorenzo's mother
14 and Lorenzo had a conversation about the gun again
15 that you overheard?

16 A No.

17 Q Do you remember telling the police back on
18 July 9th, 2013, when they talked to you at police
19 headquarters that Lorenzo and his mother had a
20 conversation and his mother wanted --- after seeing
21 the video wanted ---

22 MR. SCHNEE: Objection, Your Honor, as to what
23 the mother is saying.

24 THE COURT: Overruled.

25 BY MS. CAMPBELL:

1 Q Do you remember telling police that after the
2 mother --- his mother saw the Ale House --- the bakery
3 video, that she came and told Lorenzo to get rid of
4 that gun?

5 A What are you asking me?

6 Q I'm asking you if you remember saying that to the
7 police and telling them that because you overheard
8 that conversation?

9 A Yeah.

10 Q You knew Trenton?

11 A Yeah, knew of them.

12 Q Did --- you knew Trenton and Troy?

13 A Of them.

14 Q Do you remember telling police what Trenton would
15 always be wearing?

16 A Yep.

17 Q What did you tell the police Trenton would wear?

18 A I said a gray hoodie, I believe.

19 Q Do you remember when you talked to the police
20 that you had seen video from the bakery?

21 A I told them I saw parts of it.

22 Q And do you remember saying your could recognize
23 the guy in the gray hoodie?

24 A Uh-huh, yep.

25 Q Who did you tell them was in the gray hoodie that

1 you recognized?

2 A Trenton.

3 Q And do you see Trenton in the courtroom?

4 A Yep.

5 Q Can you point out where he is sitting?

6 A Yep.

7 Q Can you describe what he is wearing?

8 A A green and black jacket kind of shirt, whatever
9 he have got on.

10 Q Is he sitting on the far table over there?

11 A Yep.

12 Q In the green?

13 A Yep.

14 MS. CAMPBELL: Your Honor, may the record reflect
15 she has identified Trenton Barnes.

16 THE COURT: So reflected.

17 BY MS. CAMPBELL:

18 Q But did you tell the police you could identify
19 who was in the red hoodie on the video?

20 A No.

21 Q You first talked to the police, I believe, on the
22 5th of July when they came in and did a search warrant
23 at your house, didn't you?

24 A Uh-huh.

25 Q And you didn't tell them the truth at that point

1 what about when you had last seen Lorenzo, did you?

2 A No.

3 Q No?

4 A Huh-uh.

5 Q Why didn't you tell them the truth?

6 A Because I didn't want to.

7 Q You don't remember?

8 A I didn't want to.

9 Q You didn't want to?

10 A Huh-uh.

11 Q Do you remember telling them on July 9th, 2013,
12 that you were scared of getting Lorenzo in trouble?

13 A Uh-huh.

14 THE COURT: Is that a yes?

15 THE WITNESS: Yeah.

16 BY MS. CAMPBELL:

17 Q Finally, have you ever seen Trenton with a gun?

18 A No.

19 Q Do you remember --- you talked to the police on
20 July 9th, 2013?

21 A Uh-huh.

22 Q Telling them that you had seen Trenton with a
23 gun, as well?

24 A Yep.

25 Q And that it was a different gun than the one you

1 saw Lorenzo with?

2 A Uh-huh.

3 Q And again, you don't want to be here today at
4 all?

5 A No.

6 Q The phone that you had, the cell phone that
7 Lorenzo had during this time period, whose name was it
8 in?

9 A My grandmother.

10 Q And what is her name?

11 A (unintelligible) Coleman.

12 Q Rolanda, Ms. Coleman, you have a pending charge
13 in our office?

14 A Yep.

15 Q And what is that charge?

16 A Burglary first.

17 Q Burglary in the first degree?

18 A Yes.

19 Q Do you know what the penalties for that are?

20 A Yes.

21 Q What's the penalty?

22 A Fifteen years to life, isn't it?

23 Q Fifteen years to life?

24 A Yeah.

25 Q And your lawyer is here in the courtroom?

1 A Yes.

2 Q And he is seated right there; is that correct?

3 A Yes.

4 Q Have you been made any promises or anything for
5 your testimony here today?

6 A Nope.

7 Q And you're testifying because you're under
8 subpoena?

9 A Yes.

10 Q Thank you.

11 THE COURT: All right. Cross-examination?

12 MS. PINNOCK: May it please the Court.

13 CROSS-EXAMINATION:

14 BY MS. PINNOCK:

15 Q How are you doing, Ms. Coleman?

16 A Good.

17 Q Can you speak up? I'm hard of hearing. Are you
18 okay?

19 A Uh-huh.

20 Q Just so we're clear on a couple of things that
21 Ms. Campbell just asked you, when you spoke to the
22 investigators last year during the summer, you
23 actually told them that when the gun that you had seen
24 a couple months prior, when Lorenzo first got a gun, a
25 couple months before they were questioning you, that's

1 when he said it was a 45, right?

2 A Uh-huh.

3 Q Yes?

4 A Yes.

5 Q You never had a conversation with anybody with
6 this gun that Ms. Campbell asked you about that you're
7 telling her you saw the next day?

8 A Uh-huh.

9 Q You never had a conversation about that, right?

10 A No.

11 Q So you were telling them about something that
12 happened months before?

13 A Yeah.

14 Q Okay. You said you're 20?

15 A Yes.

16 Q Did you say you were originally from here?

17 A Yeah.

18 Q Is your whole family here?

19 A Yeah.

20 Q Yes?

21 A Yeah.

22 Q Who are you living with now? Are you still
23 living with ---

24 A No, I stay everywhere.

25 Q I'm sorry. I can't hear you.

- 1 A A little bit of everywhere.
- 2 Q Okay. So do you have two children?
- 3 A Yep.
- 4 Q One and eight months old?
- 5 A Yeah.
- 6 Q Where do they say?
- 7 A With my grandmother.
- 8 Q And she lives in Columbia, right?
- 9 A Yep.
- 10 Q Who is older, your son or your daughter?
- 11 A My daughter.
- 12 Q Are you working right now?
- 13 A Yep.
- 14 Q Where are you working at?
- 15 A KFC.
- 16 Q What kind of hours do you work?
- 17 A Night.
- 18 Q What time do you go in?
- 19 A Four.
- 20 Q What time do you get off?
- 21 A Eleven.
- 22 Q Four to eleven?
- 23 A Yeah.
- 24 Q How many days a week do you work?
- 25 A Like three or four.

1 Q Do you get to see your children every day?

2 A Yep.

3 Q Do you enjoy spending time with them?

4 A Yep.

5 Q Do y'all do a bunch of stuff together?

6 A Yeah.

7 Q Do you go to the park?

8 A Yeah.

9 Q I can't hear you.

10 A Yeah.

11 Q Do you read stories with them?

12 A Yep. I'm sorry what does this have to do with
13 anything?

14 Q Do you read stories with them?

15 A Yeah.

16 Q Do you help provide for them?

17 A Yeah.

18 Q Because you want to make sure they have
19 everything they need?

20 A Yeah.

21 Q Because you want to make sure they're taken care
22 of?

23 A Yeah.

24 Q You'll do anything in your power to provide for
25 them best you can?

1 A If need be.

2 Q Okay. And your grandma is helping you out a lot
3 as of right now, right?

4 A For the most part.

5 Q Okay.

6 MS. CAMPBELL: What did she say?

7 THE COURT: For the most part.

8 MS. CAMPBELL: Thank you.

9 BY MS. PINNOCK:

10 Q Now, you said that --- we can assume that you
11 adore your children. I've seen the pictures. They're
12 adorable, so you love your children very much, right?

13 A Yep.

14 Q And you said that you had a pending charge with
15 the solicitor's office, right?

16 A Yep.

17 Q And you said it's a burglary in the first degree?

18 A Yep.

19 Q And you said the penalty for that, that you've
20 been told is 15 years to life, right?

21 A Yep.

22 Q And even if you got the minimum sentence on that,
23 your lawyer, Mr. Carson, has told you that it's
24 85 percent of 15 years, right?

25 A Uh-huh.

1 Q So that would be a little over 12 years that you
2 are incarcerated for this charge, right?

3 A Yeah.

4 Q So if you got the minimum 15 years, your son
5 would be 18 --- 15 years old when you got out?

6 A Yeah.

7 Q If you got the minimum, your daughter would be 16
8 when you got out?

9 A Yeah.

10 Q You'd miss their entire lives?

11 A Uh-huh.

12 Q And you discussed coming in here and testifying
13 with your attorney?

14 A Uh-huh.

15 Q Did you meet with the solicitors before you came
16 in here?

17 A Yep.

18 Q You did?

19 A Today, no.

20 Q No, prior to coming in here for testifying, did
21 you and Mr. Carson sit down with the solicitor's
22 office?

23 A Yeah.

24 Q What day was that?

25 A I don't remember.

1 Q Was it within a week?

2 A I don't remember.

3 Q Or two weeks? You don't remember?

4 A No.

5 Q But you sat down in their office with them, with
6 your lawyer, right?

7 A Yep.

8 Q And you discussed what you're going to testify
9 here today about?

10 A With them, no.

11 Q You didn't discuss anything with them? Did your
12 lawyer talk with them?

13 A Yeah.

14 Q About your testimony here today?

15 A Yeah.

16 Q And you said that you weren't expecting --- that
17 nobody has made you any deals or anything coming in
18 here and testifying. You don't want to miss the next
19 15 years of your children's lives, right?

20 A No.

21 Q And the case you had pending with the solicitor's
22 office, that's actually being prosecuted by
23 Ms. Simpson, right?

24 A Yeah.

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

1 (Pause.)

2 I have nothing further, Judge.

3 Thank you, Ms. Coleman.

4 MR. SCHNEE: May it please the Court.

5 CROSS-EXAMINATION:

6 BY MR. SCHNEE:

7 Q Ms. Coleman, a few minutes ago you testified that
8 you saw the video on TV and recognized Trenton Barnes.
9 That's what you told the police last year, right?

10 A Uh-huh.

11 Q Yes.

12 A Yeah.

13 Q Okay. You said you could recognize him based on
14 his size and how he walked, right?

15 A Yeah.

16 Q Okay. You couldn't see any faces, right?

17 A No.

18 Q Okay. Now, the police also asked you about the
19 red sweatshirt, right?

20 A Yeah.

21 Q Your couldn't recognize who that was?

22 A No.

23 Q Couldn't recognize based on how they looked and
24 how they moved?

25 A No.

1 Q You understand the police are claiming the red
2 hooded sweatshirt is Lorenzo, right?

3 A Yeah.

4 Q You're very familiar with Lorenzo?

5 A Yeah.

6 Q Okay. So you couldn't recognize anyone in the
7 red sweat shirt, but you could for the gray
8 sweatshirt?

9 A Uh-huh.

10 Q Now, your burglary charge, your attorney is
11 sitting right over here?

12 A Uh-huh.

13 Q Yes.

14 A Yeah.

15 Q In fact. He is sitting with the solicitor's
16 office right now in court?

17 A Yeah.

18 Q Okay. You understand that the only people that
19 have the authority to offer you any deal whatsoever
20 are the solicitors sitting over there?

21 A Yeah.

22 Q You understand that if you don't get any kind of
23 deal and you end up getting convicted, you will not
24 see your kids while they're still children?

25 A Yeah.